



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: December 29, 2022
Re: Case ZB-22-13 (V) Cold Summit Development

REQUEST:

Case ZB-22-13 (V)...Cold Summit Development. A request by Cold Summit Development for four Developmental Standards Variances from the City of Franklin Zoning Ordinance, as follows:

- 1.) Article 3, Chapter 22, IL: Industrial, Light Development Standards, to allow the maximum height for the primary structure to exceed 50 feet (55 feet requested);
- 2.) Article 7, Chapter 3, Accessory Structures Standards, to allow a pump house and tank as accessory structures to be located in a front yard;
- 3.) Article 7, Chapter 12, Entrance/Drive Standards, to allow an entrance drive to exceed 42' for a three-lane access drive (56' requested); and
- 4.) Article 7, Chapter 15, Non-residential Fence Standards, to allow a fence to be located within a required front yard setback (fence offset 3 feet from front property line requested).

The subject property is located on the south side of Earlywood Drive, east of the intersection with Graham Road, and is approximately 36 acres.

PURPOSE OF STANDARD:

The "IL", Industrial: Light zoning district is intended to provide locations for light production, assembly, warehousing, research & development facilities, and similar uses. This district is intended to accommodate only industrial uses that are completely contained within structures and do not involve the outdoor storage of materials or the release of potential environmental pollutants. This district should be used to support industrial retention and expansion in Franklin.

ZONING:

Surrounding Zoning:

North: IG: Industrial, General
South: IL: Industrial, Light
East: IBD: Industrial Business Development
West: IBD: Industrial Business Development

Surrounding Land Use:

North: Agricultural tillable field
South: Single-family Residential
East: RJ Pkwy Industrial Business Development
West: Single-family Residential (East of Graham Church, varying industrial users (West of Graham)

CONSIDERATIONS:

1. Petitioner, Cold Summit Development, is proposing to develop a four-tenant speculative cold storage and distribution facility, approximately 350,000+ sq. ft., on property approximately 28.81 acres after right-of-way dedication. [[Exhibit A: Request Letters](#) & [Exhibit B: Site Plan](#)]
2. Petitioner has filed for Site Development Plan review and those plans have been reviewed by the Technical Review Committee. Revisions to the plans are required and the approval of the Site Development Plan cannot be authorized without approval of the variances requested, or full compliance with the Zoning Ordinance.

Industrial, Light – Primary Structure Height

3. According to Article 3, Chapter 22, Industrial, Light Development Standards, the maximum building height for primary structures is **50 feet** in the IL zoning district.
4. The height of a structure is measured from grade level at the lowest point of the base of the structure to the highest point of the structure, excluding the necessary appurtenances listed in Section 7.2(B)(4).
5. Necessary appurtenances are permitted to exceed the permitted height by up to 10 feet. Examples of necessary appurtenances include: chimneys, fire towers, stair towers, elevator bulkheads, etc.
6. Variance (1.): *Petitioner is requesting a development standards variance to be permitted a maximum primary structure height of 55 feet, instead of 50 feet.* [[Exhibit A: Request Letters](#)]
7. The peak height (55') of the building would be located in the middle of the building and slope down to 52 feet along the west side, which is the side closest to the residential properties.
8. The loading docks on the east side of the building would be an additional 4'-2" below the finished floor elevation, for a total building height of 59'-2" from lowest point of the base of the structure to the highest point of the structure. However, if the additional height for loading docks is considered a necessary appurtenance, and adds less than 10' in height, the total building height could be considered 55 feet. [[Exhibit C: Building Elevations](#)]

Accessory Structures – Location

9. According to Article 7, Chapter 3, No accessory structure shall be permitted in any front yard, or within the required side and rear yard setbacks.
10. Variance (2.): *Petitioner is requesting a variance to allow accessory structures (pump house & tank) to be located in an area designated as a front yard by the Zoning Ordinance.* In this case, the front yard area is all of the subject property which is closer to the right-of-way of Graham Road than the south and west foundation lines of the proposed main structure. [[Exhibit A: Request Letters](#) & [Exhibit B: Site Plan](#)]
11. Petitioner provided photos of existing pump houses & tanks as an example of the look and size of those proposed. The exact size and height of these structures have not been provided, but it has been indicated they will be shorter than the main structure. [[Exhibit D: Pump House & Tank examples](#)]

