

# Board of Zoning Adjustment Staff Report

April 7, 2014



|                   |                              |
|-------------------|------------------------------|
| Case No:          | 14Variance1009               |
| Request:          | Variance, Waiver             |
| Project Name:     | The Mower Shop-Site Revision |
| Location:         | 1137 Rachel Dr.              |
| Owner:            | JNO, LLC.                    |
| Applicant:        | Same                         |
| Representative:   | Same                         |
| Jurisdiction:     | Louisville Metro             |
| Council District: | 13 – Vicki Aubrey Welch      |
| Case Manager:     | Latondra Yates, Planner II   |

## REQUEST

- Variance of Section 5.3.2.C.2.b. of the Land Development Code (LDC) to allow the proposed structure to encroach into the required 25-ft. rear yard. The requested setback is 10 ft., a variance of 15 ft.
- Waiver of Sec. 10.2.4.B. of the LDC to not provide the required 25-ft. LBA in the rear adjacent to R-5 zoned property.

## Variance

| Location                        | Requirement | Request | Variance |
|---------------------------------|-------------|---------|----------|
| Rear yard (north property line) | 25 feet     | 10 feet | 15 feet  |

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The variance and waiver is related to a Category 2A review for demolition of two existing structures on the lot at the rear of the existing Mower Shop and construction of a 2,570 sf. metal building addition for sale and repair of mower equipment.

The applicant cites the configuration of the proposed addition, which will include keeping an existing covered ramp to connect the buildings; as well as the fact that the use of the adjacent residentially-zoned property to the rear is a telecommunication facility, as part of the justification for the variance and waiver.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-1 and in the Suburban Marketplace Corridor Form District. The site is surrounded by commercially and industrially-zoned property, except to the north, where there is an AT&T facility, zoned R-5.

|                                      | Land Use               | Zoning | Form District |
|--------------------------------------|------------------------|--------|---------------|
| <b><i>Subject Property</i></b>       |                        |        |               |
| <b>Existing</b>                      | Commercial/residential | C-1    | SMC           |
| <b>Proposed</b>                      | Commercial             | C-1    | SMC           |
| <b><i>Surrounding Properties</i></b> |                        |        |               |
| <b>North</b>                         | Commercial             | R-5    | SMC           |
| <b>South</b>                         | Commercial             | C-1    | SMC           |
| <b>East</b>                          | Commercial             | C-1    | SMC           |
| <b>West</b>                          | Industrial             | M-1    | SMC           |

### RELATED CASES

None

### INTERESTED PARTY COMMENTS

None

### APPLICABLE PLANS AND POLICIES

Land Development Code  
 Cornerstone 2020 Comprehensive Plan- See checklist attached

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

(a) The requested variance will not adversely affect the public health, safety or welfare.

**STAFF:** The variance will not adversely affect the public health, safety or welfare because the proposed expansion will replace and update an existing building for the same use in the same approximate location.

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

**STAFF:** The variance not will alter the essential character of the general vicinity because the site is currently used the same as proposed. The proposed addition will be an improvement over the existing building.

(c) The requested variance will not cause a hazard or nuisance to the public.

**STAFF:** The variance will not cause a hazard or nuisance to the public because the expansion is proposed in the same area as the existing use and structure. It will not negatively impact the views from adjacent properties.

(d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

**STAFF:** The variance will not allow an unreasonable circumvention of the zoning regulations given that it will allow the same use in approximately the same area.

### 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 variance arises from the proposed construction of the building addition.

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 because the proposed development would allow an updated version of the same use.

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 the result of the proposed development.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 10.2.4.B. of the LDC to not provide the required 25-ft. LBA in the rear adjacent to R-5 zoned property.**

(a) The waiver will not adversely affect adjacent property owners; and

**STAFF:** The waiver will not adversely affect adjoining property owners because the property will continue to be used in the same manner in the approximate same location. The residential lot at the rear is being non-residentially used and already has existing structures in this area.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

**STAFF:** The waiver meets the applicable guidelines of Cornerstone 2020.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

**STAFF:** The waiver is the minimum necessary to afford relief to the applicant to allow an update of the existing use.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect);

**OR**

(ii) The 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 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 because the proposed development would be an updated structure situated in approximately the same location for the same use.

