

# Board of Zoning Adjustment

## Staff Report

May 16, 2022



**Case No:** 22-VARIANCE-0058 and 22-WAIVER-0058  
**Project Name:** 2124 Palatka  
**Location:** 2124 Palatka Rd  
**Owner(s):** Jawad Almajedi  
**Applicant:** Julian Paul  
**Jurisdiction:** Louisville Metro  
**Council District:** 25 – Amy Holton Stewart  
**Case Manager:** Tara Sorrels, Planner I

### **REQUEST:**

- **Variance** from Land Development Code Table 5.3.2 to allow a non-residential principle structure to exceed the maximum setback.

Location	Requirement	Request	Variance
Front Yard	80'	100'	20'

- **Waivers**
  1. **Land Development Code section 5.3.1.C.8** to provide 5' instead of the required 15' between multiple principal structures.
  2. **Land Development Code section 10.2.4** to provide a 6' screen instead of an 8' screen and to not provide the landscape buffer area and planting requirements along the East property line.
  3. **Land Development Code section 10.2.12** to not provide internal landscape areas

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned C-2 Commercial in the Neighborhood Form District. The existing use is automobile sales and there are two principal structures on the lot. The applicant is proposing to remove of the existing principal structure along the West property line and replace it with a new 2,500 SF structure. The existing structures exceed the maximum setback, do not provide the space required between multiple principal structures, and encroach into the landscape buffer area. The site is currently paved with no existing internal landscape areas.

### **STAFF FINDINGS**

Staff finds that the requested variance and waivers are adequately justified and meet the standard of review.

### **TECHNICAL REVIEW**

All agency comments have been addressed.

## **INTERESTED PARTY COMMENTS**

Staff has not received any formal comments.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.2**

- (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. The proposed structure will be constructed to comply with all building codes, including fire codes. The proposed structure will be placed in the same location as the existing structure.

- (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 will be minimal change regarding location, use, and design of the structure and there is another automotive use next door to the site. The characteristics of the proposal that do not comply with the code are existing conditions.

- (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 be in the same location as the existing structure which has had no issues regarding hazard or nuisance to the public.

- (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 as the conditions that do not comply with the zoning regulations are existing.

## **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 which do not generally apply to land in the same zoning district because the existing conditions exceed the maximum setback.

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 permit the property owner to construct the structure in a way that aligns with the existing layout of the property.

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 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 prior to beginning construction.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1**

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

STAFF: The waiver will not adversely affect adjacent property owners since the encroachment into the required space between multiple principal structures is present at this time. The new structure will match the character of that of other similar development in the area. Denial of the waiver would require the applicant to drastically change the location of the building and would create a greater impact on the existing character of the area.

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

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and form district.

- (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 since the encroachment is existing and there is no other adequate location on the site for the building.

- (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 of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because moving the building to a different location would not allow space for the existing principal use of the site which is automobile sales.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2**

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

STAFF: The waiver will not adversely affect adjacent property owners since the lack of a landscape buffer area is existing at this time and a letter of support was received by the most impacted adjacent property owner.

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

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and form district. A 6' screen is provided between the site and the adjacent residential property.

- (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 since the existing automobile sales lot and remaining building are located where the landscape buffer is required. A 6' screen is provided between the site and the adjacent residential property.

- (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 of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because moving the building to a different location would not allow space for the existing principal use of the site which is automobile sales. A letter of support was received by the most impacted adjacent property owner. A 6' screen is provided between the site and the adjacent residential property.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3**

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

STAFF: The waiver will not adversely affect adjacent property owners since the lack of interior landscape areas is existing at this time. The existing vehicle use area where the interior landscape areas are required is not part of the new construction area and no changes were requested that area.

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

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and form district.

- (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 since the existing automobile sales lot is located where the interior landscape areas are required.

- (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 of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the site is currently paved without internal landscape areas and no changes are proposed for that area.

### **Required Actions**

- **APPROVE or DENY the VARIANCE**
  
- **APPROVE or DENY the WAIVERS**
  1. **Land Development Code section 5.3.1.C.8** to not provide the required 15' between multiple principal structures.
  2. **Land Development Code section 10.2.4** to not provide the landscape buffer area along the East property line
  3. **Land Development Code section 10.2.12** to not provide internal landscape areas

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 established in the Land Development Code from Table 5.3.2 to allow a principal structure to exceed the maximum setback.

