

Board of Zoning Adjustment Staff Report

April 21, 2014



Case No:	14VARIANCE1016
Project Name:	East Oak Street Laundromat and Grocery
Location:	331 East Oak Street
Owner:	MWA Investments, LLC
Applicant:	Samir Faraj
Representative:	Mike Evans
Project Area/Size:	0.51 acre
Existing Zoning District:	C-3, Commercial
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Matthew R. Doyle, Planner I

REQUEST

- Variance of section 5.5.1.A.2 to allow the proposed building to exceed the maximum setback of 0 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The site is located on the northwest corner of East Oak Street and South Preston Street, near I-65, and on the western edge of the Shelby Park Neighborhood. It is plan certain and the zoning was changed to C-3 in 1981. There were three separate uses proposed on the approved plan: a drug store, a liquor store, and a food mart – each had their square footages indicated on the plan and total square footage restricted to 6,840 S.F. by binding element. Only a portion of the approved plan from 1981 was ever constructed and that is the existing building on the site. No construction has taken place since the 1980s and so the entirety of the proposal was never implemented. The existing structure is nonconforming and the current use is the food mart that was one of the uses originally approved.

The current proposal is a 2,502 S.F. addition to the existing structure. The design of the addition would be substantially similar to the existing building. It would extend the façade of the current structure facing East Oak Street to the west, maintaining the current setback of just over 40' from South Preston Street and nearly 75' from East Oak Street. The current Land Development Code (LDC) requires buildings for non-residential developments on corner lots in the traditional form to be constructed at the right-of-way line along both of the streets. In other words, the building must hold the corner maintaining a 0' maximum setback. The proposed addition would increase the nonconforming setbacks of the existing building and, therefore, requires a variance of section 5.5.1.A.2 to proceed.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Grocery/convenience store	C-3	TN
Proposed	Grocery/convenience store and Laundromat	C-3	TN
Surrounding Properties			
North	Multi-family residential	OR-2	TN
South	Daycare and apartments	C-2	TN
East	Office/Campus	C-2	TN
West	Multi-family residential	OR-2	TN

PREVIOUS CASES ON SITE

9-13-81: A change in zoning of 5 lots from R-8 and C-2 to C-3 was approved along with a General District Development Plan for a 6,840 sq. ft. building containing a drug store, liquor store, and food mart. Subsequently, the Land Development & Transportation Committee granted a two-year extension of expiration.

INTERESTED PARTY COMMENTS

Staff has not received any comments.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from section 5.5.1.A.2 to allow the building to exceed the maximum setback of 0' from East Oak Street and South Preston Street

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

STAFF: The requested variance will not adversely affect public health safety or welfare since safe pedestrian access is provided from the public right-of-way to the building entrance.

- (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 the proposal is compatible with the existing building.

- (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 safe pedestrian access is provided from the public right-of-way to the building entrance and safe vehicular maneuvering is provided on site.

- (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 proposal is compatible with the existing building.

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 site has several nonconformities, one of which is the setbacks of the existing structure.

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 proposal is compatible with the existing building, safe pedestrian access is provided from the public right-of-way to the building entrance, safe vehicular maneuvering is provided on site, and the addition would be in an underutilized portion 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 taken subsequent to the adoption of the zoning regulation from which relief is sought.

TECHNICAL REVIEW

The Development Review Committee approved the Revised Detailed District Development Plan on March 19, 2014 along with the following waivers:

- Waiver of section 5.6.1.D to permit the sloping roof's vertical rise to exceed the average height of supporting walls;
- Waiver of section 5.5.1.A.3.a to permit the parking lot in front of the expansion and closer to the right-of-way line than the proposed structure, as well as not construct a 3' masonry, stone or concrete wall in front of the parking area along both roadways; and
- Waiver of section 5.9.2.A.1.b.i to preclude pedestrian access from South Preston Street to the building entrance and to allow the pedestrian access from East Oak Street to the building entrance to be greater than 50' from the nearest transit stop.

STAFF CONCLUSIONS

- The applicant is proposing a 2,502 S.F. addition to the existing building.
- The proposed building requires a variance of section 5.5.1.A.2 because the addition increases the nonconforming setbacks of the existing building.
- The requested variance appears adequately justified based on staff analysis in the standard of review.

