

Board of Zoning Adjustment

Staff Report

April 21, 2025



Case No:	24-VARIANCE-0169 & 25-WAIVER-0029
Project Name:	Corner Retail Addition
Location:	5389 New Cut Road
Applicant:	Gajmukh, LLC
Representative:	Marcum Construction
Jurisdiction:	Louisville Metro
Council District:	21 – Betsy Ruhe
Case Manager:	Heather Pollock, Planner I

REQUESTS:

- **Variance** from Land Development Code section 5.5.1.A.2 to exceed the 5-foot maximum setback from the corner
- **Waiver** from Land Development Code sections 5.5.1.A.3 and 5.9.2.C.4 to permit parking and circulation in front of the building.

Location	Requirement	Request	Variance
Corner Lot Setback (New Cut Rd.)	5 ft.	61 ft.	56 ft
Corner Lot Setback (Woodmore Ave.)	5 ft.	29.5 ft.	24.5 ft

CASE SUMMARY

The subject property is located within the C-1 commercial zoning district and the Town Center form district. The property is 0.413 acres and is located at the corner of New Cut Road and Woodmore Avenue. The applicant is proposing 2,660 sq. ft. of retail space by adding on to the existing building. The addition will line up with the existing structure along New Cut Road but will be 25 feet closer to Woodmore Avenue. The proposed addition will be 61 feet from New Cut Road and 29.5 feet from Woodmore Avenue rights-of-way. The gas canopy will be removed. The applicant is planning on using the existing vehicle use area in front of the building for parking and vehicle circulation. A variance and 4 waivers associated with a category 2B development plan for this property were brought before the Board of Zoning Adjustment, (BOZA) in 2022. The variance and waivers were denied, and the development request was withdrawn.

Related Cases

- 21-CAT2-0040: A category 2B plan with a variance and 4 waivers, withdrawn.
- 22-VARIANCE-0029: To exceed the 5 ft. corner setback, denied by BOZA on May 02, 2022.
- 22-WAIVER-0028: To not provide an entrance facing a public street, denied by BOZA on May 02, 2022
- 22-WAIVER-0029: To encroach in the 15 ft. landscape buffer, denied by BOZA on May 02, 2022
- 22-WAIVER-0051: To not provide future cross access easement, denied by BOZA on May 02, 2022
- 22-WAIVER-0054: To allow parking and vehicular circulation, denied by BOZA on May 02, 2022

TECHNICAL REVIEW

Public Works has reviewed this plan and stated that if the property lines are correct then there is not enough room for cars to maneuver without encroaching into public right-of-way, which is something we try to avoid.

STAFF FINDINGS

The requested variance and waiver are adequately justified for approval based on the analysis contained in the standards of review on condition that a revised plan is submitted showing compliance with conditions of approval.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

1. The requested variance will not adversely affect public health, safety, or welfare, and will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not adversely affect the public health, safety, or welfare, and will not cause a hazard or nuisance to the public as the existing building is already setback from the corner and adequate screening and landscape buffers will be provided as the adjacent property to the rear is residential.

2. The requested variance will not alter the essential character of the general vicinity and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

STAFF: The variance would not alter the essential character of the general vicinity and would not allow an unreasonable circumvention of the zoning regulations as the existing building exceeds the corner setback requirements and the proposed addition is consistent with similar developments in the area. The addition will comply with all other requirements of the applicable zoning and form district standards.

3. The requested variance arises from circumstances which do not generally apply to land in the general vicinity, or in the same zone.

STAFF: The requested variance does not arise from special circumstances which generally apply to the land in the general vicinity or the same zone as there are other non-residential structures in the area that do not meet the corner setback requirement.

4. The strict application of the provision 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 create an unnecessary hardship on the applicant as the existing structure exceeds the 5 ft. setback requirement along both streets.

5. The circumstances are the result of action 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. The applicant has not begun construction on the structure for which this variance is being requested.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners as the development shall comply with all buffering and screening required by the Land Development Code.

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

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with and is similar to other developments in the area and the form district. The waiver will not result in a nuisance or hazard to the public as adequate screening and pedestrian access shall be provided per requirements of the Land Development Code. There is insufficient space to accommodate any vehicular use or circulation behind the proposed addition.

