

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 LDC Table 5.3.2 to allow the proposed non-residential building to exceed the 80' maximum setback.

1. The variance will not adversely affect the public health, safety or welfare because the plan for the proposed Wawa building assures good travel site distances and does not create nuisances or aesthetic or other negative impacts that cannot be fully mitigated with the screening and landscaping provided on the accompanying Wawa DDDP.
2. The variance will not alter the essential character of the general vicinity because the overall plan for the larger site, including the Wawa DDDP, assures compatibility in both internal design and also relative to the design and setbacks of buildings located elsewhere along this stretch of Billtown Road.
3. The variance will not cause a hazard or a nuisance to the public because, as per the response in #1 above, the Wawa building assures good travel site distances and does not create nuisances or aesthetic or other negative impacts that cannot be fully mitigated with the screening and landscaping provided on the accompanying Wawa DDDP.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this particular variance is common to other convenience stores and gas stations around the Metro Louisville area both for the reasons set forth herein and because convenience stores and gas stations have different design, notably circulation and parking requirements, than other store types, for example pharmacies or like-kind small retail uses.

Additional consideration:

1. The variance arises from special circumstances which do not generally apply to land in the general vicinity because few existing nearby land use are like this one.

2. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because compliance would require elimination of gas pumps and/or parking and/or such other site plan alterations as to render this application impossible.
3. These circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought but rather are a result of this particular Wawa user at this particular site under the particular set of circumstances described herein.

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of LDC Table 9.1.16 to permit greater than the maximum required parking.

Explanation of Waiver:

1. The waiver will not adversely affect nearby or adjacent properties because there will be Code required setbacks and landscaping as well as fence screening between the proposed convenience store/grocery/restaurant/gas pumps and the various neighboring properties. Further the maximum parking permitted by the LDC without a waiver is exceeded only to the extent that the WaWa user has significant practical experience from lots of other store locations accommodating both its employees and loyal customers, including projected utilization of its facilities at this location.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 Comp Plan filed with the official rezoning application. Additionally, exceeding the maximum parking allows WaWa to operate its business without backing up traffic onto adjoining streets and sending customers to park on adjoining streets and properties.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the parking requirements determined by WaWa are based, not on unproven speculation, but rather on its actual experience at lots of other locations, whereas the LDC determines maximum parking based on the experiences of convenience stores and gas stations generally that, for example, may not also provide popular eating and full grocery operations within the subject store.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of its land and would create an unnecessary hardship on the applicant because the need for the waiver is based upon WaWa's demonstrated parking needs, and applying a calculation based otherwise would deprive WaWa of an ability to properly serve its customers and the community.