

# Board of Zoning Adjustment

## Staff Report

October 5, 2015



<b>Case No:</b>	15Variance1063
<b>Project Name:</b>	Taco Bell
<b>Location:</b>	1805 South Brook Street
<b>Owner(s):</b>	Redbird Acquisitions
<b>Applicant:</b>	Adam Macke, GPD Group
<b>Representative:</b>	Earl Hamm, Kaplan Partners
<b>Project Area/Size:</b>	1.07 acres
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – David James
<b>Case Manager:</b>	Sherie' Long, Landscape Architect

### REQUEST

#### Variance: Menu Board

Variance from the Land Development Code, Section 8.3.3.C, to allow the menu board to exceed the maximum size.

Location	Requirement	Request	Variance
Menu Board	40sf	44.5sf	4.5sf

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a new 3,045 square foot Taco Bell with a drive-thru on the corner of South Brook Street and East Bloom Street. The existing lots along the east side of South Brook Street, between East Bloom, Cardinal Blvd, East Brandeis Avenue and the railroad right-of-way, are all a part of a new development for student housing. All the existing structures are to be removed including the existing Taco Bell at 1817 South Brook Street. A new corner lot is being created by minor plat to allow the relocation of the existing Taco Bell. This development plan was reviewed and approved with several variances and waivers earlier this year. The applicant is requesting approval to allow the proposed Menu Board to be 44.5sf which exceeds the maximum 40sf area.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned EZ-1 in the Campus (C) Form District. It is surrounded to the north by commercial and manufacturing properties; to the east by the railroad right-of-way, commercial and manufacturing properties; to the south by future student housing; and to the west by the Manuel High School campus. These surrounding properties are zoned EZ-1 and TNZD in the Campus (C) Form District.

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Commercial/ Institutional	EZ-1	Campus
<b>Proposed</b>	Restaurant	EZ-1	Campus
<b>Surrounding Properties</b>			
<b>North</b>	Commercial & Manufacturing	EZ-1	Campus
<b>South</b>	Commercial & Restaurant (Future student housing)	EZ-1	Campus
<b>East</b>	Railroad Right-of-way, Commercial & Manufacturing	EZ-1	Campus
<b>West</b>	Institutional (Manuel High School)	TNZD	Campus

**PREVIOUS and CURRENT CASES ON SITE**

**15VARIANCE1019** – Variance and waivers to allow the construction of a new Taco Bell on the corner of South Brook and East Bloom Streets. Approved June 15, 2015

**Case # 2-22-15** - Category 2B Development Plan – Approved June 15, 2015

**15Minorplat1075** – Minor plat to eliminate the existing property lines and create two new lots. The Taco Bell lot and the residential/student housing lot. – Pending.

**INTERESTED PARTY COMMENTS**

No interested party inquiries were received.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

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

**Variance from the Land Development Code, Section 8.3.3.C, to allow the menu board to exceed the maximum size.**

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

STAFF: The variance will not adversely affect the public health, safety or welfare because the location of the menu board will not interfere or impede traffic. Plus the applicant is providing the necessary screening of the drive-thru and providing street trees between the menu board and the street.

- (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

perimeter plantings will be provided to buffer and enhance the street side yard of the property which will reduce the impact of both the location of the drive-thru lane and the size of the menu board; in addition to improving the over-all existing condition along East Bloom 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 because the proposed perimeter plantings including trees and shrub hedge will reduce the impact of the drive-thru and the size of the menu board located so close to the street and pedestrian sidewalk.

- (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 because the request will allow the menu board lettering to be sized large enough to be read easily by the customer. The menu portion of the overall board is only 34.27sf, but when the supporting structures are included the total area is 44.5sf.

### **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 because the larger size is being requested to allow all menu items to be included without reducing the size of the text used on the menu board.

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 if the standard menu board size were not able to be used.

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 result of actions of the applicant. The applicant is not providing a menu board within the maximum size allowed.

### **TECHNICAL REVIEW**

There are no technical review items to address.

