

Board of Zoning Adjustment Staff Report

October 3, 2016



Case No:	16VARIANCE1062
Request:	To allow construction of an addition onto the rear of the primary structure.
Project Name:	3917 Bardstown Road Variance
Location:	3917 Bardstown Road
Area:	0.36750 acres
Owner:	Tony Zagata – Zagata Properties
Applicant:	John White – WPC Company Inc.
Representative:	John White – WPC Company Inc.
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Ross Allen, Planner I

REQUEST

- **Variance:** from the Land Development Code section 5.5.1.A.2 to allow the proposed expansion at the rear of the existing structure to be setback from the right of way line greater than 5 feet along Six Mile Lane.

Location	Requirement	Request	Variance
Corner Lot Setback from Six Mile Lane	5 feet from Right of way line	28 feet	23 feet

- **Waiver #1:** from the Land Development Code section 5.5.1.A.3.a to allow parking in the front of the principal structure and to not provide the 3 foot masonry, stone, or concrete wall to screen the parking area along the Bardstown Road and Six Mile Lane frontages.
- **Waiver #2:** from LDC section 5.8.1.B to not provide sidewalks along the Bardstown Road frontage for a linear length of approximately 118 feet.
- **Waiver #3:** from LDC section 10.2.4.A, table 10.2.4 to not provide the 8 foot screen at the rear of the property with direction N57° 23' 21" W.
- **Waiver #4:** from LDC section 10.2.4, table 10.2.3 to allow the proposed 2,887 sf. addition to encroach 5 ft. into the 10 ft. LBA along the rear property line found along the direction N57° 23' 21" W .
- **Waiver #5:** from LDC section 10.2.10 to not provide the 5 ft. VUA LBA along the Bardstown road frontage with direction S57° 15' 00" E.
- **Waiver #6:** from LDC section 10.2.10 to allow the pavement to encroach into the 5 ft. VUA LBA along Six Mile Lane with a direction of N59° 31' 41"E.
- **Waiver #7:** from LDC section 10.2.11, table 10.2.7 to not provide a 1 type A tree per 50 linear feet of boundary and to not provide the 3 foot continuous screen for the VUA adjacent to the roadway along Six Mile Lane with a direction of N59° 31' 41"E and the Bardstown Road with a direction of S57° 15' 00" E.

- **Waiver #8:** from LDC section 10.2.12 and 10.2.13 to not provide the 5% Interior Landscape Area (ILA) and VUA ILA planting requirements of one medium or large deciduous tree for every 4,000 square feet of vehicular use area.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a 2,887 sf. attached rear structure with a height of 16 feet, considered a category 2A for a C-1 zoned parcel in the Town Center Form District. The applicant needs more space as a result of growing sales and services at the subject site. The subject site is located on the northwest corner of Bardstown Road and Six Mile Lane. The existing parking lot is located to the front of the business and adjacent to both Bardstown Rd. and Six Mile Lane with no sidewalks along the Bardstown Road frontage. The applicant is willing to provide a continued sidewalk within the Six Mile Lane public right of way.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial	C-1	Town Center
Proposed	Commercial	C-1	Town Center
Surrounding Properties			
North	Commercial; Office Residential	C-1; OR-3	Town Center
South	Commercial	C-1	Town Center
East	Commercial	C-1	Town Center
West	Commercial; Office Residential	C-1; OR-3	Town Center

PREVIOUS CASES ON SITE

No other cases are associated with the subject site.

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens. All signatures were obtained from adjacent property owners for the non-public hearing.

APPLICABLE PLANS AND POLICIES

Land Development Code (July 2016)
 Comprehensive Plan (Cornerstone 2020)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

Variance: from the Land Development Code section 5.5.1.A.2 to allow the proposed expansion at the rear of the existing structure to be setback from the right of way line greater than 5 feet along Six Mile Lane.

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the new attached rear addition will be setback further from the right of way along Six Mile Lane and will be restricted by a fence for the public to access.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since parcels in the vicinity have varying sizes and uses, most being commercial and many having parking in front of the structures. The proposed addition is planned at the rear of the parcel and is partially screened by a fence with shrubbery to the exterior of the fence.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public since the proposed addition is located behind a fence which limits the accessibility to the public and will be screened along Six Mile Lane by a fence, existing bushes/shrubs, and three proposed Yellow Wood Trees.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since many of the commercial structures in the general vicinity are not parallel with Six Mile Lane and are setback from the right of way by more than five feet, most notably Louisville Motors, east of the subject site and also on a corner lot.

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 requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the subject site is located on a corner lot with properties in close proximity to the west along Bardstown Road.

