

# Board of Zoning Adjustment

## Staff Report

June 17, 2019



**Case No:** 19CUP1061  
**Project Name:** Assumption High School Parking Expansion  
**Location:** 2140 Tyler Lane  
**Owner(s):** Assumption High School, Inc.  
**Applicant:** Land Design and Development, Inc.  
**Jurisdiction:** Louisville Metro  
**Council District:** 8 – Brandon Coan  
**Case Manager:** Jon Crumbie, Planning & Design Coordinator

### **REQUEST(S)**

- Modified conditional use permit to allow the expansion of an existing off-street parking area.
- Variance to allow proposed structure to exceed the maximum height requirement

| Location                              | Requirement | Request | Variance |
|---------------------------------------|-------------|---------|----------|
| Height Variance for 3-Story Structure | 35 ft.      | 38 ft.  | 3 ft.    |

### **CASE SUMMARY/BACKGROUND**

There is an existing conditional use permit for off-street parking in a residential zone approved for tract 1. The applicant is requesting to modify the approved conditional use permit to add additional parking spaces. The height variance is associated with the building expansion on tract 2. This is due to the need to maintain the existing building height in the expansion area. The existing high school building was constructed in 1955 at its current height. The original height will be maintained.

### **STAFF FINDING / RECOMMENDATION**

There are six requirements and five will be met under the previous approved Conditional Use Permit. The applicant will be asking for relief for item C. No additional changes to the requirements were requested. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a modified conditional use permit.

## **RELATED CASES**

### **19DEVPLAN1074**

A request for a Revised Detailed District Development Plan and Binding Element were approved by the Planning Commission on June 6, 2019.

### **B-179-00**

An application for a Conditional Use Permit to allow off-street parking in the R-5 zoning district. This case was approved by Louisville Board of Zoning Adjustment on September 18, 2000.

### **B-180-00**

An application for variances from the Zoning district Regulations to allow existing structures and off-street parking to encroach into the required yards. This case was approved by Louisville Board of Zoning Adjustment on September 18, 2000.

**9-31-00PWVLW** Change in zoning from R-5 Single-Family Residential to R-6 Multi-Family Residential

## **TECHNICAL REVIEW**

There are no outstanding technical review items.

## **INTERESTED PARTY COMMENTS**

A neighborhood meeting was held on January 29, 2019.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT**

### 1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal meets all applicable policies of the Comprehensive Plan. Lighting will not be added.

### 2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is an expansion of a partial area of the existing off-street parking area. The proposal will have the required landscaping and buffering. The appearance of the parking area along the west property line will be enhanced by the proposed landscaping.

### 3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The proposal has been reviewed by Transportation Planning and MSD and both have approved the modified conditional use permit plan.

### 4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the

provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements:

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking. ***The applicant will be asking for relief to allow the proposed parking to be located 0 feet from the east property line. The applicant received relief and was granted a variance (B-180-00) to allow the existing parking to be 0 feet from the east property line.***
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans, and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the addition will be constructed according to all building codes, including fire codes and will be the same height as the existing classroom structure.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the streetscape has been established along Tyler Lane with the original construction.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the proposed structure will have to follow all building codes, including fire codes.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed and existing height will be the same.

#### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the original structure was built in 1955 at its present height.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to lower the height of the structure which would create a variety of internal room heights.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the original structure was built in 1955.

