

# Board of Zoning Adjustment

## Staff Report

December 4, 2017



**Case No:** 17VARIANCE1080  
**Project Name:** Future Car Sales Shed  
**Location:** 8038 Dixie Highway  
**Owner(s):** Eugene Atkins  
**Applicant:** Faysal Hassan  
**Jurisdiction:** Louisville Metro  
**Council District:** 14 – Cindi Fowler  
**Case Manager:** Dante St. Germain, Planner I

### REQUEST

- **Variance** from Land Development Code section 5.3.2.C.2.b to allow a structure to encroach into the required side yard setback where a non-residential use abuts a structure with first floor residential use.

Location	Requirement	Request	Variance
Side Yard Setback	25 feet	16.9 feet	8.1 feet

### CASE SUMMARY/BACKGROUND

The subject property is a corner lot located at the intersection of Dixie Highway and Paramount Drive. It currently contains a one-story commercial structure which is 2,471 square feet in area, and is used for automobile sales and repair. The applicant proposes to construct a new one-story shed 726 square feet in area, in the rear of the principal structure, which is the side yard of the lot. The side yard is currently enclosed with a seven-foot wooden privacy fence. The proposed shed will be enclosed entirely by the fence.

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

### TECHNICAL REVIEW

- No technical review was undertaken.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.3.2.C.2.b**

- (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 shed will be enclosed by an existing fence.

- (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 fence will screen the shed from view, and the fence has existed for several years.

- (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 shed will be constructed according to building code.

- (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 shed will be largely concealed by the existing fence. There is also an elevation change between the subject property and the single-family residence to the west, which will further conceal the shed.

## **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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the location where the shed is proposed is already enclosed by a privacy fence, and further concealed by an elevation change.

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 by preventing the applicant from constructing the shed.

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.

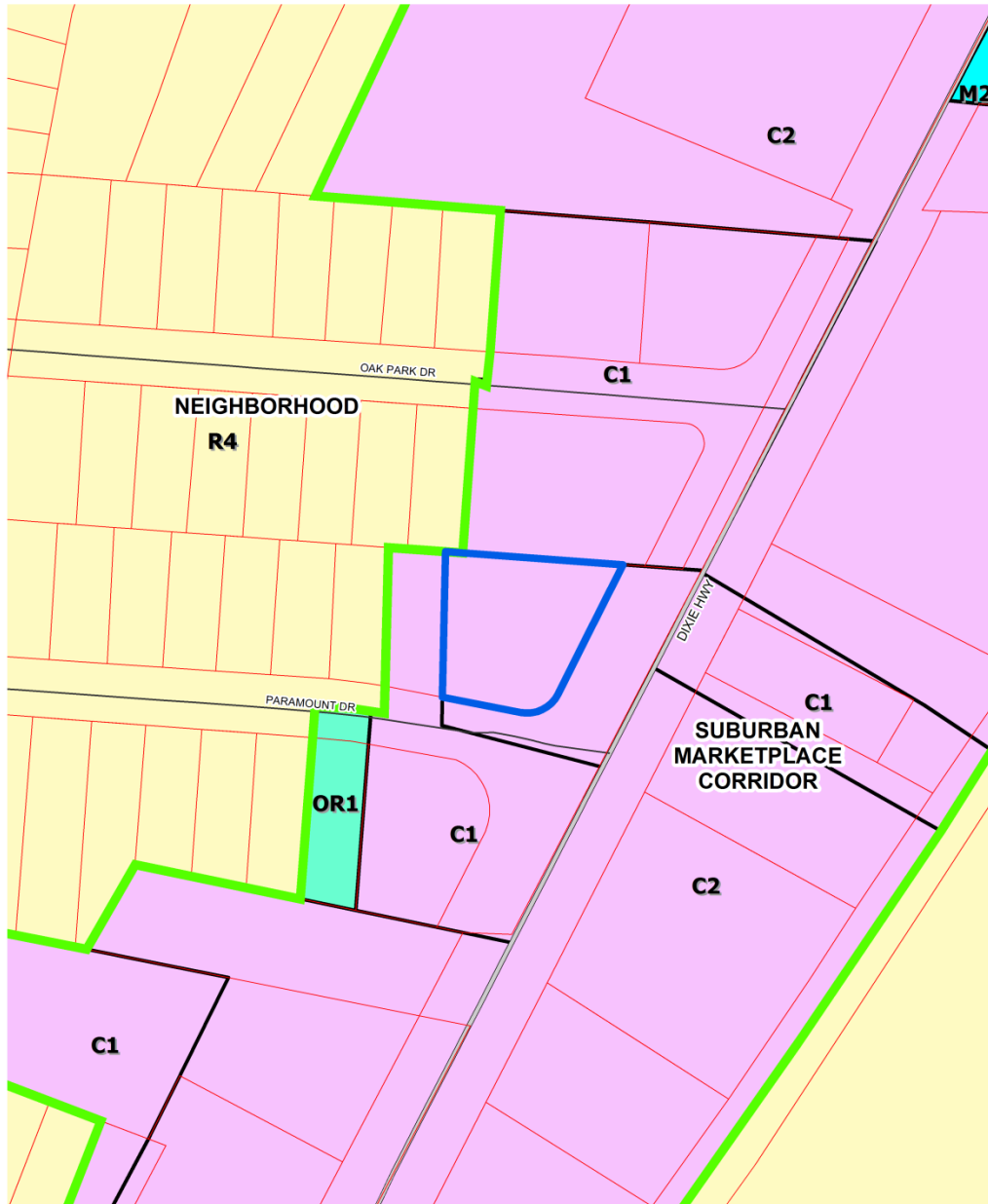
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/14/2017	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 14
11/17/2017	Hearing before BOZA	Notice posted on property

