

Board of Zoning Adjustment

Staff Report

April 24, 2023



Case No:	23-VARIANCE-0029
Project Name:	New Life Directions Ministries Dixie Apartments
Location:	10615 Dixie Highway
Owner/Applicant:	New Life Directions Ministries, Inc.
Representative:	Kelli Jones: Sabak, Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	25- Khalil Batshon
Case Manager:	Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code section 5.3.2.C.2.b to allow a principal structure and parking to encroach into the required side yard setback.

Variance from the Land Development Code section 5.5.5 to allow an accessory structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback (Principal Structure and Parking)	25 feet	5 feet	20 feet
Side Yard Setback (Accessory Structure)	25 feet	7 feet	3 feet

CASE SUMMARY/BACKGROUND

The subject site is zoned C-2 Commercial within the Suburban Marketplace Corridor (SMC). Located on the eastern side of Dixie Highway in Southwest Jefferson County; New Life Directions Ministries is proposing to demolish the former hotel that had been serving as the "Louisville Single Mom Training Center." They plan to build 20 apartments that will continue being utilized as transitional housing that will provide short-term housing and support services to mothers and children. The SMC has no side yard setback except when a non-residential use abuts a residential zone or a structure(s) with first floor residential-use; however, since this site abuts the mobile home park on Brown Park Circle, it will have a required 25-foot side yard setback on its northeastern property line. Both the proposed principal structure and the parking will encroach into the required 25-foot setback area.

LDC section 5.5.5 states that accessory structures (e.g. dumpsters, storage buildings, HVAC equipment, fast food ordering stations/menu boards and similar uses) shall not be constructed or permitted within any required setback/yard. The refuse receptacle on this site is also within the required 25-foot side yard setback and will require a variance.

STAFF FINDINGS

Staff finds the side yard setback requests are adequately justified based on staff's analysis contained in 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 Land Development Code.

TECHNICAL REVIEW

No outstanding technical comments. The associated Category 2B plan has received preliminary approval from both Transportation and MSD.

INTERESTED PARTY COMMENTS

None

RELATED CASES

23-CAT2-0007

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.3.2.C.2.b (Side Yard Setback)

- (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 structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested. In addition, both the principal structure and related parking will be screened from the mobile home park per the landscaping buffering requirements that are regulated in Chapter 10. The site will have continuous six-foot screening that will separate the two properties.

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

STAFF: The structure will not alter the essential character of the general vicinity as there are other principal structures that encroach into the side yard setback along this stretch of the Dixie Highway Corridor. In fact, the existing building on the subject site currently encroaches into the same required side yard setback on the northeastern property line.

- (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 because the structure must be constructed to comply with all building codes. In addition, the principal structure and parking will be appropriately screened from the adjoining residential properties

- (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 there are buildings at 10513 and 10517 that also encroach into the side yard setback.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises 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 the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties. This site is long and narrow, and it would be difficult to provide the required 25- foot side yard setback.

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. If the applicant has to provide the 25-foot side yard setback, it would cause a significant portion of the lot to become unbuildable thereby depriving the applicant from reasonable use of the land.

3. The circumstances are 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. The applicant has not begun construction and has applied for a variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.5.5

- (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 structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested.

- (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 because the dumpster area will be appropriately screened.

- (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 because the accessory structure will be screened from the public view and located at the edge of VUA that will be less dangerous for any vehicles maneuvering through the provided parking lot.

- (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 there is limited to space to place the dumpster on the site.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises 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 the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties. This site is long and narrow, and it would be difficult to provide the required 25- foot side yard setback.

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 as the applicant has a limited area to place the dumpster that would remain out of the vehicular maneuvering area but accessible for pick-up.

3. The circumstances are 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. The applicant has not begun construction and has applied for a variance.

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.

