

Board of Zoning Adjustment
Staff Report
November 4, 2019



Case No:	19CUP1131, 19DEVPLAN1111 19-VARIANCE-0014, 19-WAIVER-00047
Project Name:	Nazareth Home & Sacred Heart Village
Location:	2002-2004 Payne St., 2108 – 211 Payne St. 1973 1977 Quarry St., 1200 Vance St.
Owner(s):	Nazareth Home Inc.
Applicant:	Nazareth Home Inc.
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

- Modified Conditional Use Permit to allow a new chapel, entrance, and parking
- Category 3 Review (19DEVPLAN1111)
- Variance to allow encroachment into the required front yard
- Waiver to omit the required sidewalk along South Clifton Street

CASE SUMMARY/BACKGROUND

On tract 1 (2118 Payne Street), the applicant is constructing a one story, 11,029 square feet addition for a chapel and new entrance to the existing assisted living and nursing facility. The two story, 32 assisted living units, administrative offices and adult day care buildings will be demolished on this tract to create new parking with full connectivity between the tracts.

The applicant proposes to construct a three story, 306,600 square feet assisted living facility on properties located at 2002 ½ Payne Street, 1973 and 1977 Quarry Street. The new structure will be built on tracts 5- 8. It will consist of 102 units over the stepped three stories of the building. The associated new parking spaces will be located on tract 4 (2004 Payne Street) with the shared access on tract 3 under the ownership of Sacred Heart village II (2108 Payne Street).

STAFF FINDING / RECOMMENDATION

The Category 3 development plan meets or exceeds the requirements of the Land Development Code. There are three listed requirements for a nursing home. Item A. the applicant will be asking for relief and item B. will be met. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for the modified conditional use permit, variance, and waiver.

RELATED CASES

- 19COA1161** A Certificate of Appropriateness was approved by the Clifton Architectural Review Committee on July 10, 2019.
- 10640** An application for a modification of an existing conditional use permit to allow a nursing facility; and variances to allow parking to encroach into the required rear yard and to allow the retaining wall to exceed the maximum height. This request was approved by the Louisville Board of Zoning Adjustment on May 19, 2008.
- B-293-99** An application for a variance from the Zoning District Regulations to allow existing structures to encroach into the resultant required yards. This request was approved by the Louisville Board of Zoning Adjustment on December 20, 1999.
- B-114-99** An application for a variance from the Zoning district Regulations to allow a proposed structure and off-street parking to encroach into the required yards and to allow the proposed structure to exceed the 35 feet maximum height requirement. This request was approved by the Louisville Board of Zoning Adjustment on August 16, 1999.
- B-41-95** An application for a variance from the Zoning district Regulations to permit a proposed structure to be 3 stories in height and proposed off-street parking to encroach into the required Clifton Avenue street side yard. This request was approved by the Louisville Board of Zoning Adjustment on April 3, 1995.
- B-125-81** Conditional Use Permit for addition to an existing home for the aged. Approved by the Louisville Board of Zoning Adjustment on November 2, 1981. A request for modification of a conditional use permit. The proposal was approved by the Louisville board of Zoning Adjustment on August 16, 1999.

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

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 is consistent with the 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 proposal is compatible with the previously approved plan. This proposal will be compatible with the general character of the area including traffic, noise, dust, and lighting.

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?

4.2.38 Nursing Homes and Homes for the Infirm or Aged – Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements. There are three listed requirements for a nursing home. Item A. the applicant will be asking for relief and item B. will be met.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects.

