

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: Table 5.3.2 to exceed the maximum front setback of 95' on Bardstown Road to 288'

Generally, the primary reason for this variance request has to do with the WAWA Convenience Store/Fuel Station use. This type of user is common and a practical necessity for a successful retail development. As is common in today's gas station use, the fuel pumps and canopy are in front of the building facing the street, but the canopy does not count towards the setback measurement. Although there will be improvements much closer to Bardstown Road the actual convenience store building sitting behind the canopy and fuel pumps, will be 288' from the road setback. We believe that this variance request is justified and consistent with modern uses for the following reasons:

1. The variance will not adversely affect the public health, safety or welfare because there is no purpose served by locating the buildings slightly closer to Bardstown Road in place of the fuel pumps and canopy to comply with the front yard requirements, especially anything relating to the public health, safety or welfare. The reason for the requested variance is that the WAWA site needs its fuel pumps and canopy between Bardstown Road and its convenience store building, but the canopy will effectively serve the purpose of not having large tracts of parking rather than building improvements.
2. The variance will not alter the essential character of the general vicinity because the location of the development is similar to other centers along Bardstown Road, outside of the Gene Snyder, that have frontage on Bardstown Road with a local road along the rear of the lot.
3. The variance will not cause a hazard or a nuisance to the public because locating the buildings farther away from the front yard required under the LDC for Bardstown Road, particularly gas stations, is not a hazard or nuisance issue but rather an aesthetic one.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because no purpose is served in moving the building closer to Bardstown Road.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because the subject property has unique characteristics, including the need to accommodate internal circulation, open space, landscaping, and stormwater facilities within a unified development plan. These constraints limit the placement of buildings relative to the street frontage in a manner that is not typical of surrounding properties, which are generally more regularly shaped and developed with single-use patterns. As a result, strict compliance with the standard front yard setback is impractical for this site, and the requested variance is attributable to conditions unique to the property and necessary corner use, rather than to circumstances generally applicable in the area.

2. 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 because, if the building for the WAWA was located closer to Bardstown Road, no gas station could utilize the site, circulation would be made more difficult, walking distances would increase, and existing parking lot conditions would be more challenging to address.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought, but rather is a result of this property being an infill development and is at a major arterial and interstate highway.