

**Board of Zoning Adjustment**  
**Staff Report**  
 January 22, 2019



<b>Case No:</b>	18VARIANCE1118
<b>Project Name:</b>	Dixie Highway Variance
<b>Location:</b>	3620 Dixie Highway
<b>Owner(s):</b>	ML Destiny Plaza LLC
<b>Representative:</b>	Brian Shirley, Arnold Consulting Engineering Services
<b>Jurisdiction:</b>	City of Shively
<b>Council District:</b>	3 – Keisha Dorsey
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUEST**

- **Variance** from City of Shively Development Code section 5.5.1.A.2 to allow a structure to exceed the required front and street side yard setbacks.

Location	Requirement	Request	Variance
Front Yard	0 ft.	15.1 ft.	15.1 ft.
Street Side Yard	0 ft.	7 ft.	7 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is located in the City of Shively at the intersection of Dixie Highway and Oehrle Drive and is currently undeveloped. The applicant proposes to construct a one-story office building. The applicant requests variances from the City Shively Development Code section 5.5.1.A.2 to allow a structure to exceed the required front and street side yard setbacks.

**STAFF FINDING**

Staff finds that the requested variance is adequately justified and meets the standard of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the City of Shively Development Code from section 5.5.1.A.2 to allow a structure to exceed the required front and street side yard setbacks.

**TECHNICAL REVIEW**

- No technical review was undertaken

**INTERESTED PARTY COMMENTS**

No interested party comments were received.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.5.1.A.2**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the structure will be constructed to comply with all building codes, including fire codes.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the setback is closer to the corner than nearby structures.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the structure will comply with building codes and will not create sight issues at the intersection.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure is closer to the corner than the one across Oehrle Drive and the parking is behind the building, which is more compatible with the form district guidelines.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and of similar size to neighboring lots.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the proposed setbacks are similar to neighboring properties.

3. 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.

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 as the applicant is requesting the variance and has not begun construction.

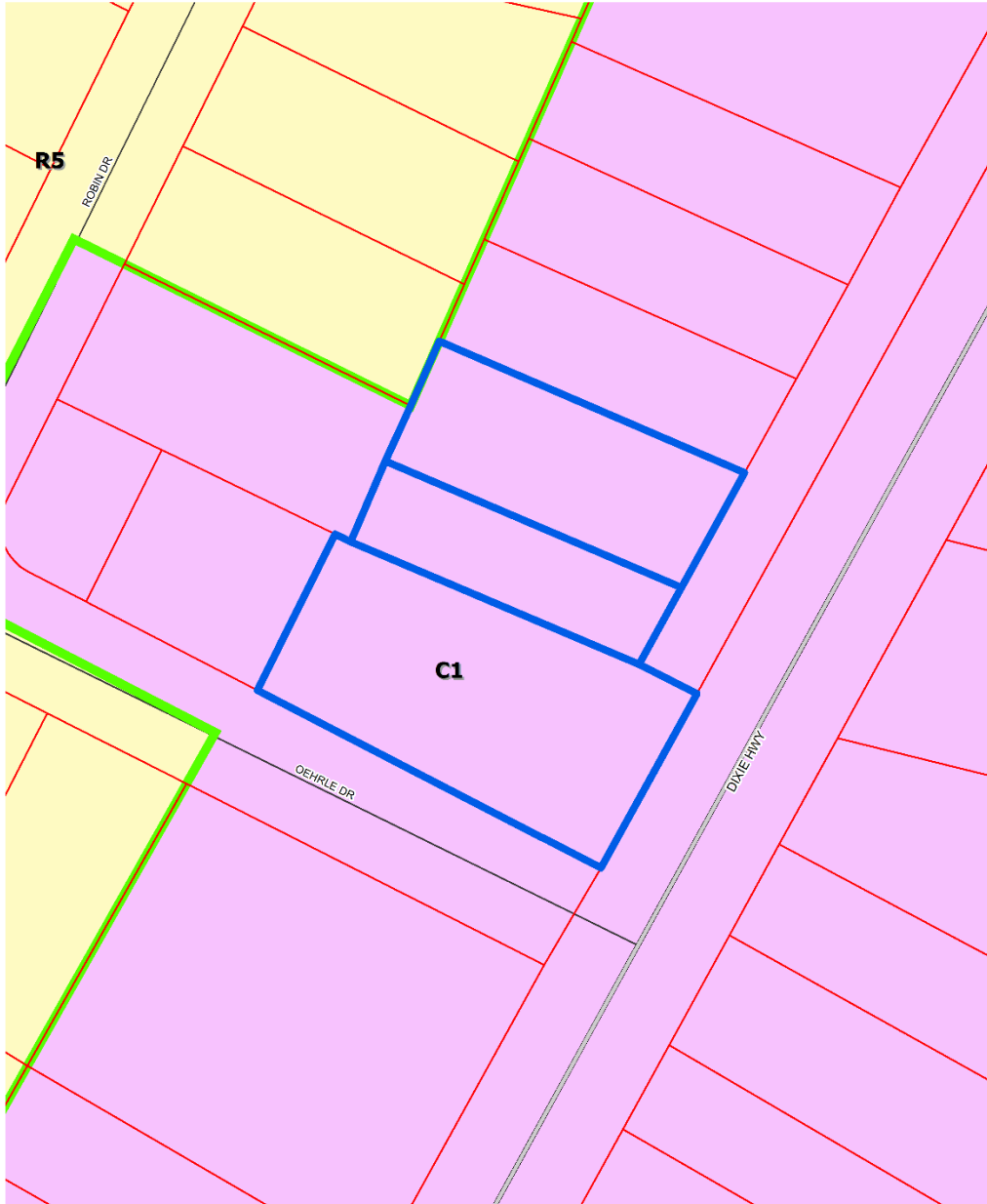
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>01/04/2019</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 3
<b>01/04/2019</b>	Hearing before BOZA	Notice posted on property