## TECHNICAL REVIEW

No outstanding technical review items

## STAFF CONCLUSIONS

The variance and waiver meet 21 of the applicable guidelines of the Comprehensive Plan. The proposed building will be an updated replacement of the existing building for the same use that will be placed in approximately the same area. The adjacent residential lot is currently being used as a telecommunication facility, and the proposed building will observe a setback similar to the existing. The configuration of the existing and proposed buildings make it difficult to provide the required setback or landscaping.

Five of the guidelines can be addressed during construction review.

Staff's analysis of the standards of review supports the granting of the variance.

Staff's analysis of the standards of review supports the granting of the waiver.

Based upon the information in the staff report, testimony and evidence provided, the Board of Zoning Adjustment must determine if the proposal meets the standards for approval of a variance and waiver as established in the Land Development Code.

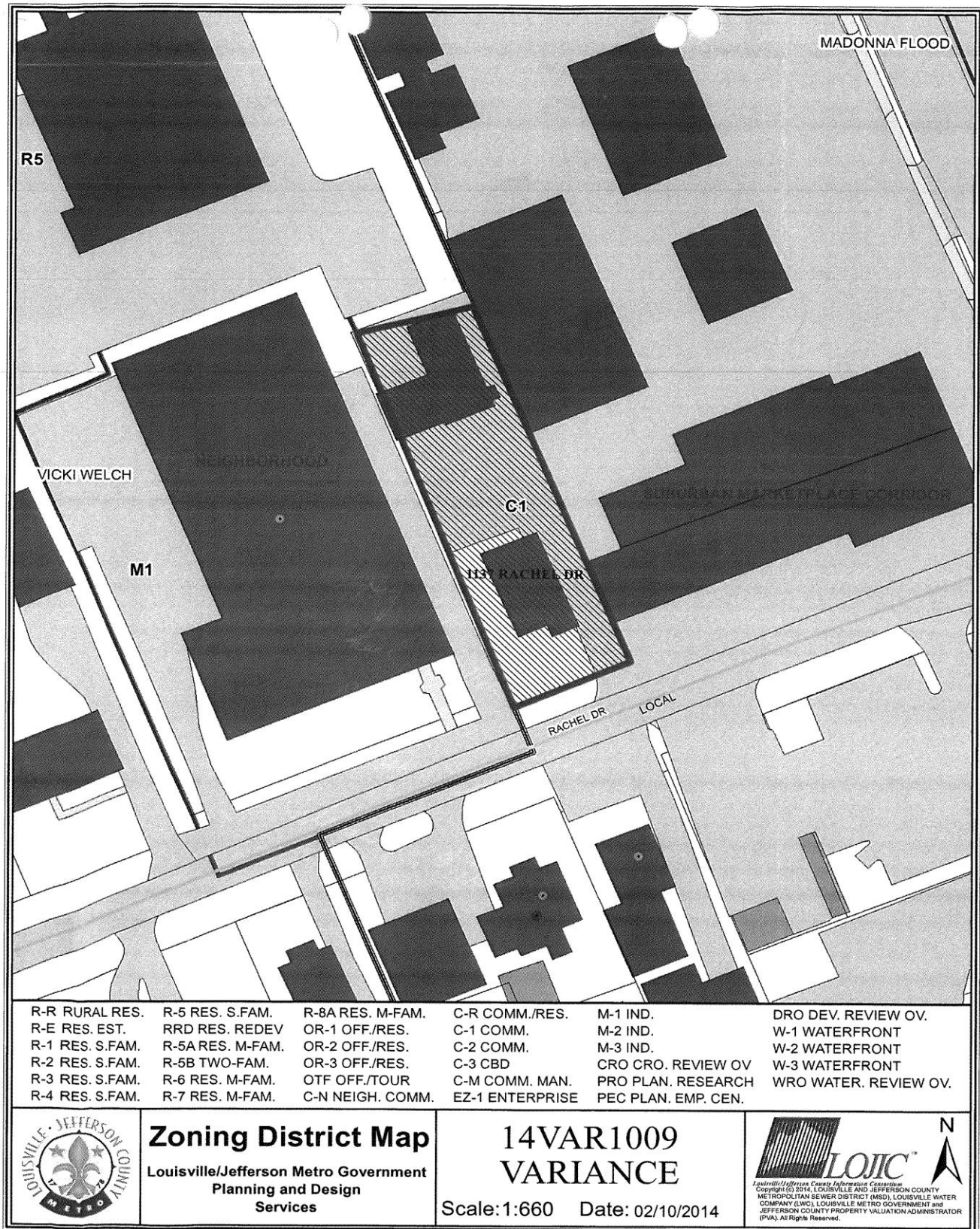
## NOTIFICATION

| Date      | Purpose of Notice | Recipients  |
|-----------|-------------------|---|
| 3/21/2014 | BOZA Meeting      | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners<br>Neighborhood Notification |
| 3/21/2014 | Sign Posting      | On property   |

