

Board of Zoning Adjustment

Staff Report

January 22, 2019



Case No:	18VARIANCE1116 & 18WAIVER1027
Project Name:	Papa John's Signage Variance
Location:	14041 Shelbyville Road
Owner(s):	Orbin & Judy Greene
Applicant:	Derby City Signs
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Variiances**
 1. Land Development Code (LDC) table 8.3.3 to allow a sign on a designated parkway to exceed the allowed square footage.
 2. LDC table 8.3.3 to allow a sign on a designated parkway to exceed the allowed height.
- **Waivers**
 1. LDC section 8.3.3.B.9 to allow a sign on a designated parkway and in the Neighborhood form district to not be columnar or monument style.
 2. LDC section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residentially zoned properties which are being used residentially.
 3. LDC section 8.2.1.D.4.a to allow a changing image panel in the Neighborhood form district to exceed 30% of the area of a sign.
 4. LDC section 8.2.1.D.1 to allow a second changing image sign on a property.

Location	Requirement	Request	Variance
Area	60 sf.	64.67 sf.	4.67 sf.
Height	6 ft.	16 ft.	10 ft.

CASE SUMMARY/BACKGROUND

The subject property is located at the intersection of Shelbyville Road and N Beckley Station Road. The property is currently developed with a commercial strip center, including a Papa John's Pizza establishment. The applicant proposes to replace the existing pole-style Papa John's sign with a similar pole-style sign at the same height as the existing sign, with an electronic message center in place of the current sign's reader board.

Shelbyville Road at this location is a designated parkway. The Land Development Code sets restrictions on signage on lots adjacent to designated parkways. The applicant requests two variances, for sign area and sign height, related to the parkway designation. The applicant also requests four waivers. This lot is both adjacent to a parkway and in the Neighborhood form district.

STAFF FINDING

Staff finds that the requested variances are not adequately justified and do not meet the standard of review. Staff finds that the requested waivers #1, 3 and 4 are not adequately justified and do not meet

the standard of review. Staff finds that the requested waiver #2 is adequately justified and meets the standard of review.

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 for granting a variance established in the Land Development Code, and for granting a waiver established in the Land Development Code.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

Neighbor Michael Albensoeder contacted staff by phone to advise that he has no objection to a new sign so long as it is no larger than the existing sign.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1 FROM TABLE 8.3.3

- (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 size of the sign is unlikely to have adverse effects on public health, safety or welfare.

- (b) The requested variance will alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity as the general vicinity is characterized by relatively small signs which comply with the parkway limitations.

- (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 sign area is similar to the existing sign area, which has caused no known hazard or nuisance.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance may allow an unreasonable circumvention of the zoning regulations as the sign could be sized to fit within the parkway limitations without compromising the sign's visibility.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because there are numerous businesses along this stretch of Shelbyville Road which have complied with the parkway limitations on signage.

2. The strict application of the provisions of the regulation would not 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 would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the sign could be reduced in size without compromising the sign's effectiveness.

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 applicant is requesting the variance and has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2 FROM TABLE 8.3.3

- (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 height of the sign is unlikely to have adverse effects on public health, safety or welfare.

- (b) The requested variance will alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity as the general vicinity is characterized by signs which comply with the parkway height requirement.

- (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 sign height is similar to the existing sign height, which has caused no known hazard or nuisance.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance may allow an unreasonable circumvention of the zoning regulations as the sign could be made a shorter, monument-style sign similar to other signs in the vicinity. The sign would have the same visibility as other signs in the area.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because there are numerous

businesses along this stretch of Shelbyville Road which have complied with the parkway limitations on signage.

2. The strict application of the provisions of the regulation would not 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 would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the sign could be reduced in height without causing an unnecessary hardship, as other businesses have complied with parkway limitations with no known hardship.

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 applicant is requesting the variance and has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1 FROM SECTION 8.3.3.B.9

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect adjacent property owners as the existing sign is pole-style and has caused no known adverse effects.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 describes signs as compatible with the form district pattern and contributing to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern.

These guidelines are violated because the proposed sign is located along a designated parkway, which Cornerstone 2020 mentions as deserving special attention. The Land Development Code provides that special attention by requiring signs be monument or columnar in style, among other requirements.

- (c) The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the sign is being replaced and could be replaced with a monument-style sign like others in the vicinity.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and the strict application of the provisions of the regulations would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as a monument-style sign is feasible for the location.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2 FROM SECTION 8.2.1.D.6

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the nearest homes have an oblique view of the sign and are located across Shelbyville Road, a major arterial.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 describes signs as compatible with the form district pattern and contributing to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern.

