



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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### BZA Staff Report

**To:** Board of Zoning Appeals Members  
**From:** Alex Getchell, AICP, Senior Planner  
**Date:** November 23, 2020  
**Re:** Cases ZB 2020-16 (V) | K-Wash Real Estate, LLC

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#### REQUESTS:

**Case ZB 2020-09 (V)...355 N Morton Street.** A request for Developmental Standards Variances from the City of Franklin Zoning Ordinance, as follows: 1.) Article 5, Chapter 4, Exterior Colors, Primary color (Red) greater than 10% on any single façade wall area; 2.) Article 5, Chapter 4, Main Entrance orientation; 3.) Article 7, Chapter 12, Interior Drive Widths (one-way; no parking) less than 13 feet; and 4.) Article 7, Chapter 12, Minimum Entrance Drive Separation Distance, in the MXC: Mixed-use, Community Center zoning district and the GW-OL: Gateway Overlay District, at 250 E Madison Street.

#### PURPOSE OF STANDARD:

The “MXC”, Mixed Use: Community Center zoning district is intended to provide locations for a variety of small-to-mid-sized businesses and institutional facilities that serve the entire Franklin-area community. This district should be used alone and in combination with other zoning districts to create areas for community shopping, entertainment, services, and public gatherings.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City’s entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area’s traffic management issues.

#### ZONING:

##### Surrounding Zoning:

North: IN, Institutional  
South: MXC, Mixed-use: Community Center  
East: IN, Institutional  
West: MXC, Mixed-use: Community Center  
North, South, East & West: Gateway Overlay

##### Surrounding Land Use:

North: Franklin Community Middle School  
South: Ritter’s Frozen Custard  
East: Franklin Community Middle School Parking  
West: Horizon Bank, HI-WAY Lanes, Pizza Hut

#### CONSIDERATIONS:

1. Petitioner, K-Wash Real Estate, LLC, is proposing a Kopetsky Auto Wash for the property located at 355 N Morton St, which is the Franklin Insurance Agency and Bud & Bloom Florist property on the northeast corner of N Morton St and Banta St.
2. Petitioner proposes a car wash structure that will run south-to-north, with vehicular access on N Morton St and Banta St. Petitioner is attempting to secure vehicular access from Franklin Community Schools, at the northeast corner of the subject property; however, discussions have stalled. If granted the access from Franklin Community Schools, the vehicular access on Banta Street would be eliminated from petitioner’s proposal. [See [Exhibit A: Conceptual Layout](#)]

### **Gateway Overlay – Exterior Colors**

3. Variance (1.): *Petitioner is requesting variances from the Exterior Colors standard (10% maximum primary colors) in the GW-OL: Gateway Overlay district, to be permitted the following percentages:*
  - a. West: 17% (Variance Requested)
  - b. South: 30% (Variance Requested)
  - c. East: 10%
  - d. North: 30% (Variance Requested)
  - e. Overall Red Coverage: 20%[See [Exhibit B: Kopetsky Auto Wash Renderings](#)]
4. According to Article 5, Chapter 4, Exterior Colors: Exterior facade wall colors shall be low reflectance, subtle, neutral, or earth tones. The use of high intensity, primary, metallic, black or fluorescent colors shall be prohibited. Building trim and accent areas may feature brighter colors or primary colors. Such building trim and accent areas shall not exceed 10% of any single exterior wall area excluding all windows, doors, and glass construction materials.

### **Gateway Overlay – Main Entrance Location**

5. Variance (2.): *Petitioner is requesting a variance to orient the main entrance of the building to be located on a façade wall that fronts Banta Street, and to not front onto N Morton St. The proposed use does not include pedestrian access to the building, and instead only has vehicular customer entrances; therefore, staff has interpreted the front entrance to be the vehicular access on the south façade. Since this property fronts both N Morton Street and Banta Street, and N Morton Street is the higher classified road in the Thoroughfare Plan, the ordinance requires the main entrance to face N Morton Street.*
6. According to Article 5, Chapter 4, “The main entrance to the primary structure shall be located on the facade wall that fronts on a public street. If the structure fronts on 2 or more public streets, the main entrance shall be located on the facade wall that fronts on the street with the highest Thoroughfare Plan classification.”

### **Interior Drive Widths**

7. Variance (3.): *Petitioner is requesting a variance to reduce the minimum Interior Drive Width standard for one-way traffic with no adjacent parking (13 feet minimum), to be permitted 11 feet wide interior drive widths. This request is limited to the vehicle stacking lanes leading into the car wash facility on the west side of the proposed structure.*
8. According to Article 7, Chapter 12, Interior Drive Widths: The minimum pavement widths for driveways and interior drives shall meet the following requirements, exclusive of any parking spaces:
  - b. For all multi-family and non-residential uses the following interior drive minimums shall be required:
    - i. 13 (feet) if 1 way traffic and no parking or 45 degree parking.

### **Entrance Drive Separation**

9. Variance (4.): *Petitioner is requesting relief from the Entrance Drive Separation Requirements, to be permitted to locate a vehicular entrance drive on Banta Street. The proposed entrance drive on Banta Street would be approximately 144 feet from the intersection of Grizzly Cub Drive, and approximately 38 feet from the access drive for Franklin Community Middle School. [[Exhibit C: Detailed Statement](#)]*
10. According to Article 7, Chapter 12, Entrance Drive Separation, “No entrance from a public street to a property used for purposes other than agriculture, single-family residential, or two-family residential shall be permitted within the distances specified in the Entrance Separation Requirements table.”