## ATTACHMENTS

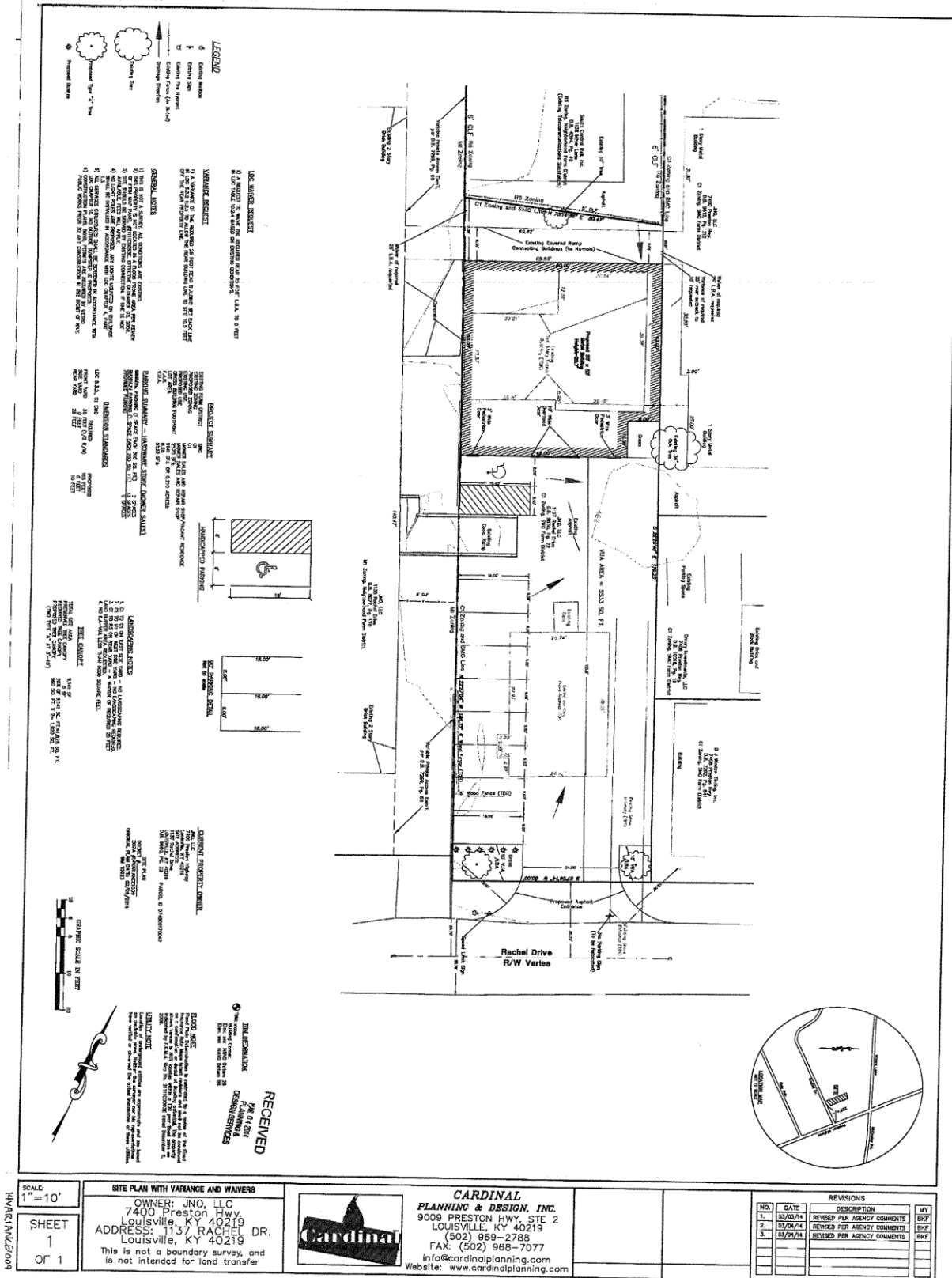
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Cornerstone 2020 Comprehensive Plan Checklist
6. Applicant's Justification Statements

