

Board of Zoning Adjustment Staff Report

November 16, 2015



Case No:	15Variance1076
Project Name:	The Mower Shop (New Building)
Location:	1142 Minor Lane
Owner(s):	Brian Humbert, JNO, LLC
Applicant:	Owner
Representative:	Kathy Matheny, Cardinal Planning and Design
Project Area/Size:	0.23 acres
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance: Side Yard Setback (building and parking)

Variance from the Land Development Code Chapter 5, Sections 5.7.1.B.3.b and 5.3.2.C.2.b, to allow the proposed structure and parking to encroach into the transition side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback (building)	35'	7'	28'
Side Yard Setback (parking)	35'	3.5'	31.5'

Waiver #1: Transition LBA (west)

Waiver of Land Development Code Sections 5.7.1.B.3.a and 10.2.4. to eliminate the 35' transition buffer required along the west property perimeter.

Waiver #2: Building Design (street facade)

Waiver of Land Development Code Sections 5.7.1.B.3.b, 5.6.1.B.1, and 5.6.1.C.1 to not provide the 60% animating features and the 50% clear glass doors and windows along the street façade.

Waiver #3: Building Design (west facade)

Waiver of Land Development Code Sections 5.7.1.B.3.b. and 5.6.1.B.1 to not provide the 60% animating features along the west façade.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This development proposal is a Category 2B Development. The applicant is proposing to remove the existing buildings on this C-1 property in the SMC to construct a new 4,200sf pre-engineered steel mower repair shop. Dedication of right-of-way, new sidewalk, and associated parking are being provided as part of the development. This property is located in a Transition Zone therefore a 35' Buffer Yard and side yard setback are required to be provided along the western perimeter where the development abuts the R-4 zoned property which is the location of the AT&T communication facility. A waiver is being sought to eliminate the 35' Buffer Yard along the west perimeter. In addition, the applicant is requesting relief from the building design requirements along the west and street façades. However, the required plantings are to be provided in the VUA LBA along the street frontage and additional plantings are to be provided along the front building façade.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-1 within the Suburban Marketplace Corridor (SMC) Form District. It is surrounded by Commercial businesses zoned C-1, C-2 and R-5 in the Suburban Marketplace Corridor (SMC) and Neighborhood (N) Form Districts.

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial/Mower Repair Shop	R-6	SMC
Proposed	NA		
Surrounding Properties			
North	Commercial	C-2	SMC
South	Commercial/Mower Sales	C-1	SMC
East	Commercial/ Mower Sales	C-1	SMC
West	AT&T Communication Facility	R-5	N

PREVIOUS CASES ON SITE

15DEVPLAN1158 – Category 2B Development Plan for the construction of a new building. Pending

INTERESTED PARTY COMMENT

No inquiries have been received.

APPLICABLE PLANS AND POLICIES

Land Development Code
Cornerstone 2020

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

Variance: Side Yard Setback (building and parking)

Variance from the Land Development Code Chapter 5, Sections 5.7.1.B.3.b and 5.3.2.C.2.b, to allow the proposed structure and parking to encroach into the transition side yard setback.

- (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 applicant’s proposal provides for access to the structure and allows area for drainage. Plus the parking and new structure will not be block visibility for pedestrian or vehicle movement into and out of the subject site.

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

STAFF: The requested variance will not alter the general character. The new structure will be located two feet further from the west property line than the existing structure is currently. The parking will be located only one foot closer to the adjacent property. Plus the existing 8’ chainlink

fence will remain. Additional tree plantings will be provided along with screening plantings along the street frontage which will improve enhance and improve the character of the subject property.

- (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 proposal is adding vegetation to the site, improving the circulation and designating parking which will enhance the property and increase safety.

- (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 the new structure will be located further from the west property line than the existing condition and the parking will be located only one foot closer than the existing pavement. The setback requirement along the west perimeter is a result of the Transition Zone requirements. However, considering the adjacent structure and use is a commercial use the setback is not necessary in this situation. The setback is intended to lessen the impact on residential property; both single and multi-family uses.

