

Board of Zoning Adjustment Staff Report

June 15th, 2015



Case No:	15VARIANCE1024
Request:	Variances
Project Name:	Thornton's
Location:	4500, 4506 & 4508 S. 3rd St.
Owner:	Thornton's, Inc.
Applicant:	Thornton's, Inc.
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Variance #1: Variance from Chapter 5.2.2.C.1.a of the Land Development Code to allow the proposed building to exceed the 25' maximum setback from South Third Street by 122'
- Variance #2: Variance from Chapter 5.5.1.A.2 of the Land Development Code to allow the proposed building to exceed the 0' corner setback from Southern Heights Avenue and South Third Street

Variances

Location	Requirement	Request	Variance
South Third Street	25'	147'	122'
ROW Intersection	0'	133'/21'	133'/21'

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1/R-5, Commercial with Off-Street Parking on Residential
 Existing Form District: TN, Traditional Neighborhood
 Existing Use: Gas Station
 Proposed Use: Gas Station
 Minimum Parking Spaces Required: 8
 Maximum Parking Spaces Allowed: 44
 Parking Spaces Proposed: 41
 Plan Certain Docket #: 9673

The applicant is requesting to remove the existing 3,108 SF structure on the site and construct a 4,400 SF building in a similar location with the building pulled closer to the Southern Heights Avenue ROW. The building will be 21' from the Southern Heights Avenue ROW and 147' from the South Third Street ROW. The location requires a variance to exceed the 25' maximum setback from South Third Street and 0' along the street intersection. The Development Review Committee heard the associated development with Land Development Code waivers on June 3rd, 2015.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Gas Station	C-1/R-5	TN
Proposed	Gas Station	C-1/R-5	TN
Surrounding Properties			
North	Commercial Residential	C-1	TN
South	Residential	R-5	TN
East	Vacant	R-5	TN
West	Residential	R-5	TN

PREVIOUS CASES ON SITE

- 9673: The Planning Commission approved a rezoning from R-5 to C-1 on a portion of the subject site with a Conditional Use Permit to allow off-street parking and maneuvering area on an R-5 lot with setback variances and waivers to eliminate alley access, allow parking and gas canopy between the building and the street and no customer entrance facing Southern Heights Avenue.
- 14CUP1029/14DEVPLAN1160: The Development Review Committee approved Land Development Code waivers for a proposed addition to the existing building on the site with an associated development plan. The Board of Zoning Adjustment approved setback variances for the building addition and a modified conditional use permit for the off street parking area on the R-5 portion of the site.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (a) The requested variance will not adversely affect the public health, safety or welfare.
STAFF: The requested variances will not adversely affect the public health, safety or welfare since the building will be located in a similar location as the existing structure.
- (b) The requested variance will not alter the essential character of the general vicinity.
STAFF: The requested variances will not alter the essential character of the general vicinity since the building follows the established pattern of extended setbacks on the subject site for the gas canopy and associated structures
- (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 the building is located to the rear of the site and maintains the extended setbacks previously established on the subject site for the gas canopy and vehicular access.

- (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 since it follows the established pattern of building setback on the subject site.

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 land in the general vicinity or the same zone since additional building setback had previously been granted on the subject site.

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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring construction of the building at the maximum setback line and not following the established building pattern on the site with gas canopy as well as parking being required to move to the rear of the site.

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 since the building pattern of the site had been previously established by prior approved variances.

TECHNICAL REVIEW

- Development Review Committee approved the development plan and associated waivers on June 3rd, 2015.

STAFF CONCLUSIONS

The standard of review has been met for the requested setback variances. They follow the pattern of the existing building on the site. Based upon the information in the staff report, 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 as established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
5/21/15	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 21 Notification of Development Proposals
6/1/15	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 21 Notification of Development Proposals
6/1/15	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