# 1. Zoning Map

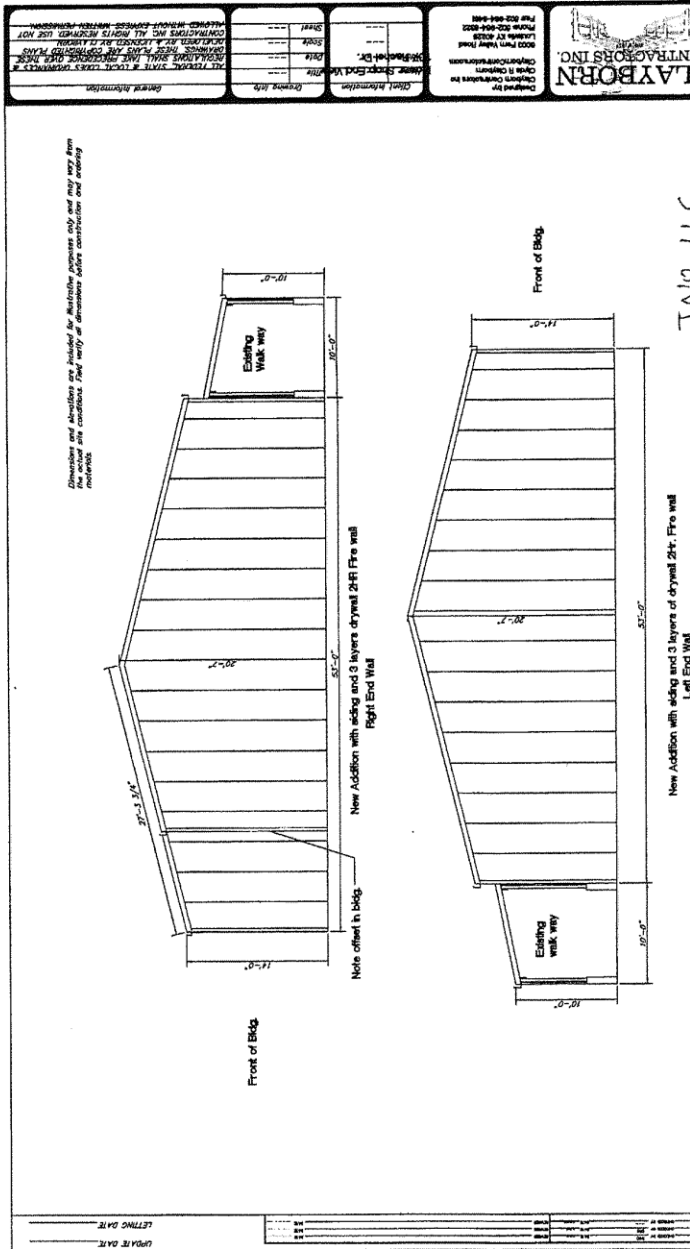


## 2. Aerial Photo









JNO, LLC  
1137 Rachel Drive

RECEIVED

FEB 07 2014  
PLANNING &  
DESIGN SERVICES

2-8-14

14VARIANCE1009

#### 4. Cornerstone 2020 Comprehensive Plan Checklist

|    |   |   |   |     |   |
|----|---|---|---|-----|---|
| 1  | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 1: Community Form | B.8: The proposal integrates into the existing pattern of development, which includes a mixture of medium-to high-density uses.   | √   | Commercial proposed in an existing commercial area.   |
| 5  | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 1: Community Form | B.8: The proposal is located within the boundaries of the existing form district, and if the proposal is to expand an existing corridor, the justification for doing so addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with the site and community design standards of the Land Development Code. | √   | Proposed redevelopment of commercial will be within the SMC Form District.                            |
| 8  | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 2: Centers        | A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.   | √   | Commercial proposed in an existing commercial area.   |
| 9  | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 2: Centers        | A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.   | √   | Commercial proposed in an existing commercial area that will be served by sidewalks and mass transit. |
| 13 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 2: Centers        | A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.   | √   | Utility hookups and service entrances will be shared.   |
| 14 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 2: Centers        | A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.   | √   | The required parking is proposed.   |
| 15 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 3: Compatibility  | A.2: The proposed building materials increase the new development's compatibility.  | √   | The proposed building materials appear to be compatible with the surrounding area.                    |
| 16 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 3: Compatibility  | A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.  | √   | Proposed development is in an existing commercial area.   |
| 18 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 3: Compatibility  | A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.   | √   | Plan has Transportation Planning Review approval.   |
| 19 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5 | Community Form/Land Use Guideline 3: Compatibility  | A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.   | +/- | Lighting details should be provided, when known.  |