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 arise from special circumstances, the zoning of the adjacent property and the location of the form district perimeter results in this property being in a transition zone; therefore the residential requirements are to be applied along the west perimeter. However, the adjacent property in this situation has a commercial use on a residential zoned property. Therefore, the large setback is not necessary to reduce the impact of the proposal on the adjacent property since it is not a residential use: single or multi-family.

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 and deprive the applicant of a reasonable use of the land. Considering the development parcel is only 80' wide, if the 35' setback was honored, all most half of the site would be undevelopable which is unreasonable and a hardship.

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. The applicant is requesting relief from the requirement prior to beginning the new construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #1: Transition LBA (west)

Waiver of Land Development Code Sections 5.7.1.B.3.a and 10.2.4. to eliminate the 35' transition buffer required along the west property perimeter.

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent use is a commercial use.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate 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 the 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 air borne and water borne pollutants. Since the adjacent property is a similar intensity and use as the subject property the waiver request does not violate the guidelines and policies of Cornerstone 2020. Plus the applicant is providing a tree along the perimeter to improve and enhance the western perimeter.

- (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 adjacent uses are similar there is no need for additional 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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. However, 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #2: Building Design (street facade)

Waiver of Land Development Code Sections 5.7.1.B.3.b, 5.6.1.B.1, and 5.6.1.C.1 to not provide the 60% animating features and the 50% clear glass doors and windows along the street façade.

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

STAFF: The waiver will adversely affect adjacent property owners since the building will not have the visual interest or the human scale the existing building possesses. This building has little connection to

the surroundings. The existing building being removed has better features and is more engaging than the new proposed building.

- (b) The waiver will violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 3, policy 1 and 2 calls for the 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. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the façade length and 50% clear glass and doors. The applicant has not provided any animating features along the street façade. The applicant has mentioned adding evergreen shrubbery along a portion of the front façade. However, considering there are no animated features being provided, the waiver request does violate the comprehensive plan.

- (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 not the minimum necessary to afford relief to the applicant since the applicant can provide the required animating features on the façade.

- (d) Either:

(i) The applicant has not 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 not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. 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 on the applicant since animated features could be provided along the façade.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #3: Building Design (west facade)

Waiver of Land Development Code Sections 5.7.1.B.3.b. and 5.6.1.B.1 to not provide the 60% animating features along the west façade.

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent property is a commercial use, not a residential use.

- (b) The waiver will violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 3, policy 1 and 2 calls for the 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. The type of building materials may be considered as a mitigation

measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the length of the façade. The waiver does not violate the comprehensive plan since the adjacent property is a commercial use, not a residential use. Therefore the façade animation is not necessary.

- (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 adjacent property is commercial, not residential.

- (d) Either:

(i) The applicant has not 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 not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. However, the requirement is intended to reduce the impact of the commercial development on a residential use. In this situation the adjacent use is commercial therefore the requirement is not necessary. Providing the animation on the west side would be a hardship on the applicant.

TECHNICAL REVIEW

The following items need to be addressed prior to final approval:

1. Increase the loading and unloading area of the accessible space to the required 8 feet width.

STAFF CONCLUSIONS

The requested Variance and Waiver #1 appears to be justified. Considering the width of the lot, to apply the 35' setback and Buffer Yard along the western perimeter, would limit the development of this parcel to an unreasonable area.

Waiver #3 (west façade animation) appears to be justified. Considering the adjacent property is a commercial use, not residential, the required façade animation appears to not be necessary.

Waiver #2 (front facade animation and clear glass and doors) appears to not be justified. The applicant is not providing any animation along this façade with the exception of an evergreen planting. The applicant could provide some animating features along this façade. Plus considering the existing building has more presents than the proposed building the applicant should be providing animating features.

Based upon the information in the staff report, the analysis of the standards of review, the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance and waiver as established in the Development Code based on the testimony and evidence provided at the public hearing.

