



Variance Application

Louisville Metro Planning & Design Services

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Case No.: 17DEVPLAN1127 Intake Staff: NH

Date: 3/8/18 Fee: 600

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section 5.2.4.C.3.a of the Land Development Code, to allow vary the Whittington Parkway 15 ft maximum building setback along Tracts 1, 4 & 5 .

Primary Project Address: 101 Whittington Parkway

Additional Address(es): 9120 Shelbyville Road

Primary Parcel ID: Block 1877, Lot 1

Additional Parcel ID(s): Block 1877, Lot 21

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Proposed Use: mixed use commercial

Existing Use: retail/commercial

Existing Zoning District: C-1 & C-2

Existing Form District: Town Center

Deed Book(s) / Page Numbers²: Deed Book 10725, Page 221

The subject property contains 27 +/- acres. Number of Adjoining Property Owners: _____

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 17DEVPLAN1127

Docket/Case #: 09-41-05

Docket/Case #: 09-28-04

Docket/Case #: _____

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.2.4.C.3.a to vary the Whittington Parkway 15 ft maximum building setback along Tracts 1, 4 & 5.

1. The variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only.
2. The variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of building set back much more significantly than this from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 as a Town Center Form District. Moreover this overall plan brings these buildings much closer than any buildings are at present to Whittington Parkway. Among the apartment buildings, they are mostly at the 15 ft line with only a few parts of the buildings that can't be brought all the way to the street because of the irregular shape of the overall property relative to building sizes and shapes.
3. The variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that these buildings are bring brought much closer to the public right-of-way than buildings are currently situated.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the buildings presently located on these properties are located much further away from the public right-of-way.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped site.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the shape of the buildings relative to the shape of the overall site.



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Project Information:

This is a variance from Section 5.5.1.A.2 of the Land Development Code,

to allow the proposed buildings to not be constructed at the right-of-way line along Shelbyville Road and Hurstbourne Parkway, but rather at the Hurstbourne Parkway Buffer Area 30 ft building setback on tract 6

Primary Project Address: 101 Whittington Parkway

Additional Address(es): 9120 Shelbyville Road

Primary Parcel ID: Block 1877, Lot 1

Additional Parcel ID(s): Block 1877, Lot 21

Proposed Use: mixed use commercial Existing Use: retail/commercial

Existing Zoning District: C-1 & C-2 Existing Form District: Town Center

Deed Book(s) / Page Numbers²: Deed Book 10725, Page 221

The subject property contains 27 +/- acres. Number of Adjoining Property Owners: _____

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 17DEVPLAN1127 Docket/Case #: 09-41-05

Docket/Case #: 09-28-04 Docket/Case #: _____

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance from Section 5.5.1.A.2 to allow the proposed buildings to not be constructed at the right-of-way line along Shelbyville Road and Hurstbourne Parkway, but rather at the Hurstbourne Parkway Buffer Area 30 ft building setback on tract 6.

1. The variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only.
2. The variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of building set back much more significantly than this from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 as a Town Center Form District. Moreover this overall plan brings these buildings much closer than any buildings are at present to the public right-of-way, in this instance Hurstbourne Parkway.
3. The variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, in addition to the foregoing, there is a conflict here between the requirement to set back in order to provide the Hurstbourne Parkway buffer and the requirement to build at the right-of-way line.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because as noted above, the buildings presently located on these properties are located much further away from the public right-of-way.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because one way or the other the applicant is going to violate some provision of the Land Development Code (LDC) with this building location where it is, being either the maximum right-of-way setback or the minimum parkway buffer provision. In this instance, it is better to observe the parkway buffer requirement.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of the conflict between two competing regulatory provisions and also the fact that this overall site (and also area) were developed prior to Cornerstone 2020's designation of this as a Town Center Form District.

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