

Board of Zoning Adjustment
Staff Report
December 16, 2019



Case No:	19-VARIANCE-0004
Project Name:	O'Reilly Auto Parts
Location:	5911 Bardstown Rd
Owner(s):	Dennis Littrell, Corridor Holdings, LLC
Applicant:	Mike Leonard, Hogan Property Development Co
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Variance** of Land Development Code section 5.3.1.C.5 to allow the proposed building to exceed the 80 foot maximum front yard setback

CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 Commercial in the Neighborhood Form District. It is located on the east side of Bardstown Road, at the opposite side of the street of the intersection and terminus of Wimsatt Way. The site is currently undeveloped, and is surrounded on the same side of the street by parcels zoned R-4 Residential, and on the opposite side of the street by parcels zoned OR-3 Office Residential. The applicant is proposing to construct a 7,225 square foot O'Reilly's Auto Parts.

Land Development Code section 5.3.1.C.5 limits the maximum front yard setback of non-residential uses to 80 feet. The applicant is requesting a variance to allow a 104.2 foot front yard setback (24.2 feet beyond the maximum allowed).

There are two related cases, 19-DDP-0017 and 19-WAIVER-0005, which were heard by the Development Review Committee on November 20, 2019. The Board of Zoning Adjustment does not take action on these cases.

STAFF FINDINGS

The variance is adequately justified and meets the standard of review. Staff recommends the Board discuss with the applicant the site restrictions which support the variance request, and whether there are any appropriate mitigation measures.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received an email in opposition to this development, which is included in the case file for 19-DDP-0017.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE OF LAND DEVELOPMENT CODE 5.3.1.C.5 TO ALLOW THE PROPOSED BUILDING TO EXCEED THE 80 FOOT MAXIMUM FRONT YARD SETBACK

- (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 buffered where it is adjacent to residential. Also, there are buildings in the vicinity of the subject site which appear to be exceeding the 80 foot maximum setback.

- (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 buildings in the vicinity of the subject site which appear to be exceeding the 80 foot maximum setback.

- (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 setback maximums are a visual standard that do not prevent or cause any known hazards or nuisances.

- (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 buildings in the vicinity of the subject site which appear to be exceeding the 80 foot maximum setback.

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: According to the site plan, there is a proposed detention basin to be located at the front of the site which restricts the placement of the proposed building. Additionally, the access easement along the southern property line further restricts the buildable area of the subject site.

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 regulation would create an unnecessary hardship on the applicant, as there is also an existing sewer line that runs along the front of the site and MSD does not allow detention basins to be located on top of sewer lines. According to MSD, relocating the sewer lines and making the front detention basin larger would be cost prohibitive.

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 action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, as MSD requirements have been in place on the subject site.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance**

