

Board of Zoning Adjustment Staff Report

December 19, 2016



Case No:	16CUP1055
Project Name:	Louisville Family Chiropractic
Location:	7300 New La Grange Road
Owners:	Louisville Family Chiropractic
Applicant:	Louisville Family Chiropractic
Representative(s):	John Pacyga
Project Area/Size:	0.41 acres
Existing Zoning District:	R-7, Residential Multi Family
Existing Form District:	RC, Regional Center
Jurisdiction:	Norwood
Council District:	7 – Angela Leet
Case Manager:	Jon E. Crumble, Planning & Design Coordinator

REQUESTS

- Modified Conditional Use Permit to allow a Chiropractic office in an R-7 zoning district.
- Landscape waivers to reduce the required LBA and omit the required tree requirement along the north and east property lines.

Location	Requirement	Request	Waiver
North Property Line	15'	3'	12'
East Property Line/Rear Yard	25'	5'	20'

- Variance to reduce the required rear yard.

Location	Requirement	Request	Variance
East Property Line/Rear Yard	50'	5'	45'

CASE SUMMARY/BACKGROUND

The applicant is requesting a modification to a previously approved CUP located at 7300 New La Grange Road. The prior case was approved for a dentist office. The new use will be a chiropractic office with related massage therapy. New parking will be added along the front and rear of the primary structure. Also the existing detached garage will be used as the massage therapy area.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant – Dentist	R-7	RC
Proposed	Chiropractor Office	R-7	RC
Surrounding Properties			
North	Office	OR-2	RC
South	Commercial	C-2	RC
East	Commercial, Office	C-2, R-7	RC
West	Commercial	C-2	RC

SITE CONTEXT

The subject property is a rectangular shaped lot with approximately 93 feet of frontage on New Lagrange road with a varying depth the greatest of which is 208 feet. The property is Lot 5, Block G of the revised plan of Norwood Place as recorded in Plat book 4, Page 34.

PREVIOUS AND ASSOCIATED CASES ON SITE

- 9-146-70** Change in zoning from R-7 Apartment to C-1 Commercial. This proposal was denied by the Planning Commission and Fiscal Court.
- 9-51-79** Change in zoning from R-7 Apartment to C-5 Professional Office. This proposal was denied by the Planning Commission and Fiscal Court.
- B-27-80** Conditional Use Permit to allow a dentist office in an R-7 zoning district on property located at 7300LaGrange Road. The proposal was approved by the Board of Zoning Adjustment on August 12, 1980.
- B-28-80** Variance from the Zoning District Regulation to allow parking spaces to encroach into the required front yard on property located at 7300LaGrange Road. The proposal was approved by the Board of Zoning Adjustment on August 12, 1980.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on October 4, 2016. No one attended the meeting.

The plans and elevations were presented at the City of Norwood Board meeting on October 11, 2016. The Board approved the proposal. Staff received an approval letter from Norwood Mayor Keith Monsour.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMITS

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the Comprehensive Plan since the property is had been operating as a dentist office under an approved Conditional Use Permit.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with surrounding land uses with respect to scale, intensity, traffic, drainage.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: Transportation Planning and the Metropolitan Sewer District have reviewed and approved the plan. The Lyndon fire Protection District reviewed and approved the proposal.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

One office for one physician osteopath, or podiatrist licensed under KRS Chapter 311; **chiropractor licensed under KRS Chapter 312**; dentist licensed under KRS 313; optometrist licensed under KRS Chapter 320; advanced practice registered nurse licensed under KRS Chapter 314; or other health care practitioner as determined by the department by administrative regulations promulgated under KRS Chapter 13A may be allowed on a lot in the R- 4, R-5, R-5A, R-5B, R-6, and R-7 districts where the premises an arterial or collector level street as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements **The applicant will need to ask for relief from item A. and B.**

A. Floor Area - The maximum floor area for the office use is 1,000 square feet. **The maximum floor area for the chiropractic office use will be 1,488 square feet and the massage therapy office will be 854 square feet for a total of 2,342.**

B. Parking Areas - parking spaces shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of five feet, or a wall constructed of brick, stone or wood with a minimum height of five feet. **A variance (B-28-80) was approved to allow parking in the front yard, but the applicant will be modifying the parking area to add four additional spaces in the front yard.**

C. Signs - There shall be allowed one non-illuminated identification sign indicating the name and occupation, which sign shall be limited in size to four square feet and placed on the building.

