

Board of Zoning Adjustment

Staff Report

May 20, 2019



Case No:	19VARIANCE1017
Project Name:	Preston Highway Variance
Location:	3008 & 3010 Preston Highway
Owner(s):	Winlo LLC
Representative:	Mike Hill – Land Design & Development, Inc.
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code section 5.2.3.D.3.a to allow a structure to exceed the required front yard setback.
- **Waiver #1** from Land Development Code section 5.5.1.A.3.a to allow parking to be located in front of a building in the Traditional Marketplace Corridor form district.
- **Waiver #2** from Land Development Code section 10.2.12 to not provide the required interior landscape area (ILA).

Location	Requirement	Request	Variance
Front Yard	30 ft.	58 ft.	28 ft.

CASE SUMMARY/BACKGROUND

The subject property is located in the Bradley neighborhood on Preston Highway in between Locust Lane and Jefferson Court. The applicant proposes to construct a one-story retail building that exceeds the maximum front setback and provides parking in front of the building with less than the required interior landscape area.

STAFF FINDING

Staff has concerns regarding the parking location and the front yard setback due to the intent of the Traditional Marketplace Corridor regulations. However, the site has constraints in regard to truck circulation due to the surrounding substandard alleys. Also, there is similar development in the general vicinity.

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 for granting a variance established in the Land Development Code from section 5.2.3.D.3.a to allow a structure to exceed the required front yard setback and waivers from section 5.5.1.A.3.a to allow parking to be located in front of a building in the Traditional Marketplace Corridor form district and section 10.2.12 to not provide the required ILA.

TECHNICAL REVIEW

- The plan has preliminary approval from Transportation Planning and MSD.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.3.D.3.a

- (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 be constructed to comply with all building codes, including fire 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 as there are other structures nearby that have similar setbacks.

- (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 structure will comply with building codes.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure will have a similar setback to other structures in the general vicinity in regard to infill development.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do 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 regular in shape and of similar size to neighboring lots.

2. 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.

STAFF: 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 because the building could be built to the required setback.

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.5.1.A.3.a

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

STAFF: The waiver will not adversely affect adjacent property owners as the parking area is similar to other properties in the immediate vicinity.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver does violate specific guidelines of Plan 2040 as Plan 2040 states that revitalization and reinforcement of the Traditional Marketplace Corridor Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces. The proposed site plan does not use traditional site layouts; however, it is similar to surrounding development.

- (c) The extent of the 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 as even though the parking could be located behind the building, due to the infill regulations a variance would be required to encroach into the required front yard setback in order to have room for truck maneuvering due to the site constraints.

- (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 not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: 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 by adding a 3 ft. masonry wall along Preston Highway.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.12

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

STAFF: The waiver will not adversely affect adjacent property owners as the surface of the existing site is already completely impervious.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver does not violate specific guidelines of Plan 2040 as Livability Goal 1 Policy 38 encourages parking lot greenspace and stormwater management standards that enhance the communitywide tree canopy and minimize surface runoff. The applicant is providing 402 sq. ft. of ILA and 691 sq. is required. There are three other areas that provide interior landscaping that do not meet the 290 sq. ft. minimum. If these were taken into account, the requirement would be met.

- (c) The extent of the 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 as they are providing landscaped areas that do not meet the minimum size requirement for ILA.

- (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 strict application of the provisions would deprive the applicant of the reasonable use of the land as they are providing more pervious area than the existing conditions on the property.