### **STAFF CONCLUSIONS**

Based upon the information in the staff report, the analysis of the standards of review does support granting the requested variance.

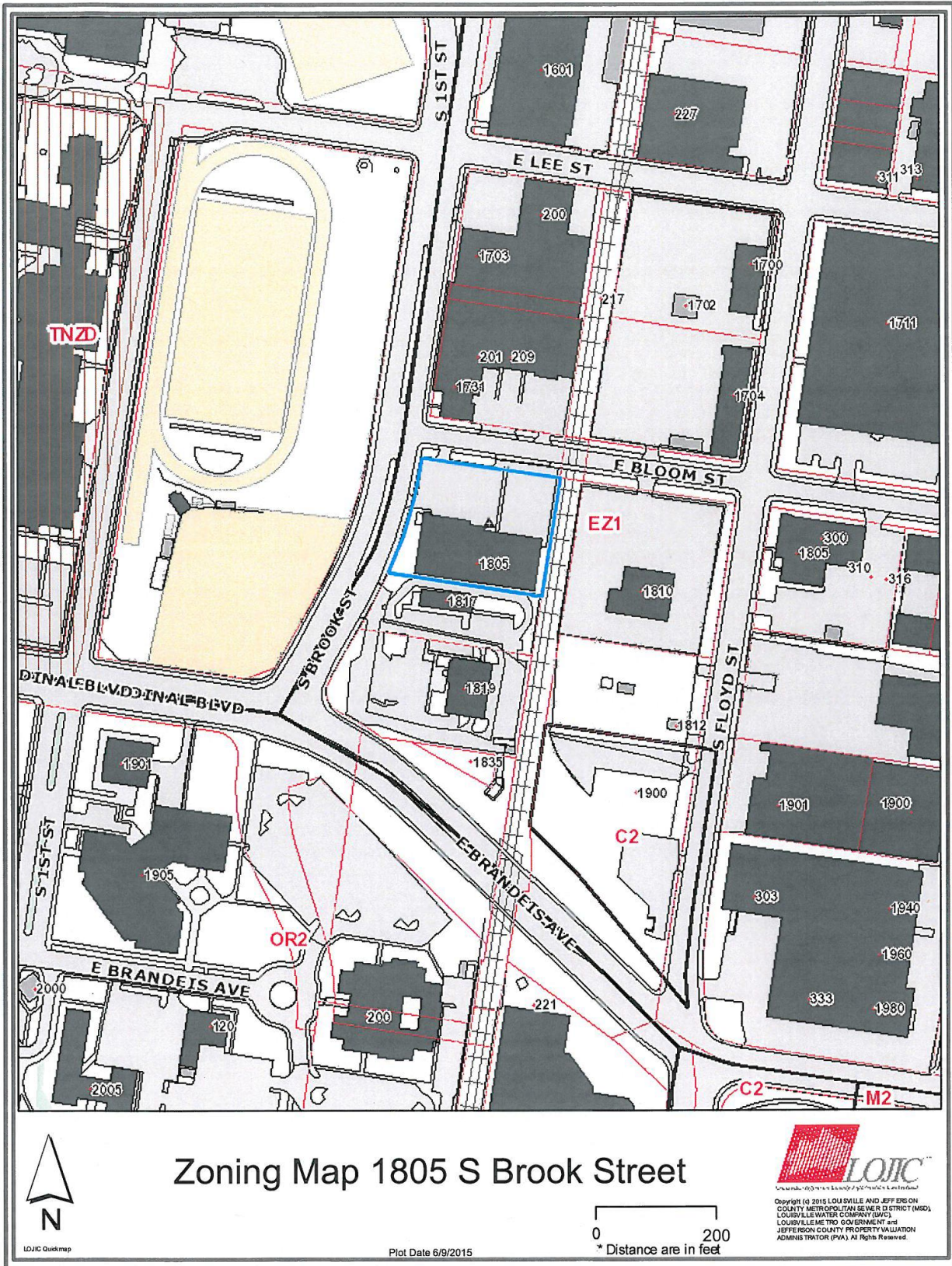
Therefore, the Board of Zoning Adjustment must determine, based on the testimony and evidence provided at the public hearing, if the proposal meets the standard for the variance established in the Land Development Code; and the waivers do not violated the comprehensive plan and also meet the standards established in the Land Development Code