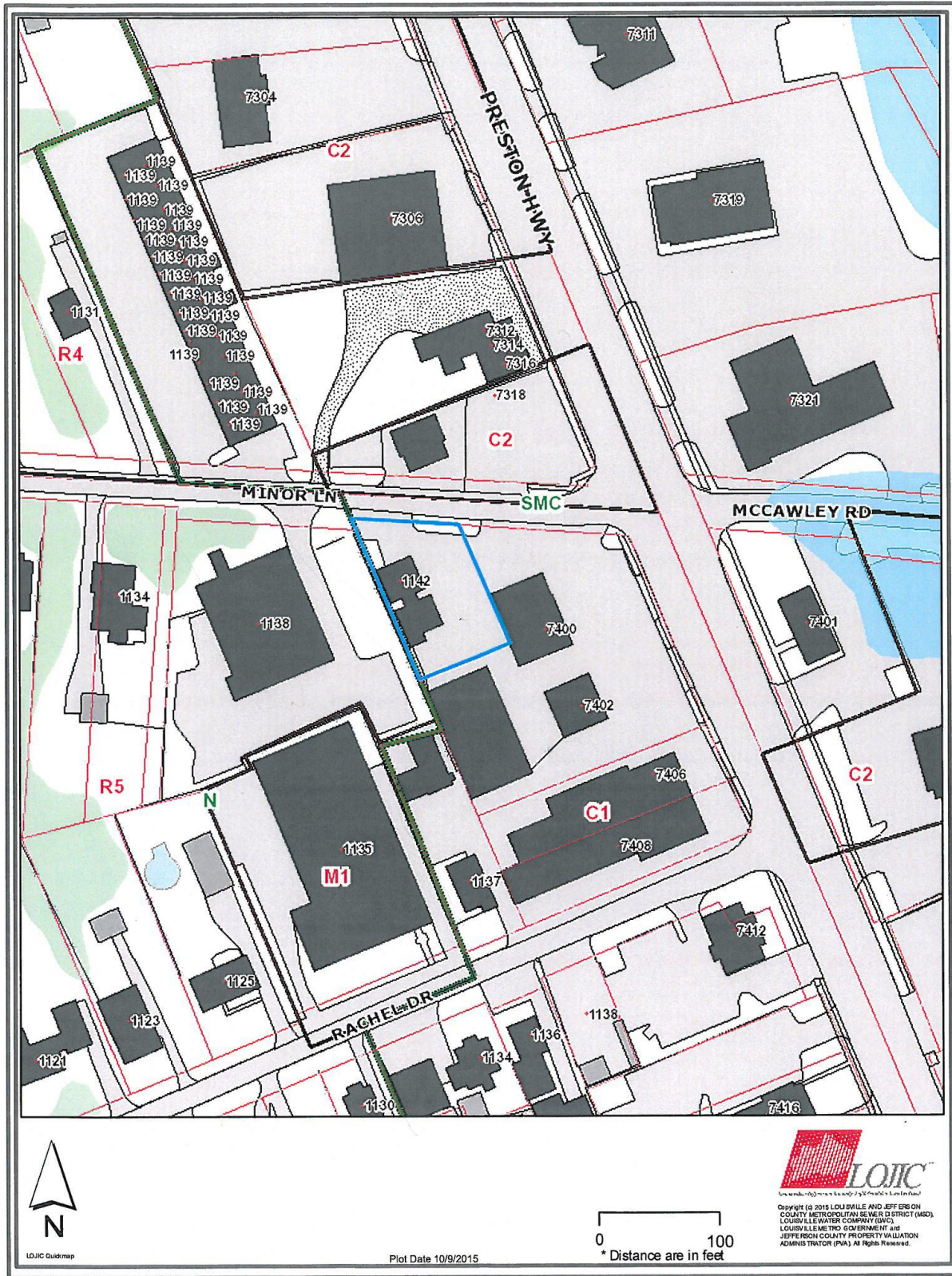
NOTIFICATION

Date	Purpose of Notice	Recipients
10/29/2015	BOZA Hearing	Neighborhood notification recipients
10/30/2015	BOZA Hearing	1 st tier adjoining property owners
11/03/2015	Sign Posting	Subject property