- (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 as the parking and vehicular use area is existing and there is not sufficient space to locate it elsewhere. The rear property line abuts residential use and thus will require a setback and landscape buffer.

- (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 create an unnecessary hardship on the applicant as there is not significant space behind the existing building to accommodate the parking and vehicular circulation.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Variance** from Land Development Code (LDC), Section 5.5.1.A.2 to exceed the 5-foot maximum setback from the corner
- **APPROVE** or **DENY** the **Waiver** from Land Development Code Sections 5.5.1.A.3 and 5.9.2.C.4 to permit parking and circulation in front of the building.

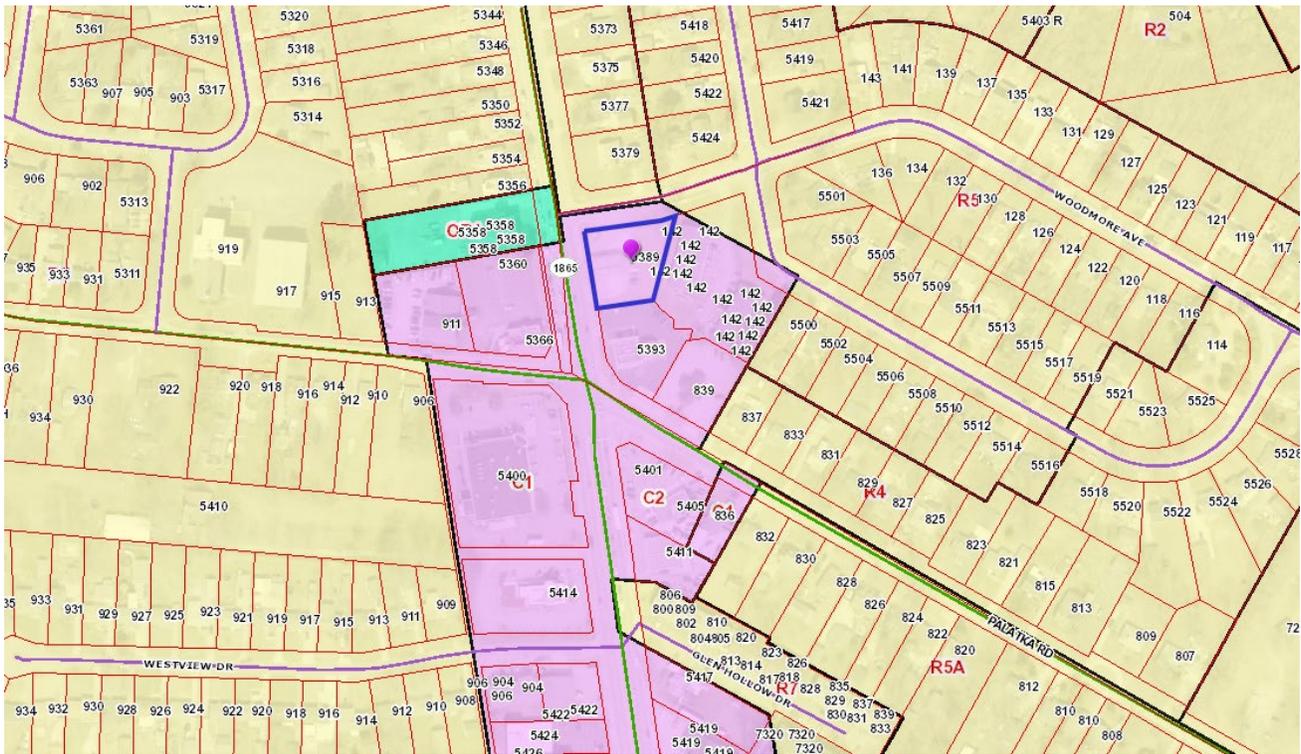
NOTIFICATION

Date	Purpose of Notice	Recipients
04/07/2025	Hearing before BOZA	1 st tier adjoining property owners and current residents; Registered Neighborhood Groups in Council District 21
04/07/2025	Hearing before BOZA	Sign posted on property

