

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.

Variance of Table 5.3.2 to allow the proposed building to exceed the maximum setback

1. The variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement. There is no evidence that the extra setback at this location will cause any traffic or other safety problems; indeed the opposite would occur if safe and convenient access and internal circulation were not provided.
2. The variance will not alter the essential character of the general vicinity this is an aesthetic code requirement. Also, the proposed building is set to the extent possible given the nature of fuel stations and their specific needs for safe maneuvering on the site.
3. The variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement. Because of the reasons set forth above, notably the fact that the existing points of access and circulation will provide internal circulation with safe pedestrian access ensures there will not be a hazard or nuisance to the public. Compliance with which will make the investment in the property infeasible.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this design will result in an improvement of the existing building and current parking layout.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an aesthetic code requirement that should not apply to this type of use. There is no fueling station in Metro Louisville that complies with this requirement.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because the expanded gas station and convenience store simply could not be accommodated on this site without these variances.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location

and is an existing condition.