D. Exterior Design - The building shall remain or shall be constructed so that the exterior design and ornamentation is of residential character in keeping with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).

E. Number of Employees – No more than five total employees, including the medical professional, shall be permitted.

The original standards required to obtain the conditional use permit for the requested from the Zoning District Regulations for B-27-80/B-28-80

A. There shall be allowed one non-illuminated identification sign indicating the name and occupation, which sign shall be limited in size to one square foot.

B. The building shall remain or shall be constructed so that the exterior design and ornamentation is of residential character in keeping with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).

C. The building shall contain at least eight-hundred square feet of floor area.

D. At least five parking spaces shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of five feet, or a wall constructed of brick, stone or woven wood with a minimum height of five feet.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS
(North and East Property Lines)**

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

STAFF: The waiver will not adversely affect adjacent property owners since the required screening will still be provided.

(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.

- (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 new parking area would have to be reduced or reconfigured and some parking space may be lost.

- (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 will incorporate other design measures that will compensate for non-compliance. Currently there is limited screening along the north and east property line. The applicant will be adding screening that will be Land Development Code compliant.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES (Rear Yard)

- (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 existing accessory has been in place to a number of years and the proposed parking will be screened from the adjacent residential use.

- (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 as the site has existed as is since for a number of years.

- (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 as the yard reduction will not be noticeable from the street or adjacent residential property.

- (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 as the rear yard will be screened from the adjacent residential property.

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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site was developed before the existing Land Development Code regulations.

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 create an unnecessary hardship on the applicant as the applicant would have to remove the existing accessory structure and four of the proposed parking spaces at the rear of the site.

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 since the site has been developed before the current Land Development Code and was operating as a dentist office under an approved Conditional Use Permit.

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, BOZA must determine if the proposal meets the standards for granting the modified CUP, waivers, and variance as established in the LDC.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the modified Conditional Use Permit
- **APPROVE** or **DENY** the landscape waivers
- **APPROVE** or **DENY** the variance

