

<p align="center">VARIANCE STAFF REPORT</p>	<p align="center">City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953</p>
<p><u>Docket Number:</u> 2011-V-27</p> <p><u>Public Hearing Date:</u> November 10, 2011</p> <p><u>Pre-Application Meeting Date:</u> October 12, 2011</p>	<p><u>Applicant/Property Owner:</u> KY Bowling Green Westpark, LLC 14 South Main Street, Second Floor Greenville, SC 29601</p> <p><u>Kohl's Department Store Inc.</u> N56 W/7000 Ridgewood Drive Menomonee Falls, WI 53051</p>
<p><u>Location of Proposed Variance:</u> 2321 Gary Farms Blvd.</p> <p><u>Acreage or Square Footage of Tract:</u> 11.21 Acres</p> <p><u>PVA Parcel Number:</u> 041D-08-009</p>	<p><u>Site District:</u> Urban Density Development District</p> <p><u>Focal Point:</u> 106-4D Auburndale</p> <p><u>Characteristics:</u> Dominant Use Area. Planned Shopping Center with office and professional and multi-family residential under development.</p>
<p><u>Traffic Considerations:</u> The property has road frontage on Westpark Drive – a city maintained roadway with a sixty (60) feet of right-of-way and 40.6 feet of pavement width.</p>	<p><u>Existing Land Use:</u> Commercial</p> <p><u>Zoning History:</u> The original zoning for this property is R-1 (Single Family Residential). The property was rezoned from R-1 to PSC-G (Planned Shopping Center – General) in 1999. The property was converted from PSC-G to PUD (Planned Unit Development) in 2001.</p>

DESCRIPTION OF REQUEST

The applicants are requesting a variance of fifteen (15) feet from the required twenty-five (25) foot setback for the construction of a retail store.

ZONING ORDINANCE REFERENCE

Article 4.6.8.B

VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.6.8.B. All PUD zoning classifications that do not specify setbacks different from the Zoning Ordinance are reviewed under the HB (Highway Business) zoning classification.

Setbacks in a commercial district

4.6.8.B Front Setback for the HB (Highway Business) zoning district is twenty-five (25) feet.

VARIANCE FINDINGS

KRS 100.243 - Findings necessary for granting a variance:

- (1) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - (b) 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; and
 - (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- (2) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

MOTIONS

MOTION TO **APPROVE** THE **VARIANCE** REQUEST:

I make the motion to **approve** the request for a variance at 2321 Gary Farms Blvd., Docket number 2011-V-27, a variance of fifteen (15) feet from the required twenty-five (25) foot front setback.

The testimony presented in this public hearing has shown that the granting of this variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

OR

MOTION TO **DENY VARIANCE**:

I make the motion to **deny** the request for a variance at 2321 Gary Farms Blvd., Docket number 2011-V-27, a variance of fifteen (15) feet from the required twenty-five (25) foot front setback.

Sufficient testimony has **not** been presented in this public hearing that the requested variance meet the criteria set forth in KRS 100.243, "Findings necessary for granting variances," as:

(Choose one or more appropriate finding(s) and specific items)

- **will** adversely affect the public health, safety or welfare.
 - **will** alter the essential character of the general vicinity.
 - **will** cause a hazard or a nuisance to the public
 - **will** allow an unreasonable circumvention of the requirements of the zoning regulations.
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- The proposed development plan does **not** show that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - The proposed development plan does **not** show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.