



Variance Application

Louisville Metro Planning & Design Services

Case No.: 20-VARIANCE-0040 ..take Staff: Jm

Date: 04-19-2021 Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section 5.2.3.D.3.e of the Land Development Code, to allow height of building to exceed 50' maximum.

Primary Project Address: 835 E Main Street

Additional Address(es): See Attached list for complete list of Addresses/Parcel Numbers

Primary Parcel ID: See Attached list for complete list of Addresses/Parcel Numbers

Additional Parcel ID(s): See Attached list for complete list of Addresses/Parcel Numbers

Proposed Use: Apartments/Retail Existing Use: Vacant/Commercial

Existing Zoning District: CM Existing Form District: Traditional Marketplace Corridor

Deed Book(s) / Page Numbers²: 11432, 132

The subject property contains 1.041 acres. Number of Adjoining Property Owners: _____

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: None

Docket/Case #: _____

Docket/Case #: _____

Docket/Case #: _____

RECEIVED
APR 19 2021
PLANNING &
DESIGN SERVICES

20-VARIANCE-0040

Contact Information:

Owner: Check if primary contact

Applicant: Check if primary contact

Name: _____

Name: Same as owner

Company: NuLu East Main, LLC

Company: _____

Address: 10602 Timberwood Circle #9

Address: _____

City: Louisville State: KY Zip: 40223

City: _____ State: _____ Zip: _____

Primary Phone: _____

Primary Phone: _____

Alternate Phone: _____

Alternate Phone: _____

Email: _____

Email: _____

Owner Signature (required): _____

RECEIVED
APR 19 2021
PLANNING &
DESIGN SERVICES

Attorney: Check if primary contact

Plan prepared by: Check if primary contact

Name: Clifford Ashburner

Name: Mitchell Kersting

Company: Dinsmore & Shohl, LLP

Company: Work Design & Architecture

Address: 101 S Fifth Street, Suite 2500

Address: 1122 Rogers Street

City: Louisville State: KY Zip: 40202

City: Louisville State: KY Zip: 40204

Primary Phone: 502-540-2300

Primary Phone: 502-632-3232

Alternate Phone: _____

Alternate Phone: _____

Email: clifford.ashburner@dinsmore.com

Email: information@wrkarc.com

Certification Statement: A certification statement **must be submitted** with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, _____, in my capacity as _____, hereby
representative/authorized agent/other

certify that NuLu East Main, LLC is (are) the owner(s) of the property which
name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature: _____ Date: _____

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

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.

- 1. Explain how the variance will not adversely affect the public health, safety or welfare.**

See attached Justification.

- 2. Explain how the variance will not alter the essential character of the general vicinity.**

See attached Justification.

- 3. Explain how the variance will not cause a hazard or a nuisance to the public.**

See attached Justification.

- 4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

See attached Justification.

RECEIVED
APR 19 2021
PLANNING &
DESIGN SERVICES

Additional consideration:

- 1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).**

See attached Justification.

- 2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.**

See attached Justification.

- 3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

See attached Justification.

Please submit the completed application along with the following items:

Project application and description

- Land Development Report¹
- A copy of the current recorded deed² (*must show "End of Document" stamp on last page*)
- Legal description on a separate 8.5 x 11" sheet of paper

Site plan, drawings, and photographs

- One elevation drawing for new construction (including home additions, garage additions, and fences)
- Six copies of the site plan or building rendering (whichever is applicable), including the following elements. LOJIC maps are not acceptable. *See site plan example on the last page.*
 - Plan drawn to a reasonable scale [engineer's scale (1" = 20') or architect's scale (1/8" = 1')]
 - Vicinity map that shows the distance from the property to the nearest intersecting street
 - North arrow
 - Street name(s) abutting the site
 - Property address, parcel ID, and dimensions
 - Building limit lines
 - Electric, telephone, drainage easements with dimensions
 - Existing and proposed structures with dimensions and distance from property lines
 - Highlight (in yellow) the location of the variances

