

**Board of Zoning Adjustment  
Staff Report**  
March 7, 2016



<b>Case No(s):</b>	16VARIANCE1008
<b>Project Name:</b>	Café Press
<b>Location:</b>	11901 & 11909 Shelbyville Road
<b>Owner(s):</b>	Hameron Properties I, LLC
<b>Applicant(s):</b>	Café Press, Inc.
<b>Representative(s):</b>	William Bardenwerper, Kevin Young
<b>Project Area/Size:</b>	0.53 acres
<b>Existing Zoning District:</b>	R-4, Residential Single Family
<b>Existing Form District:</b>	N, Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Julie Denton
<b>Case Manager:</b>	Jon E. Crumbie, Planning Coordinator

**REQUEST**

- Variance from the Land Development Code to allow a proposed wood privacy fence to exceed the maximum height.

Location	Requirement	Request	Variance
Height	8'	10'	2'

**CASE SUMMARY/BACKGROUND**

The applicant is proposing an off-street parking area that will consist of 40 spaces. A previous Conditional Use Permit for off-street parking was approved on the site but was never built and expired. Café press is relocating its corporate headquarters to the vacant rear office. The fence is being requested as mitigation to buffer the adjacent residences from the parking.

**SITE CONTEXT**

The site is rectangular in shape and located on the north side of Shelbyville Road. The site is vacant and vegetated. Part of the site has a lower elevation than the existing parking to the east.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Vacant Area	R-4	N
<b>Proposed</b>	Parking	R-4	N
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family	R-4	N
<b>South</b>	Commercial	C-1	N
<b>East</b>	Offices, Parking	OR-1, C-1	N
<b>West</b>	Residential Single Family	R-4	N

**PREVIOUS CASES ON SITE**

- 16CUP1006** A modified Conditional Use Permit to allow a slight reconfiguration of off-street parking in an R-4 zoning district. This proposal is under review.
  
- 15CUP1044** A Conditional Use Permit to allow off-street parking in an R-4 zoning district. This was approved by the Board on December 21, 2015.
  
- 15DEVPLAN1182** Revised plan to reconfigure the parking area only (withdrawn).
  
- 9-105-97** Change in zoning from R-4 to OR-1. The proposal was approved by the City of Middletown.
  
- B-257-00** A Conditional Use Permit application to allow off-street parking at 11901 Shelbyville Road. This request was approved by the Board on December 18, 2000.
  
- B-150-93** A Conditional Use Permit application to allow off-street parking at 11901 Shelbyville Road. This request was denied by the Board on March 7, 1994.

**INTERESTED PARTY COMMENTS**

Staff did not receive any interested party comments.

**APPLICABLE PLANS AND POLICIES**

Land Development Code

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

(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 because the fence will only be noticeable to the adjacent property owners. The fence can't be seen from Shelbyville Road.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity because there are no other fences of this size in the area. The fences in the adjacent area are chain link and approximately 4 feet in height.

(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 several adjacent neighbors along Linney Avenue requested additional screening and buffering.

(d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will be an unreasonable circumvention of the zoning regulations because there is an existing 25 feet Woodland Protection Area between the rear of the adjacent properties and off-street parking spaces.

#### 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: There are no special circumstances, but the applicant is trying conform to the wishes of several adjacent neighbors along Linney Avenue.

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 not create an unnecessary hardship on the applicant because an 8-foot screen is required and additional landscaping can be added to help mitigate the nuisance.

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 owner is trying to conform to the wishes of several adjacent neighbors along Linney Avenue.

