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VARIANCE JUSTIFICATION

DelTaco at Ferndale Center

April 14, 2026

Enclosed please find an application for a variance from LDC 9.1.4 to allow parking to encroach into the required infill front yard on the northern portion of the property at 6402 Bardstown Road. (I believe your department is also reviewing a separate application for a similar request on the southern portion of the property for another applicant.)

This variance is a bit strange because the underlying form district does not have a minimum front yard setback and parking would only be required to abide by the required VUA landscape buffer requirements. However, since this site meets infill setback requirements, the required front setback is based on the two nearest structures and ranges from a minimum setback of 51' (Moby Dick) to a maximum setback of 89' (L&N). Since infill requirements strictly determine setbacks based on the nearest structures, the fact that the parking for Moby Dick (and most of the other surrounding uses) is closer to Bardstown Road than the proposed parking on the subject site doesn't factor into the equation. Therefore, staff has determined that we need a variance to reduce the front setback.

With regard to the specific justification required by the application, please note the following:

1. Explain how the variance will not adversely affect the public health, safety, or welfare.

This variance is internal to the site and will match the character of adjacent properties. There will be adequate buffering and circulation in and around the site so there will be no adverse impact to the public health, safety or welfare.

2. Explain how the variance will not alter the essential character of the general vicinity.

This variance will allow the proposed site to match the character of the general vicinity by allowing a drive lane with parking in front of the structure as exists on almost every commercial use in the general vicinity. Therefore, this variance will not alter the essential character of the general vicinity.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

This variance is internal to the site. All required landscape planting will be provided, and safe circulation will be provided and approved by transportation planning. Therefore, this variance will not cause a hazard or nuisance to the public.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

This variance will allow this site to match the character of the adjacent properties...some of which have existed for a long time, and others that didn't have to meet infill standards or are asking for the same relief. Therefore, this will not allow an unreasonable circumvention of the requirements of the zoning regulations.

5. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

Although this site is in the Town Center Form District, this area has not developed in a way that is consistent with the typical characteristics of that form district. Therefore, this is a special circumstance that doesn't typically apply to typical properties in the Town Center Form District. Furthermore, this site meets infill standard requirements which are based on building setbacks and aren't specific on parking setbacks. So, per staff's analysis, parking in the proposed building setback requires a variance even though properties all around this area have parking closer to Bardstown Road than the proposed site, making this another special circumstance that does not generally apply to land in the general vicinity.

6. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

The strict application of the provisions of the regulation would require the building to be pushed back significantly from Bardstown Road, likely triggering a variance to allow the building to exceed the maximum setback and significantly decreasing visibility from Bardstown Road both due to distance and topography. Furthermore, it would disrupt the established pattern of development for this corridor, causing an unnecessary hardship.

7. Are the circumstances the result of actions of the applicant taken after the adoption of the regulation from which relief is sought?

No. The circumstances are the result of having an infill lot in the Town Center Form District in an area that has not developed consistently with the regulations of the Town Center Form District. The applicant has done no work on the property to date.