

# Board of Zoning Adjustment

## Staff Report

October 16, 2023



<b>Case No:</b>	23-CUP-0249
<b>Project Name:</b>	Virginia Chance School
<b>Location:</b>	4200 & 4301 Lime Kiln Lane
<b>Owner(s):</b>	The Chance School, INC
<b>Applicant:</b>	Blomquist Design Group, LLC.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	16 – Scott Reed
<b>Case Manager:</b>	Molly Clark, Planner II

### REQUEST(S)

- **Variance** from Land Development Code (LDC) section 5.3.2 to allow a proposed structure to exceed the 80 ft maximum setback by 84.7 feet and be the setback 164.7 feet.
- **Waiver** from LDC section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property.
- **Conditional Use Permit** for a private institutional use (LDC 4.2.65).

### CASE SUMMARY

The subject site is zoned R-1 single family residential and in the Neighborhood Form District. Currently there is an elementary school and pre-school on the site. The applicant is proposing to construct 3 detached pavilions that will function as outdoor classrooms. According to the applicant, there will not be an increase in students or staff associated with this proposal.

A conditional use permit for off-street parking (B-115-93) with variances to encroach into the side yard (B-116-93) was approved for the adjacent parking lot at 4106 Lime Kiln Lane that is associated with the school.

### STAFF FINDING

The conditional use permit is for the entire site based on the development plan submitted with the application. There are five listed requirements for the private institutional use. The applicant will need relief from item A to allow the proposed pavilion and existing parking areas/structures to be located closer than 30 feet to property lines adjacent to residential zoning. Items B, C, D, and E. will be met.

### TECHNICAL REVIEW

MSD and Transportation Planning have preliminarily approved the plan.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (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, because the proposed building will still have adequate vehicular and pedestrian access throughout the site.

- (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 because the applicant is providing a 15 foot LBA along Lime Kiln Lane that will help screen the proposed pavilion that will be exceeding the setback.

- (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 because the proposed building must be constructed to comply with all building codes, and it will not adversely impact the safe movement of vehicles or pedestrians.

- (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 applicant will be providing a 15 foot LBA along Lime Kiln Lane that will screen the proposed pavilion that will be exceeding the setback. The applicant would also have to remove the existing drop off/pick up paved areas that allow for adequate vehicular access through the site.

### **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 generally apply to land in the general vicinity or the same zone because the lot is unusual in shape and size.

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 need to remove existing pick up and drop off paved areas in order to meet the setback.

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 as the applicant is requesting the variance and has not begun construction.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR THE WAIVER**

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The waiver will not adversely affect adjacent property owners, as the school has existed since the 1950's and has other outdoor classrooms.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate Plan 2040 Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The applicant is still providing landscape buffers along Lime Kiln Lane and has existing tree canopy that will screen portions of the property from adjacent residential.

- c. The extent of 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 considering the applicant would need to remove historical structures and existing parking areas in order to meet the property perimeter buffer.

- d. Either: 1. 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 2. 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 because the applicant would have to remove historical structures and existing parking areas in order to meet the property perimeter buffer.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT**

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

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

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

STAFF: The proposed improvements are compatible with surrounding development and land uses. The new pavilions will serve the existing students at the school and not increase enrollment or traffic.

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

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal.

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

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

**STAFF: *The applicant will need relief from item A to allow existing and proposed structures as well as parking areas to be closer than 30 feet to properties adjacent to residential zoning. The new pavilions will serve existing students and staff and should not generate more traffic. The current road network used to access the private school is adequate. The hours will be common hours for a private school and will not cause any adverse effects or a nuisance to the adjacent residential neighborhood.***

**REQUIRED ACTION**

- **APPROVE** or **DENY** the **VARIANCE** from Land Development Code (LDC) section 5.3.2 to allow a proposed structure to exceed the 80 ft maximum setback by 84.7 feet and be the setback 164.7 feet.
- **APPROVE** or **DENY** the **WAIVER** from LDC section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property.
- **APPROVE** or **DENY** the **CONDITIONAL USE PERMIT** for a private institutional use (LDC 4.2.65).