## NOTIFICATION

Date	Purpose of Notice	Recipients
09/18/2015	BOZA Hearing	Neighborhood notification recipients
09/22/2015	Sign Posting	Subject property
09/18/2015	BOZA Hearing	1 <sup>st</sup> tier adjoining property owners

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Menu Board Elevation
5. Applicant's Justification
6. Site Photographs





Attachment 2 - Aerial Photo

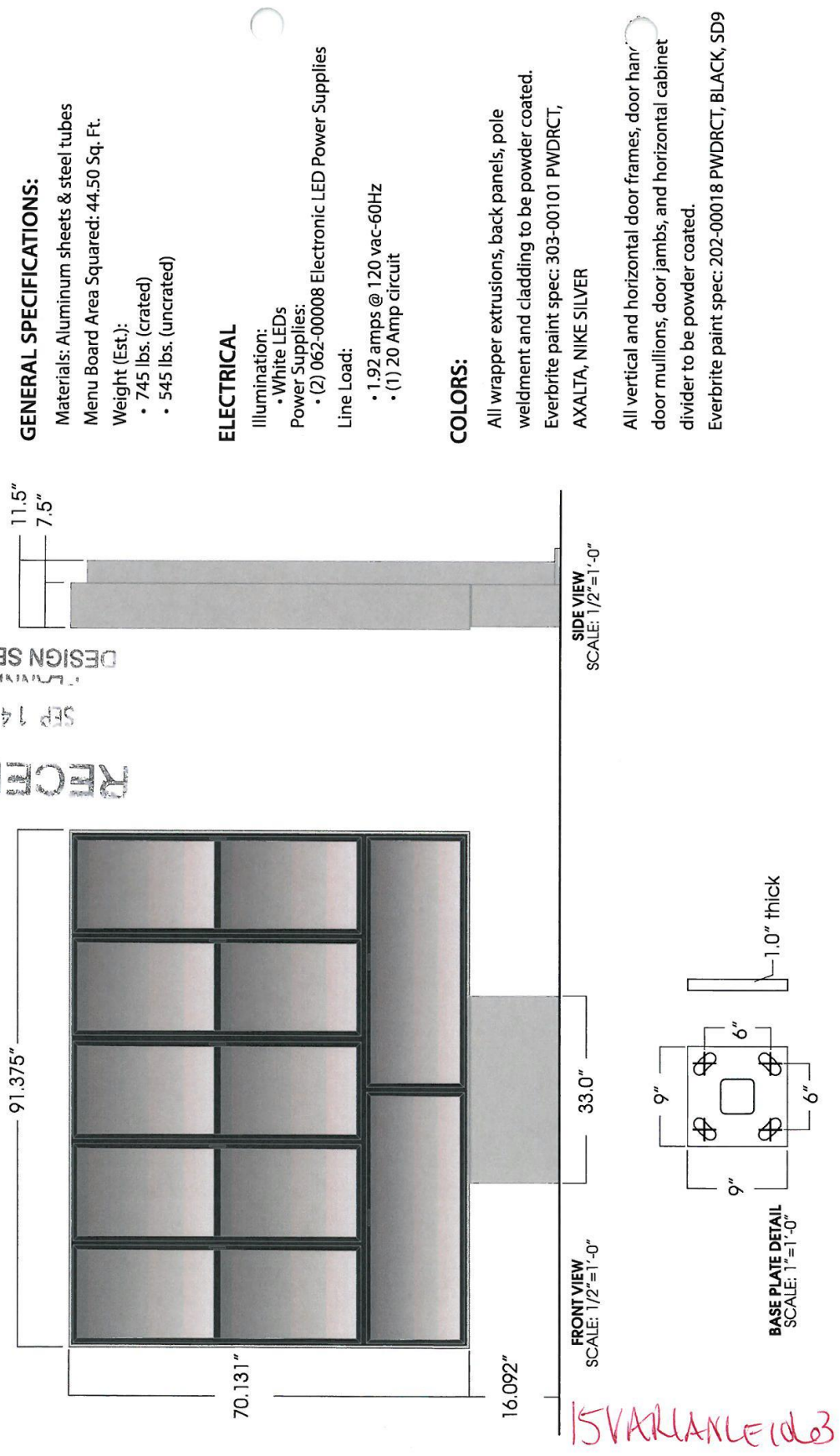






**Attachment 4 –Menu Board Elevation**

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 SEP 14 2015  
 TRAINING &  
 DESIGN SERVICES



**GENERAL SPECIFICATIONS:**

Materials: Aluminum sheets & steel tubes  
 Menu Board Area Squared: 44.50 Sq. Ft.  
 Weight (Est.):  
 • 745 lbs. (crated)  
 • 545 lbs. (uncrated)

**ELECTRICAL**

Illumination:  
 • White LEDs  
 Power Supplies:  
 • (2) 062-00008 Electronic LED Power Supplies  
 Line Load:  
 • 1.92 amps @ 120 vac-60Hz  
 • (1) 20 Amp circuit

**COLORS:**

All wrapper extrusions, back panels, pole weldment and cladding to be powder coated. Everbrite paint spec: 303-00101 PWDRCT, AXALTA, NIKE SILVER

All vertical and horizontal door frames, door handle mullions, door jambs, and horizontal cabinet divider to be powder coated. Everbrite paint spec: 202-00018 PWDRCT, BLACK, SD9

These product sheets are the exclusive property of Everbrite LLC. Use of this property in any manner without express written permission of Everbrite LLC is prohibited. Drawings are for graphic purposes only and not intended for actual construction. For more specific manufacturing detail, please refer to engineering specifications and isea drawings.

<b>Everbrite</b> 	Everbrite LLC Phone: 414-529-3500 • Fax: 414-529-7191 Website: www.everbrite.com	Part No: _____ Description: Drive Thru Evolution LED VE Menuboard Project No: _____ Date: _____ Drawn By: _____
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TACO BELL



**Attachment 5 – Applicant’s Justifications**

**Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

- 1. Explain how the variance will not adversely affect the public health, safety or welfare.