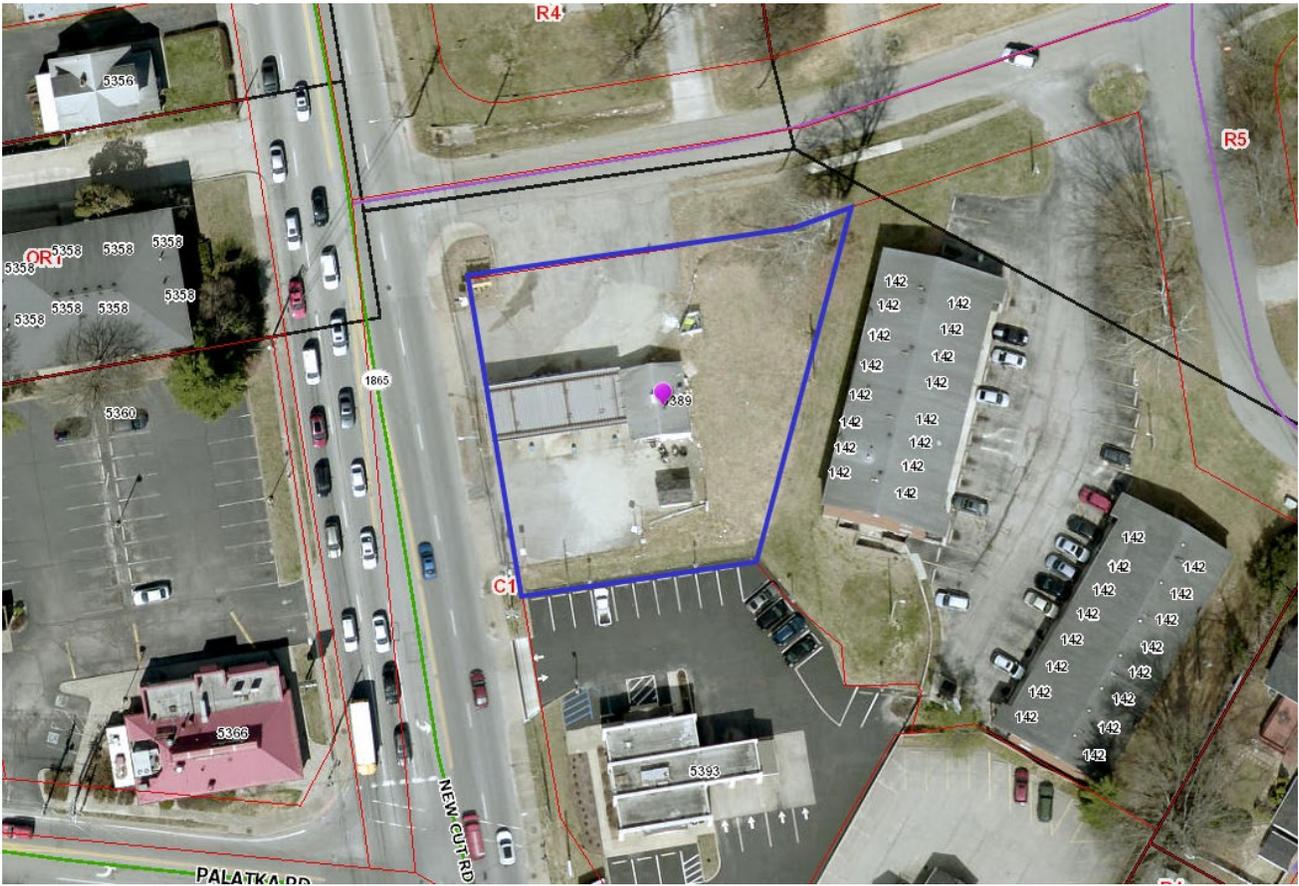
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. May 02, 2022 BOZA Minutes (excerpt related to this property)
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. May 02, 2022 BOZA Minutes

See attachment to this agenda item.

4. Conditions of approval

1. Before submitting a Category 2A development plan, a revised plan must be submitted to the Office of Planning showing removal of drive through window, vehicular circulation behind the building, and removal of the 4 parking spaces along Woodmore Avenue.