

Board of Zoning Adjustment Staff Report

June 16, 2014



Case No:	14VARIANCE1029
Request:	Variance to allow proposed building addition to encroach into the required front yard setback
Project Name:	King Louie's Place
Location:	598 & 600 N. English Station Rd
Owner:	Blind Squirrel, LLC
Applicant:	Blind Squirrel, LLC
Representative:	Deborah Bilitski, Wyatt & Combs, LLP Land Design & Development, Inc.
Jurisdiction:	Middletown
Council District:	19 – Jerry Miller
Case Manager:	Christopher Brown, Planner II

REQUEST

- Variance #1: Variance from Chapter 5.3.4.D.3.a of the 2004 Land Development Code to allow a proposed addition to encroach into the required 25' front yard along North English Station Road

Variance

Location	Requirement	Request	Variance
Front yard setback	25'	12'	13'

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: EZ-1/C-M

Existing Form District: Suburban Workplace/Neighborhood

Existing Use: Vacant

Proposed Use: Indoor Soccer Facility, Amphitheater/Volleyball Courts, Restaurant, Retail and Deck

Plan Certain Docket #: 16739

The proposal is to construct a 1,500 SF addition along the front façade of the proposed and existing structures along North English Station Road for the proposed retail and restaurant uses. The addition will encroach into the required 25' front yard. The applicant will be phasing the project to await the installation of the intersection improvements along relocated portions of Aiken Road. The construction date of these intersection improvements is unknown.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	EZ-1/C-M	SW & N
Proposed	Amphitheater Restaurant, Café Athletic facility	EZ-1/C-M	SW & N
Surrounding Properties			
North	Office/Warehouse Residential, large tract	M-2 & M-3 R-4	N & SW N
South	Office/Warehouse	R-4 & M-2	SW
East	Office/Warehouse	M-2	SW
West	Residential	R-4	N

PREVIOUS CASES ON SITE

- 9-28-65: Change in zoning from R-4 and M-2 to M-3. This case is pre-plan certain, and therefore has no binding elements.
- 16739: Planning Commission and Middletown approved rezoning for the subject property from mixed industrial and residential to EZ-1 and C-M. A conditional use permit was granted for the proposed outdoor amphitheater.
- 17349: The Board of Zoning Adjustment denied the appeal of the staff interpretation that an amphitheater is most similar to the use listing of sports arena.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
2004 Land Development Code (Middletown)

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 variance will not adversely affect the public health, safety or welfare since it will follow the pattern of the existing structure.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since there is a pattern of varying front yard setbacks along North English Station Road from Aiken Road to the north and south.

- (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 it will not impact the sidewalk and roadway public infrastructure along North English Station Road.

- (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 will follow the pattern of the existing structure.

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 the existing structure and previously approved additions follow the same setback.

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 not allowing the addition to follow the established pattern of the existing structures on the property.

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 existing structure to be used encroached prior to the creation of the code.

TECHNICAL REVIEW

The proposed development plan has received preliminary approvals from Transportation Planning and the Metropolitan Sewer District.

The plan will was continued from the Development Review Committee on June 4th, 2014 to resolve a binding element issue.

STAFF CONCLUSIONS

The standard of review has been met for the requested variance. The addition will follow the established encroachment pattern on the site. The project will be phased as road improvements are completed. 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 2004 Land Development Code.

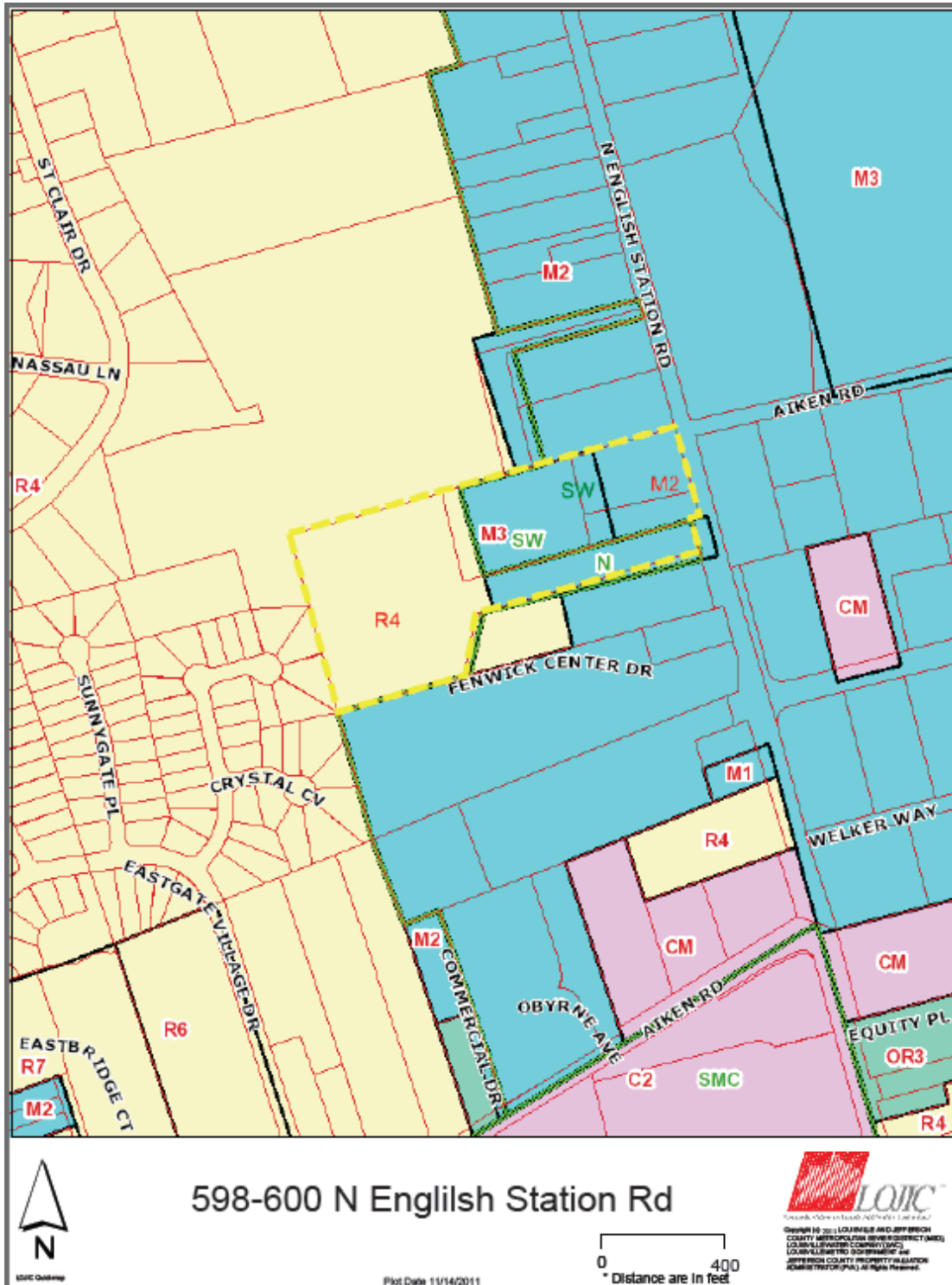
NOTIFICATION

Date	Purpose of Notice	Recipients
6/2/14	Hearing before BOZA	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals
5/30/14	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

