

Board of Zoning Adjustment

Staff Report

August 21, 2023



Case No:	23-VARIANCE-0042
Project Name:	Kroger L-502 Ballardsville
Location:	10010 Ballardsville Rd
Owner(s):	Eastmoor Acres Realty Co.
Applicant:	The Kroger Co.
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	John Michael Lawler, Planner I

REQUEST(S)

- Variance from Section 5.3.1.C.5 to exceed the maximum setback of 150 feet to be 462 feet, a variance of 312 feet

CASE SUMMARY/BACKGROUND

The applicant is proposing a grocery store with integrated drive-thru pharmacy and liquor store. There is also a proposed fuel station and canopy on the site. Vehicular and pedestrian access is provided from Ballardsville Road and New Chamberlain Lane. Pedestrian connectivity is also provided within the site with multiple sidewalks and striped paths. Two amenity areas are proposed on either side of the primary customer entrance. A variance request accompanies the development plan to allow the building to exceed the maximum setback by 312 feet. The district development plan and related waivers have been approved on condition that the variance being heard today is approved. The original plan approval for this site was for a multi-lot, multi-tenant commercial development under Docket # 10327.

STAFF FINDING

The requested variance is adequately justified for approval based on the analysis contained within the standard of review.

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 since the building will be appropriately buffered and meets the site design requirements for the building and related facilities.

- (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 along two major roadways: Ballardsville Road, which is a Minor Arterial designated as a parkway, and New Chamberlain Road, which is a Primary Collector north of the intersection. A similar variance was also approved for a Publix directly across from the subject site on Ballardsville Road under Docket # 21-VARIANCE-0181, related to Docket # 21-DDP-0121.

- (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 building will be appropriately buffered and meets the site design requirements for the building and related facilities.

- (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 there are some constraints placed on the site due to the existing infrastructure at the intersection that prevent the setbacks being provided. Many of the facilities need to be further away from the intersection to allow better and safer access to Ballardsville Road and New Chamberlain Lane.

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: There are some constraints placed on the site due to the existing infrastructure at the intersection that prevent the setbacks being provided. Many of the facilities need to be further away from the intersection to allow better and safer access to Ballardsville Road and New Chamberlain Lane.

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: There are some constraints placed on the site due to the existing infrastructure at the intersection that prevent the setbacks being provided. The applicant has worked with KYTC and Metro's Transportation team to ensure the design of the facilities are safe and efficient. Changes to the plan to ensure compliance with the regulation would cause a hardship on the applicant where the development plan has already been approved by various agencies and the Development Review Committee, on condition that the variance is approved.

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 the not the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought. Nothing has been constructed on the site.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **VARIANCE** to exceed the maximum setback of 150 feet to be 462 feet, a variance of 312 feet

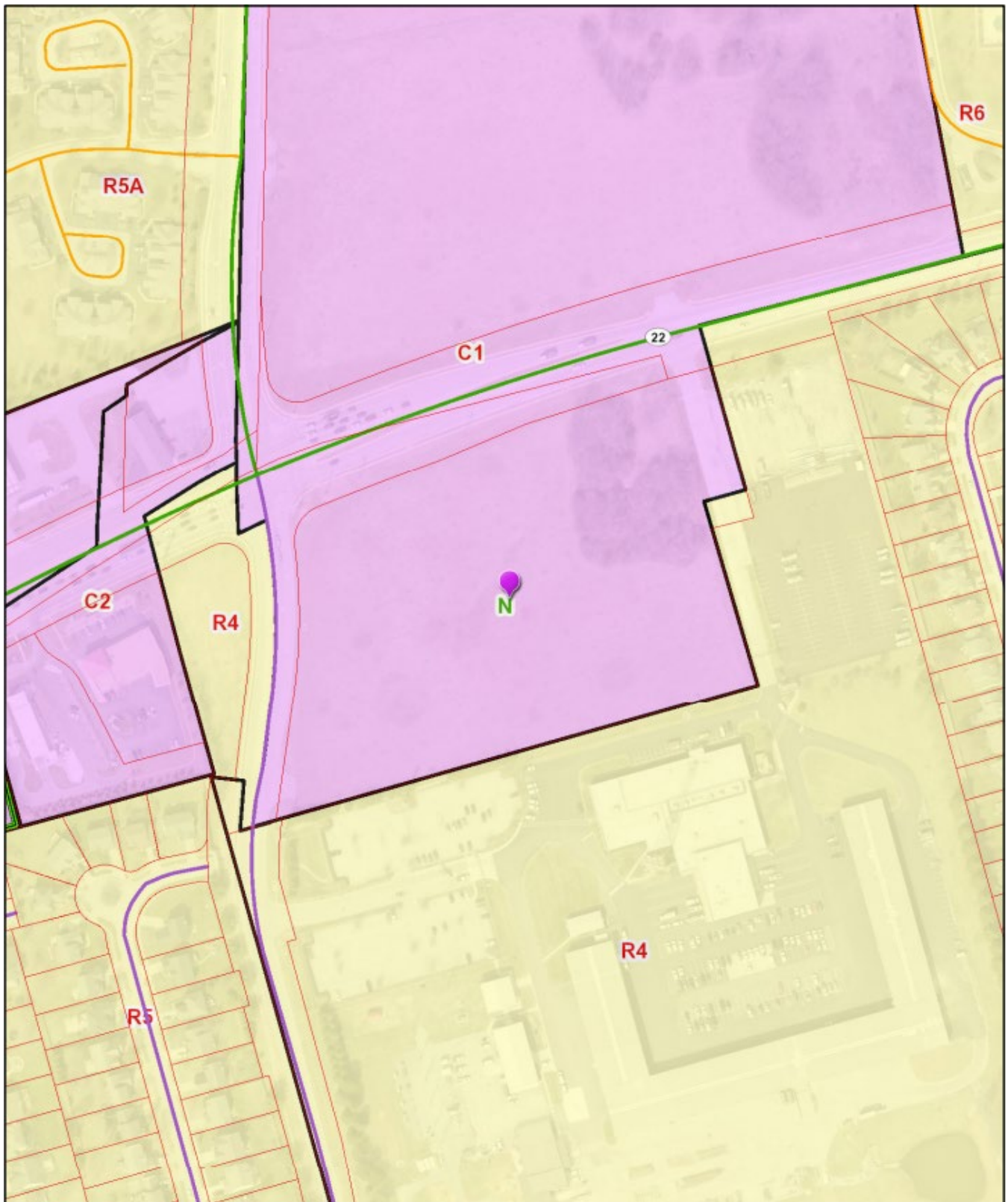
NOTIFICATION

Date	Purpose of Notice	Recipients
7/20/2023	Hearing before DRC on August 2, 2023	1 st tier adjoining property owners and current residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 17
8/1/2023	Hearing before BOZA on August 21, 2023	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 17
8/4/2023	Sign Posting	For the BOZA Hearing on August 21, 2023

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

