

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.4 to omit the LBA long the north property line and to allow the drive-thru aisle to encroach.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because this is a new development of a currently vacant site and the property affected is owned by the Kentucky Department of Transportation (“KDOT”). Even though the LBA along the north property line cannot be satisfied, added trees and landscaping will be provided in areas that do not need to be devoted to parking, as adequate parking is essential for a reuse of this vacant site.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application. The waiver will not violate the Comprehensive Plan because as stated above, all LBAs are provided that can be provided, what is missing or is under-sized can be enhanced with additional landscaping, and the affected property is not used residentially, but is owned by KDOT.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this encroachment into the LBA is the minimum required for the new fast food restaurants to locate on the property to provide the required parking, dumpster location, and site constraints which provides an updated modern facility to serve this area of Preston Highway.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because without this landscape waiver along the north property line, the applicant would not have adequate space for the drive-thru aisle to serve its customers in an efficient manner.