



Variance Application

Louisville Metro Planning & Design Services

Case No.: _____ Intake Staff: _____

Date: _____ Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section 5.2.3.D.3.e of the Land Development Code, to allow the proposed building to exceed the maximum building height to total height of 75 feet.

Primary Project Address: 730 E. Market Street, Louisville, KY 40202

Additional Address(es): 726, 728, 730 R E. Market St., Louisville, KY 40202

Primary Parcel ID: 017D00870000 (730)

Additional Parcel ID(s): 017D01940000 (726), 017D00850000 (728), 017D00860000 (730 R)

Proposed Use: Hotel / Art Museum Existing Use: Parking

Existing Zoning District: C2 Existing Form District: TMC

Deed Book(s) / Page Numbers²: DB 11368 / PG 501

The subject property contains 0.53 +/- acres. Number of Adjoining Property Owners: 46

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ ☐ Yes ☒ No

If yes, please list the docket/case numbers:

Docket/Case #: _____ Docket/Case #: _____

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Contact Information:**Owner:** ☐ Check if primary contactName: Kaveh ZamanianCompany: Green Building LLCAddress: 1452 Cherokee RoadCity: Louisville State: KY Zip: 40204Primary Phone: (502) 377-5594

Alternate Phone: _____

Email: kaveh@rabbitholedistillery.com**Owner Signature (required):** _____**Applicant:** ☐ Check if primary contactName: Charles Stephen WendellCompany: Mountain & River City, LLCAddress: 123 North Court StreetCity: Fayetteville State: WV Zip: 25840Primary Phone: (843) 270-2096

Alternate Phone: _____

Email: stephenwend@gmail.com**Attorney:** ☒ Check if primary contactName: Earl F. (Chip) Hamm, Jr.Company: Kaplan Johnson Abate & Bird LLPAddress: 710 W. Main St., 4th FloorCity: Louisville State: KY Zip: 40202Primary Phone: (502) 424-5187Alternate Phone: (502) 416-1630Email: chip@kaplanjohnsonlaw.com**Plan prepared by:** ☐ Check if primary contactName: Matthew D. Gullo, RLA, CLARB, ASLACompany: Luckett & FarleyAddress: 737 South 3rd StreetCity: Louisville State: KY Zip: 40202Primary Phone: (502) 585-4181Alternate Phone: (864) 367-7227Email: MGullo@luckett-farley.com

Certification Statement: A certification statement **must be submitted** with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Kaveh Zamanian, in my capacity as Manager, hereby
representative/authorized agent/other

certify that Green Building LLC is (are) the owner(s) of the property which
name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature: Kaveh Zamanian Date: 2/02/2021

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

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.

- 1. Explain how the variance will not adversely affect the public health, safety or welfare.**

****Please see attached.**

- 2. Explain how the variance will not alter the essential character of the general vicinity.**

- 3. Explain how the variance will not cause a hazard or a nuisance to the public.**

- 4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

Additional consideration:

- 1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).**

- 2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.**

- 3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

730 E. Market Street, Louisville, KY 40202

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.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The building height will not adversely affect the public health, safety, or welfare because the building is located on a busy, dense section within a Traditional Marketplace Corridor. The height of the building does not increase any existing risks to public health or safety within this corridor.

2. Explain how the variance will not alter the essential character of the general vicinity.

The building height will not alter the essential character of the general vicinity for at least a couple of reasons. First, similar properties on both Market Street and Jefferson Street are higher than the traditional building height of 45 feet. Second, the design of the building limits the visual perception of the height of the building, so that the building looks proportionate to its adjacent neighbors.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

The variance will not cause a hazard or a nuisance to the public because the proposed height of the building does not present any safety issues. Further, the proposed building is not so out of character or proportion to adjacent and similar properties that it would be considered a nuisance.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the variance will be paired with a building design to minimize the impact of the appearance of the building's height. Additionally, the requested variance is the minimal amount required to develop the proposed project on the site.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

This variance arises from special circumstances in the immediate vicinity because the proposed project is an infill development of a parking lot, not the renovation or restoration of an existing or historic building.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

A strict application of the provisions of the regulation would deprive the applicant of its reasonable use of the land and cause unnecessary hardship because a shorter building would limit the number of potential hotel guests, which would make the project economically infeasible. The hotel

use of the property represents a highest and best use of the site within the LDC zoning parameters.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No, the circumstances are not the result of actions of the applicant taken after the adoption of the referenced LDC regulation. Only within the past couple of years has the neighborhood had the economic revival and density to support a project such as this.

