

Board of Zoning Adjustment

Staff Report

October 16, 2017



Case No: 17VARIANCE1039
Project Name: Oscar's Hardware
Location: 1515 S Shelby St
Owner(s): Paul Fussenegger
Applicant: Patrick Miller
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Jay Lockett, Planner I

REQUEST(S)

- Variance from Land Development Code table 5.2.2 to allow a structure to exceed the maximum front setback.
- Variance from Land Development Code section 5.5.1.A.2 to exceed the Traditional Form district corner lot setback standards.

Location	Requirement	Request	Variance
Front (5.5.2)	25 Ft Max	72 Ft	47 Ft.
Front (5.5.1.A.2)	5 Ft Max	88 Ft	83 Ft
Side (5.5.1.A.2)	5 Ft Max	47 Ft	42 Ft

CASE SUMMARY/BACKGROUND

The applicant is seeking to expand the existing Oscar's Hardware store located at 1515 S Shelby St. The expansion is to extend onto the adjacent parcels which formally housed an automobile sales and service facility. With the planned consolidation of lots associated with this development, the resultant lot will be a corner lot, and therefore subject to the provisions of Land Development Code section 5.5.1.A.2. Per that section, all non-residential and mixed use buildings shall be constructed no more than 5 feet from the right-of-way line on both streets. The proposed expansion will bring the structure to within 47 Ft from E Burnett Ave and 88 Ft from the furthest point of S Shelby St. The applicant therefore requests a variance of 42 Ft and 83 Ft from those streets, respectively. The planned expansion is also proposed to have a Front Yard setback of up to 72 Ft. The maximum Front Yard Setback for C-1 or C-2 zoned buildings in the Traditional Neighborhood form district is 25 Ft, therefore the applicant is requesting a variance of 47 Ft from this standard.

STAFF FINDING

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

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 for granting a variance established in the Land Development Code

from table 5.2.2 to allow a structure to exceed the maximum front yard setback and from section 5.5.1.A.2 to allow a structure to exceed the maximum corner lot setback standards for commercial development in traditional form districts.

TECHNICAL REVIEW

A Revised District Development Plan for this project with associated waivers is being considered by the Land Development and Transportation Committee on October 12, 2017.

INTERESTED PARTY COMMENTS

Staff has received no interested party comments concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2

- (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, as the lot is currently a vacant auto lot and this development will improve the existing conditions considerably.

- (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 the plan will incorporate a plaza, masonry wall and plantings to bring the overall site focus to the corner.

- (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 development will be constructed to all appropriate building standards and allow for safe circulation of vehicular and pedestrian traffic around and through the site.

- (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 bulk of the development will be the existing building, which complies with zoning regulations.

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 request results from a proposed expansion of an existing structure, and the applicant wishes to maintain a front entrance with ADA accessible spaces as close to the entrance as possible.

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, as the internal layout of the store would have to be significantly altered to build an expansion within the regulations.

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 and has not yet constructed the addition.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.5.1.A.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, as the lot is currently a vacant auto lot and this development will improve the existing conditions considerably.

- (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 the plan will incorporate a plaza, masonry wall and plantings to bring the overall site focus to the corner.

- (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 development will be constructed to all appropriate building standards and allow for safe circulation of vehicular and pedestrian traffic around and through the site.

- (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 store would have to be expanded beyond what is reasonable for the scale of the business in order to reduce the corner setbacks to 5 Ft or less.

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 request results from a proposed expansion of an existing structure which is not currently on a corner lot, yet becomes a corner lot once the lots are consolidated.

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 deprive the applicant of the reasonable use of the land, as the store cannot expand without utilizing the corner lot, but cannot reasonably expand to a large enough side to meet all setbacks.

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 and has not yet constructed the addition.

