

**BOARD OF ADJUSTMENT
BOONE COUNTY PLANNING COMMISSION**

R E C E I V E D
87928
MAR 09 2023
BOONE COUNTY
PLANNING COMMISSION

Five (5) scaled copies and one (1) 11 x 17 reduction of submitted drawings are required

Site Plan Review is not granted by the appropriate Board of Adjustment

An application consists of all fees paid in full, submitted drawings, and a completed application form

SECTION A: (To be completed by applicant)

1. Check One Boone Florence Walton Union
2. Check One Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
3. Applicant: Nidal Owda & Brigid Schwartz
Address: 10053 DIXIE Highway
Florence Ky 41042
City State Zip Code
Phone Number: 859-393-8959 Fax Number: _____
Email: brigidschwartz@gmail.com
4. Description of Request:
To keep the existing structure
that was added on
5. Name of Development: _____
6. Location of Development: 10053 Dixie Hwy Florence Ky 41042
Florence Ky 41042
City State Zip Code
7. Acreage Under Review: 1/4
8. Lot Number and Name of Subdivision (if part of a subdivision):
N/A
9. Current Owner: Brigid Schwartz
Address: 9028 Fort Henry Drive
Union Ky 41091
City State Zip Code
Phone Number: 859-393-8959 Fax Number: _____
Email: brigidschwartz@gmail.com

10. Proposed Use(s) on Site: Storage
11. Total Square Footage of Existing and/or Proposed Buildings: 050 sq. feet
12. Current Zoning: C-1
13. 759 199 2056
Deed Book Page Group Number
14. Is the site subject to a zone change: Yes No
If yes, date of approval: _____
15. Have you submitted a Site Plan with this request: Yes No
16. Have you submitted a list of adjoining property owners with this request: Yes No
17. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: *Brian Schumaker*
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

ORIGINAL Applicant's Signature: 
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

- \$966.00 Fee
- Legal Description of Property (ie deed)
- List of adjacent property owners & their mailing addresses
- Application Deadline: March 21, 2023
Meeting Date: April 12, 2023 @ 6:00pm

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 3/9/23 Fee Received: \$966 Receipt #: 87928

2. Is application complete:

3. Staff Reviewer: M. Schwartz

4. Scheduled Board Action Date: 4/12/2023

5. Board Action: 5/10/2023

- Approved
- Approved with Conditions (see #6)
- Denial (See #7)

6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

STAFF REPORT

#1

APPLICANT: Nidal Owda and Brigid Schwartz

LOCATION: 10051-10053 Dixie Highway

ZONING: Commercial One (C-1)

DATE: April 12, 2023

PROPOSAL

1. The applicant is requesting a Variance reducing the rear yard setback from ten (10) feet to zero (0) feet to allow for a building expansion.

SITE HISTORY

- 1969-
1974 Based on information contained in the Boone County GIS, the building at 10051 Dixie Highway was built.
- 2000 On November 8, 2000, the Boone Board of Adjustment approved a Conditional Use Permit for the construction and operation of a 2,520 square foot automotive repair facility.
- 2000 On December 4, 2000, an application was submitted to the Boone Board of Adjustment for a Variance to reduce the required rear yard setback from twenty (20) feet to five (5) feet in order to construct a 2,880 square foot automotive repair facility. On December 4, 2000, the Boone Board of Adjustment approved the Variance request, subject to the following conditions: (1) that the rear yard setback variance be approved from twenty (20) feet to ten (10) feet; and (2) a site plan showing the approximate buffer yards, landscaping, parking signage, etc. must be reviewed and approved by the staff of the Boone County Planning Commission.