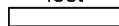
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevation
5. Site Photos

1. Zoning Map



3620 Dixie Highway  
feet



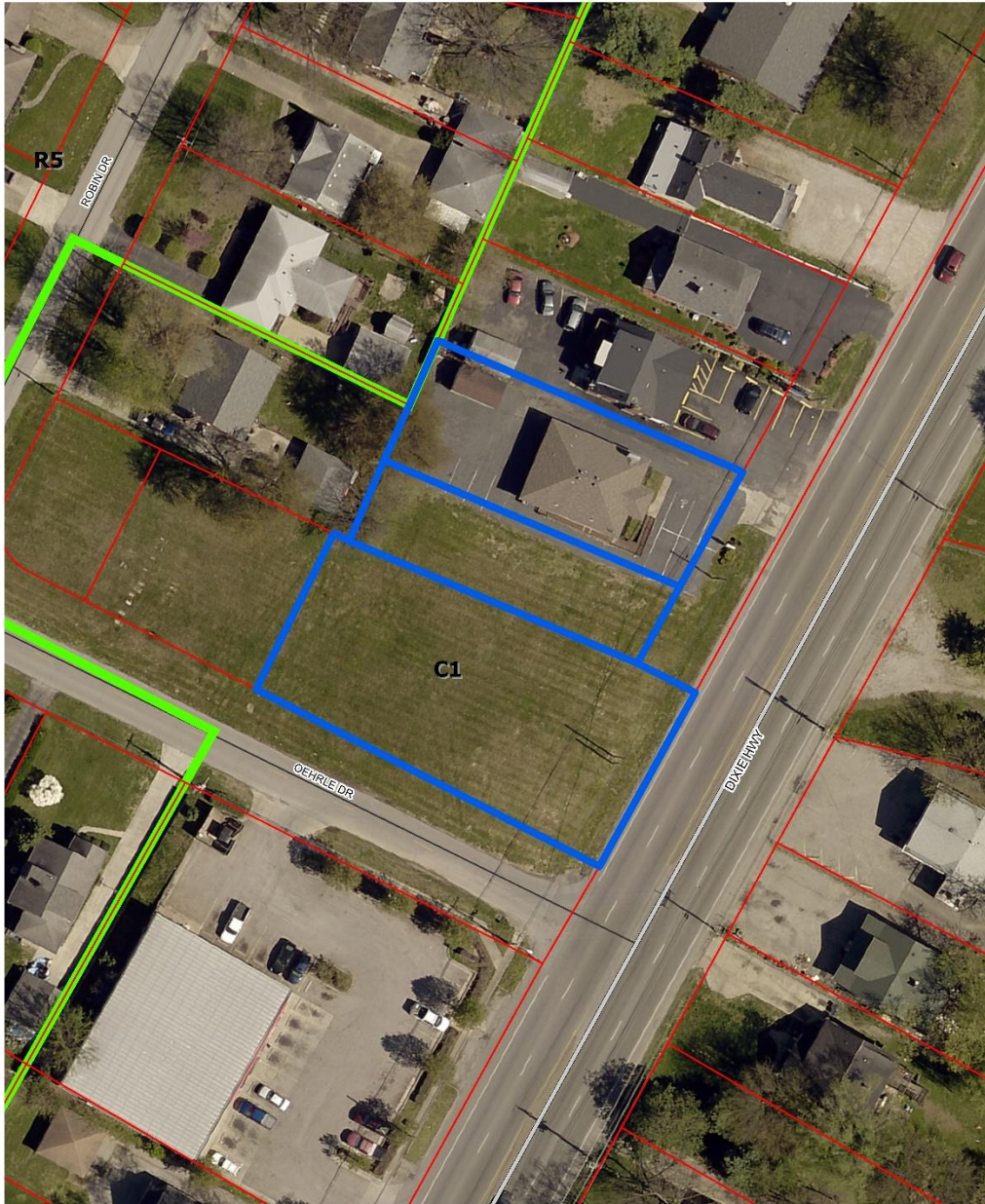
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Map Created: 1/11/2019