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 variance as established in the LDC.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the variance of section 5.5.1.A.2 to allow the proposed building to exceed the maximum setback of 0 feet.

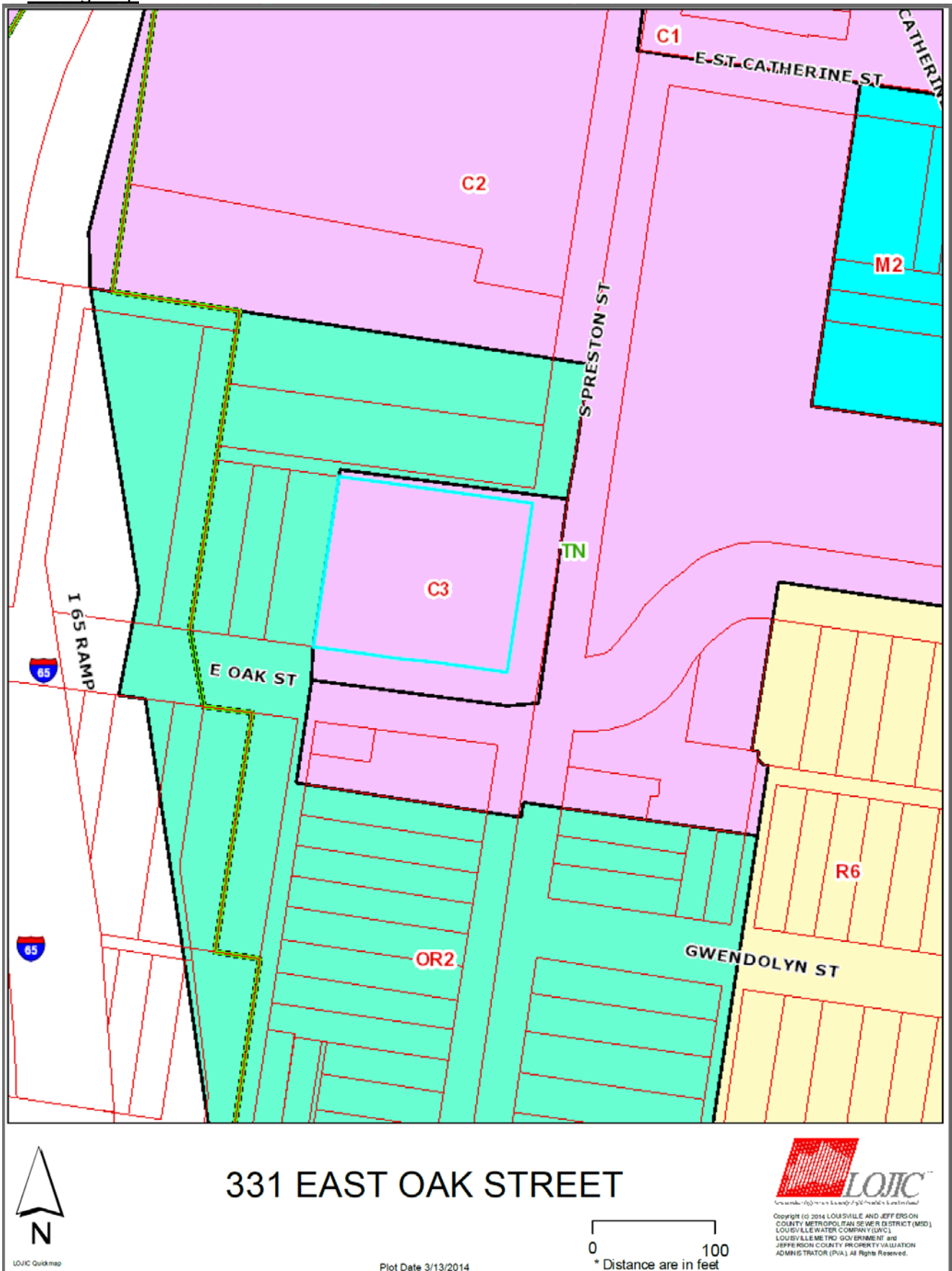
NOTIFICATION

Date	Purpose of Notice	Recipients
3/21/14	Hearing before BOZA	1 st tier adjoining property owners Registered neighborhood groups
3/25/14	Sign posting	Subject property owner/tenant

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