Please submit the completed application along with the following items:

Project application and description

- ☒ Land Development Report¹
- ☒ A copy of the current recorded deed² (*must show "End of Document" stamp on last page*)
- ☐ Legal description on a separate 8.5 x 11" sheet of paper

Site plan, drawings, and photographs

- ☐ One elevation drawing for new construction (including home additions, garage additions, and fences)
- ☐ Six copies of the site plan or building rendering (whichever is applicable), including the following elements. LOJIC maps are not acceptable. *See site plan example on the last page.*
 - ☐ Plan drawn to a reasonable scale [engineer's scale (1" = 20') or architect's scale (1/8" = 1')]
 - ☐ Vicinity map that shows the distance from the property to the nearest intersecting street
 - ☐ North arrow
 - ☐ Street name(s) abutting the site
 - ☐ Property address, parcel ID, and dimensions
 - ☐ Building limit lines
 - ☐ Electric, telephone, drainage easements with dimensions
 - ☐ Existing and proposed structures with dimensions and distance from property lines
 - ☐ Highlight (in yellow) the location of the variances

Supplemental documentation

- ☐ A copy of Refusal Letter from citing official, if applicable (**required** if a STOP WORK ORDER or CITATION has been received)
- ☐ If the proposed structure encroaches into an easement (MSD, LG&E, or Bell South), then the applicant must submit written documentation from the utility company indicating approval for the encroachment

Mailing labels to notify Adjoining Property Owners (APOs)³

- ☐ One set of legible mailing label sheets for: 1st tier APOs and those listed on the application
- ☒ One copy of the APO mailing label sheets

Requirements for Non-Public Hearing Applications Only

Eligible cases are heard in the Business Session of Board of Zoning Adjustments (BOZA) meetings. All APOs must sign the attached Non-hearing affidavit indicating consent for the variance, as comments from the general public are not taken during this process.

- ☐ Non-Hearing Affidavit form (see pages 5-6)
- ☐ Photographs of the subject area from all angles

Fee (cash, charge or check made payable to Planning & Design Services)

- ☐ Application Fee: **\$ 100** for Single-Family Uses
\$ 250 for churches, parish halls, temples, schools and institutions of learning (except colleges, universities, trade, business or industrial schools), not-for-profit uses, and clubs, private non-profit
\$ 625 for All Other Uses
- ☐ Clerk's Fee: **\$ 25.50**

(If two or more applications are submitted simultaneously for the same site, only one clerk's fee is required)

☐ Notice Fee: **\$ 1.00** per mailing label

NON-PUBLIC HEARING VARIANCE AFFIDAVIT FOR THE SUBJECT PROPERTY OWNER(S): Part 1

Qualifications for a Non-Public Hearing include:

1. *The Board of Zoning Adjustment may approve the following variances without a public hearing:*
 - a. *Side yard and rear yard variances to permit a detached garage which is accessory to a single-family residential use or any addition to a principal single-family structure;*
 - b. *Variances to permit a garage or building addition to cover more than 30% of the rear yard on property used for detached single-family residential use; (note, this provision applies to principle structures in the Neighborhood Form District (NFD) only. Accessory structures in the NFD can encroach up to 50% and cumulative encroachment of accessory and principal structures shall not exceed 50%. TNFD does not permit any encroachment into a rear yard.)*
 - c. *Variances to permit any building to be closer than the required minimum distance to another building on the same lot;*
 - d. *Variances to allow a reduction in the private yard area in the Traditional Neighborhood Form District;*
 - e. *Variances to allow the accessory structure/use area to exceed the maximum depth in the Traditional Neighborhood Form District.*
 - f. *A departure from a dimensional requirement of the Land Development Code of 10% or less.*
2. *All adjoining property owners must sign this affidavit. This includes all owners listed on the deed.*
3. *For each adjoining property that is held by a company, corporation, trust, etc. there must be a Certification Statement included with the affidavit.*
4. *All supporting documentation listed in the checklist must be included with the application.*

Date: _____

I (We), _____, owner(s) of the subject property under Case # _____

states as follows: It is hereby requested that the application for variance under Case # _____ be considered by the Board in open executive session without holding a public hearing on the proposal.