RECEIVED
APR 19 2021
PLANNING &
DESIGN SERVICES

Supplemental documentation

- A copy of Refusal Letter from citing official, if applicable (**required** if a STOP WORK ORDER or CITATION has been received)
- If the proposed structure encroaches into an easement (MSD, LG&E, or Bell South), then the applicant must submit written documentation from the utility company indicating approval for the encroachment

Mailing labels to notify Adjoining Property Owners (APOs)³

- One set of legible mailing label sheets for: 1st tier APOs and those listed on the application
- One copy of the APO mailing label sheets

Requirements for Non-Public Hearing Applications Only

Eligible cases are heard in the Business Session of Board of Zoning Adjustments (BOZA) meetings. All APOs must sign the attached Non-hearing affidavit indicating consent for the variance, as comments from the general public are not taken during this process.

- Non-Hearing Affidavit form (see pages 5-6)
- Photographs of the subject area from all angles

Fee (cash, charge or check made payable to Planning & Design Services)

- Application Fee: **\$100** for Single-Family Uses
\$300 for churches, parish halls, temples, schools and institutions of learning (except colleges, universities, trade, business or industrial schools), not-for-profit uses, and clubs, private non-profit
\$700 for All Other Uses
- Clerk's Fee: **\$60**
(If two or more applications are submitted simultaneously for the same site, only one clerk's fee is required)

NON-PUBLIC HEARING VARIANCE AFFIDAVIT FOR THE SUBJECT PROPERTY OWNER(S): Part 1

Qualifications for a Non-Public Hearing include:

1. The Board of Zoning Adjustment may approve the following variances without a public hearing:
 - a. Side yard and rear yard variances to permit a detached garage which is accessory to a single-family residential use or any addition to a principal single-family structure;
 - b. Variances to permit a garage or building addition to cover more than 30% of the rear yard on property used for detached single-family residential use; (note, this provision applies to principle structures in the Neighborhood Form District (NFD) only. Accessory structures in the NFD can encroach up to 50% and cumulative encroachment of accessory and principal structures shall not exceed 50%. TNFD does not permit any encroachment into a rear yard.)
 - c. Variances to permit any building to be closer than the required minimum distance to another building on the same lot;
 - d. Variances to allow a reduction in the private yard area in the Traditional Neighborhood Form District;
 - e. Variances to allow the accessory structure/use area to exceed the maximum depth in the Traditional Neighborhood Form District.
 - f. A departure from a dimensional requirement of the Land Development Code of 10% or less.
2. All adjoining property owners must sign this affidavit. This includes all owners listed on the deed.
3. For each adjoining property that is held by a company, corporation, trust, etc. there must be a Certification Statement included with the affidavit.
4. All supporting documentation listed in the checklist must be included with the application.

Date: _____

I (We), _____, owner(s) of the subject property under Case # _____

states as follows: It is hereby requested that the application for variance under Case # _____ be considered by the Board in open executive session without holding a public hearing on the proposal.

The signatures of all adjoining property owners required by the Board of Zoning Adjustment's bylaws have been submitted to the Board so that the variance may be acted upon without a public hearing.

Print Name: _____

Signature of Owner: _____

Print Name: _____

Signature of Owner: _____

RECEIVED
 APR 19 2021
 PLANNING &
 DESIGN SERVICES

NON-PUBLIC HEARING VARIANCE AFFIDAVIT FOR THE SUBJECT PROPERTY OWNER(S): Part 2

Date: _____

We have seen a drawing of the proposed (e.g. garage, addition) _____
to be constructed at (address) _____.

As owners of the property adjacent to the above address, we give our consent and do not object to the planned construction or to the variance that will be required.

Please note: If the property is in joint ownership, all owners must sign or an authorized person must sign (authorized persons must also complete the certification statement). If there is a POA, the property owner is deceased or there are extenuating circumstances, please indicate on the signature line. For additional signatures, use additional copies of the affidavit form.

1. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

2. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

3. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

4. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

RECEIVED
APR 19 2021
PLANNING &
DESIGN SERVICES

Certification Statement: A certification statement **must be submitted** with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, _____, in my capacity as _____, hereby
representative/authorized agent/other

certify that _____ is (are) the owner(s) of the property which
name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

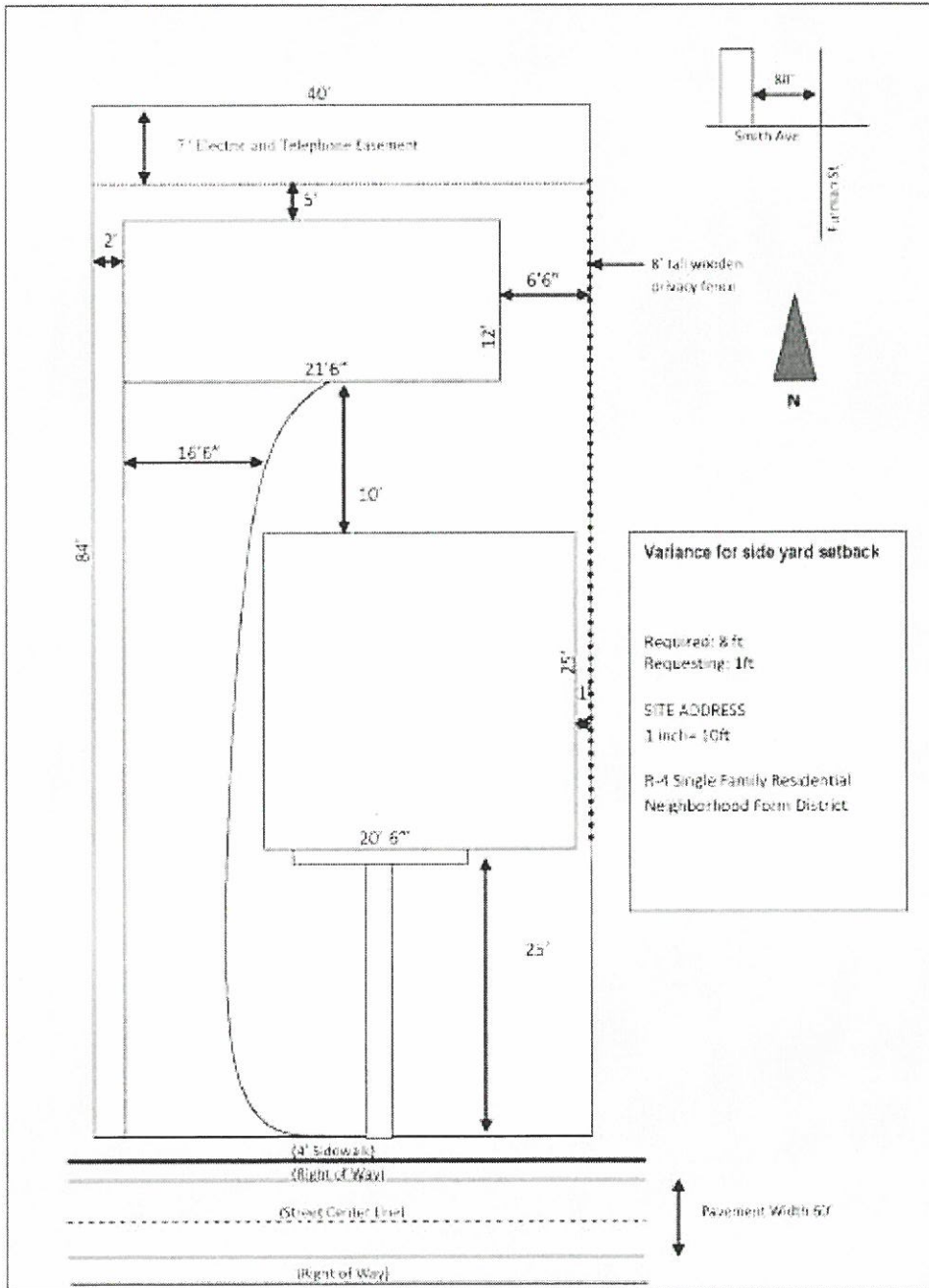
Signature: _____ Date: _____

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

Resources:

1. Land Development Reports can be obtained online by entering the site address at: <https://www.lojic.org/lojic-online>
2. Deeds and plats can be found at the Jefferson County Clerk's Office, located at the 2nd floor of Metro Hall (527 West Jefferson Street, telephone: 502-574-6220). Many deeds, plats and other records are available online at: <https://search.jeffersondeeds.com>
3. Adjoining property ownership information can be found at the Property Valuation Administrator (PVA) office at 531 Court Place, Suite 504 or via their website: <https://jeffersonpva.ky.gov/property-search>

Sample site plan is for example purposes only and not drawn to scale



RECEIVED
APR 19 2021
PLANNING &
DESIGN SERVICES

20-VARIANCE-0040

VARIANCE JUSTIFICATION STATEMENT

Nulu East Main, LLC

835 E. Main St.

RECEIVED

APR 19 2021

PLANNING &
DESIGN SERVICES

The proposed variance, which will permit the applicant to exceed the maximum 45 foot building height by 25 feet (for a total building height of 70 feet), will not adversely affect the public health, safety or welfare. The Applicant proposes to develop the subject property into a six-story mixed-use project with a 108-space parking garage, restaurant and retail space, encompassing approximately 9,500 square feet of commercial office space, and 140 apartments. The variance from the maximum building height will allow the Applicant create a transformative, neighborhood-enhancing residential and commercial use. The first two floors of the proposed development will house the restaurant and retail space and parking. The third, fourth, fifth, and sixth floors will be apartments. The proposed variance will have no impact on public health, safety, or welfare as there are numerous other developments of similar height in the area, including the seven-story apartment building at Main and Clay Streets and the five-story NuLu Lofts apartment building directly across Main St. from the subject property. Vehicular traffic will be confined to access points on Campbell Street and Main Street so as not to overcrowd E. Washington Street.

The variance will not alter the essential character of the general vicinity as there are numerous other multi-family developments of similar height in the area, including the seven-story apartment building at Main and Clay Streets and the five-story NuLu Lofts apartment building directly across Main St. from the subject property. The proposed building is designed to embrace the pedestrian experience of Main Street by incorporating indoor/outdoor dining and entertainment space. Along Campbell Street, the building steps back from the street above the second story to respect the transition to the surrounding neighborhood. The building holds the property line along Main and Campbell to maintain a continuous street wall, but pushes back to align with the adjacent residences along E. Washington Street to create a cohesive streetscape on the residential street.

The variance will not cause a hazard or nuisance to the public. The proposed building is designed to engage pedestrians along Main and Campbell streets, while respecting the scale of the surrounding neighborhood. The proposed building's roof slopes from 69' along Main Street to 65' on the north side.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposal will allow the applicant to develop a transformative mixed-use structure with neighborhood-serving uses such as a restaurant and boutique retail space. It will be an asset not only for the residents of the building and immediate Butchertown neighborhood, but the Nulu and Downtown neighborhoods, as well.

The variance arises from special circumstances that do not generally apply to land in the vicinity of the project as it proposes to re-develop a large tract of land along Main Street—the city's premier commercial and residential thoroughfare—into a transformative mixed-use

20 VARIANCE-0040

building. This unique proposal will be a catalyst for the continued revitalization of the Butchertown neighborhood, as well as a dining destination for Louisville residents and tourists alike.

The strict application of the regulations would create an unnecessary hardship as it would require the applicant to significantly reduce the height of its proposed development and restrict the potential to develop the property into a true mixed-use development. The proposal is subject to the transition zone requirements of the Land Development Code based on the residences along E. Washington. The proposed development steps down from Main Street toward E. Washington Street in response to this requirement. Strict application of the regulations would force the applicant to substantially reduce the size and scope of the proposed development. The two corners on the south side of Main Street contain multi-story structures similar in scale to the proposed development, and the property across Campbell Street is used by Pohl Iron Works as its fabrication facility.

The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant has not yet developed the subject property.

RECEIVED
APR 19 2011
PLANNING &
DESIGN SERVICES

ZO-VARIANCE-0040