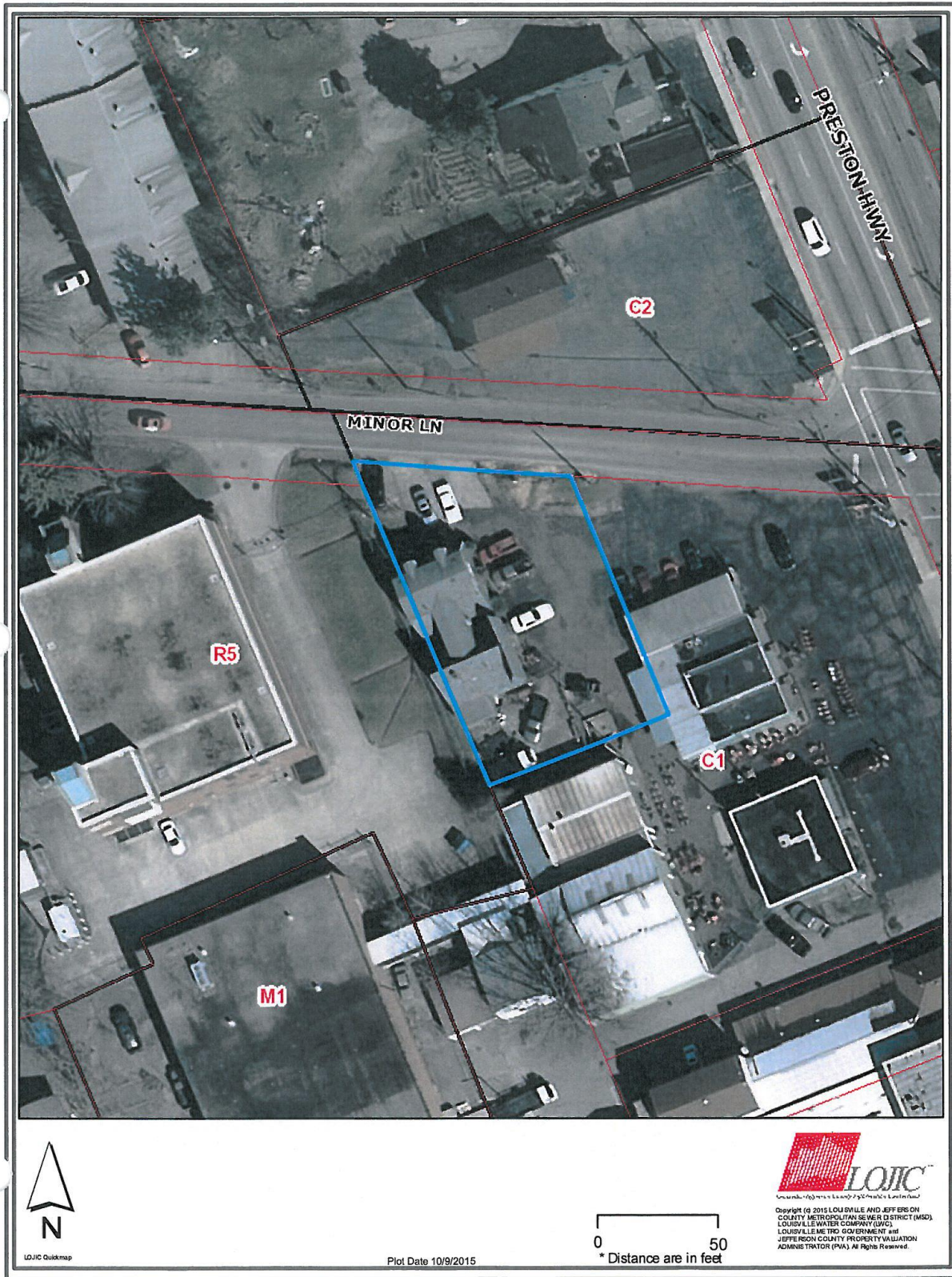
ATTACHMENTS

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

Attachment 1: Zoning Map



Attachment 2: Aerial Photograph



Attachment 4: Elevations

STANDARD

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View from Preston Hwy. east 2 hour fire rated 2hr. fire rated door

View from phone company west 1 window/2 Exhaust fan

2 hr fire rated

Minor line north side Exhaust fan 1 overhead door 1 man door

Rear of Bldg. next to warehouse south 2 windows one man door 1 OH door 2hr fire rated

SCALE: 1/16" = 1'-0"

Attachment 5: Applicant's Justification

Supplemental Information- Justification for BOZA Docket No. _____

1142 Minor Lane
Zoning of Site is C1
Proposed Use is a Lawn Mower Shop and Repair

REQUESTED VARIANCES:

Variance 1- Side Yard Building Set Back Minimum in a Transition Zone is 35 feet under LDC 5.7.1.B.3.b.