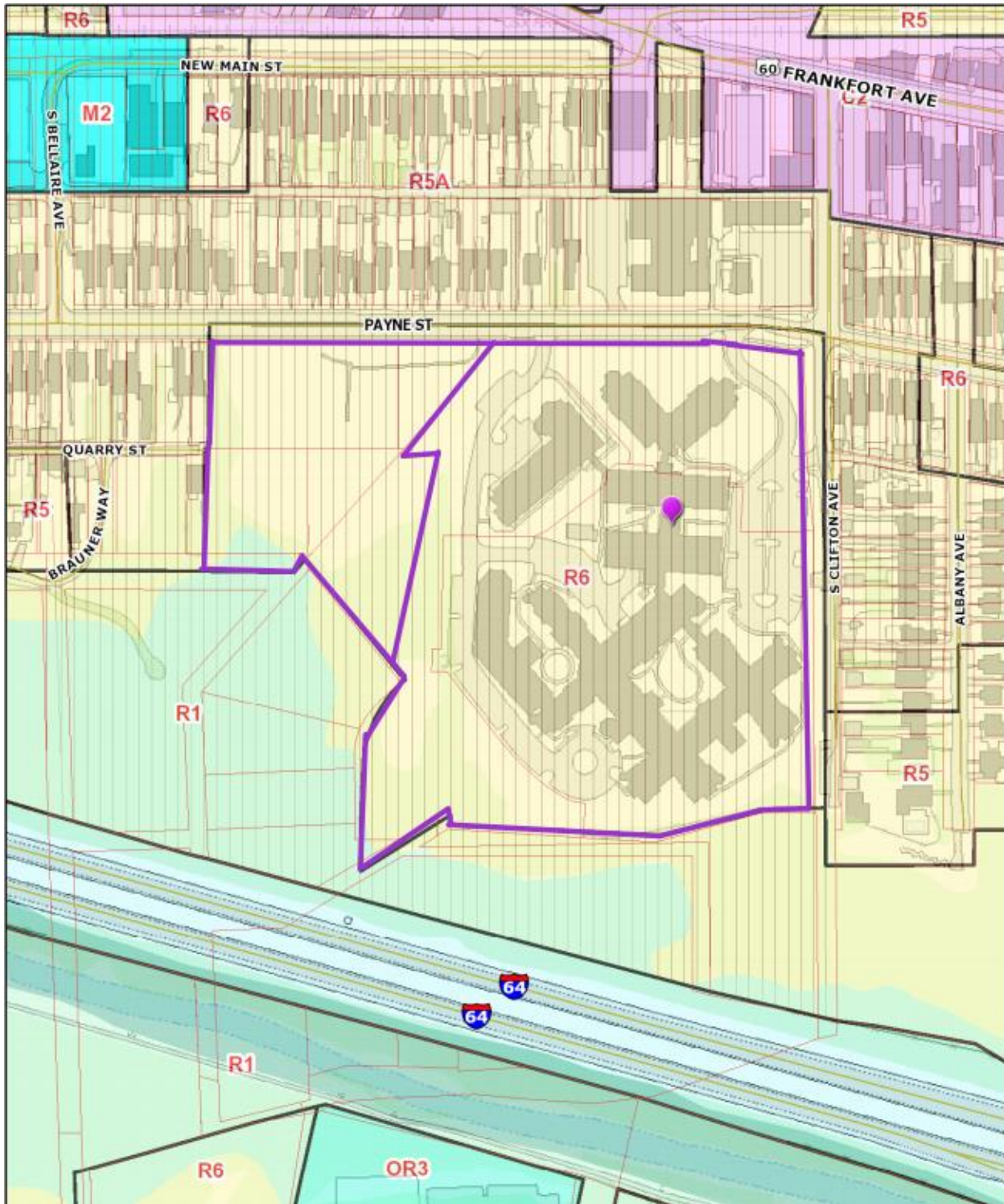
NOTIFICATION

Date	Purpose of Notice	Recipients
10/18/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 9
10/18/2019	Hearing before BOZA	Sign Posting

ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. 2040 Checklist
- 4. Existing/Proposed Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



3. Existing Conditions of Approval

B-125-81

1. A sidewalk will be constructed along the east side of the west driveway off Payne Street from Payne Street south to the new 50 unit apartment building as shown in the modified site plan received August 11, 1999.
2. South Clifton shall not be used by any construction or delivery vehicles.
3. Construction vehicles shall be cleaned off of any dirt or debris prior to existing property.
4. The egress from South Clifton to the Sacred Heart property shall be closed subject to approval by the City of Louisville, Department of Public works or other regulating agency.

B-114-99

1. A sidewalk will be constructed along the east side of the west driveway off Payne Street from Payne Street south to the new 50 unit apartment building as shown in the modified site plan received August 11, 1999.
2. South Clifton shall not be used by any construction or delivery vehicles.
3. Construction vehicles shall be cleaned off of any dirt or debris prior to existing property.
4. The egress from South Clifton to the Sacred Heart property shall be closed subject to approval by the City of Louisville, Department of Public works or other regulating agency.

The variances allow:

1. The proposed building to be 3 stories in height.
2. The proposed connecting bridge structure to be located 0 feet from the side property lines on both lots.
3. The proposed building to be located 16.19 feet from the access easement street sideline.
4. The proposed off-street parking and maneuvering to be located 0 feet from the access easement street sideline.
5. The proposed and existing off-street parking to be located 0 feet from the side property lines on both lots.

10640

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 nursing facility without further review and approval by the Board.

The variances allow:

1. The parking area to be 0 feet from the rear property line.
2. The height of the retaining wall to be 15 feet tall at its highest point.
3. **2040 Checklist**

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The applicant is proposing to modify the existing buildings and build new building on site. The development has been approved by the Clifton Architectural Review Committee.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	-	Variance will be needed for the proposed canopy along Payne Street.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	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. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	+	Transportation Planning has reviewed and approved the proposal.
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	+	Any signage will be code compliant or the applicant will request variances/waivers.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has reviewed and approved the proposal.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	The proposal will be in compliance with the noise ordinance.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	Any lighting will be code compliant.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+	MSD has reviewed and approved the proposal.

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 nursing facility without further review and approval by the Board.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (CANOPY)

- (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 as the structure will need to be constructed to comply with all building codes.

- (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 there are varying setbacks along the existing block of Payne Street.

- (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 full pedestrian and vehicular access will be unimpeded to the 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 as the encroachment is comparable to the existing setbacks along the existing block of Payne Street.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does arise 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 generally apply to land in the general vicinity due to the topography of the site which necessitates access and entrance to the building closer to Payne Street.

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 by not allowing the canopy to follow the vehicular access on site.

3. 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.

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 since the topography of the land requires the structures to be built closer to the property line.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (SIDEWALK ALONG SOUTH CLIFTON STREET)

- (a) How does the proposed waiver conform to the Comprehensive Plan and the Intent of the Land Development Code?

STAFF: The waiver conforms to the Comprehensive Plan and the intent of the Land Development Code with the full internal pedestrian connections being provided amongst the entire campus. Also improvements will be made at the intersection of Payne Street and Clifton Avenue.

- (b) Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?

STAFF: Compliance with the regulations would require construction of sidewalks along portions of South Clifton Avenue that serve as an alley for nearby residences and lacks sufficient right-of-way for the connection.

(c) What impacts will granting of the waiver have on adjacent property owners?

STAFF: The impact will be minimal since there will be existing sidewalks along Payne Street and the majority of residences fronting on Albany Avenue. Also improvements will be made at the intersection of Payne Street and Clifton Avenue.

(d) Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as they would be forced to construct a sidewalk that would likely never connect to any useable pedestrian network since it would have a termination point near the I-64 right-of-way.