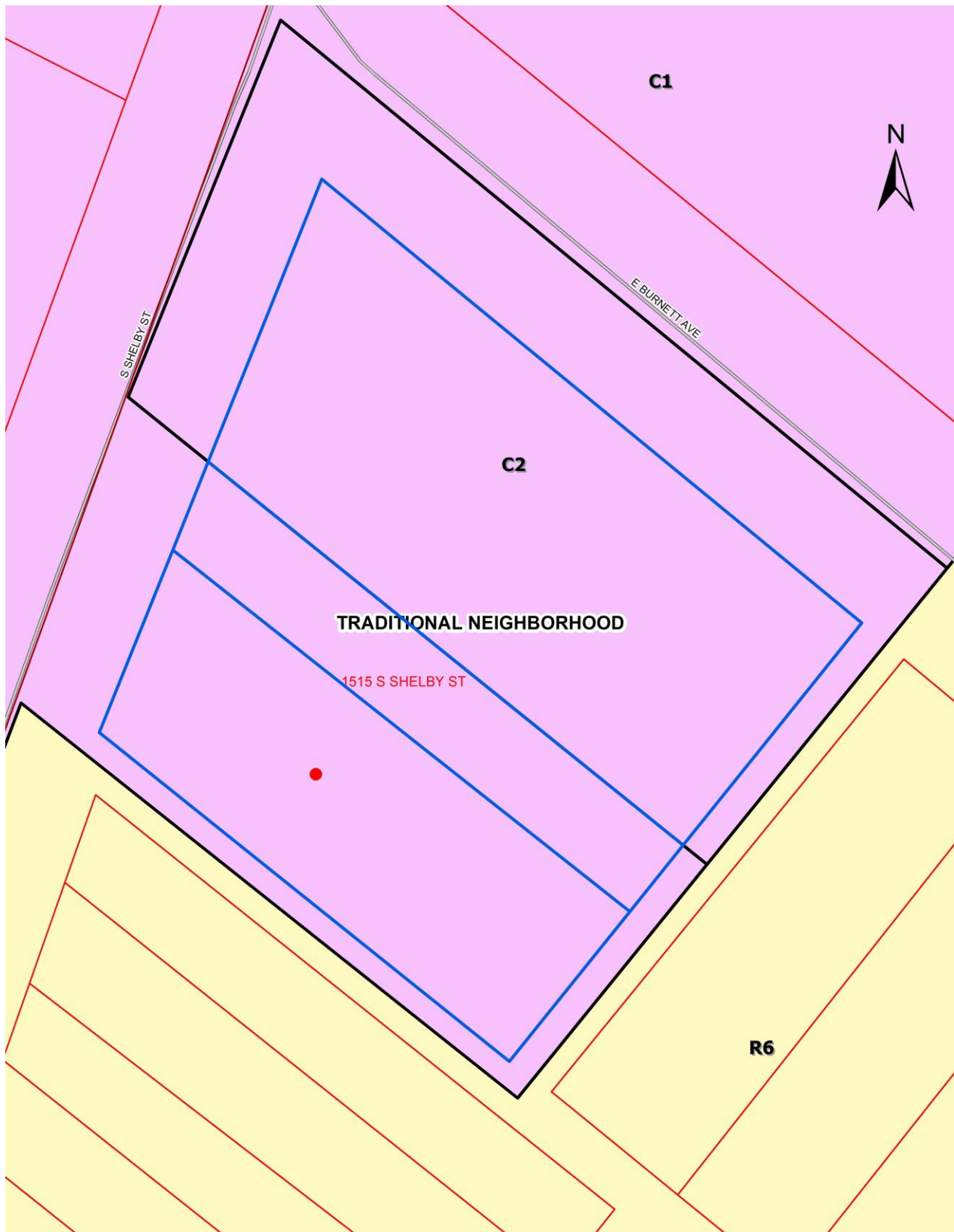
NOTIFICATION

Date	Purpose of Notice	Recipients
9-30-17	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 10
9-28-17	Hearing before BOZA	Notice Posted on Property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Renderings
4. Site Photos

1. **Zoning Map**



2. **Aerial Photograph**



3. Renderings



RECEIVED
AUG 28 2017
PLANNING &
DESIGN SERVICES

17 DEPLAN 1126

4. **Site Photos**



View from S Shelby St looking SE across the planned expansion area



View onto subject site from the corner of E Burnett Ave and S Shelby St.



View across E Burnett Ave towards subject site.