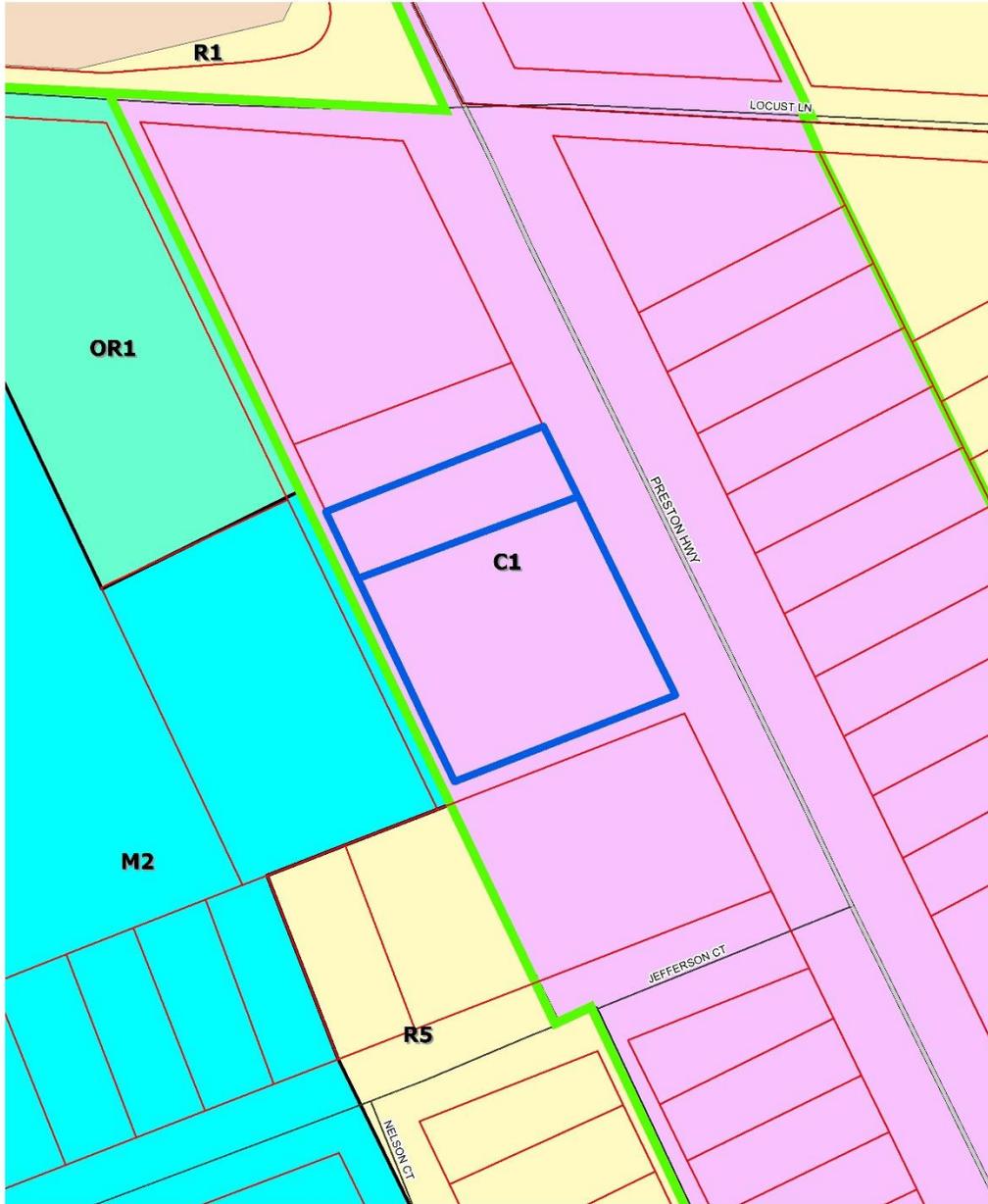
NOTIFICATION

Date	Purpose of Notice	Recipients
04/12/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 21
04/19/2019	Hearing before BOZA	Notice posted on property

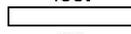
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevation
5. Site Photos

1. Zoning Map



3008 Preston Highway
feet



75

Map Created: 4/18/2019



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2. Aerial Photograph



3008 Preston Highway
feet

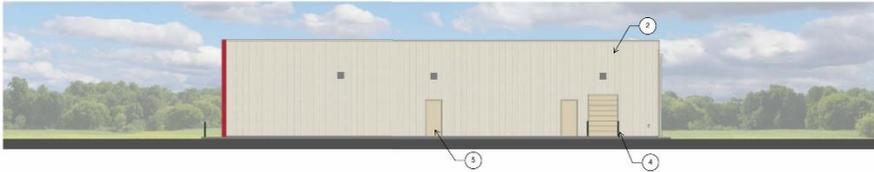
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Map Created: 4/18/2019



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4. Elevations



Exterior Finish Legend

- ① Exterior Insulation Finish System (EIFS) "Positive Red" SW95871
- ② Pre-Engineered Metal Building Wall Panel "Refr. Cool Birch White"
- ③ Standing Seam Metal Roof System Galvalume
- ④ Beilard "House Club" SW0368
- ⑤ Overhead Door Frame "Sober Tan" SW1041
- ⑥ Sheet Metal Cup Flashing, Trim, Gutters, and Downspouts "Cool Birch White"
- ⑦ 1014 Aluminum and Glass Screenshot System "Eco-Tex", "Kawner", "Dark By", or Vista Wall "Imperial Green" (6" Aldous Number - White)
- ⑧ Simulated Brick Fiber Cement Panel (Nicheba) Canyon (Shale Brown)
- ⑨ Simulated Brick Fiber Cement Panel (Nicheba) Lodge Stone "Bluff"



3008-3014 PRESTON HWY.
 LOUISVILLE, KY
 O'REILLY BTS
 ELEVATION RENDERINGS - NOT TO SCALE



5. Site Photos



Subject property.



Location of proposed structure.



Structure proposed to be removed.



Property across Preston Highway.



Properties across Preston Highway.



Front setback for the adjoining property to the south.



Front yard setback for the adjoining properties to the north.



Front setback and parking location for a property across Preston Highway.



Front setback and parking location for a property to the north on the same side of Preston Highway.



Existing parking lot.



Looking east across Preston Highway.