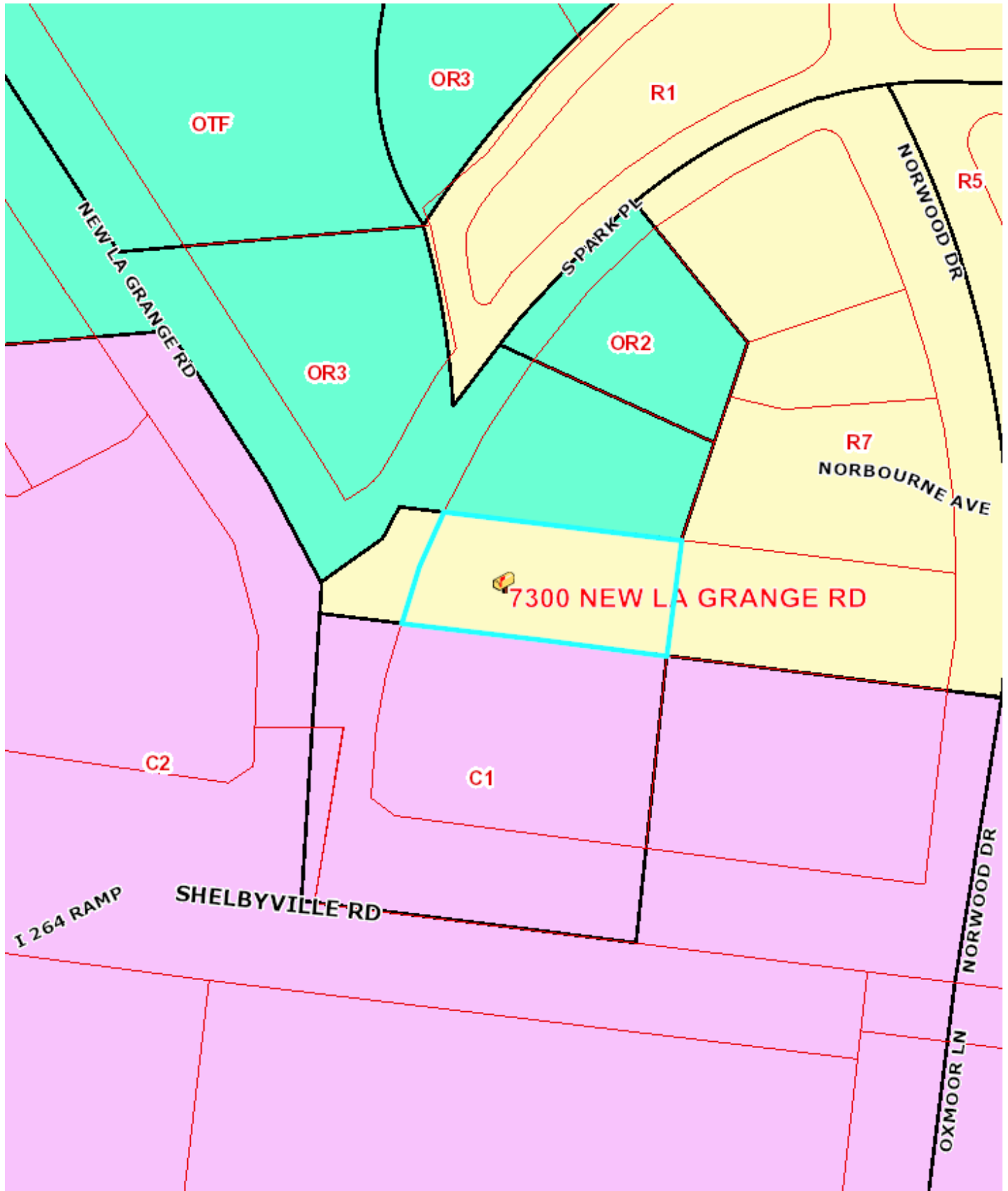
NOTIFICATION

Date	Purpose of Notice	Recipients
12/1/16	Notices	Adjoining Properties
12/2/16	Post the Sign	Site

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Existing Conditions of Approval

1. The development shall be constructed in accordance with the approved Conditional Use and Variance Plans.
2. Access drives shall be constructed as shown on the approved Conditional Use and Variance Plans. The drive at the south edge of the property shall be removed and a concrete curb shall be constructed along the frontage as shown on the approved plan.
3. The screening/landscaping plan received by the Board on May 5, 1980 shall be implemented prior to occupancy of this site for a dentist's office. Existing trees shall be preserved on this property with the exception of a dead tree which is between the north side of the house and the north property line. This tree shall be replaced with a dogwood or other ornamental tree when it is removed. If the fence located along the north side property line is removed 4 foot high hemlocks shall be planted 5 feet on center to replace the fence. **The applicant will explain the existing landscaping and what is proposed.**
4. A 10 foot drainage easement along the north side of the property and a 5 foot drainage easement along the easterly rear property line shall be recorded within 30 days of the board's final action on this case in accordance with the requirements of the Jefferson County Water Management Engineer. **The applicant will explain the existing condition on site.**
5. The applicant shall obtain an alteration permit from the Jefferson County Department of Code Enforcement prior to occupancy of the structure for a dentist's office.
6. The proposal shall comply with Section IV, 29, of the Zoning District Regulations, Doctor, Dentist or Chiropractor Office which requires the exterior design of the structure to remain residential in character and permits the office to be utilized by one dentist only.
7. Compliance with all national, state, and local fire regulations.

4. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a chiropractor office without further review and approval by the Board.