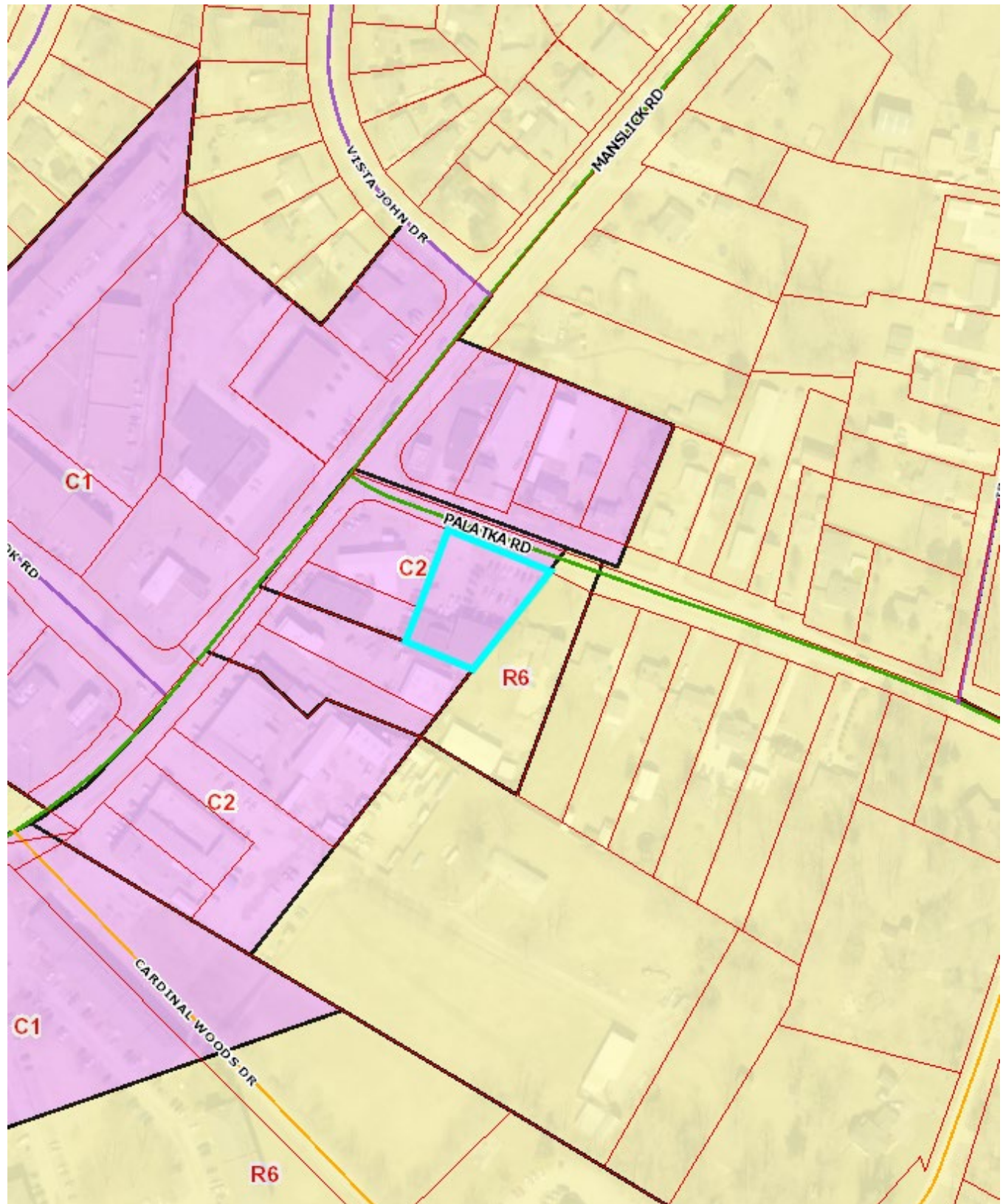
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
04-29-22	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District #1
05-02-22	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

## Zoning Map





**Aerial Photograph**