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 since the only available area to expand physically is at the rear of the property.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the existing structure that is to be added onto is already at a greater setback than what would be permitted by LDC.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1: of LDC section 5.5.1.A.3.a. to allow the parking lot to be located in front of the building and to not provide a 3 foot masonry, stone or concrete wall along the Bardstown Road or Six Mile Lane frontages:

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public right-of-way to the building entrance from Six Mile Lane leading to a walkway along the front entrances facing Bardstown Road.

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

STAFF: Guideline 2, Policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, Policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waiver is compatible with the pattern of development within the general vicinity, and there does appear to be physical restraints preventing compliance with the regulations to be waived since parking is accessible from Bardstown Road and any reconfiguration of the parking would require that applicant to construct onto the existing structure out towards Bardstown Road and Six Mile Lane forcing parking to the rear of the subject site and this is not characteristic in the general vicinity. Therefore, the requested waiver will violate specific guidelines and policies of Cornerstone 2020 but would require the applicant to conform to regulations that are not in character with the general vicinity at current.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are physical restraints preventing compliance with the regulations to be waived. Parking was present in the front of the primary structure prior to adoption of the current LDC regulations. The location of the primary structure on the subject site prevents parking access to the rear of the property.

- (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 applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The applicant is proposing extending the sidewalk along Six Mile Lane with a pedestrian access with landscaping traversing the parking lot to the front of the primary structure.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2: of section 5.8.1.B. to not provide a sidewalk along the Bardstown Road Frontage for an approximate length of 118 linear feet:

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

STAFF: The waiver will not adversely affect adjacent property owners since the subject site is situated near the corner and the applicant is proposing to construct a sidewalk along the Six Mile Lane side of the property to the corner of Bardstown Road and Six Mile Lane. There is also a street scape plan (Buechel Streetscape Phase II) which funding has been frozen by Kentucky Transportation Cabinet until July 2017. The current streetscape plans include the applicant's property frontage along Bardstown Road.

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

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The applicant is attempting to provide the sidewalk along Six Mile Lane as an offset to providing the sidewalk along the Bardstown Road frontage. The aforementioned streetscape plan does not include any improvements to Six Mile Lane which adds to the movement of pedestrians.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is willing to construct sidewalk along the Six Mile Lane for an approximate linear distance of 118 feet, which is longer than the distance found along the Bardstown Road frontage.

- (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 applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived since a sidewalk is to be constructed by the applicant connecting the existing sidewalk, north of their property, south to Bardstown Road which would not be addressed by the Buechel Streetscape Phase II project.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3: of section 10.2.4.A, table 10.2.4. to not provide the 8 foot screen at the rear of the property with direction N57° 23' 21" W. for an approximate linear distance of 96 feet:

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

STAFF: The waiver will not adversely affect adjacent property owners since the subject site currently has an existing six foot high fence and are proposing 7 Emerald Green Arborvitae with an additional 4 Columnar Sweetgum trees along the rear of the property for screening the new addition.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The applicant has an existing six foot high fence and is proposing 7 Emerald Green Arborvitae with an additional 4 Columnar Sweetgum trees along the rear of the property for screening the new addition.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the existing six foot tall fence with the 7 Emerald Green Arborvitae and 4 Columnar Sweetgum trees along the rear of the property provide screening of the new addition.

- (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 applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived since the applicant is providing three Yellow Wood trees along the rear of the property to the interior of the fence along the Six Mile Lane.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #4: of section 10.2.4, table 10.2.3 to allow the proposed 2,887 sf. addition to encroach 5 ft. into the 15 ft. LBA:

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

STAFF: The waiver will not adversely affect adjacent property owners since the encroachment is occurring on the subject site and does not impact the adjacent rear neighbor. The applicant is providing screening from the adjacent site with 7 Emerald Green Arborvitae and 4 Columnar Sweetgums to the interior of the existing six foot fence.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The applicant is providing landscaping, 7 Emerald Green Arborvitae and 4 Columnar Sweetgum trees in the remaining 5 feet of landscape buffer area at the rear of the property.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is using landscaping to mitigate the visibility of the proposed 16 foot tall attached rear addition with the remaining 5 feet of landscape buffer area.

- (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 would create an unnecessary hardship on the applicant since the applicant is using 7 Emerald Green Arborvitae and 4 Columnar Sweetgum trees in the remaining 5 feet of landscape buffer area at the rear of the property and if the waiver is not granted would need to reduce the size of the proposed attached rear addition to the primary structure.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #5: from LDC section 10.2.10 to not provide the 5 ft. VUA LBA along the Bardstown road frontage with direction S57° 15' 00" E.