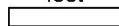


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2. Aerial Photograph



3620 Dixie Highway  
feet



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Map Created: 1/11/2019



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### 3. Site Plan



**VARIANCE FOR FRONT YARD SETBACK ALONG DIXIE HIGHWAY**  
 REQUIRED: NO MORE THAN 5 FT FROM RIGHT-OF-WAY LINE (PER SECT ON S.6.1)  
 REQUESTING: 15.1 FT FROM RIGHT-OF-WAY LINE

DEVELOPMENT SUMMARY		
STATISTIC	PERMITTED/REQUIREMENT	PROPOSED
DATE/TIME PERMITTING	01-06-2019 10:00 AM	01-06-2019 10:00 AM
PROJECT NAME	REVISIONS	NO. OF REVISIONS
PROJECT NO.	NO.	NO.
PROJECT ADDRESS	NO.	NO.
PROJECT AREA	NO.	NO.
PROJECT TYPE	NO.	NO.
PROJECT CLASS	NO.	NO.
PROJECT SUBCLASS	NO.	NO.
PROJECT DISTRICT	NO.	NO.
PROJECT ZONING	NO.	NO.
PROJECT SUBZONING	NO.	NO.
PROJECT DISTRICT	NO.	NO.
PROJECT CLASS	NO.	NO.
PROJECT SUBCLASS	NO.	NO.
PROJECT DISTRICT	NO.	NO.

REVISIONS	
NO.	DATE

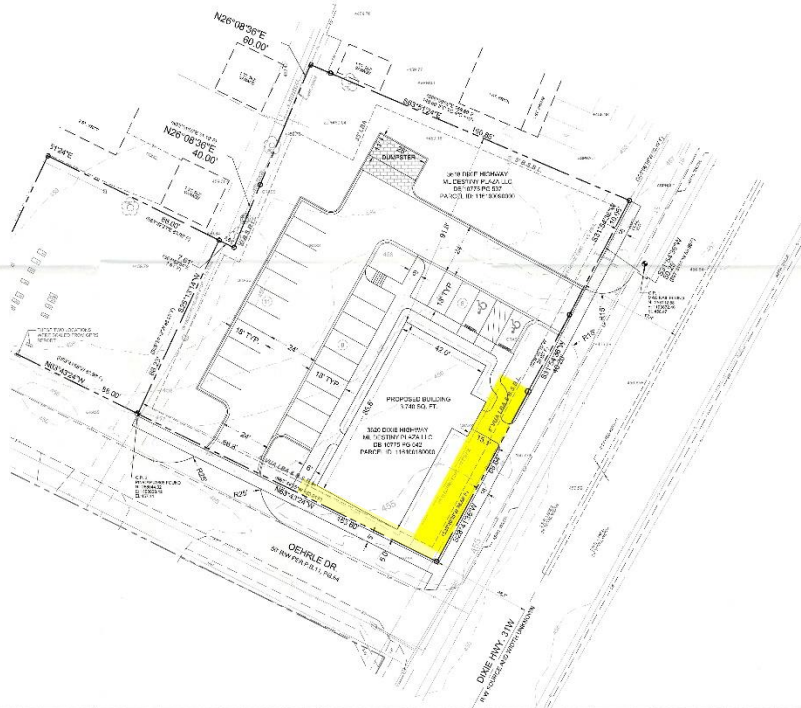
**HUGHES AND COLEMAN**  
 3618 AND 3620 DIXIE HIGHWAY  
 SHIVELY, KY 40216



JOB NUMBER: 18-00-0018  
 DATE: 12-20-2018  
 SCALE: 1" = 30'  
 DRAWN: K. CARDELL  
 CHECKED: B. SHIPLEY  
 FILE PATH: 18-00-0018-0018.dwg

RECEIVED  
 DEC 19 2018  
 PLANNING &  
 DESIGN SERVICES

**EX1**  
 VARIANCE  
 EXHIBIT



**LEGEND**

- - - - - PROPERTY LINE
- - - - - EXISTING EASEMENT
- - - - - EXISTING CONTOUR
- - - - - PROPOSED CONTOUR
- - - - - EXISTING FENCE
- - - - - EXISTING SANITARY SEWER
- - - - - EXISTING WALKS
- - - - - EXISTING STORM SEWER
- - - - - EXISTING COVENANT LINE
- - - - - EXISTING DAT
- - - - - EXISTING FENCE
- - - - - EXISTING SANITARY SEWER
- - - - - EXISTING WATER MAIN/OLE
- - - - - EXISTING STORM SEWER
- - - - - EXISTING LIGHT POLE
- - - - - EXISTING POLE
- - - - - EXISTING SIGNPOST
- - - - - EXISTING SIGN
- - - - - EXISTING TREE

0 20 40 60 80  
 www.kentucky811.com



4. Elevation



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DEC 12 2018  
PLANNING &  
DESIGN SERVICES  
18 VARIANCE 1110

5. Site Photos



Subject property.





Properties across Dixie Highway.



Property across Oehrle Drive.





Looking west down Oehrle Drive.



Looking north down Dixie Highway.



BOZA notice of public hearing sign.