The variance will allow for adequate visibility of the menu-board & will not adversely affect the public health, safety, or welfare of any involved parties.

- 2. Explain how the variance will not alter the essential character of the general vicinity.

The proposed Taco Bell development is in keeping with the essential character of the Campus Form District. All drive thru facilities require a menu board for customer ordering. The proposed menu board is the standard size menu board that will allow for viewing of all Taco Bell menu items.

- 3. Explain how the variance will not cause a hazard or a nuisance to the public.

The requested variance is only 4.5 sf above the allowable. Additionally, coded allows for (2) menu boards and Taco Bell is only proposing one. Also, landscaping has been proposed along Bloom St. which will shield the view of the menu board from the road and adjacent properties.

- 4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance will allow for all Taco Bell menu items to be displayed and will therefore allow the customer to see the full menu. The actual menu is only 34.27 sf. When you include the frame around the menus, the overall square footage is 44.5 sf. The requested variance is only slightly over the allowable 40 sf.

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*Additional consideration:*

SEP 14 2015

- 5. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

PLANNING & DESIGN SERVICES

The standard Taco Bell menu board allows for all menu items to be displayed for the customer. If the menu board is required to be under 40sf, all menu items will not be visible for the customer.

- 6. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

Without the standard size menu board, all items will not be visible for the customer to order.

- 7. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

The proposed menu board is the same size as all other Taco Bell restaurants in Louisville and throughout the United States.

15VARIANCE1063

**Attachment 6- Site Photos**



**Looking east along East Bloom Street**



**Looking into the Site from East Bloom Street**



**Looking south along South Brook Street**