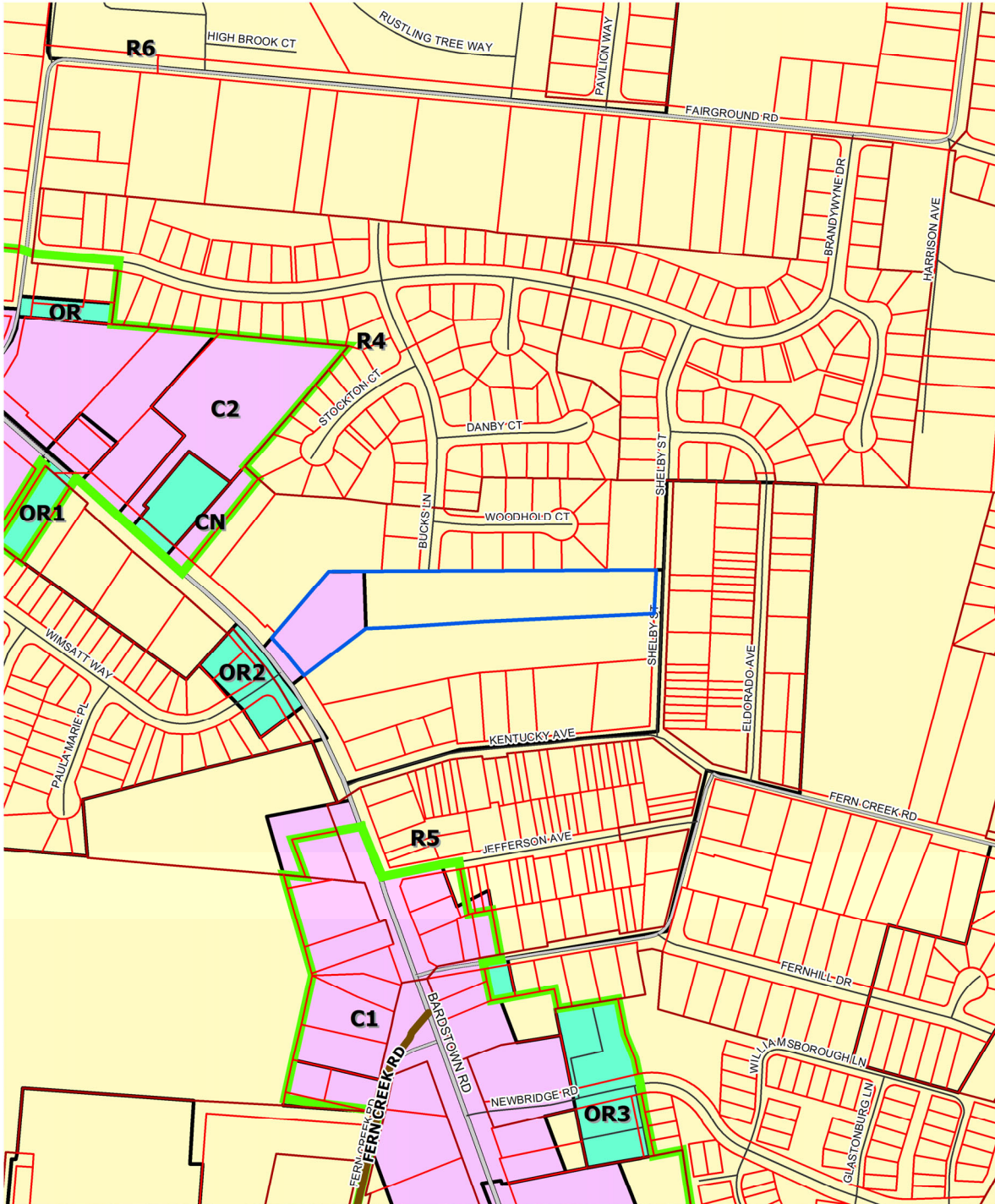
NOTIFICATION

Date	Purpose of Notice	Recipients
12-16-19	Hearing before BOZA	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22
12-6-19	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (19-DDP-0017)

1. Zoning Map



5911 BARDSTOWN ROAD

feet



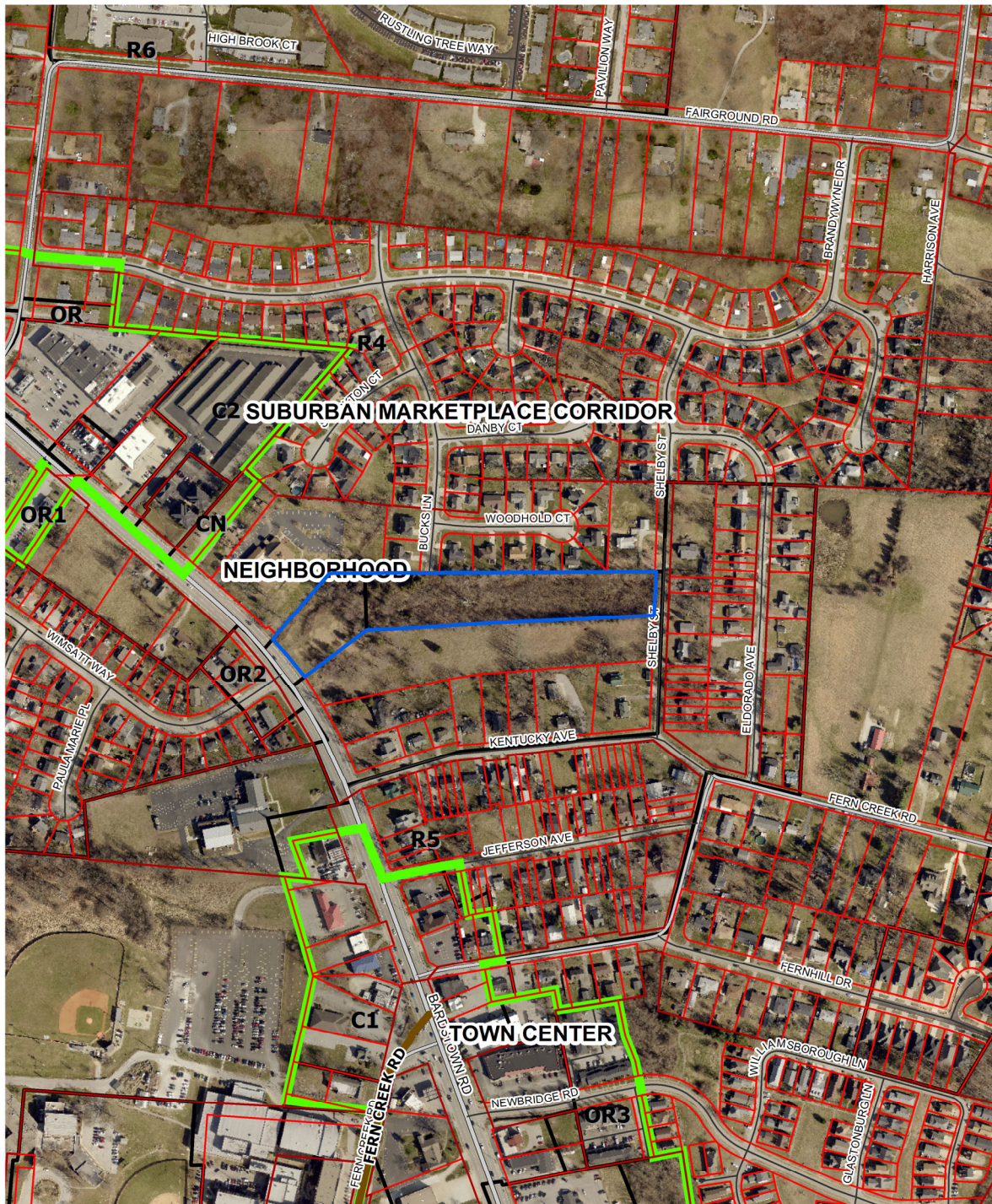
400

Map Created: 11/11/2019

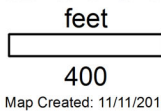


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2. Aerial Photograph



5911 BARDSTOWN ROAD



Map Created: 11/11/2019



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3. Existing Binding Elements (19-DDP-0017)

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. Owners/developers shall fund the installation of traffic calming devices per the MUTCD (Manual of Uniform Traffic Control Devices) and Metro Public Works' requirements if warranted on Street A in the future.