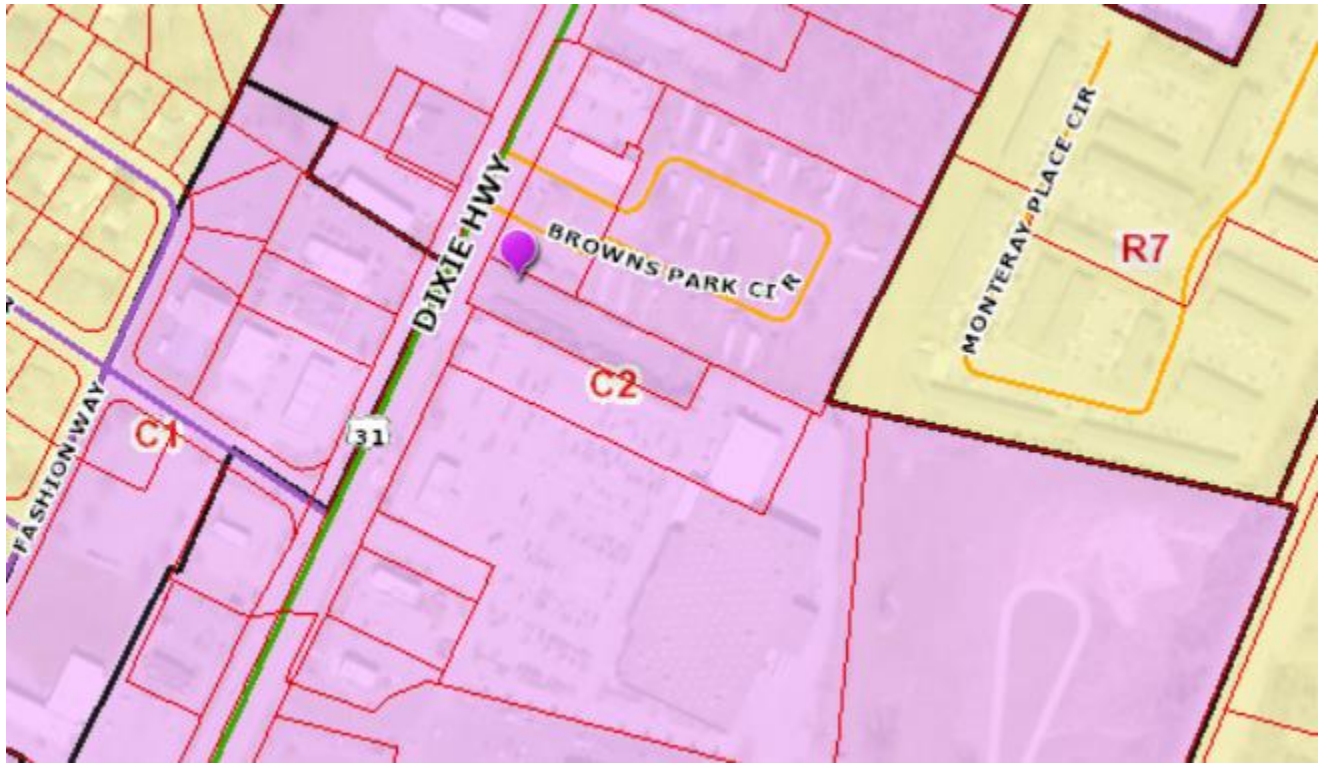
NOTIFICATION

Date	Purpose of Notice	Recipients
4/7/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 25
04/18/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Si