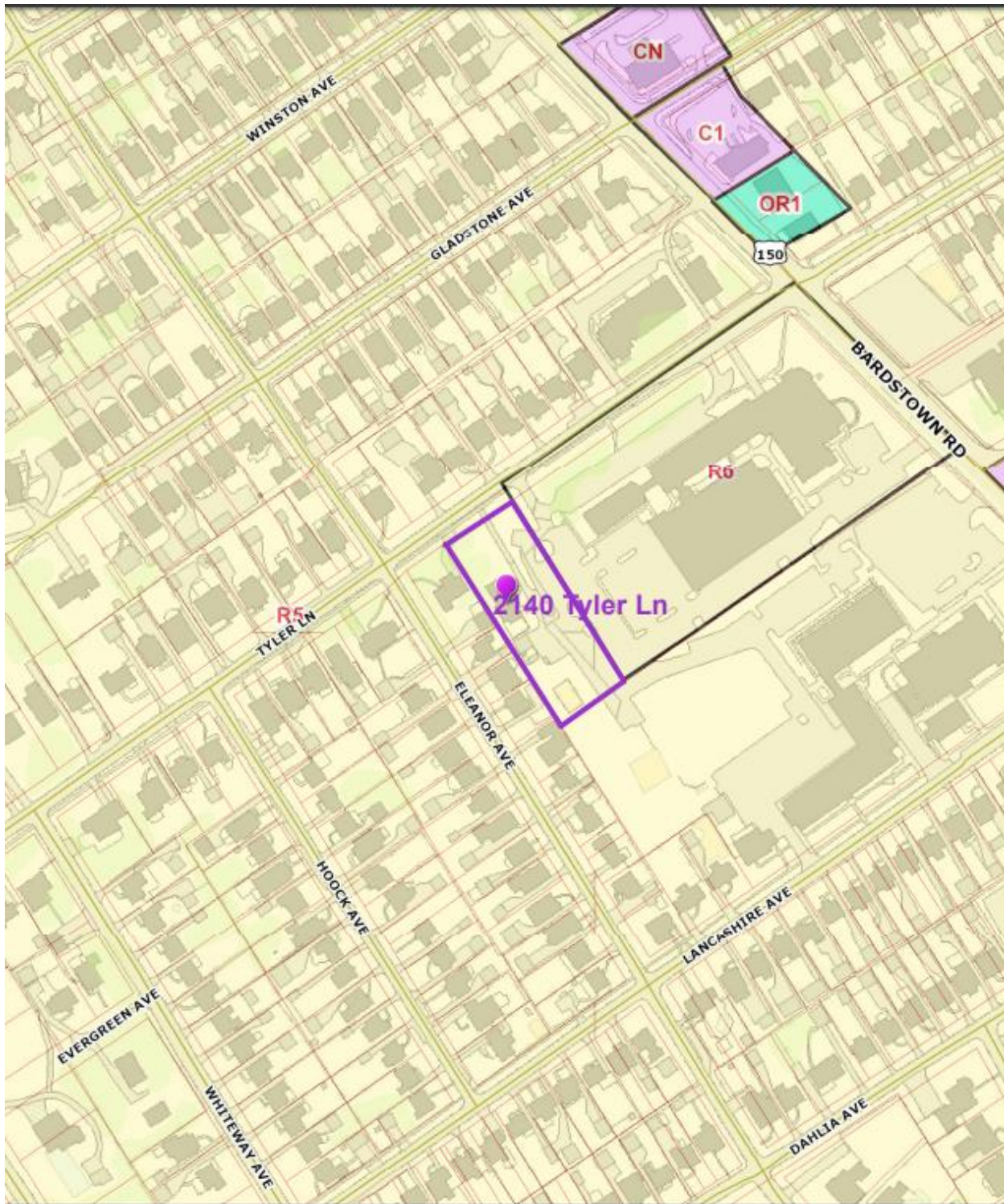
#### **NOTIFICATION**

| Date      | Purpose of Notice   | Recipients                                                                                                                 |
|-----------|---------------------|----------------------------------------------------------------------------------------------------------------------------|
| 5/31/2019 | Hearing before BOZA | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners<br>Registered Neighborhood Groups in Council District 8 |
| 6/7/2019  | Hearing before BOZA | Sign Posting                                                                                                               |

