

# Board of Zoning Adjustment

## Staff Report

January 25, 2021



**Case No:** 20-VARIANCE-0175  
**Project Name:** Shelbyville Road Variance  
**Location:** 11601 Shelbyville Road  
**Owner(s):** My Three Suns, LLC  
**Applicant:** Doug White – WPC Company  
**Jurisdiction:** City of Middletown  
**Council District:** 19 – Anthony Piagentini  
**Case Manager:** Zach Schwager, Planner I

### **REQUESTS:**

**Variance** from City of Middletown Development Code table 5.3.2 to allow an addition to an existing non-residential structure to encroach into the required street side yard setback.

Location	Requirement	Request	Variance
Street Side Yard	10 ft.	5 ft. 2 in.	4 ft. 10 in.

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned C-2 Commercial in the Neighborhood Form District in the City of Middletown. It is located on the northeast corner of Shelbyville Road and Old Harrods Creek Road. There is an existing commercial structure on the property and the applicant is proposing to construct an addition on the rear. The addition will encroach the same distance into the street side yard setback as the existing structure.

### **STAFF FINDINGS**

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 Middletown Development Code table 5.3.2 to allow an addition to an existing non-residential structure to encroach into the required street side yard setback.

### **TECHNICAL REVIEW**

No technical review required.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

None.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.2**

- (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, because the proposed addition must 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 addition is similar to other commercial additions in the area.

- (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 addition must be constructed to comply with all building 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 addition will be the same distance from the street side property line as the existing structure.

## **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 general vicinity or the same zone as the existing structure was constructed toward the street side 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 as the addition will be the same distance from the street side property line as the existing structure.

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 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 started construction.

### **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.

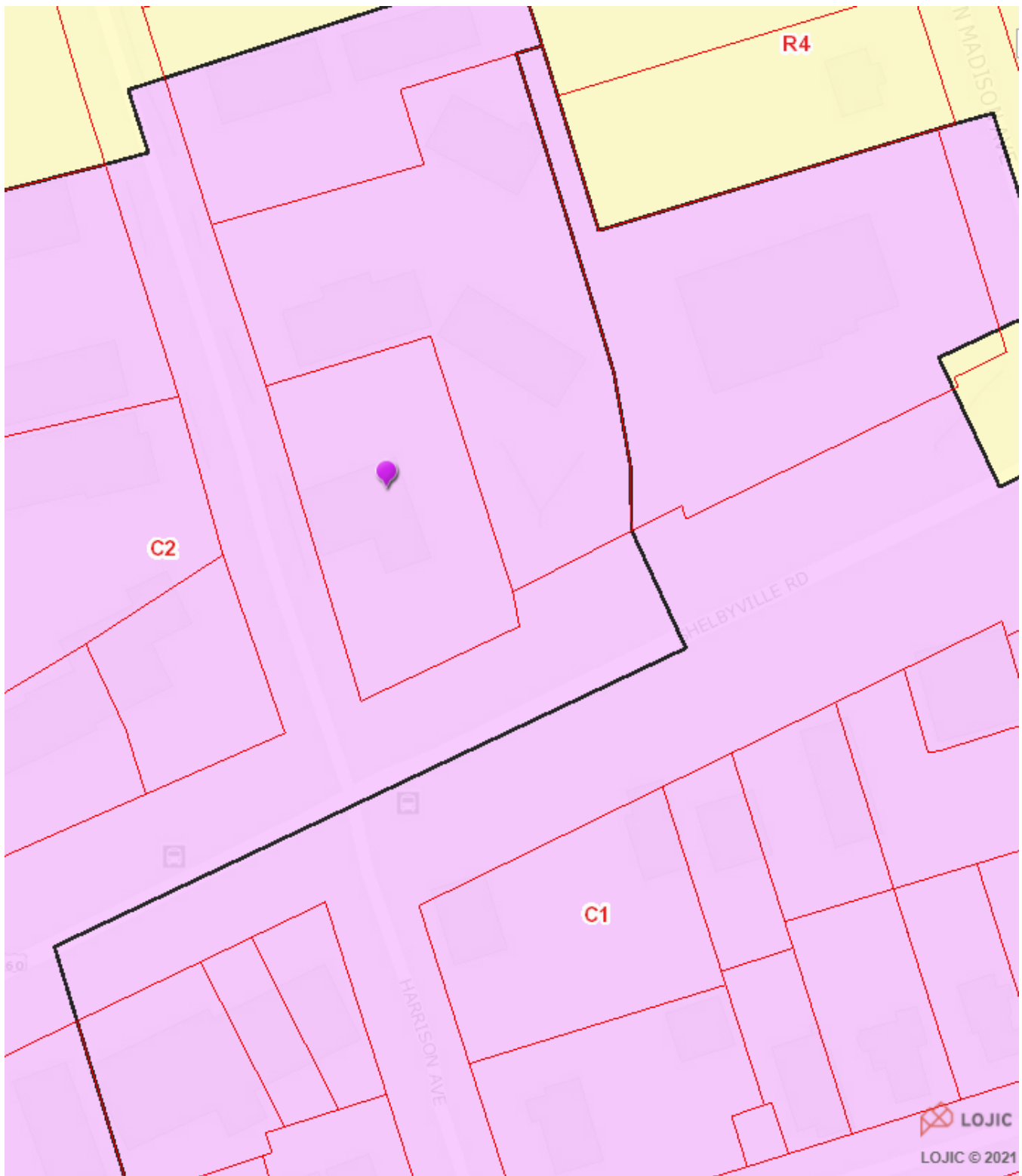
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
1/7/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 19
1/11/2021	Hearing before BOZA	Notice posted on property

