

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 reduce the non-residential to non-residential setback to 25 ft.

1. The variance request applies to one of the west-facing property boundaries which is part of the application, and which abuts four residential neighbors. This variance request will not adversely affect these neighbors, or affect the public health, safety, or welfare of the general public because adequate vehicular and emergency access will be maintained throughout the site, and the development includes landscaping, buffering, and open space areas that will help mitigate impacts on adjoining residential properties. The reduced setback will not increase any risk to neighboring properties or the public.
2. The variance will not alter the essential character of the general vicinity because the surrounding area contains a mixture of residential, commercial, and institutional land uses along the Bardstown Road corridor. The proposed development is consistent with the existing development pattern in the vicinity and is designed as a coordinated mixed-use project with substantial internal landscaping, open space, and buffering. The requested setback reduction will not change the overall character of the area and will allow the property to develop in a manner compatible with surrounding land uses.
3. The variance will not cause a hazard or a nuisance to the public because the reduced setback does not create any hazardous conditions. Traffic circulation, parking, lighting, drainage, have been designed in accordance with applicable standards. The project will continue to provide appropriate screening and landscaping to minimize impacts on adjacent properties. The variance does not create conditions that would endanger the public or neighboring properties.

Additionally, the four nearby residential neighbors' lots are very long, wooded lots. With the woods and tree canopy existing, the closest home has about 175' of woodlands between the applicant's property and their home, far exceeding the buffer required in the regulations. The other three neighbors have existing woodlands of nearly 500' or more between the home and the property line. Consequently, the buffers from the added 1.5x landscaping, the existing woodlands, and the building placement satisfy if not exceed the intent of the regulation even with the variance. The subject property lies within a transitional area that includes existing commercial zoning and uses along Bardstown Road.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the request is limited in scope and is necessary to facilitate an efficient site

layout while maintaining the overall intent of the Land Development Code. The project continues to provide buffering, landscaping, open space, and other design elements intended to protect adjacent properties. Approval of the variance would not undermine the purpose of the setback requirement but would instead allow reasonable development of the property while preserving the goals of the zoning regulations.

Additional Considerations

1. The variance arises from special circumstances which do not generally apply to land in the general vicinity because the subject property is a large assemblage of multiple tracts with irregular boundaries, significant environmental features, internal circulation requirements, and multiple development components that must function as a unified mixed-use project. The site's configuration, access requirements, detention facilities, and preservation of open space and tree canopy create design constraints that limit the ability to fully comply with the standard setback requirement while still developing the property in a coordinated and efficient manner.
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 requiring the full setback would significantly reduce the developable area of the site and adversely affect the ability to provide a functional site layout, including building placement, internal circulation, parking, landscaping, and open space. The requested reduction allows the property to be developed in a reasonable manner consistent with its zoning and intended use while still providing appropriate buffering and compatibility measures.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the need for the variance results from the existing characteristics of the property, including its configuration, surrounding development pattern, access constraints, and site design requirements. These conditions existed independently of the applicant and are not the result of any action taken by the applicant after adoption of the Land Development Code provisions.