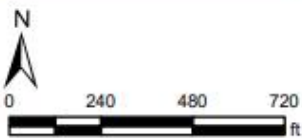
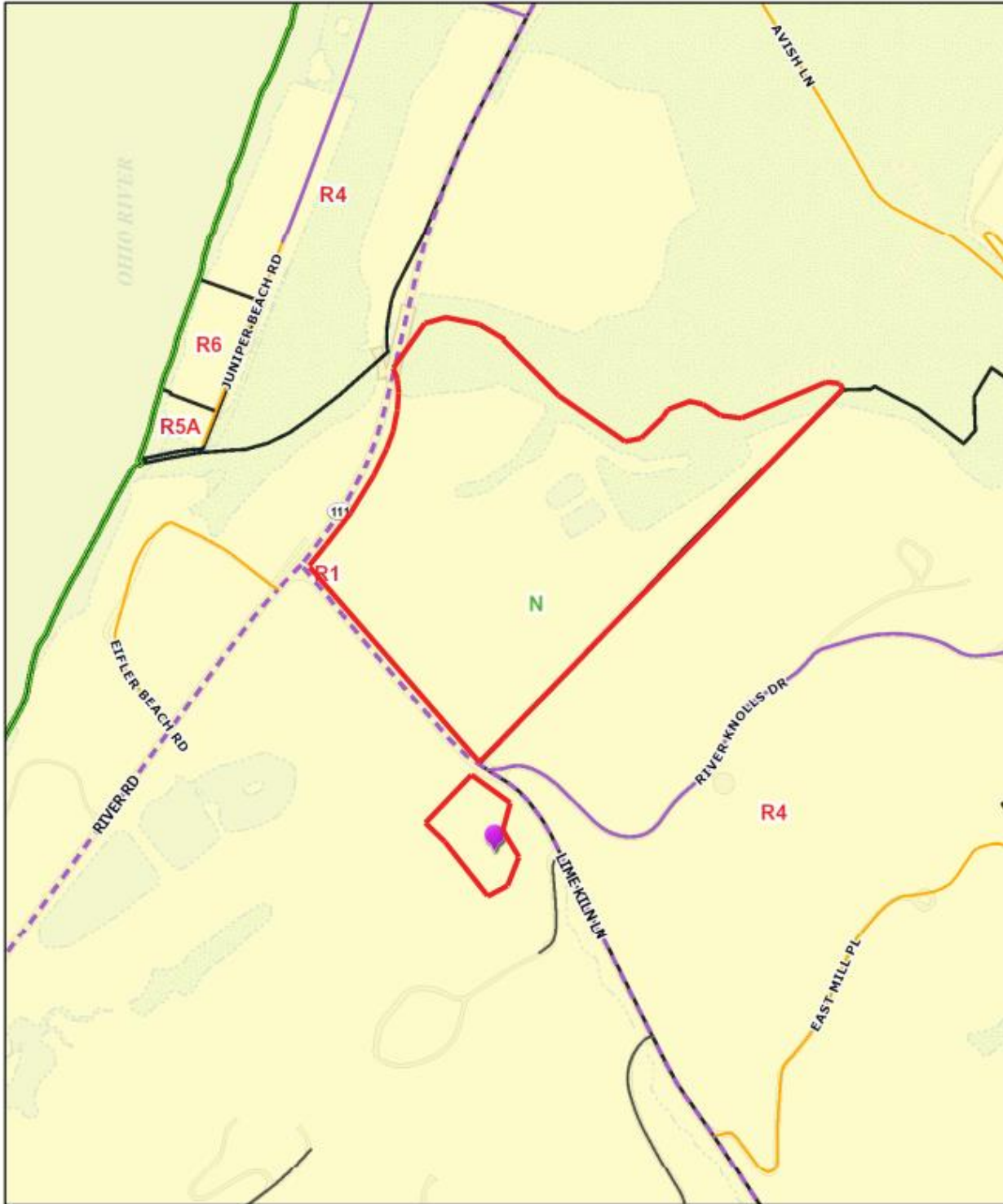
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
09/25/2023	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16
10/02/2023	Hearing before BOZA	Sign Posting

**ATTACHMENTS**

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

1. Zoning Map



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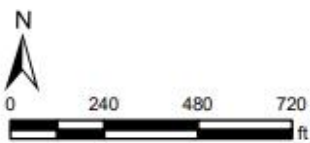


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2. Aerial Photograph



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**3. 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 private institutional use until further review and approval by the Board.