Request a variance of 28 feet to allow a 7 foot setback on west side yard's building limit line for placement of the new building.

Variance 2- Side Yard Set Back Minimum for parking areas in a Transition Zone is 35 feet under LDC 5.7.1 and 5.3.2.C.2.b.

Request a variance of 34 feet to allow a 1 foot setback on the west side yard and allow the parking area to be placed in the setback and yard buffer area.

The requested variances are needed to allow for a replacement building to be constructed as part of the Mower Shop's operations on Preston Highway. The subject lot contains an older house and garage which serves at the mower shop's repair shop. A new 4200 square metal building is proposed to replace this older structure.

The two variances are needed because the site is located in the "Transition Zone" between the Neighborhood and Suburban Marketplace Form Districts. This transition zone requires a 35 setback because it supposes that a neighborhood use is adjoining this commercial use. However, in this instance, the neighboring property is zoned Residential and in the Neighborhood Form District but it contains a large brick building housing a telephone company substation. Further, the existing building at the Mower shop is only 5 feet off the current property line thus already located in this "setback" area. Given these two factors, the need for a 35 foot setback for the new building or parking areas does not exist.

Variance 1- Side Yard Building Set Back Minimum in a Transition Zone is 35 feet under LDC 5.7.1.B.3.b.

Request a variance of 28 feet to allow a 7 foot setback on west side yard's building limit line for placement of the new building.

Question 1.

The requested variance will not adversely affect the public health, safety or welfare of neighboring landowners. In this situation, the proposed building is being constructed in the approximate same place as the previous building. The site is surrounded by existing

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uses. This building is just a larger more modern building to serve as part of the Mower Shop's sales and repair business. No neighboring landowners are being impacted by the change and the building will be more aesthetically pleasing and built to more modern standards.

Question 2

The requested variance will not alter the character of the general vicinity. The proposed building is being placed on the lot at the approximate same side set back as the existing building and the use is the same. The character of the neighborhood will not be altered.

Question 3

The requested variance will not cause a hazard or nuisances to the public. This new metal building is simply replacing an older existing frame building for the same use. The new building will be better designed and equipped to handle lawn mower repairs and other equipment needs. No new hazards or nuisances will be presented to the general public.

Question 4

The requested variance will not allow an unreasonable circumvention of the zoning regulations. As noted above, the proposed building is replacing an existing building. The area surrounding it is developed and primarily owned by the same business. The side yard setback is about the same location as the existing building's side set back. The new building is an upgrade to the site and the Minor Lane streetscape will be improved by removing an older structure and adding new landscaping.

Additional considerations

Question 1

The requested variance arises from special circumstances which do not generally apply to land in the general vicinity which is that the area is all developed. The only thing happening is the replacement and upgrade of an existing building and a removal of an older one. The LDC requirements for setbacks are not relevant because the area is developed and one parcel which is zoned residential requiring these setbacks is not developed as a residential use.

Question 2

The strict application of the provision of the regulation as to SMC setbacks would make this upgrade of an existing business impossible. All the landowner is doing is improving one portion of his business by replacing an older structure with a newer one and improving landscaping on this parcel.

Question 3

The circumstances of this case are not the result of actions of the applicant taken subsequent to the adoption of the regulation. The Mower Shop has been in operation for many years and needs to modernize.

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Variance 2- Side Yard Building Set Back Minimum in a Transition Zone is 35 feet under LDC 5.7.1 and 5.3.2.C.2.b.

Request a variance of 34 feet to allow a 1 foot setback on the west side yard and allow the parking area to be placed in the setback and yard buffer area.