#### **TECHNICAL REVIEW**

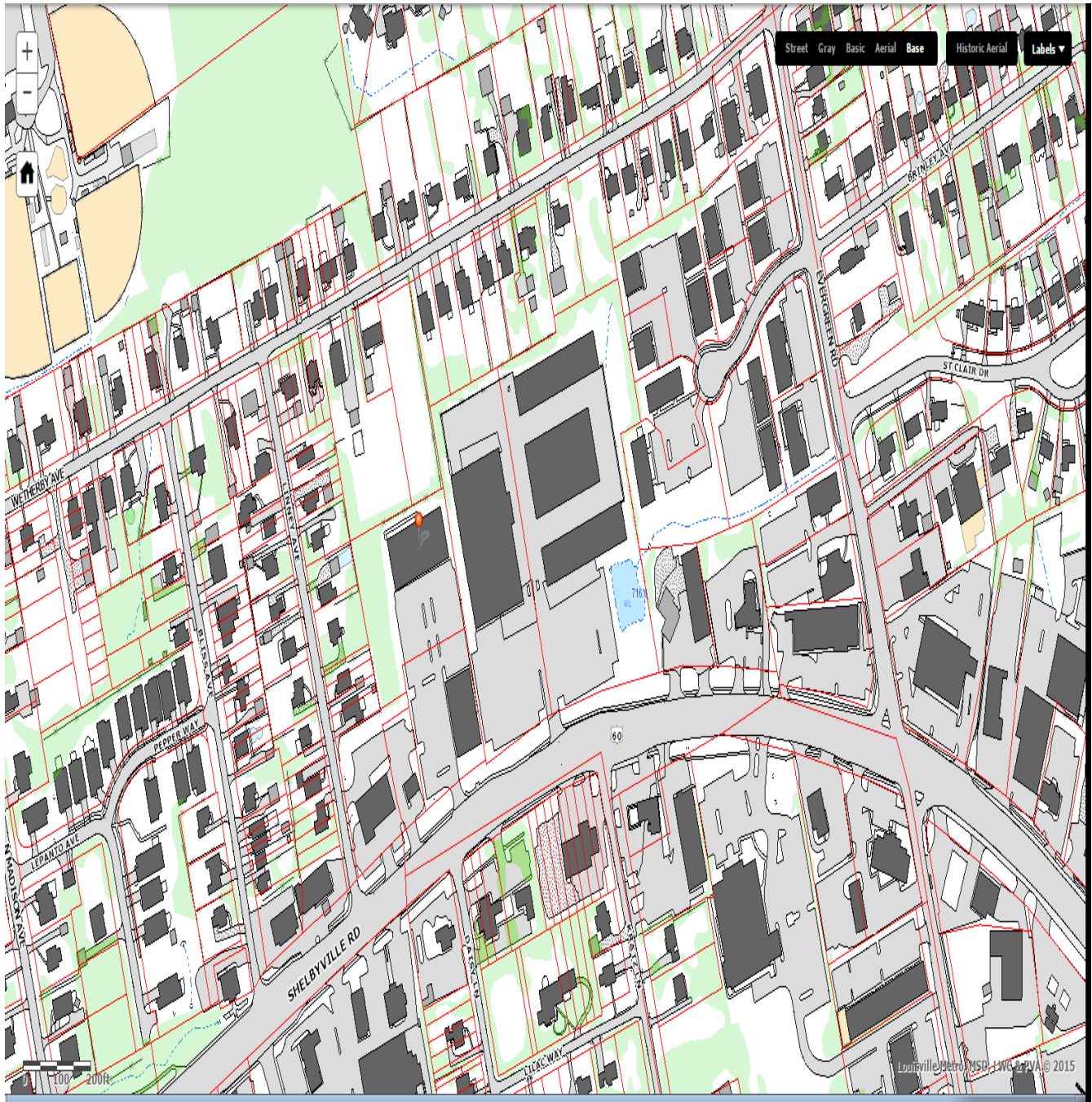
- There are no outstanding technical review items.

#### **STAFF CONCLUSIONS**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Land Development Code.

#### **ATTACHMENTS**

1. Zoning Map
2. Aerial Map
3. Applicant Justification
4. Site plan





**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.

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Variance of: Section 4.4.3.A.1.ii to allow the fence to exceed the maximum height

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1. The variance will not adversely affect the public health, safety or welfare because the purpose of the requested variance is to provide additional screening and buffering from the Conditional Use Permit parking area approved by the Louisville Metro Board of Zoning Adjustment on December 21, 2015 in Case #15CUP1044 for the adjoining residential properties to the West of the subject site who voiced concerns about screening and buffering per Condition of Approval #3 agreed upon by the applicant as follows:

*3. A 10-ft. tall, two-sided privacy fence shall be provided along the entire south property line once a variance is applied for and approved by the Board. If this variance is not approved, then the applicant shall provide a two-sided privacy fence no less than 8 feet tall along the entire south property line.*

2. The variance will not alter the essential character of the general vicinity because the sole purpose is to build a 10 foot tall privacy fence to provide additional screening for the adjoining residential properties rather than an 8 foot tall privacy fence.

3. The variance will not cause a hazard or a nuisance to the public because it is requested to address sight line concerns voiced by the neighbors in CUP Case #15CUP1044 in addition to the Woodland Protection Area as shown on the CUP Plan providing additional screening and buffering.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because it is requested for the sole purpose of complying with a Board of Zoning Adjustment Condition of Approval in Case #15CUP1044.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this application is to address sight line as well as screening and buffering concerns for the parking area CUP granted by the Board of Zoning Adjustment.

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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 the strict application of the regulation would prohibit the applicant from building the taller fence agreed upon as a condition of approval for the CUP.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the request is request is only to comply with the Board of Zoning Adjustment condition of approval.

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