

Board of Zoning Adjustment Staff Report

December 1, 2014



Case No:	14Variance1096
Request:	Variance, waivers and Category 2B Plan
Project Name:	Pitt Academy
Location:	7515 Westport Rd.
Owner:	Westport Rd. Christian Church, Inc.
Applicant:	Pitt Academy
Representative:	Milestone Design Group
Jurisdiction:	Louisville Metro
Council District:	7 – Ken Fleming
Case Manager:	Latondra Yates, Planner II

REQUEST

- Variance to allow the existing building to exceed the maximum 80-ft. setback. The existing setback is 175.16 ft., a variance of 95.16 ft.
- Waivers of Section 10.2.4 of the LDC to allow existing parking to encroach into the required LBAs; and to provide the required screening outside the required LBA.
- Category 2B Plan for construction of an addition to Pitt academy.

Variance

Location	Requirement	Request	Variance
Front yard	80 ft.	175.16 ft.	95.16 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The variances and waivers are related to a Category 2B Plan for construction of a 1-story, 20-ft. tall building for the Pitt Academy.

The FAR is below the maximum .05 permitted in the R-3 zoning district. The applicant has submitted elevations that meet building and site design requirements. Internal pedestrian connections will be provided, and the required tree canopy will be provided. Some of the existing parking will be removed, leaving 52 spaces, which is just below the 54 max. allowed.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-3 and in the Neighborhood Form District. It is surrounded by single and multi-family residential in the NFD.

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Institutional	R-3	NFD
Proposed	Institutional	R-3	NFD
<i>Surrounding Properties</i>			
North	Single-family residential	R-3	NFD
South	Single-family residential	R-3	NFD
East	Single and multi-family residential	R-4/R-6	NFD
West	Single-family residential	R-3	NFD

PREVIOUS CASES ON SITE

None found

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Cornerstone 2020 Comprehensive Plan
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 variance will not adversely affect the public health, safety or welfare because the variance is for an existing building that is located at least 85 ft. from the nearest residential.

(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 it is for an 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 it is for an existing building.

(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 because of the existing condition of the building which pre dates the current regulations. The existing building presents challenges to construction of the addition closer to the required front setback.

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 is a “clean-up” variance triggered by the proposed 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 of the existing layout of the site and request to re-use the site for the school.

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 building addition.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waivers will adversely affect adjacent property owners because some of the existing parking will be removed. The required screening and planting will also be provided.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver meets the applicable Community Form, Centers, Circulation and Mobility guidelines of Cornerstone 2020.

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

STAFF: The waiver is not the minimum necessary to afford relief to the applicant because the site is just below the maximum parking requirement, and additional parking could possibly be removed to eliminate more of the encroachments.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship the site is just below the maximum parking requirement, and additional parking could possibly be removed to eliminate more of the encroachments.

TECHNICAL REVIEW

1. The parking calculations should be revised to provide the required minimums, maximums and provided for both the church and school.

STAFF CONCLUSIONS

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

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

Based upon the information in the staff report, testimony and evidence provided, BOZA must determine if the proposal meets the standards for approval of variances and waivers as established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
11/14/2014	BOZA Meeting	1 st and 2 nd tier adjoining property owners Neighborhood Notification