Question 1

The requested variance will not adversely affect the public health, safety or welfare of neighboring landowners. In this situation, the parking area is located in the approximate same place as the previous parking area. The site currently has asphalt about 3 feet off the property line and 4 feet off South Central Bell's security fence. The site is surrounded by existing uses. This parking area does not change conditions at the site. No neighboring landowners are being impacted by the change and the new parking area and reworked entrance will add landscaping which will be more aesthetically pleasing for the streetscape.

Question 2

The requested variance will not alter the character of the general vicinity. The proposed parking area is being placed in approximately same spot as the current parking area. The character of the neighborhood will not be altered.

Question 3

The requested variance will not cause a hazard or nuisances to the public. The new parking area will be better designed and have new landscaping which will enhance the site. No new hazards or nuisances will be presented to the general public by the granting of the variance for parking in this side yard setback area.

Question 4

The requested variance will not allow an unreasonable circumvention of the zoning regulations. As noted above, the proposed parking lot is replacing an existing parking lot. The area surrounding it is developed and primarily owned by the same business. The side yard setback will be about the same as it is now. The new building is an upgrade to the site and the Minor Lane streetscape will be improved by having a newer parking lot with landscaping.

Additional considerations

Question 1

The requested variance arises from special circumstances which do not generally apply to land in the general vicinity which is that the area is all developed. The only thing happening is the replacement of an existing parking lot. The LDC requirements for

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setbacks for parking in side yards are not relevant because the area is developed and one parcel which is zoned residential is not developed as a residential use.

Question 2

The strict application of the provision of the regulation as to SMC setbacks would make this upgrade of an existing business impossible. All the landowner is doing is placing parking spots in an area which is already asphalted. The improved entrance and new landscaping will enhanced the site.

Question 3

The circumstances of this case are not the result of actions of the applicant taken subsequent to the adoption of the regulation. The Mower Shop has been in operation for many years and needs to modernize.

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Justification for WAIVERS

15 DEU Plan 1158

1142 Minors Lane
Zoning of Site is C1
Proposed Use is a Lawn Mower Shop Repair

Waiver 1: A waiver of the required 35 foot LBA in LDC 10.2.4 to 0 Feet along the west side property line.

Waiver 2: A waiver of the required 35 buffer yard in LDC 5.7.1 to 0 Feet to allow placement of a building in the buffer yard along the west side property line.

Waiver 3: A waiver of the required 35 buffer yard in LDC 10.2.4 to allow parking in the 35 foot setback and buffer yard along the west side property line.

Waiver 4: A waiver of the building design standards of LDC 5.6.1.B. for elevations to not meet transition standards and to not have 60% of the façade with animated features.

Waiver 5: A waiver of the design building design standards of LDC 5.6.1.C.1 to not provide 50% clear windows and doors along the street facade.

Waiver 1

A LDC landscape waiver is requested as part of this Category 2B Site Plan approval. The LDC landscape waiver is needed based on existing conditions and because the new building is replacing an existing older building for the same use.

A waiver of the required 35foot LBA in the side yard between C1 and R-5 zoning is requested. The adjacent R-5 property does not presently have a R-5 use on it which is the LDC's purpose in requiring the buffering. The adjacent R-5 lot is developed with a South Central Bell telecommunication substation in a large brick building. There is no practical need in requiring a 35 foot buffer between these uses. There is also no physical room for this buffer area based on existing conditions. The current structure is only about 5 feet off the property line. The proposed changes allow for a new building to be constructed with improvements and the approximate same buffering and setbacks to exist.

Landscape waiver

A waiver is requested from Section 10.2.4 of the Land Development Code for the required 35 foot LBA between C1 and R5 in SMC.

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The existing building is located about 5 feet off of the property line on the side property line at its closest point. This Category 2B site plan proposes to remove the existing old two story frame building and replace it with a new 4200 square foot metal building as part of the existing Mower Shop on Preston Highway. The new building will be placed about 2 feet further from the side property line than the existing structure. This change improves the parcel by providing a newer metal building for the business. The front portion of the lot is improved by a new attractive building, landscaping and an improved parking area. There is currently an 8 foot chain link fence between the uses which is owned by South Central Bell. Also about a 20 foot strip of green exist inside of the fence before Bell South's driveway and then building begin.