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

STAFF: The waiver will not adversely affect adjacent property owners since the subject site is located on a corner lot which is adjacent to the Six Mile Lane right of way. The Pasha's Mediterranean Café (south of the subject site) and Café Joker (South of the subject site) of 5 adjacent sites along the Bardstown Road corridor have landscaping for the screening of the VUA.

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

STAFF: The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. However, the vehicular use area had existed prior to the current LDC regulations and the applicant's site is limited on available space for both the new addition and parking configuration.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the subject site would require the removal of parking in order to accommodate the 5 foot VUA LBA.

- (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 create an unnecessary hardship on the applicant. The subject site has had parking which pre-dates the current regulations and the existing parking would need to be removed in order to accommodate the 5 foot VUA LBA.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #6: from LDC section 10.2.10 to allow the pavement to encroach into the 5 ft. VUA LBA along Six Mile Lane with a direction of N59° 31' 41"E.

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

STAFF: The waiver will not adversely affect adjacent property owners since ingress/egress have been present prior to the current Land development code regulations and the neighboring property does not have a 5 foot VUA LBA nor the car dealership property directly across Six Mile Lane.

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

STAFF: The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. However, three parcels found to the south of Bardstown Road have screening of the VUA with small bushes, whereas the applicant is proposing landscaping only near the corner towards the interior of the subject property leading from the side walk to the corner of the principal structure.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is attempting to provide some landscaping near the corner towards the interior of the subject property leading from the side walk to the corner of the principal structure.

- (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 since the applicant is proposing a 2,887 sf. structure to the rear principal structure and additional landscaping may at some point need to be removed as a result of the Buechel Streetscape Phase II which funding was frozen for construction until July 2017.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #7: from LDC section 10.2.11, table 10.2.7 to not provide a 1 type A tree per 50 linear feet of boundary and to not provide the 3 foot continuous screen for the VUA adjacent to the roadway along Six Mile Lane with a direction of N59° 31' 41"E and Bardstown Road with a direction of S57° 15' 00" E.

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

STAFF: The waiver will not adversely affect adjacent property owners since all adjacent properties whether along Bardstown Road or Six Mile Lane have no 3 foot continuous wall. Furthermore, type A trees may interfere with overhead power lines along the Bardstown Road frontage.

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

STAFF: The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. However, adjacent properties in the general vicinity have no 3 foot continuous wall while other properties, notably to the south of Bardstown Road do have landscaping but not type A trees as required by the land development code.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the property owner would be required to place a 3 foot continuous screen with type A trees per 50 lineal feet of boundary which both may be removed in the future if and when the Buechel Streetscape Phase II project is funded. Also, the type A trees may cause issues with overhead power lines along the Bardstown Road frontage.

- (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 since the property owner would be required to place a 3 foot continuous screen with type A trees per 50 lineal feet of boundary which both may be removed in the future if and when the Buechel Streetscape Phase II project is funded. Also, the type A trees may cause issues with overhead power lines along the Bardstown Road frontage.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #8: from LDC section 10.2.12 and 10.2.13 to not provide the VUA ILA planting requirements of one medium or large deciduous tree for every 4,000 square feet of vehicular use area.

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

STAFF: The waiver will not adversely affect adjacent property owners since the property is situated at the corner of Bardstown Road and Six Mile Lane limiting parking space. Parking spaces are perpendicular to Bardstown Road limiting space for interior landscape areas. Parking along Six Mile Lane is also limited since there are only two spaces and the remainder of the area is to be used for loading and unloading of required business materials.

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

STAFF: Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. Although the subject site has 7,224 sf. of paved area for a parking lot, the lot remains to the exterior of the principal structure and the proposed addition to the rear further limits parking to the existing areas. Last, ILA's are required to be 8 ft. in width or length which is not feasible given the parking lot size and area for current number of spaces allotted.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since space is limited on the site.

- (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 create an unnecessary hardship on the applicant since the only other option for the applicant would to find an alternate location for the business.

TECHNICAL REVIEW

- None

STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. The waivers requested appear to be adequately justified and meet the standard of review. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of review for granting a variance and waivers as established in the Land Development Code from sections 5.5.1.A.2 to allow a greater setback, and waivers from sections 5.5.1.A.3 to allow parking in the front of the principal structure, 5.8.1.B to not provide a sidewalk along the Bardstown Road frontage for approximately 118 feet, 10.2.1.A, table 10.2.4 to not provide the 8 foot screen at the rear of the property abutting an OR-3 zoned Parcel, section 10.2.4, table 10.2.3 to allow the proposed addition to encroach into 5 feet into the 15 foot rear LBA at the rear of the property, section 10.2.10 to not provide the 5 foot VUA LBA along both the Six Mile Lane frontage and Bardstown Road frontage to screen the parking areas, section 10.2.10 to allow the pavement to encroach into the 5 foot VUA LBA along Six Mile Lane, section 10.2.11, table 10.2.7 to not provide 1 type A or 2 type B trees per 50 lineal feet of boundary and to not provide a 3 foot continuous screen for the VUA adjacent to the roadway along Six Mile Lane and Bardstown Road, and section 10.2.12 and section 10.2.13 to not provide the 5% ILA and VUA ILA planting requirements of one medium or large deciduous tree for every 4,000 sf. of vehicular use area.

