

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • WWW.BARDLAW.NET

William B. Bardenwerper
Direct dial: 426-0388, ext. 135
Email: WBB@BARDLAW.NET

August 1, 2016

Julia Williams, Planner II, Case Manager
Louisville Metro Planning & Design Services
444 S. Fifth Street, 3rd Floor
Louisville, Kentucky 40202

Re: Amendment to Binding Elements and "Relief" from CUP requirements for N. Hurstbourne Self-Storage located at 2801 N. Hurstbourne Parkway; previous docket no. 13ZONE1013

Dear Julia:

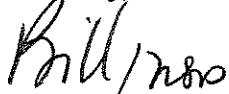
In addition to the Conditional Use Permit, Revised Development Plan, Waiver and Variance applications we are filing for this development, we are also herewith requesting the Binding Elements under the previously approved docket no. 13ZONE1013 be revised as they do not reflect the current proposed development. A copy of the February 8, 2014 Public Hearing Minutes from that case is attached for your review:

We are also requesting relief from the CUP requirements of Section 4.2.35.B and G with respect to a 30-foot setback to side and residential property lines and no greater than 1-story and 15 ft of height. The proposed building, being as it adjoins the rear of a retail building to the north and an open ballfield on church property to the east, does not negatively impact those properties in terms of setbacks or height of building, the later as respects which a variance application is also filed.

Please let me know if you have any questions regarding these requests or the several other applications we are filing for this development.

Many thanks.

Sincerely,



William B. Bardenwerper

Cc: David Twiford, applicant
Kathy Linares, Mindel Scott & Associates

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 10.3.5.A.1 to allow parking spaces and maneuvering to encroach into the 30 ft Parkway Buffer.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the diminished setback is an aesthetic issue, which can be mitigated with enhanced landscaping. Moreover, added setback with landscaping is provided along other portions of the property's Hurstbourne Parkway frontage and to the south in an area reserved for a possible (although highly unlikely) future connector road to the church.
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 Cornerstone 2020 Comprehensive Plan filed with the Conditional Use Permit application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because not all of the Hurstbourne Parkway buffer is encroached upon, and, as said above, setbacks along portions of the Hurstbourne Parkway frontage exceed required Parkway setbacks, plus enhanced landscaping will exist in some of these areas.
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 the lot is irregularly shaped with an excessive amount of right-of-way setback from Hurstbourne Parkway along some of its frontage and because of a requirement to set aside a 30 ft wide area for a potential access road to the church property.

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.

Variance of: Section 5.3.1.C.5, Table 5.3.2 to allow the building to be closer than 30 ft where next to a residential zone.

1. The variance will not adversely affect the public health, safety or welfare because the diminished setback is an aesthetic, not public health, safety or welfare, one, which can be mitigated with enhanced landscaping.

2. The variance will not alter the essential character of the general vicinity because enhanced setbacks and landscaping off-set the diminished setback.

3. The variance will not cause a hazard or a nuisance to the public because the diminished setback is an aesthetic, not a nuisance, issue. Moreover, the building being slightly closer to the church property than Code-allowed should not impact the adjoining ballfield use of that property, especially since the subject property includes a 25 ft setback which will include enhanced landscaping.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the building being slightly closer to the church property than Code-allowed should not impact the adjoining ballfield use of that property, especially since the subject property includes a 25 ft setback which will include enhanced landscaping.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity, but rather the diminished setback is an aesthetic issue in an area where this diminished setback building adjoins a retail center to the north, a park to the south, a church ballfield to the east and a major arterial highway to the west, none of which will be adversely

impacted by a few less feet of setback, which involves enhanced landscaping over what would otherwise be provided.

2. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because the lot is irregularly shaped with an excessive amount of right-of-way setback from Hurstbourne Parkway and a requirement to set aside a 30 ft wide area for a potential access road to the church property.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are a result of the lot being irregularly shaped with an excessive amount of right-of-way setback from Hurstbourne Parkway and a requirement to set aside a 30 ft wide area for a potential access road to the church property.

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.

Variance of: Section 5.3.1.C.5, Table 5.3.2 to allow the building height to exceed the maximum 35 ft. by 3 ft.

1. The variance will not adversely affect the public health, safety or welfare because the added height is an aesthetic, not public health, safety or welfare, one.
2. The variance will not alter the essential character of the general vicinity because there are other taller office buildings in the vicinity along Hurstbourne Parkway.
3. The variance will not cause a hazard or a nuisance to the public because the added height is an aesthetic, not a nuisance, one. Moreover, this slightly taller than Code-allowed building adjoins a retail center to the north, a park to the south, a church ballfield to the east and a major arterial highway to the west, none of which will be adversely impacted by a few additional feet of height.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because here are other taller office buildings in the vicinity along Hurstbourne Parkway.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity, but rather the added height is an aesthetic issue in an area where this slightly taller than Code-allowed building adjoins a retail center to the north, a park to the south, a church ballfield to the east and a major arterial highway to the west, none of which will be adversely impacted by a few additional feet of height.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it would have to squish the building a few feet shorter, which would leave internal floors shorter than practically required to best serve their storage purposes, while not benefitting any adjoining properties aesthetically or otherwise.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are a result of the practical circumstances of a storage unit's dimensions, including height, especially in relationship to a location such as this one adjoining open fields, another commercial use and an arterial highway.