

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: Section 5.3.1.C.5, Table 5.3.2 to vary the Bardstown Road 95 ft maximum building setback and the Bartley Drive 80 ft maximum building setback.

1. The variance will not adversely affect the public health, safety or welfare because better screen and landscaping is one that benefits the neighbors along Bartley Drive as much as or more so than the applicant. Further the variance for the street side (facing Bardstown Road) and rear of the site will not have any negative affect because the variance need is created by the property having a very large right-of-way along Bardstown Rd., which is much larger than most of the commercial sites in this area and simply because of the extension of parking, which will be properly buffered with landscaping. Allowing the variance will permit the applicant to greatly enhance the entrance with closely matching buffering and landscaping, and also to protect the single family homes from the activity on Bartley Drive. The redesign of the site was made to accommodate the area residents' desire to relocate Bartley Drive in order to have access to a signalized intersection on Bardstown Road and the resulting variances serves the interests of the residents.
2. The variance will not alter the essential character of the general vicinity because there remains a significant setback along Bartley Drive and because of landscaping and attractive streetscape along Bartley Drive. The off-set of screening and landscaping results in a positive net benefit for adjoining residents.
3. The variance will not cause a hazard or a nuisance to the public because both the "excess" of the Bardstown Road right-of-way and most of this property's street side yard will be intensively and attractively landscaped in order to provide an attractive Bartley Drive streetscape and to eliminate views from Bartley Drive of the single family homes into the site.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the screen and landscape buffer described above and will be shown on the exhibits presented with this application to the Planning Commission at LD&T and public hearing.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Bartley Drive at Bardstown Road that is presently affected by the proposed development with variances for this landscaped and screened area.

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 trade off of added setback for better screening and landscaping.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering in order to fully mitigate any potential adverse impacts.