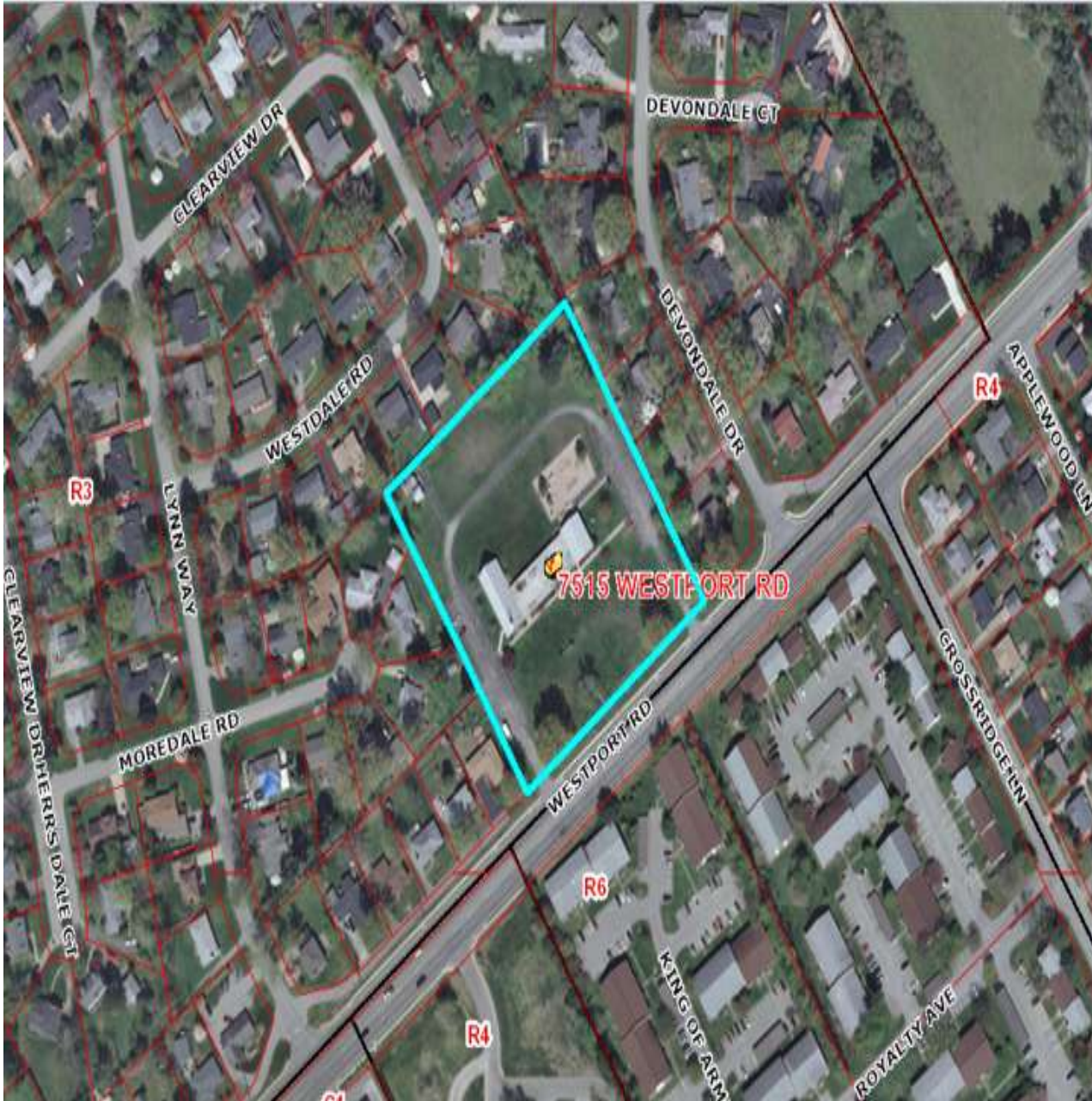
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Applicant's Justification Statements

1. **Zoning Map**



2. Aerial Photograph



5. Applicant's Justification Statements

Variance Justification Attachment

The variance request is to allow the existing building to exceed the maximum 80' setback and the proposed building addition be constructed at the rear of the existing building.

1. The requested variance will not adversely affect the public health safety or welfare. This is an existing building that pre-dates this regulation. Given the floor plan of the building and the proposed use and proposed addition the location shown is appropriate. Further, its location from the public right of way as well as adjoining properties its potential negative impact is minimized.
2. As stated above the variance is to allow an existing building to exceed the maximum setback. Further, since the proposed addition is to the rear of the existing building and the distance from adjacent properties is considerable the impact on the public is minimized. From the public right of way there will be no visible difference in the building. And from neighboring properties the buffering is remaining the same or being improved. Granting this variance will not alter the general character of the area.
3. For reasons already stated and the fact that the proposed addition is a one-story addition proposed at the rear of the existing building granting of this variance will not cause a hazard or a nuisance to the public health.
4. For the reasons already stated granting this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The existing building pre-dates the current regulation and the proposed addition makes the best use of the existing building at the location planned.

Additional Consideration:

1. The special circumstances which do not generally apply to the land in the same general vicinity are that this is the adaptive reuse of an existing church. The church was constructed before the current regulation which requires a maximum setback. And to make the church a viable option for the proposed school the proposed addition needs to be located where it is proposed.
2. As stated above the optimum location for the proposed addition is as shown on the site plan. Denial of this application would mean that the if the applicant wanted to use this property they would have significantly more expense in renovating the interior of the existing building and more alteration to the site to accommodate another location for the proposed addition. Or they would have to find another site.
3. The location of the existing building is not the result of actions of the applicant. As stated above the building pre-dates the current regulation. However, the proposed addition is the result of actions by the applicant. The proposed addition location has been explained above.

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14VARIANCE1096

Landscape Waivers - Letter of Justification

The applicant (Pitt Academy a not-for-profit organization 501C3) is acquiring the Westport Road Christian Church property with plans to utilize the existing building and construct a one story addition to be used as a new location for Pitt Academy. The applicant is requesting waivers to reduce the required perimeter LBA's and the required screening and plant materials.

1. Granting the waiver will not adversely affect adjoining property owners since the parking spaces are existing and the overall number of parking spaces is being reduced. The existing buffers are not being reduced.
2. Since the applicant is submitting this request for review and approval and making an effort to mitigate where feasible the request does not violate the LDC.
3. Denial of this request would require the applicant to remove the existing parking areas and build them in a new location approximately 12 to 15 feet further from the property line. This would create a financial hardship on this not for profit organization. The applicant has already provided the interior landscape requirements in an effort to minimize the number of waivers being requested.
4. The applicant is making an effort to adaptively reuse the building and site. The existing conditions have been a major consideration by the applicant in this location. However, as stated above if the parking has to be removed and reconstructed then the site is less desirable and may become cost prohibitive.

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