The signatures of all adjoining property owners required by the Board of Zoning Adjustment's bylaws have been submitted to the Board so that the variance may be acted upon without a public hearing.

Print Name: _____ Signature of Owner: _____

Print Name: _____ Signature of Owner: _____

NON-PUBLIC HEARING VARIANCE AFFIDAVIT FOR THE SUBJECT PROPERTY OWNER(S): Part 2

Date: _____

We have seen a drawing of the proposed (e.g. garage, addition) _____
to be constructed at (address) _____.

As owners of the property adjacent to the above address, we give our consent and do not object to the planned construction or to the variance that will be required.

Please note: *If the property is in joint ownership, all owners must sign or an authorized person must sign (authorized persons must also complete the certification statement). If there is a POA, the property owner is deceased or there are extenuating circumstances, please indicate on the signature line. For additional signatures, use additional copies of the affidavit form.*

1. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

2. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

3. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

4. Address: _____

Owner Name: _____ Signature: _____

Owner Name: _____ Signature: _____

Certification Statement: A certification statement **must be submitted** with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, _____, in my capacity as _____, hereby
representative/authorized agent/other

certify that _____ is (are) the owner(s) of the property which
name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

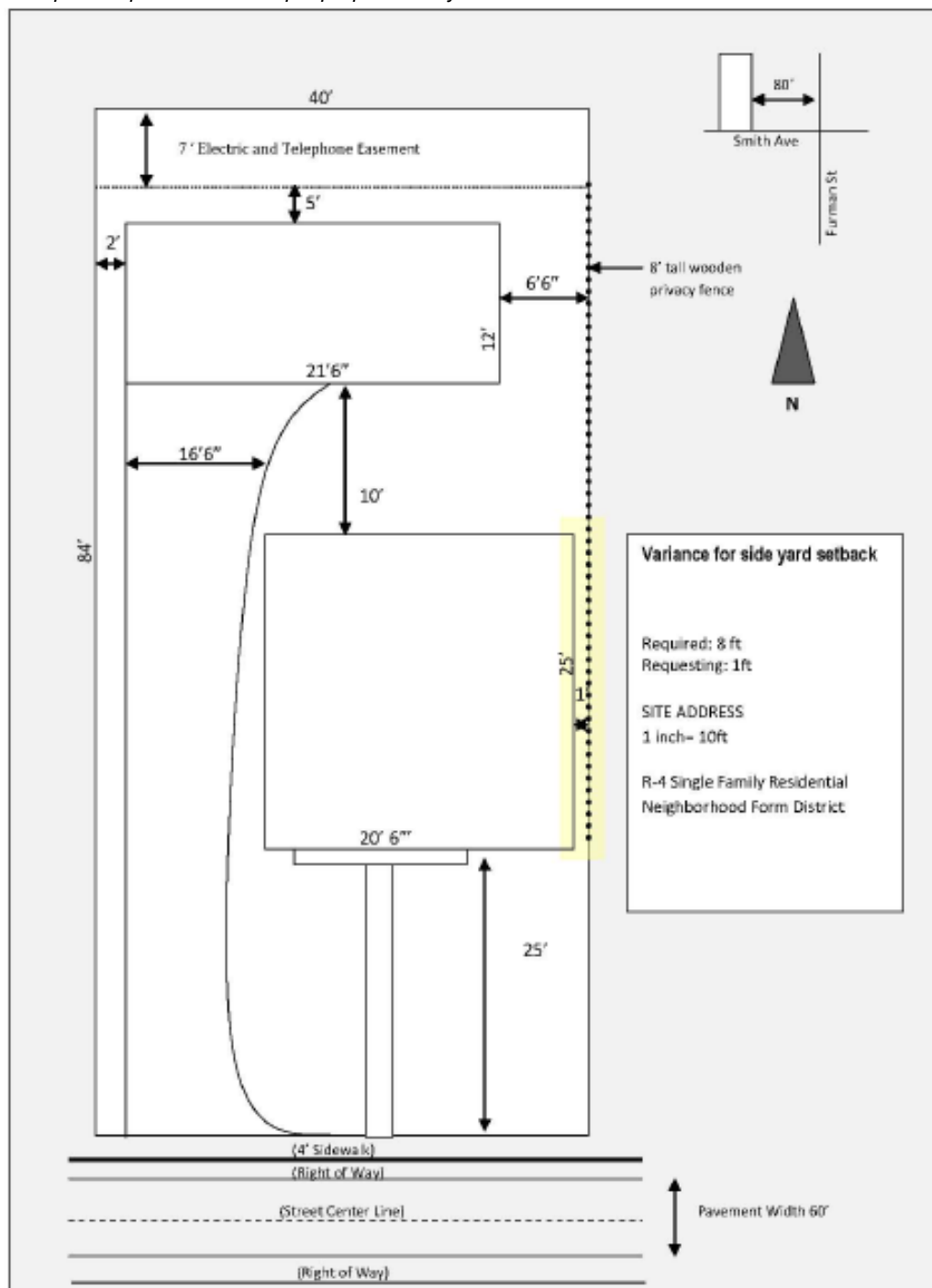
Signature: _____ Date: _____

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

Resources:

1. Land Development Reports can be obtained online by entering the site address at: <https://www.lojic.org/lojic-online>
