



Owensboro Metropolitan Planning Commission

Address: 1516 & 1522 W. 4th STREET

Agenda: June 12, 2025, Item #3a

Zone/Ref: R-4DT Inner-City Residential (Proposed), Zoning Ordinance, Article 17, Section 17.3111(b)

Applicant: Vets Buy Homes, LLC; VBH Flips KY, LLC; Matt McCaslin

DESCRIPTION of requested Variance

Consider a request for a **Variance** in order to eliminate the required 10-foot wide landscaping buffer consisting of a 6-foot tall continuous element and 1-tree per 40-linear-feet where the subject properties adjoin B-4 General Business zoning to the east and west.

CONSIDERATIONS - Refer to applicant's reasons, attached

YES

A. SPECIAL CIRCUMSTANCES? Are there special circumstances that do not generally apply to land in the general vicinity, or in the same zone?

In a corresponding application, the applicant has proposed to rezone the subject properties from B-4 General Business to R-4DT Inner-City Residential. If rezoned, the two residential properties will then immediately adjoin B-4 zoning on both sides. When commercial and residential zones adjoin one another, the zoning ordinance requires that they are separated by a 10-foot-wide landscaping buffer consisting of a 6-foot-tall continuous element and 1-tree per 40-linear-feet. In this situation, the applicant is creating the need for this element, so the required screening shall be located on the subject properties.

However, the applicant contends that the required buffer and screening elements are not necessary because, although the adjoining properties are zoned B-4 General Business, they are currently (and have always been) utilized residentially. Furthermore, upon review, it is anticipated that (despite their current B-4 zoning) the adjoining lots will likely remain residential in use because:

- They are both located within a Central Residential plan area;
- Both lots are relatively narrow in size (39-feet wide and 36-feet wide); and,
- Due to access limitations, neither lot shall be granted direct access to W. 4th Street, limiting direct access to Castlen Street and to the rear alley.

Granting the variance as proposed will not adversely affect the public safety, will not alter the essential character of the general vicinity, will not cause an unreasonable circumvention of the zoning regulations, and is not expected to cause a hazard or a nuisance to the public because the subject properties and the adjoining properties have all historically been utilized residentially, which is not anticipated to change despite the current B-4 General Business zoning on the adjoining properties.

NO

B. HARDSHIP? Would strict application of the regulations deprive the applicant of the reasonable use of the land, or create an unnecessary hardship on the applicant?

The landscaping buffer is not required to be established as a 10-foot straight line, but rather the buffer can be averaged with a minimum width of 3-feet and the required trees can be clustered or grouped.

NO

C. APPLICANT'S ACTIONS? Are the circumstances from which relief is sought a result of the applicant's actions taken after adoption of the zoning regulation?

IF YES: WILLFUL ACTIONS? Did the applicant take WILLFUL actions in violation of the zoning regulation? IF SO, the board SHALL DENY the variance.

FINDINGS: Granting this Variance...

WILL NOT

1. Adversely affect the public health, safety or welfare because both, the subject properties and the adjoining properties, are all utilized residentially;

WILL NOT

2. Alter the essential character of the general vicinity because the subject properties have historically been utilized residentially without the implementation of the required screening elements;

MAY NOT

3. Cause a hazard or nuisance to the public because it is anticipated that the adjoining properties will likely remain residential in use despite their current B-4 General Business zoning; and,

WILL NOT

4. Allow an unreasonable circumvention of the requirements of the zoning regulations because the ordinance intends to separate unlike uses, which is not the case in this situation due to the legal non-conforming status of the adjoining residential homes on both sides.

STAFF RECOMMENDATION

APPROVAL Condition:

1. Obtain all necessary building, electrical and HVAC permits, inspections and certificates of occupancy and compliance.