|    |  |  |   |     |  |
|----|--|--|---|-----|--|
| 20 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5      | Community Form/Land Use Guideline 3: Compatibility | A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.   | √   | Proposed development is located along a transit corridor and in an activity center.  |
| 21 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5      | Community Form/Land Use Guideline 3: Compatibility | A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.   | √   | LBA waiver request is appropriate, given the existing abutting commercial uses and existing and proposed building locations.     |
| 22 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5      | Community Form/Land Use Guideline 3: Compatibility | A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments. | √   | The LBA waiver request is appropriate, given the existing abutting commercial uses and existing and proposed building locations. |
| 23 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5      | Community Form/Land Use Guideline 3: Compatibility | A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.   | √   | The proposed setbacks and building height appear to be compatible with other development in the area.                            |
| 24 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5      | Community Form/Land Use Guideline 3: Compatibility | A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.   | √   | The LBA waiver request is appropriate, given the existing abutting commercial uses and existing and proposed building locations. |
| 25 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5      | Community Form/Land Use Guideline 3: Compatibility | A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.  | √   | The required VUA LBAs are proposed.  |
| 27 | Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5      | Community Form/Land Use Guideline 3: Compatibility | A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.   | +/- | Sign details should be provided, if proposed.  |
| 38 | Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives | Mobility/Transportation Guideline 7: Circulation   | A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.   | √   | Plan has Transportation Planning Review approval.  |
| 39 | Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives | Mobility/Transportation Guideline 7: Circulation   | A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.  | √   | Site served by mass transit and sidewalks.   |

|    |  |  |   |     |   |
|----|--|--|---|-----|---|
| 41 | Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives | Mobility/Transportation Guideline 7: Circulation                     | A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.  | √   | The plan has Transportation Planning Review preliminary approval. |
| 42 | Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives | Mobility/Transportation Guideline 7: Circulation                     | A.10: The proposal includes adequate parking spaces to support the use.   | √   | The required parking is proposed.                                 |
| 47 | Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives | Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit | A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.   | √   | Site served by sidewalks and mass transit.                        |
| 48 | Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3    | Livability/Environment Guideline 10: Flooding and Stormwater         | The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices. | +/- | Subject to MSD construction approval.                             |
| 51 | Quality of Life Goal J1, Objectives J1.1-1.2   | Community Facilities Guideline 14: Infrastructure                    | A.2: The proposal is located in an area served by existing utilities or planned for utilities.  | √   | Site served by existing utilities.                                |
| 52 | Quality of Life Goal J1, Objectives J1.1-1.2   | Community Facilities Guideline 14: Infrastructure                    | A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.   | +/- | Subject to construction review.                                   |
| 53 | Quality of Life Goal J1, Objectives J1.1-1.2   | Community Facilities Guideline 14: Infrastructure                    | A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.   | +/- | Subject to MSD construction approval.                             |

6. **Applicant's Justification Statement**

**Supplemental Information- Justification for BOZA Docket No. \_\_\_\_\_**

1137 Rachel Drive

Zoning of Site is C1

Proposed Use is a Lawn Mower Shop and Repair

**REQUESTED VARIANCES:**

Variance 1- Rear Yard Building Set Back Minimum is 25 feet

Request a variance to 10 feet on rear yard building limit line

Variance 2- Front Yard Maximum set back is 80 feet

Request a variance or LDC waiver to allow 115 foot front yard set back

**Question 1.**

The request variances will not adversely affect the public health, safety or welfare of neighboring landowners. In this situation, the proposed building is being constructed in approximate same place as the previous building. The site is surrounded on all four sides by existing uses. This building is just a larger more modern building to serve as part of the Mower Shop's sales and repair site. No neighboring landowners are being impacted by the change and the building will be more aesthetically pleasing and built to more modern standards.