These guidelines are not violated because changing image signs are permitted in this location and the sign is located across Shelbyville Road from the nearest affected residential properties.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as there is no location on the property where a changing image sign could be placed where it is not within 300 feet of a residential property.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as there is

no location on the property where a changing image sign could be placed that is not within 300 feet of residential properties.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3 FROM SECTION 8.2.1.D.4.a

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the excess changing image portion of the sign is unlikely to be noticed by adjacent property owners.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 describes signs as compatible with the form district pattern and contributing to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern.

These guidelines are not violated because the design guidelines for the Neighborhood form district are not addressed in Cornerstone 2020.

- (c) The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as a smaller changing image panel could be used that complies with the requirements of the Land Development Code without compromising the sign's effectiveness.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and the strict application of the provisions of the regulations would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as a smaller changing image panel could be used.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #4 FROM SECTION 8.2.1.D.1

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the additional changing image sign is located across a major arterial street from the affected properties, with the result that the changing image aspect of the sign is unlikely to have a significant impact.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 describes signs as compatible with the form district pattern and contributing to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern.

These guidelines are violated because the sign is located along a designated parkway, which is explicitly mentioned in Cornerstone 2020 as a location deserving of special attention. There is already one changing image sign on the property, and a second sign would have a negative cumulative impact on the parkway.

- (c) The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the applicant's sign has a reader board which is proposed to be replaced. The existing reader board has served the applicant's purposes for many years.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and the strict application of the provisions of the regulations would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as a reader board already exists on the sign, which can be used to display messages to drivers.

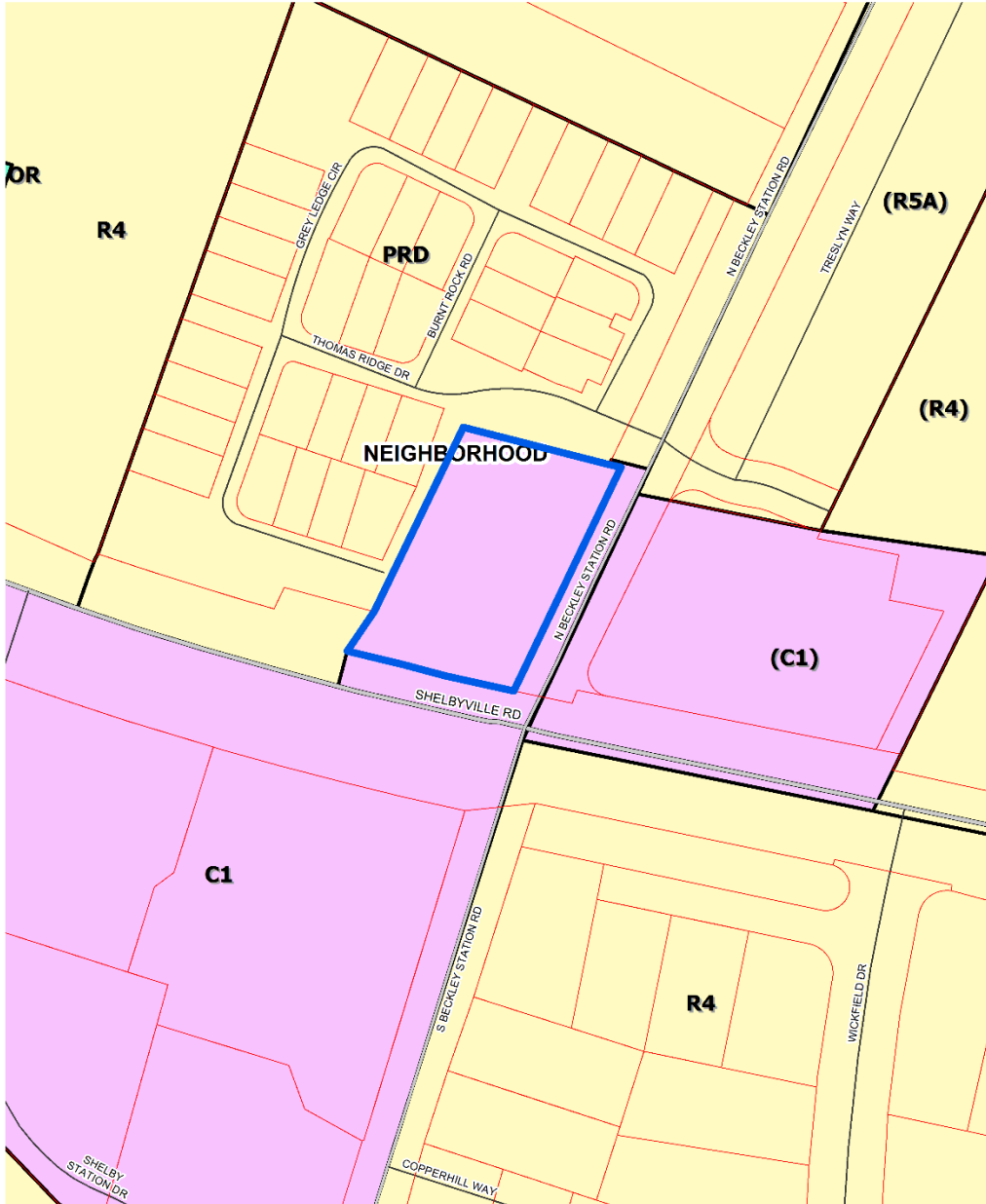
NOTIFICATION

Date	Purpose of Notice	Recipients
12/27/2018	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19
01/04/2019	Hearing before BOZA	Notice posted on property