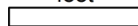
**ATTACHMENTS**

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

1. Zoning Map



8038 Dixie Highway  
feet



140  
Map Created: 11/20/2017

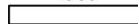


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## 2. Aerial Photograph



8038 Dixie Highway  
feet



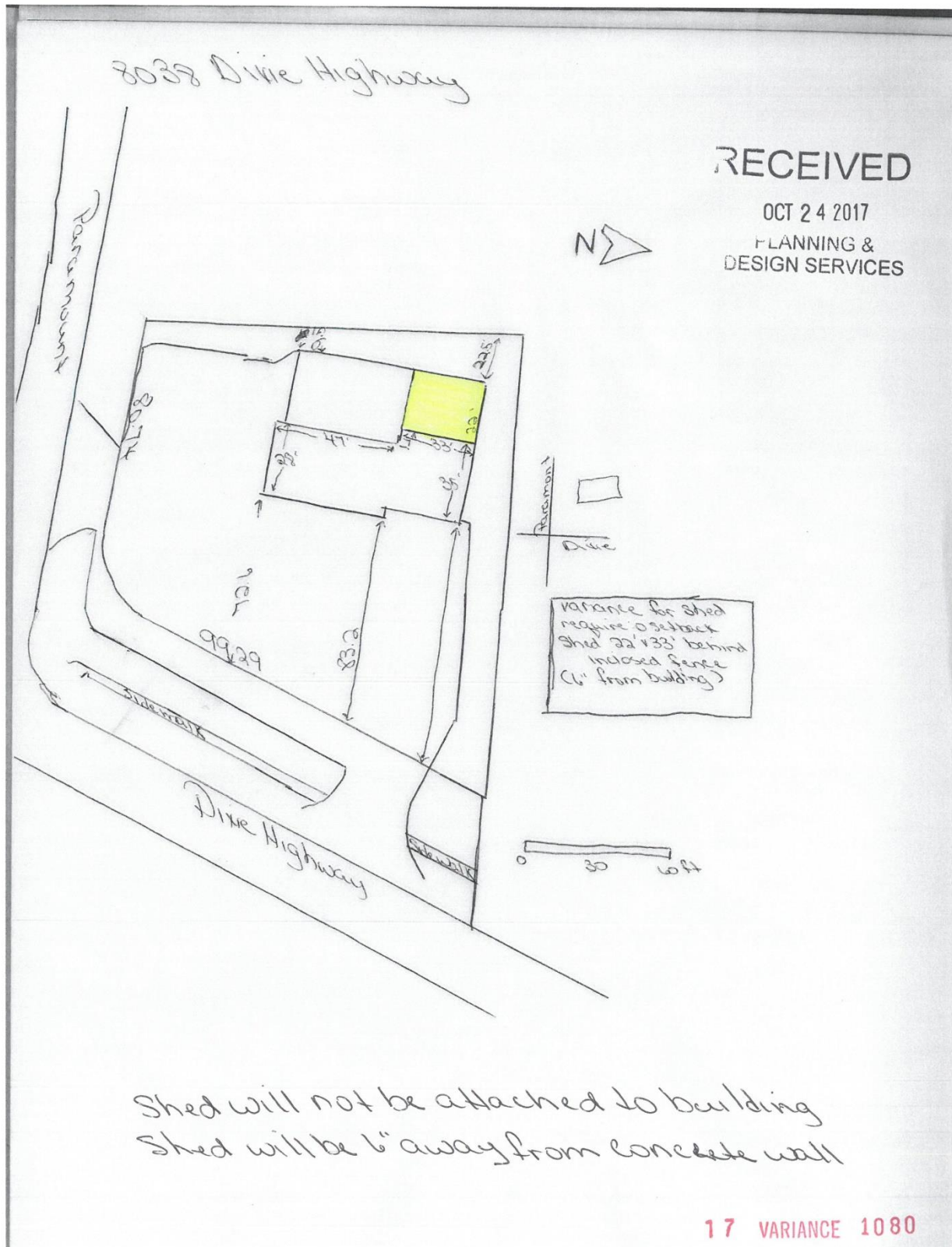
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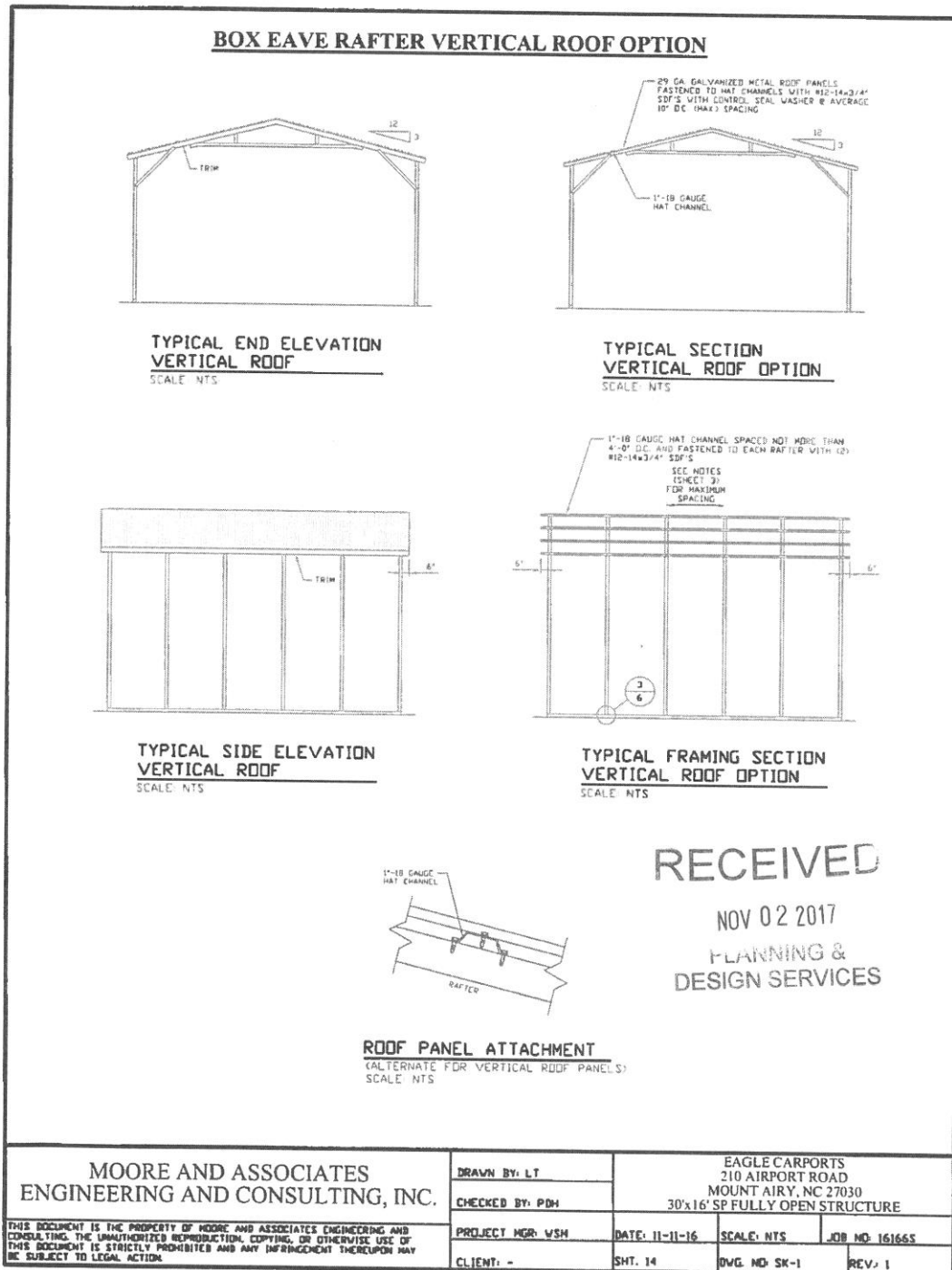
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3. Site Plan



#### 4. Elevation



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5. Site Photos



The street side of the subject property, which is the front of the building.





The property to the right of the subject property.



The property to the left of the subject property across Paramount Drive.





The property across Dixie Highway.



The location of the side yard of the subject property, with the fence and the elevation change to the single-family residence.





The portion of the single-family residence which will face the proposed shed.





The inside of the fence, with the location of the proposed shed.