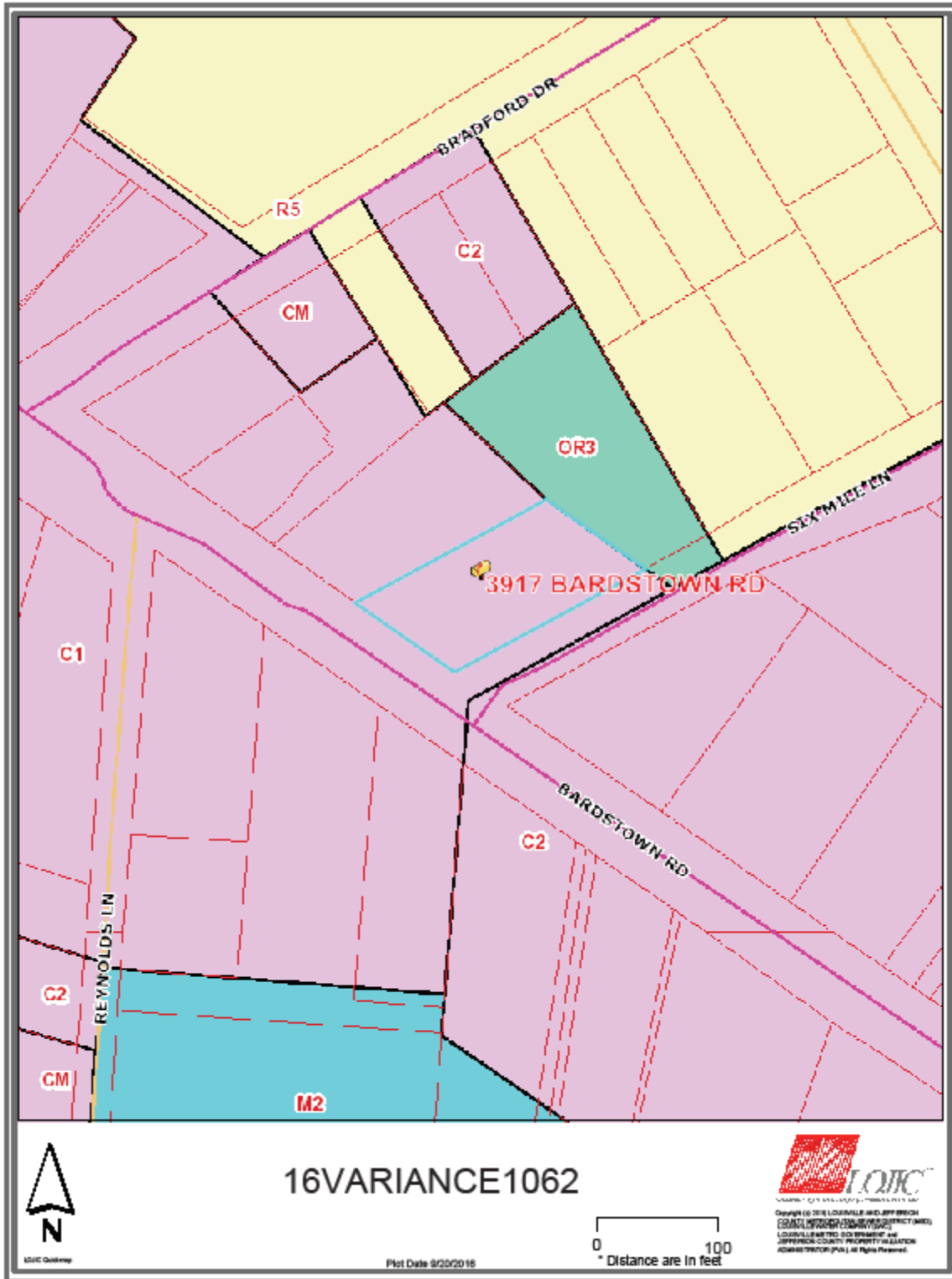
NOTIFICATION

Date	Purpose of Notice	Recipients
Sept. 16, 2016	Public Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
Sept. 16, 2016	Sign Posting	Property owner

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

