

Board of Zoning Adjustment Pre-Application Staff Report

September 12 , 2022



Case No:	22-CUP-0012
Project Name:	Islamic School of Louisville Activity Center
Location:	8215 Old Westport Road
Owner(s):	Islamic School of Louisville, Inc.
Applicant:	Scott Whitaker
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
Case Manager:	Chris French, Planning & Design Supervisor

REQUEST(S)

- Conditional Use Permit (CUP) to allow a private institutional use
- Variance to allow a proposed addition to encroach within the required side and rear setback (22-VARIANCE-0115) – Table 5.3.2
- Variance to allow a proposed addition to be setback beyond the maximum setback requirement along Old Westport Road (22-VARIANCE-0115) – Table 5.3.2

<u>Location</u>	<u>Requirement</u>	<u>Request</u>	<u>Variance</u>
Side and Rear Setback	25 feet*	21.5 feet	3.5 feet
Maximum Front Yard	80 feet	220 feet	140 feet

*Variance granted in 2004 to reduce required setback from 30 feet to 25 feet

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 11,838 square foot building addition at the existing Muslim Community Center and Islamic School of Louisville. The addition will be an activity center, utilized by students for recreational and physical activities during and after school hours. The existing development was constructed prior to the establishment of the CUP requirement for private institutional uses and is thereby nonconforming. In addition to allowing the new addition, the CUP request includes the entire property and would result in the use returning to a conforming status.

STAFF FINDING / RECOMMENDATION

There are five listed requirements for the private institution use. The CUP request does need relief from standards A and C. The Board must review standard E. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit and for the requested variances.

RELATED CASES

B-233-04W – Variances for the proposed principal structures to be closer to the side and rear property lines was approved December 20, 2004.

TECHNICAL REVIEW

None.

INTERESTED PARTY COMMENTS

The neighborhood meeting was held on November 16, 2021. Two people attended the meeting. The meeting summary is attached to this agenda item.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

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

STAFF: The proposed use and improvements are compatible with surrounding development and land uses.

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

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have preliminarily approved the plan.

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

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

Staff review: the existing building and proposed addition are closer than 30 feet to the property lines of adjacent residential development. Variances were previously granted for the existing buildings' locations and a variance to modify the setback to 21.5 feet has been applied for to allow the addition. The Board must also grant relief from this requirement in order to approve the CUP. In that part of this relief is for existing development that has received a variance, staff is supportive of granting such relief. For

the proposed addition, staff is in support of the modified variance request and therefore, staff is in support of relief to this standard.

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

Staff review: The plan has received preliminary approval from Transportation Planning.

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

Staff review: There is an existing parking area located next to Old Westport Road and proposed parking between the proposed addition and Westport Road. Relief is needed to this standard in order to approve the CUP. Staff is supportive of this relief based on location of existing structures and parking on the property.

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

Staff review: The applicant is aware of this requirement.

E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

Staff review: The Board must determine whether hours of operation should be placed on this use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR SIDE AND REAR YARD VARIANCE – Table 5.3.2 (22-VARIANCE-0115)

(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 it will not impede the safe movement of pedestrians or vehicles and will be constructed to comply with all building codes.

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

STAFF: The proposal will not alter the essential character of the general vicinity as the variance is needed in a small corner of the property and the design of the building addition will be consistent with the existing building.

(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 it is located to the rear of the property away from the public realm and the variance impacts only a small portion of the property based on the shape of the property boundaries.

- (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 as it presents no adverse impacts to public safety, does not alter the character of the area, and does not create a hazard or nuisance.

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 the land in the general vicinity since the shape of this property is inconsistent with surrounding properties and does impact construction in relation to setback requirements. In addition, the property is separated from Westport Road by environmental constraints.

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 would create an unnecessary hardship on the applicant based on the shape of the property and how the proposed addition relates to the existing building.

3. The circumstances are 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 appropriate relief.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR MAXIMUM STREET SIDE YARD VARIANCE – Table 5.3.2 (22-VARIANCE-0115)

- (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 it will not impede the safe movement of pedestrians or vehicles and will be constructed to comply with all building codes.

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

STAFF: The proposal will not alter the essential character of the general vicinity as the building addition is consistent to the existing building on the site and the variance is needed based on the location of the existing building and parking on the site.

- (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 since a portion of the existing building is located in close proximity to Old Westport Road and the new addition will be connected to the existing building. The location of the building addition will not cause a hazard or nuisance to the public.

- (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 as it presents no adverse impacts to public safety, does not alter the character, and does not create a hazard or nuisance.

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 the land in the generally vicinity or the same zone since the shape of this lot is not consistent with surrounding properties and the proposed building additional location is based on the location of the existing building and parking on the property. In addition, the property is separated from Westport Road by environmental constraints.

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 would create an unnecessary hardship since it would cause changes to the proposed building addition that would negatively impact the building as well as how the building addition relates to the existing building

3. The circumstances are 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 appropriate relief.

NOTIFICATION

Date	Purpose of Notice	Recipients
8/29/2022	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 7
8/26/2022	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Conditions of Approval

1. **Zoning Map**



2. **Aerial Photograph**



3. 2040 Checklist

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The applicant is proposing to build a new addition. Building elevations appear to meet the LDC.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	-	Need to modify existing variance since setback is less than the approved 25 feet.
12.	Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	+	Transportation Planning has preliminarily approved the plan.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
14.	Ensure that signs are compatible with the Form District pattern and contribute 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. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	+	No new signage was presented in this applicaiton.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has preliminarily approved the plan.
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	The proposal will follow the noise ordinance.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	New lighting proposed for new parking lot will need to meet the lighting requirements.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+	MSD has preliminarily approved the plan

4. 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 a private institutional use until further review and approval by the Board.