

Board of Zoning Adjustment

Staff Report

November 1, 2021



Case No:	21-VARIANCE-0129 and 21-WAIVER-0118
Project Name:	Dixie Highway Variance and Waivers
Location:	8094 Dixie Highway
Owner:	Ehrlers Properties
Applicant:	Michael Pluta – MRP Associates, LLC
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code (LDC) section 5.3.2.C.2.a to allow a structure to encroach into the required side yard setback.
- **Waiver** from Land Development Code section 10.2.4 to not provide the required Landscape Buffer Area (LBA) along the western property line.
- **Waiver** from Land Development Code section 10.2.4 to not provide the required LBA along the northern and eastern property lines.

Location	Requirement	Request	Variance
Side Yard	25 ft.	1 ft.	24 ft.

CASE SUMMARY

The subject property is located in Pleasure Ridge Park on the west side of Dixie Highway at the intersection with Paramount Drive. The site currently has a one-story commercial structure and the applicant is proposing to construct an addition on the rear of the existing structure. It is zoned C-1 Commercial in the Suburban Marketplace Corridor Form District. There is no required side yard setback unless adjacent to residentially zoned property or a structure with first floor residential use. The property to the west has a multi-family structure with first floor residential use, therefore, the required setback is 25 ft.

The proposed addition also requires the applicant to provide LBAs along the eastern, western, and northern property lines. The addition will prevent buffering along a portion of the western property line and there are existing trees along a portion of the rest. The northern and eastern property lines are within the existing parking lot.

STAFF FINDING

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the addition may have an adverse impact on the adjoining property owner. Staff finds that the requested waivers to

not provide the LBAs along the eastern, western, and northern property lines are adequately justified and meet the standards 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 LDC from section 5.3.2.C.2.a to allow a structure to encroach into the required side yard setback. The Board of Zoning Adjustment must also determine if the proposal meets the standards for granting waivers from LDC section 10.2.4 to not provide the LBAs along the eastern, western, and northern property lines.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

Staff received a phone call generally inquiring about the request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.3.2.C.2.a

- (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, because the proposed addition must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the property.

- (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 there are a variety of setbacks along Dixie Highway. Also, the existing building is at an angle and any rear addition will get closer to the side property line. Furthermore, the proposed addition is adjacent to the existing parking area behind the multi-family structure and not the structure itself.

- (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 proposed accessory structure must be constructed to comply with all building codes, including fire codes.

- (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 addition is adjacent to a parking area and not the multi-family structure.

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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the existing building is at an angle to the western property line.

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 would create an unnecessary hardship on the applicant because there is no other location to construct an addition and the existing structure is already within the required setback.

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 has not started construction and is requesting the variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS OF SECTION 10.2.4

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

STAFF: The waivers will not adversely affect adjacent property owners as the subject property is a corner lot and there is existing landscaping along the western property line. The northern and eastern property lines are within the existing parking lot.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver will not violate these guidelines as there is existing landscaping along the western property line and the northern and eastern property lines are in the existing parking lot.

- (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 waiver is to bring the existing site conditions into compliance.

- (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 because the waiver is to bring the existing site conditions into compliance.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