2. Deeds and plats can be found at the Jefferson County Clerk's Office, located at the 2nd floor of Metro Hall (527 West Jefferson Street, telephone: 502-574-6220). Many deeds, plats and other records are available online at: <https://search.jeffersondeeds.com>
3. Adjoining property ownership information can be found at the Property Valuation Administrator (PVA) office at 531 Court Place, Suite 504 or via their website: <https://jeffersonpva.ky.gov/property-search>
4. View agency comments at: <http://portal.louisvilleky.gov/codesandregs/mainsearch>. Enter your case number in the 'Permit/Case/Docket Number' search bar and then select your case under the 'Application Number' tab.

Sample site plan is for example purposes only and not drawn to scale





Land Development Report

January 26, 2021 11:59 PM

[About](#) [LDC](#)

Location

Parcel ID: 017D00870000
Parcel LRSN: 8002161
Address: 730 E MARKET ST

Zoning

Zoning: C2
Form District: TRADITIONAL MARKETPLACE CORRIDOR
Plan Certain #: NONE
Proposed Subdivision Name: NONE
Proposed Subdivision Docket #: NONE
Current Subdivision Name: NONE
Plat Book - Page: NONE
Related Cases: NONE

Special Review Districts

Overlay District: NULU
Historic Preservation District: NONE
National Register District: PHOENIX HILL
Urban Renewal: NO
Enterprise Zone: YES
System Development District: NO
Historic Site: NO

Environmental Constraints

Flood Prone Area

FEMA Floodplain Review Zone: NO
FEMA Floodway Review Zone: NO
Local Regulatory Floodplain Zone or Combined Sewer Floodprone Area: NO
Local Regulatory Conveyance Zone: NO
FEMA FIRM Panel: 21111C0026E

Protected Waterways

Potential Wetland (Hydric Soil): NO
Streams (Approximate): NO
Surface Water (Approximate): NO

Slopes & Soils

Potential Steep Slope: NO
Unstable Soil: NO

Geology

Karst Terrain: NO

Sewer & Drainage

MSD Property Service Connection: NO
Sewer Recapture Fee Area: NO

Services

Municipality: LOUISVILLE
Council District: 4
Fire Protection District: LOUISVILLE #2
Urban Service District: YES