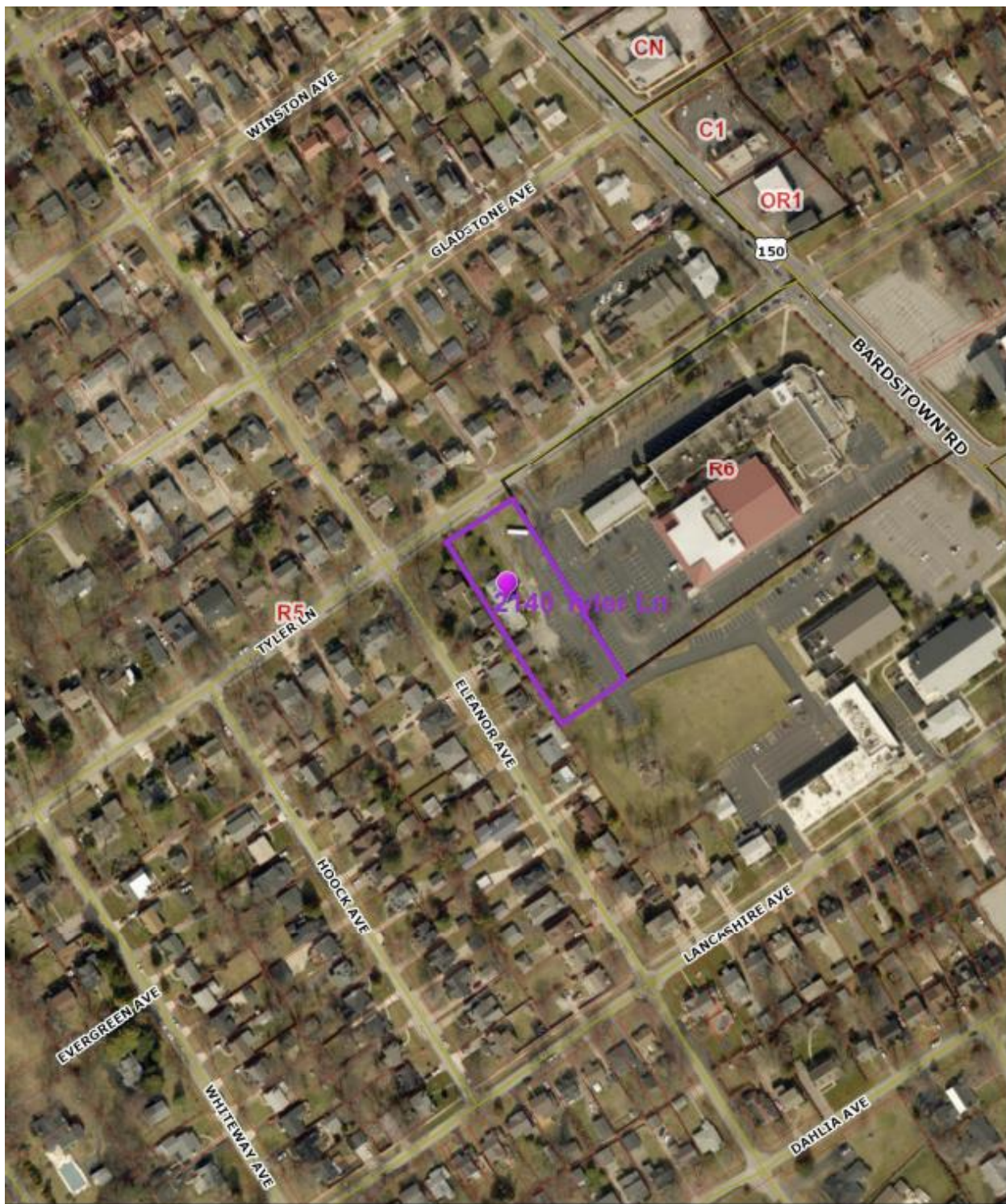
#### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval
4. Proposed Conditions of Approval

1. Zoning Map



2. Aerial Photograph



**3. Existing Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The parking lot shall be used exclusively for transient parking of automobiles belonging to invitees of the school.
3. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.

**The variances allow:**

1. The parking spaces east of the day care center to be located 0 feet at the closest point from the side yard property line.
2. The parking spaces north of the multi-purpose building to be located 0 feet from the side property line.
3. The parking spaces between the rectory and the school to be located 0 feet from the Lancashire Avenue property line.
4. The garage to be located 0 feet from the rear property line.

**4. Proposed Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.