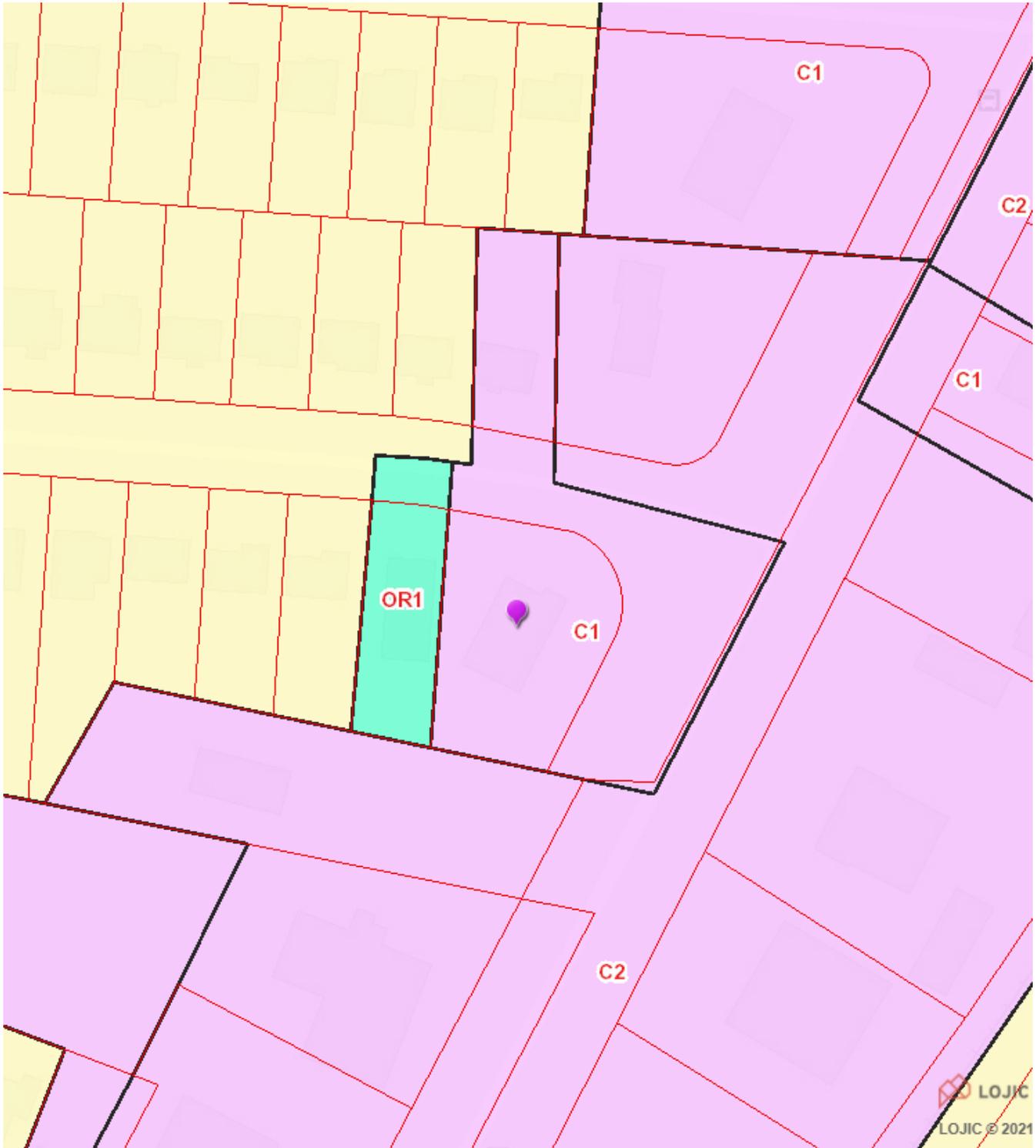
NOTIFICATION

Date	Purpose of Notice	Recipients
10/15/2021	Hearing before BOZA	1 st tier adjoining property owners and residents Registered Neighborhood Groups in Council District 14
10/19/2021	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Site Plan



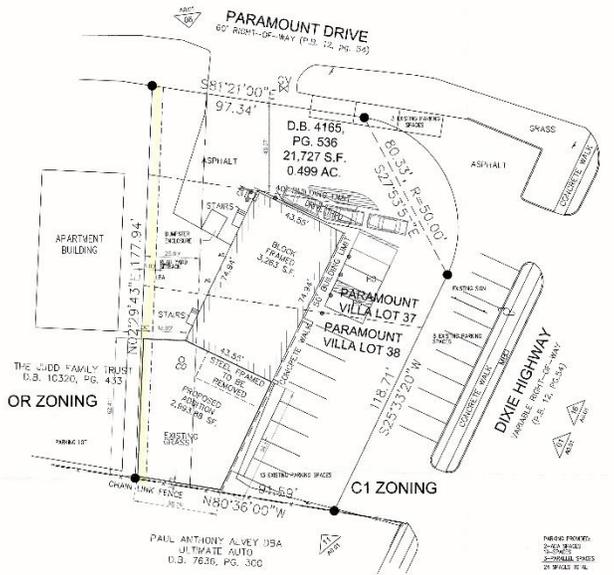
01 ELEVATION: DIXIE HIGHWAY (EXISTING)
SCALE: NONE



06 ELEVATION: PARAMOUNT DRIVE (EXISTING)
SCALE: NONE



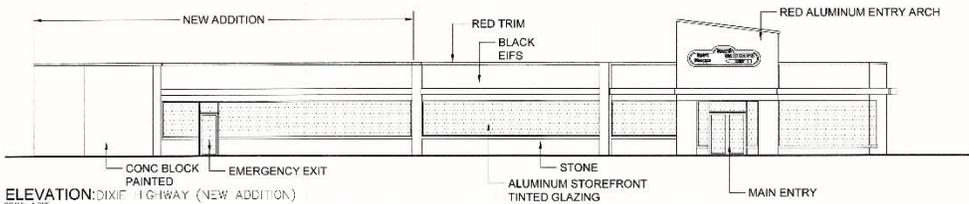
11 ELEVATION: SOUTH (EXISTING)
SCALE: NONE



14 PLAN: PROPOSED SITE IMPROVEMENTS
SCALE: 1"=20'



VICINITY MAP:
1/4" SCALE



16 ELEVATION: DIXIE HIGHWAY (NEW ADDITION)
SCALE: 1/8"=1'-0"



Cox's Smokers Outlet
AN ADDITION AND ALTERATION PROJECT

8094 Dixie Highway Louisville, Kentucky 40258

NO.	REVISION	DATE

RECEIVED
AUG 23 2021
PLANNING & DESIGN SERVICES

A0.01

4. Site Photos



Front of subject property and eastern and northern property lines.



Existing side yard setback and western property line.



Existing side yard setback and western property line.



Location of proposed addition.



Location of proposed addition.



Location of proposed addition and parking on adjacent property.