<u>Type of Street to be Accessed</u>	<u>Min. Distance from a Street Intersection</u>	<u>Min. Distance from another access point</u>
Collector (Banta St):	175 feet (Grizzly Cub Dr)	150 feet (middle school drive)

11. Petitioner desires two vehicular access points for the property, one directly off N Morton St, and a second off Banta Street, or via the Franklin Community Middle School north-south access drive off Banta Street. Petitioner has been unable to secure a new ingress/egress easement with Franklin Community Schools and, therefore, requests the direct access on Banta Street with the reduced separation distances.

### **Comprehensive Plan**

12. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Community Activity Center. "Community activity centers area intended as areas of mixed land uses that provide gathering places and goods and services for the entire community. Community activity centers may include churches, schools, community parks, grocery stores, gas stations, shopping centers, offices, banks and restaurants. Community activity centers may also include residences located on the upper floors of otherwise commercial buildings. Community activity centers are generally located along major streets and at prominent intersections where they are readily accessible by people from throughout the community."

### **Zoning Ordinance**

13. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
14. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.

### **CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:**

#### **(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

### **DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES**

1. *General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.*

#### **Staff Finding:**

Staff finds the approval of the proposed variances will not be injurious to the public health, safety, morals, or general welfare of the community. Petitioner has designed the structure to utilize a primary color (red) as the accent color for areas of trim on the structure; albeit greater than the 10% maximum permitted, petitioner has designed a structure that meets the intent of the standard, as a vast majority of the structure will utilize non-primary colors and/or glass, and largely only use red for trim and accent areas. The orientation of the main entrance for this business use – by vehicles and not pedestrians – will not be injurious to the general welfare. Approval of the reduced interior drive widths will not be injurious to the public health, safety or general welfare, as eleven foot lanes have proven to be adequate for similar purposes, such as fast food drive-thru lanes. Additionally, staff finds approval of the reduced entrance drive separation distances will not be injurious to the public health safety, morals, or general welfare, as petitioners seek to provide two vehicular access points for the property, to create safe and efficient traffic routing on-site. The primary ingress/egress to the site will be a direct connection to N Morton St / US Hwy 31, as petitioner intentionally designed car wash traffic to enter and queue along N Morton Street, with vehicles exiting the car wash to the north. The existing site has continuous vehicular access to Grizzly Cub Drive and Banta Street; approval will reduce vehicular access to a single access point on Banta Street, substantially reducing the number of potential collision points.

**2. *Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

**Staff Finding:**

Staff finds approval of the proposed variances will not directly affect the use and value of adjacent properties in a substantially adverse manner. Approval of the additional primary color coverage (approximately 20% for entire structure) and orientation of the main customer entrance will not have any affect on the use or value of adjacent properties. Additionally, the reduced interior drive widths will not have any affect on any other property, as the reduced interior drive widths are completely contained to the interior traffic pattern of the site and do not connect to or affect any other property. Approval of the reduced entrance drive separation distances will not affect the use or value of adjacent properties, as approval will not impede, encroach, block, reroute, or otherwise affect any existing entrance drives on adjacent properties. Moreover, the existing site has continuous vehicular access for the length of the property along Grizzly Cub Drive and Banta Street; approval will reduce vehicular access to a single access point on Banta Street, substantially reducing the number of potential collision points.

**3. *Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

**Staff Finding:**

Staff finds the strict application of the terms of the ordinance will result in practical difficulties in the use of the property. Staff finds a practical difficulty in strictly limiting the use of primary colors to 10%, as petitioner's use of red was mainly limited to trim, accent areas, or structural framing, which staff finds is the intent of the ordinance. Additionally, due to the business type being auto-oriented and not having a walk-up/pedestrian entrance, it is not practical to strictly enforce the main entrance being oriented toward N Morton St. Staff also finds a practical difficulty in strictly applying the interior drive width standard, as eleven feet interior drives have proven to be adequate and beneficial for similar purposes, such as fast food drive-thru lanes. Staff finds practical difficulties in the use of the property would occur if petitioner was not permitted an access point on Banta Street; petitioner has sought a new ingress/egress easement with Franklin Community Schools, to have a secondary access point to the car wash at the northeast corner of the subject property, connecting to the Middle School north-south access drive, but the two parties have been unable to come to an agreement. Therefore, petitioner's only remaining option for a second access point is on Banta Street. There is not enough lot frontage along Banta Street for petitioner to meet the separation distances from N Morton Street and the school access drive. Moreover, the existing site has continuous vehicular access for the length of Grizzly Cub Drive and Banta Street; approval of the single access point on Banta Street would be a practical improvement to an existing nonconforming site.

**STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

Based on the written findings above, staff recommends **approval** of the petitions, with the following conditions:

- a. Approval of red building color is limited to 20% overall, with each façade wall limited as follows:  
North: 30%; South: 30%; East: 10%; and West: 17%.
- b. If an agreement has been entered into with the Franklin Community School Corporation to allow an access drive to be constructed along Kopetsky's east property line to connect with the school's north-south drive prior to the issuance of the land disturbance permit, the approval related to the drive separation is null and void.