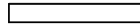
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 300 Foot Buffer Around Sign

1. Zoning Map



14041 Shelbyville Road
feet



140
Map Created: 12/31/2018

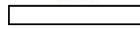


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2. Aerial Photograph



14041 Shelbyville Road
feet

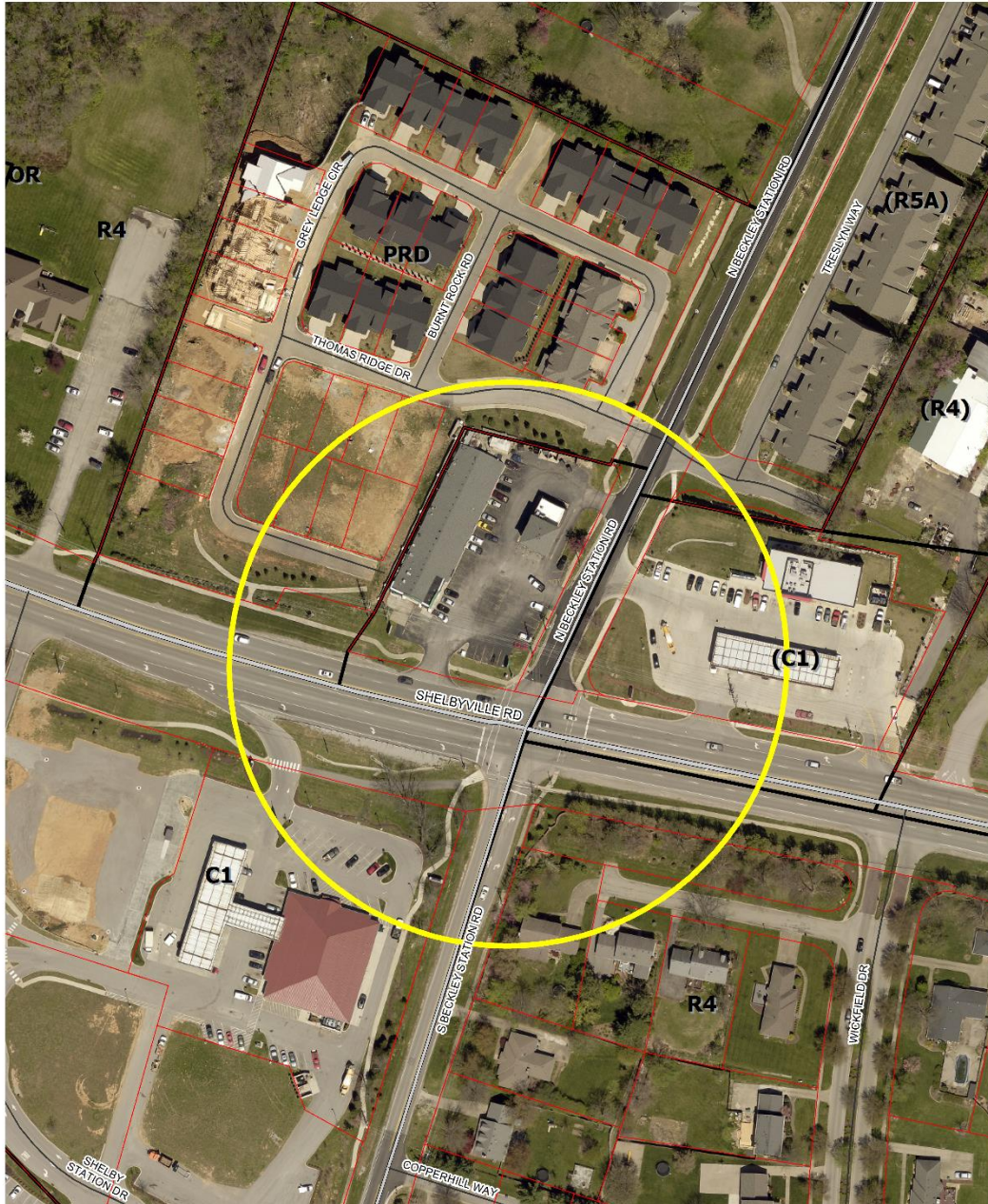


140
Map Created: 12/31/2018

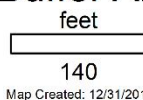


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3. 300 Foot Buffer Around Sign



300 Foot Buffer Around Sign



Map Created: 12/31/2018



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