Entrance Drive Width

12. According to Article 7, Chapter 12, Entrance/Drive Standards, Entrance Widths, “no entrance shall exceed 14 feet per lane (exclusive of any medians) if from a non-residential or multi-family residential use onto any type of street.”
13. The distance for this standard is determined by measuring from the outside edges of the curb at the public right-of-way which it accesses.
14. Variance (3.): *Petitioner is requesting a development standards variance to be permitted a three-lane entrance drive to access the Graham Road extension, with an entrance width of 55'-7 1/4", instead of 42'.* [[Exhibit A: Request Letters](#) & [Exhibit B: Site Plan](#)]

Non-residential Fence, Hedge, & Wall Standards

15. According to Article 7, Chapter 15, Part 3: These Non-residential Fence, Hedge, & Wall Standards apply to the Mixed-Use, Institutional, and Industrial zoning districts:
 - **Height Requirements:** Fences, hedges, and walls shall not exceed 8 feet in height and shall be prohibited in any required front yard setback.
 - **Prohibited Fences:** All electrified, barbed wire, razor wire, and stockade fences are prohibited on all non-farm property. Industrial uses and penal and correctional facilities shall also be exempt from this standard.
16. The subject property has multiple front yards, due to the existence of right-of-way adjacent on all four sides; the front yard setback is 50 feet, on all sides adjacent to public right-of-way. According to the Fence Standards, petitioner is not permitted to locate any portion of their fence within any front yard.

17. Petitioner proposes for the fence to enclose the entire facility, including all vehicle use areas (truck storage areas, loading docks, employee and visitor parking, etc.), and the interior drive along the west side of the building. [Exhibit E: Decorative Fence Details]
18. Variance (4.): *Petitioner requests approval to be allowed to place a 6 foot wrought iron fence within the required front yard setback along the north (Earlywood Drive) side of the property. Petitioner stated the fence would be located approximately 3 feet from the north property line; forty-seven feet closer than permitted by ordinance. Petitioner could construct the fence outside of the front setback; however, petitioner anticipates there may be a need to expand the parking lot in that area in the future.*
19. Petitioner “is amenable to a commitment to maintenance this stretch (of fence) as decorative as a condition of approval.” [Exhibit A: Request Letters]

Comprehensive Plan & Zoning Ordinance

20. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Business Development Area. “Business development areas are intended to serve as both the permanent home of small scale businesses and incubators of new local companies. Land uses in business development areas include manufacturing, light industrial operations, contractor’s offices, and products suppliers. In many instances the types of businesses in these areas are those that have both commercial and industrial qualities. The business development areas provide these uses the ability to serve customers in a setting that allows outdoor storage and the operation of heavy equipment and machinery that often are involved.”
21. 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.
22. 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 VARIANCE

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 approval of the proposed variances 2, 3 & 4 will not be injurious to the public health, safety, morals, and general welfare of the community. (Variance 2) Approval of the pump house & tank structures, at the proposed location within a front yard, will not have any negative impact on the general welfare, as the structures will be setback far from adjacent properties and the right-of-way. (Variance 3) Approval of the entrance drive width request will not be injurious to the public health or general welfare of the community, as

there will be no other entrance drives located on this stretch of road, other than the standard vehicle entrance to this facility, and the added width will allow for a better turning radius for trucks entering the loading dock area. (Variance 4) Approval of the proposed decorative fence in the front setback along Earlywood Drive, with the proposed conditions of approval, will not be injurious to the public health, safety or general welfare, as the fence will be setback at least three feet from the right-of-way and will not encroach-on or impede pedestrian or vehicular traffic in the area. (Variance 1) Staff finds approval of the proposed variance 1 (building height) may be injurious to the public health, morals, and general welfare of the community, as the request is to exceed the height maximum for the entire length of the facility and not just a small section of an otherwise compliant building, as has previously been approved by this Board. Approval for an entire industrial facility to exceed the height limitations, for the stated purpose of additional pallet stacking height, could be precedent setting for all future industrial warehousing/distribution structures; a situation that hits at the general welfare of the community, and not a direct injury to persons or properties. However, petitioner implies the benefits of the additional height are unique to cold distribution facilities, because the greater vertical stacking/refrigerated space granted to them, would allow for an increase in top-down cooling that would increase the chilling capacity with the same sized refrigeration system, resulting in greater energy efficiency for the facility. Approval of the proposed height variance could be injurious to the neighboring residents to the west, who will have further reduced natural morning light, and will be subject to greater building massing as a result; these detriments are more likely to affect residential neighbors, than if this project was completely surrounded by other industrial uses. Therefore, staff is inconclusive of the effect to the general welfare of the height variance request.