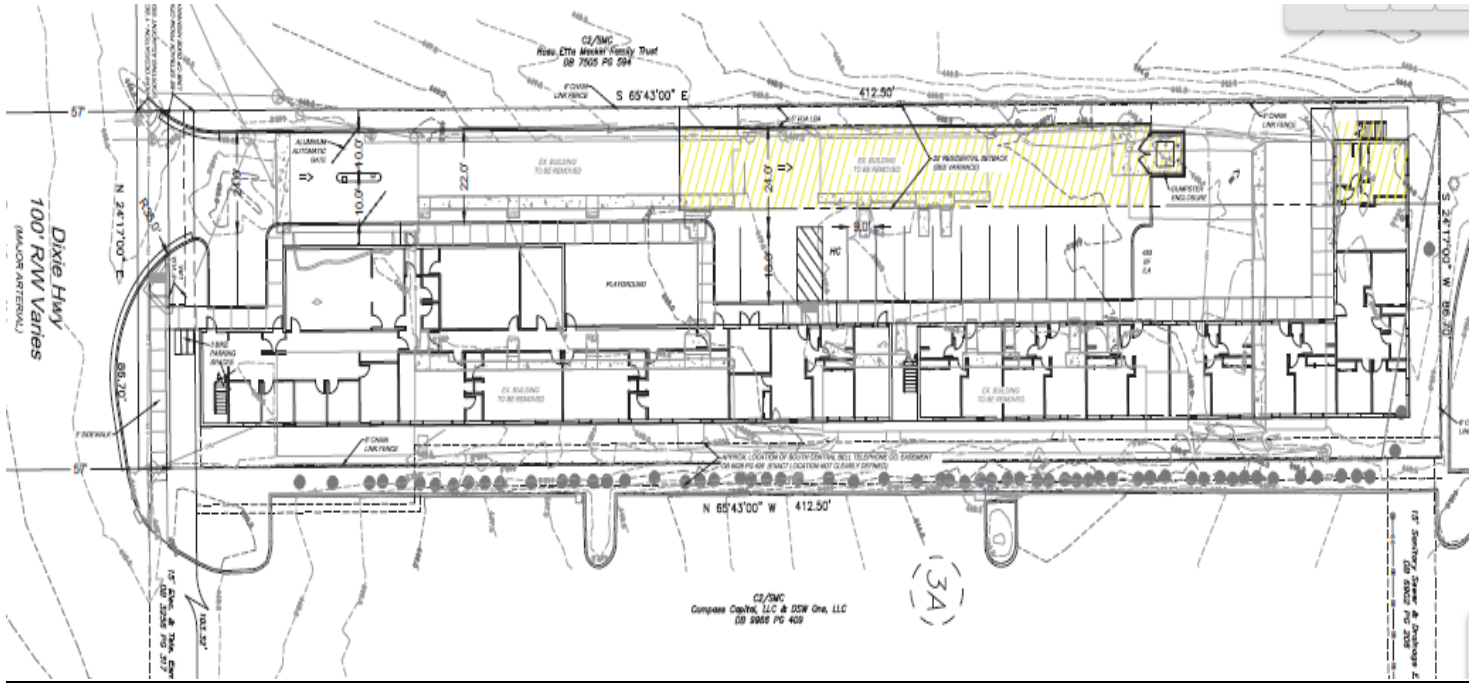
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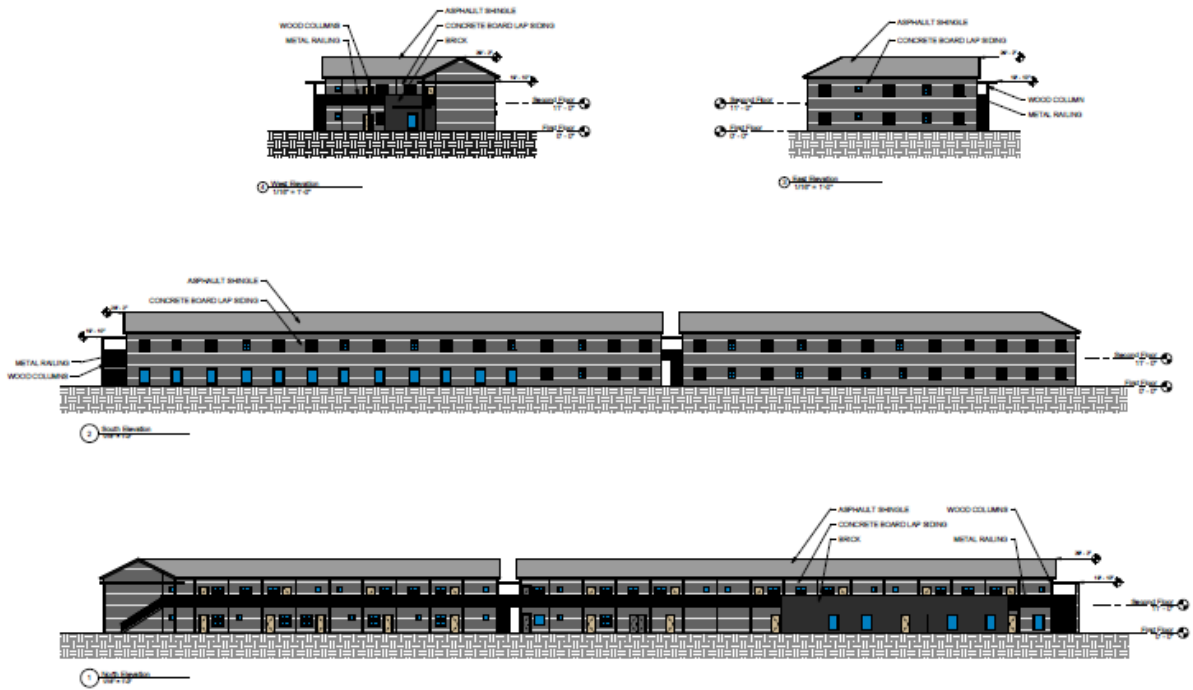
2. Aerial Photograph



3. Site Plan



4. Elevations



5. Site Photos



Front of the subject property.



To the right of subject property.



To the left of subject property.



Variance request area.



Across the street from the subject property.