The LDC waiver should be granted because it is consistent with current conditions and there is no need for a landscape buffer between the two uses. Additionally, the waiver should be granted for the following reasons.

1. The waiver should be granted because waiving the LBA requirement will not adversely affect adjacent property owners because the area is surrounded by this and existing uses. No real changes are occurring at the site. Rather, an old building is being replaced by a new building in the same location and an old structure house is being torn down. This will improve the look of the site. No adjacent property owners are impacted by this waiver.

2. The waiver should be granted because the waiver will not violate Cornerstone 2020, the Comprehensive Plan for Louisville and Jefferson County because the requested LBA waiver will not detract from the visual look of the neighborhood. The subject area is a side lot line between existing businesses. There is currently a building in the same location and no landscape buffering area exists. Although the adjacent property tract is zoned R5 is has a substantial building on it which houses a telecommunication substation. There is no need for buffering in this area.

3. The extent of the waiver of the regulation is the minimum needed to afford the applicant relief because the existing building and the new building need to be in this location for the business' operation to work. The site is currently developed. This is just a business upgrade for this portion of the site.

4. The waiver should be granted because the strict application of the requirements of Section 10.2.4 of the Code will create an unnecessary hardship on the applicant because the replacement building needs to be located in the same area for the business' operations to work. There is no need for landscaping buffer in this area because of existing conditions.

The applicant has incorporated a VUA along Minors Lane to green up the site and make attractive landscaping from the visible part of the lot from the street.

A strict application of the LBA requirements will not allow this project to go forward.

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Waiver 2: A waiver of the required 35 buffer yard in LDC 5.7.1 to 0 Feet to allow placement of a building in the buffer yard along the west side property line.

A LDC waiver is requested as part of this Category 2B Site Plan approval for the placement of a new building in the buffer yard under the transition zone regulations. The LDC waiver is needed based on existing conditions and because the new building is replacing an existing older building in the approximate same location for the same use. The adjacent R-5 property does not presently have a R-5 use on it which is the LDC's purpose in requiring the buffering. The adjacent R-5 lot is developed with a South Central Bell telecommunication substation in a large brick building. There is no practical need in requiring a 35 foot buffer between these uses. There is also no physical room for this buffer area based on existing conditions. The current structure is only about 5 feet off the property line.

The LDC waiver should be granted because it is consistent with current conditions and there is no need for a buffer between the two uses. Additionally, the waiver should be granted for the following reasons.

1. The waiver should be granted because waiving the LBA requirement will not adversely affect adjacent property owners because the area is surrounded by this and existing uses. No real changes are occurring at the site. Rather, an old building is being replaced by a new building in the same location and an old structure house is being torn down. This will improve the look of the site. No adjacent property owners are impacted by this waiver.
2. The waiver should be granted because the waiver will not violate Cornerstone 2020, the Comprehensive Plan for Louisville and Jefferson County because the requested waiver will not detract from the visual look of the neighborhood. The subject area is a side lot line between existing businesses.
3. The extent of the waiver of the regulation is the minimum needed to afford the applicant relief because the existing building and the new building need to be in this location for the business' operation to work. The site is currently developed. This is just a business upgrade for this portion of the site.
4. The waiver should be granted because the strict application of the requirements of the Code will create an unnecessary hardship on the applicant because the replacement building needs to be located in the same area for the business' operations to work. There is no need for a buffer yard in this area because of existing conditions.

Waiver 3: A waiver of the required 35 buffer yard in LDC 10.2.4 to allow parking in the 35 foot setback and buffer yard along the west side property line.

A waiver is requested from Section 10.2.4 of the Land Development Code for the required 35 foot buffer yard between C1 and R5 in SMC Transition Zone.

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For the same reasons stated above, there is no need for a 35 foot buffer yard between these two uses. Currently, the Mower Shop parking or asphalt is 3 feet off the property line. It is moving a little closer because of entrance improvements. An 8 foot chain link security fence owned by Bell South currently separates the sites. These are existing business uses. No new buffering yard is needed.