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:

As it relates specifically to requested variances 2, 3 & 4, the use and value of adjacent properties will not be affected in a substantially adverse manner. (Variance 2) Approval of the pump house & tank structures, at the proposed location within a front yard, will not have a deleterious effect on other properties, as the structures will be setback far from adjacent properties and the right-of-way. (Variance 3) Approval of the entrance drive width request also will not affect other properties, as there will be no other entrance drives located on this stretch of road, other than the standard vehicle entrance to this facility, and the added width will allow for a better turning radius for trucks entering the loading dock area. (Variance 4) Approval of the proposed decorative fence in the front setback along Earlywood Drive, with the proposed conditions of approval, will not affect adjacent properties, as the proposal is a variance related to setback from the right-of-way and not immediately adjacent properties; with the proposed conditions of approval, the fence will not become an eyesore for the general vicinity, nor will it encroach-on or impeded pedestrian or vehicular traffic in the area. (Variance 1) Staff finds approval of the proposed variance 1 (building height) may adversely affect the use and value of adjacent properties, as the request is to exceed the height maximum for the entire length of the facility and not just a small section of an otherwise compliant building, as has previously been approved by this Board. Approval of the proposed height variance could adversely affect the neighboring residents to the west, who will have further reduced natural morning light, and will be subject to greater building massing as a result; these detriments are more likely to affect residential neighbors, than if this project was completely surrounded by other industrial uses. Conversely, the variance in building height is only five feet at the peak of the roof in the middle of the structure; this represents only a ten percent increase from what is already permitted by ordinance. Additionally, the façade wall along the west side of the facility would be 52 feet in height, only two feet greater than permitted by ordinance; a two foot increase in height likely would not rise to the level of “substantially adverse” impact on neighboring properties. Therefore, staff is inconclusive of the affect to the use and value to adjacent properties, as it specifically relates to the height variance request.

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 ordinance will result in practical difficulties in the use of the property as it relates to variances 2 (accessory structure in front yard), 3 (entrance drive width) and 4 (fence in front setback), but staff is unsure of the applicability of petitioner's stated practical difficulty related to variance 1 (building height). Due to the location and orientation of the subject property with public rights-of-way, by ordinance the property has front yards and front setbacks in all four cardinal directions; the strict application of the ordinance would result in practical difficulties in locating the pump house and tank outside of a front yard area. Staff further finds a practical difficulty exists in locating the fence along the north side of the property, as petitioners could install the fence and meet the ordinance standard; however, petitioner believes there may be a need for additional parking in that area of the site in the future. In regard to the entrance drive width request, staff finds petitioners could provide an entrance drive meeting the standards of the ordinance; however, petitioner's proposal will result in less damage to the right-of-way as a result of truck traffic into this facility. Moreover, the proposed truck entrance drive will be the only one off this segment of road, except for the standard vehicle entrance, and the additional width will not create conflicts or issues with other drives to other properties. In regard to variance 1 (building height), staff is unsure if the practical difficulty is based on a perceived reduction of, or restrict on, economic gain. Petitioner's original site development plan submittal included a building design with a maximum height of 48 feet; it wasn't until after Technical Review Committee reviewed and met to discuss the proposal that the height increased to 55 feet. Staff does find that a taller, more dense building would be more energy efficient for a cold storage distribution facility utilizing top-down cooling, and the strict application of the ordinance could be considered a practical difficulty for this specific type of facility. Moreover, petitioner argues industry standards are changing and now 51 feet of interior clear to the bottom of the lowest structural roof joist is the industry standard for cold distribution facilities. Therefore, staff is inconclusive of the existence of an applicable practical difficulty as it specifically relates to the height variance request.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE

Based on the written findings above, staff recommends **approval** of the **variances 2 (accessory structure in front yard), 3 (entrance drive width) and 4 (fence in front setback)**, with the following conditions of approval:

1. Approval for the pump house & tank is limited to the general location depicted in the site plan submitted with this request.
2. Approval for the three-lane entrance drive width to be 55'-7 1/4" is limited to the southern entrance on the Graham Road Extension road, as depicted in the site plan submitted with this request.
3. A six-foot wrought iron fence style, as depicted in exhibits provided by petitioner for this request, must be utilized for the areas marked "decorative fence" on the site plan submitted with this request.
4. The fence must not be located closer than three feet to the north property line, and is not permitted to encroach into the front setback any more than depicted in the site plan submitted with this request.
5. Signage, banners, flags, or fabric of any kind are prohibited from being tied or affixed to the decorative fence.

If the Board finds evidence to approve the Development Standards **Variance 1 (building height)**, staff recommends the following condition be attached to the approval:

6. Maximum height of the structure is permitted up to fifty-five feet. Necessary appurtenances are permitted to exceed the fifty-five feet by up to 10 feet.