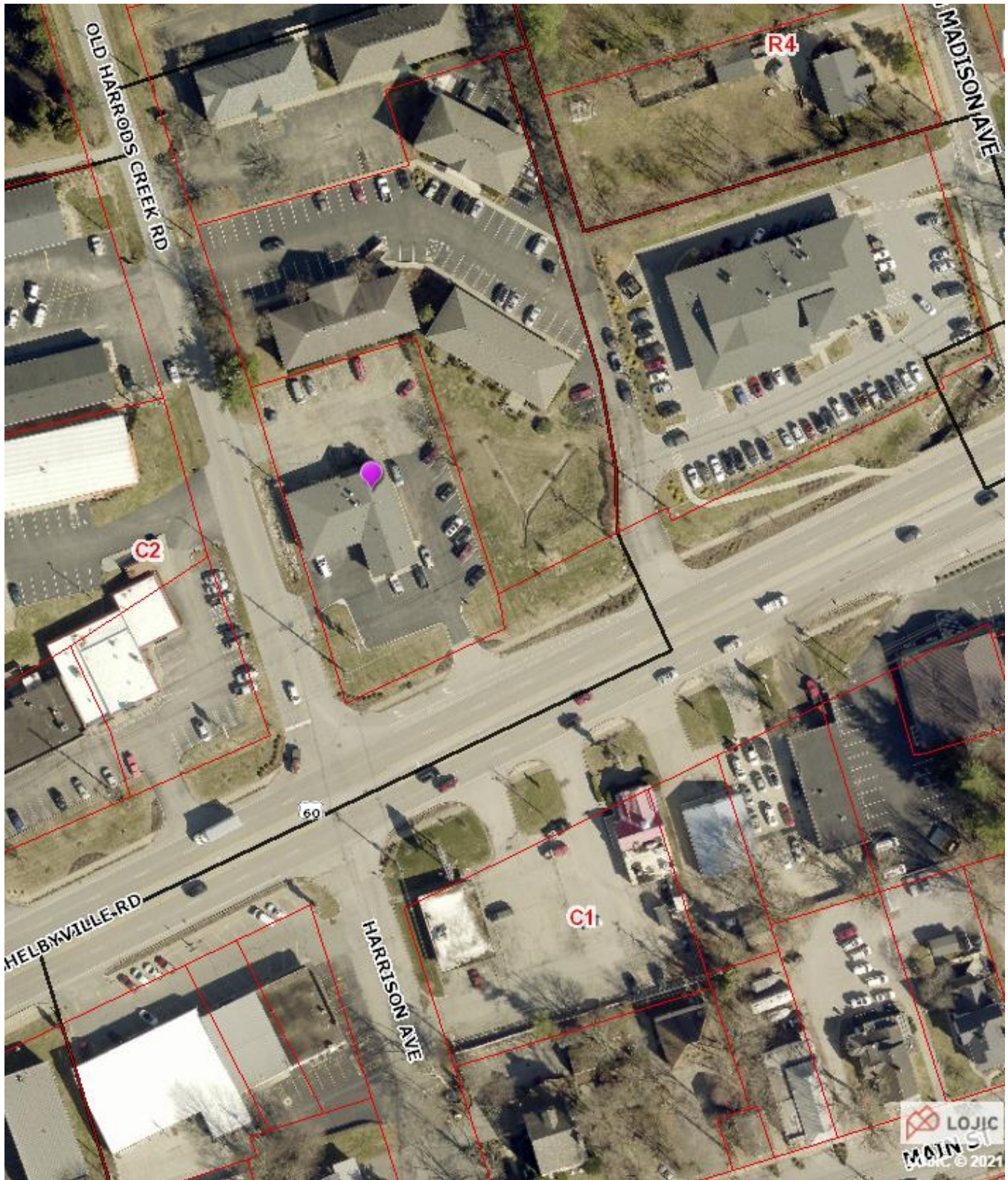
### **ATTACHMENTS**

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

## 1. Zoning Map

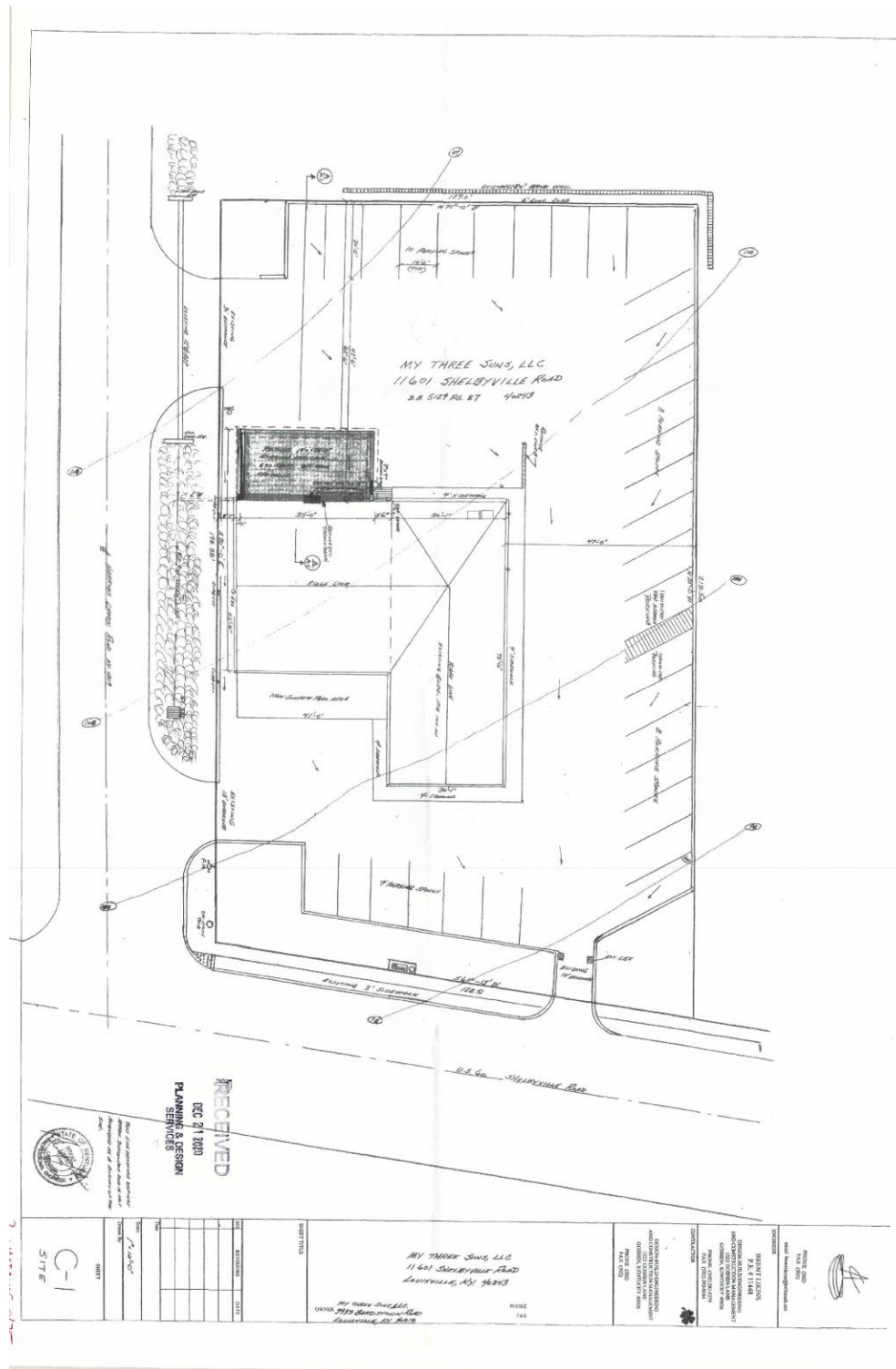


## 2. Aerial Photograph





### 3. Site Plan



#### 4. Site Photos



Front of subject property.



Proposed addition.





Proposed addition.



Proposed addition from across Old Harrods Creek Road.