**Question 2**

The requested variances will not alter the character of the general vicinity. The proposed building is being placed on the lot at the approximate same set back as the existing building and the use is the same. The character of the neighborhood will not be altered.

**Question 3**

The requested variances will not cause a hazard or nuisances to the public. This new metal building is simply replacing an older existing frame building for the same use. The new building will be better equipped to handle lawn mower repairs and other equipment needs. No new hazards or nuisances will be presented to the general public.

**Question 4**

The requested variances will not allow an unreasonable circumvention of the zoning regulations. As noted above, the proposed building is replacing an existing building. The area surrounding it is developed and primarily owned by the same business. The rear

**RECEIVED**

FEB 07 2014

PLANNING &  
DESIGN SERVICES

yard setback is about the same location as the existing building's set back. The new building is an upgrade to the site and the Rachel Drive streetscape will be improved by removing an older residence and adding new landscaping and bushes.

#### Additional considerations

##### Question 1

The requested variances arises from special circumstances which do not generally apply to land in the general vicinity which is that the area is all developed. The only thing happening is the replacement and upgrade of an existing building and a removal of an older residence. The LDC requirements for setbacks are not relevant because the area is developed and one parcel which is zoned residential is not developed as a residential use.

##### Question 2

The strict application of the provision of the regulation as to SMC setbacks would make this upgrade of an existing business impossible. All the landowner is doing is improving one portion of his business by replacing two old structures with one new one and improving parking areas and landscaping on this parcel.

##### Question 3

The circumstances of this case are not the result of actions of the applicant taken subsequent to the adoption of the regulation. The Mower Shop has been in operation for many years and needs to modernize.

**RECEIVED**

**FEB 07 2014  
PLANNING &  
DESIGN SERVICES**

## Letter of Explanation-JNO, LLC 1137 Rachel Drive

This Category 2B Site plan is to allow for site redevelopment on one tract owned by an existing business. The Mower Shop at 7400 Preston Highway is an established business. This C-1 tract, which is behind the existing main store location, currently has an older two story frame building which is used as part of its lawn mower sales and repair business. In the front of this lot is an older residence which until recently was a rental house. The owner proposes to tear down both structures and build a new 2570 square foot building for his Mower Shop. The building will be used for the sale and repair of lawn mowing equipment. Elevations of the proposed building are included. This building will not be visible from Preston Highway and will sit over 100 feet over Rachel Drive. A new improved parking area is proposed for the front portion of the lot where the rental house stood.

Because this is an existing business and area is developed on all four sides around it, this proposal will require variances and landscape waivers.

JNO, LLC owns this tract, the main Mower Shop tract and the property to the west. All surrounding properties are zoned C-1 or M-1 except for the property to the rear. The property to the rear (for which the variance and landscape waiver will be required) is zoned R-5. However, it is owned by South Central Bell and is used as a telecommunication substation. The building on that site is a commercial building and there is no residential use associated with this tract.

Application for the required variances of rear yard building setback, front street set back, (side yard setback-if needed ?) is being made with this application. The new building will sit from 10 to 17 feet off the rear property line (which goes at an angle). There is an existing covered ramp which connects the Mower Shop's buildings at 7400 Preston Highway with the two buildings in the rear, including this one. This ramp will remain and the new building needs to be set in this location to allow for mowers and equipment to be moved on this ramp between the three buildings.

An application to waive the required 25 foot rear yard LBA is also being requested. There is no room or need for landscaping in the 230 square foot area which backs up to the connector ramp and the rear of 4 buildings. The reason a 25 foot landscape buffer is required is that the South Central Bell building which is a Telecommunication substation is on a R5 lot. Since no residential use is associated with the lot and there is no room given the two existing buildings and connector ramp, a LBA should not be required. The site is meeting Tree Canopy requirements and has extra 5 feet of V.U.A. buffering in the front to make the site attractive from Rachel Drive.

The applicant is submitting the required variance and waiver applications and request that its proposal to construct a new 2570 square foot building to improve the operations of its existing viable business be approved.

RECEIVED

FEB 07 2014  
PLANNING &  
DESIGN SERVICES

2-8-14

14VARIANCE1009