1. The waiver should be granted because waiving the LDC requirement will not adversely affect adjacent property owners because the area is surrounded by this and existing uses. No real changes are occurring at the site. Asphalt is present at this location. New landscaping is proposed. No adjacent property owners are impacted by this waiver.

2. The waiver should be granted because the waiver will not violate Cornerstone 2020, the Comprehensive Plan for Louisville and Jefferson County because the requested LDC waiver will not detract from the visual look of the neighborhood. The subject area is a side lot line between existing businesses. There is currently asphalt and parking in the same location. Although the adjacent property tract is zoned R5 is has a substantial building on it which houses a telecommunication substation. There is no need for buffering in this area.

3. The extent of the waiver of the regulation is the minimum needed to afford the applicant relief because the existing parking needs to be in this location for the business' operation to work. The site is currently developed. This is just a business upgrade for this portion of the site.

4. The waiver should be granted because the strict application of the requirements of this section of the Code will create an unnecessary hardship on the applicant because the replacement building needs to be located in the same area for the business' operations to work. Parking must also be located in this area. There is no need for a buffer area in this location based on existing conditions.

The applicant has incorporated a VUA along Minors Lane to green up the site and make attractive landscaping from the visible part of the lot from the street.

Waiver 4: A waiver of the building design standards of LDC 5.6.1.B. for elevations to not meet transition standards and to not have 60% of the façade with animated features.

1. The waiver should be granted because waiving the LDC requirement will not adversely affect adjacent property owners because design standards are not need for this location or business function. The proposed building is Metal and will be green in color. Its function is not a store front but rather a repair center. Mower shop customers go to a different store front on an adjacent parcel to buy mowers, supplies and talk to sale and repair representatives. This buildings function is for employees to do repairs. Thus store front amenities are not needed or appropriate since windows etc. are not needed.

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2. The waiver should be granted because the waiver will not violate Cornerstone 2020, the Comprehensive Plan for Louisville and Jefferson County because the requested LDC waiver will not detract from the visual look of the neighborhood. The subject area is a side lot between existing businesses and currently has an older house on it which is used for a repair center. The new building is a visual improvement and will have landscaping along the street front.

3. The extent of the waiver of the regulation is the minimum needed to afford the applicant relief because the proposed building is a replacement building on a side street. Its function does not require animating features.

4. The waiver should be granted because the strict application of the requirements of this section of the Code will create an unnecessary hardship on the applicant because the replacement building is designed to meet the business current needs and the limitations of the site.

Waiver 5: A waiver of the design building design standards of LDC 5.6.1.C.1 to not provide 50% clear windows and doors along the street facade.

1. The waiver should be granted because waiving the LDC requirement will not adversely affect adjacent property owners because design standards are not needed for this location or business function. The proposed building is Metal and will be green in color. Its function is not a store front but rather a repair center. Mower shop customers go to a different store front on an adjacent parcel to buy mowers, supplies and talk to sales and repair representatives. This building's function is for employees to do repairs. Thus store front amenities are not needed or appropriate since windows etc. are not needed and interfere with the function of the building.

2. The waiver should be granted because the waiver will not violate Cornerstone 2020, the Comprehensive Plan for Louisville and Jefferson County because the requested LDC waiver will not detract from the visual look of the neighborhood. The subject area is a side lot between existing businesses and currently has an older house on it which is used for a repair center. The new building is a visual improvement and will have landscaping along the street front.

3. The extent of the waiver of the regulation is the minimum needed to afford the applicant relief because the proposed building is a replacement building on a side street. Its function is not appropriate for storefront windows.

4. The waiver should be granted because the strict application of the requirements of this section of the Code will create an unnecessary hardship on the applicant because the replacement building is designed to meet the business current needs and the limitations of the site.

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Attachment 6: Site Photographs



Front of the Mower Shop (Preston Highway)



Repair shop fronting Minor Lanes behind retail store



Existing building to be removed



Existing building to be removed



West perimeter



Adjacent AT&T structure



Rear of the building to be removed