APPLICABLE REGULATIONS

- A. Section 202.C of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to hear and decide on applications for variances.
- B. Section 4000 of the Boone County Zoning Regulations defines a variance as a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.
- C. The Board should evaluate the request as it relates to the criteria necessary for granting a Variance as stated in Section 204.D and 204.E of the Boone County Zoning Regulations.
 1. Findings listed in Section 204.D and 204.E:

- a. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
- (1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - (2) The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - (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.
- b. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

- D. Section 3110 of the Boone County Zoning Regulations requires a minimum rear yard setback of twenty (20) feet within the C-1 district. However, the Board's action on the Variance in 2000 reduced the minimum rear yard setback to ten (10) feet.
- E. Section 1001.A of the Boone County Zoning Regulations states that the "purpose of the Commercial One district is to provide the convenience goods and personal services required for daily living needs. Districts will be located on suitable lands central to the neighborhood trade area with direct access from neighborhood collector or arterial roads. District facilities and plans will be organized to provide central and convenient collection of vehicles, pedestrians and multi-modal forms of transportation within the district's facilities and major shopping spaces."

RELATIONSHIP TO THE COMPREHENSIVE PLAN

- A. The Our Boone County Plan 2040 Future Land Use Plan designates the site in question as "Commercial", which is described as Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc.
- B. The following Our Boone County Plan 2040 Goals and Objectives apply to this application:
1. Land uses and zoning decisions shall strive to balance the rights of landowners

- with the rights of neighbors and the community (Overall Goal A, Objective 3).
2. Development policies shall not discriminate against any person (Demographics Goal A, Objective 1).
 3. Provide appropriate services, housing, employment, and shopping opportunities in order to meet the needs of the population in all geographic areas of the County (Demographics Goal A, Objective 4).
 4. Industries shall be promoted in suitable locations to make the county a vital part of a strong regional economy (Economy Goal A, Objective 2).
 5. Local agriculture, business products, and services shall be encouraged and supported (Economy Goal A, Objective 4).
 6. Compact, efficient development patterns shall be encouraged for industrial, commercial, and office uses with appropriately sized and well maintained buffer spaces between the business use and other land uses (Economy Goal B, Objective 1).
 7. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe access and adequate parking (Economy Goal B, Objective 3).
- C. Dixie Highway is a state maintained arterial street providing for two-way traffic. Old Mt. Zion Road (Shoemaker Lane) is identified as a private street providing for two-way traffic with an approximate twenty (20) foot pavement width.

SURROUNDING LAND USES AND ZONING

- North: Shehan Pools and Shining Star’s Learning Center (C-3)
- South: Rider’s Automotive (C-1)
- East: Carter Lumber Company (C-3)
- West: Mobile home park (MHP)

SITE CHARACTERISTICS

- A. The approximate 0.70 acre property is located at the southwest corner of the intersection of Dixie Highway with Old Mt. Zion Road (Shoemaker Lane).
- B. The site has approximately one hundred (100) feet of frontage along Dixie Highway and approximately three hundred (300) feet of frontage along Old Mt. Zion Road (Shoemaker Lane).
- C. The site is currently occupied by: (1) an approximate 2,300 square foot sports café

(10051 Dixie Highway); and (2) an approximate 3,000 square foot auto service facility (10053 Dixie Highway).

- D. The site has two curb cuts onto Old Mt. Zion Road (Shoemaker Lane).
- E. The proposed addition will be set back zero (0) feet from the rear property line.

STAFF COMMENTS

- A. Based on measurements from the Boone County GIS, the existing sports café building (10051 Dixie Highway) has a rear yard setback of zero (0) feet.
- B. Based on measurements from the Boone County GIS, the existing auto service facility building (10053 Dixie Highway) has a rear yard setback of approximately seven (7) feet.
- C. The rear wall of the existing sports café building (10051 Dixie Highway) and a fence are along the rear property line of the site in question.

CONCLUSION

- A. KRS 100.241 and Section 220 of the Boone County Zoning Regulations give the Boone County Board of Adjustment and Zoning Appeals the authority to act on the request.
- B. Sections 204.D and 204.E of the Boone County Zoning Regulations identifies criteria necessary for granting a Variance. The applicant needs to provide information as to how their application meets this criteria.

Respectfully submitted,



Michael D. Schwartz
Director, Zoning Services

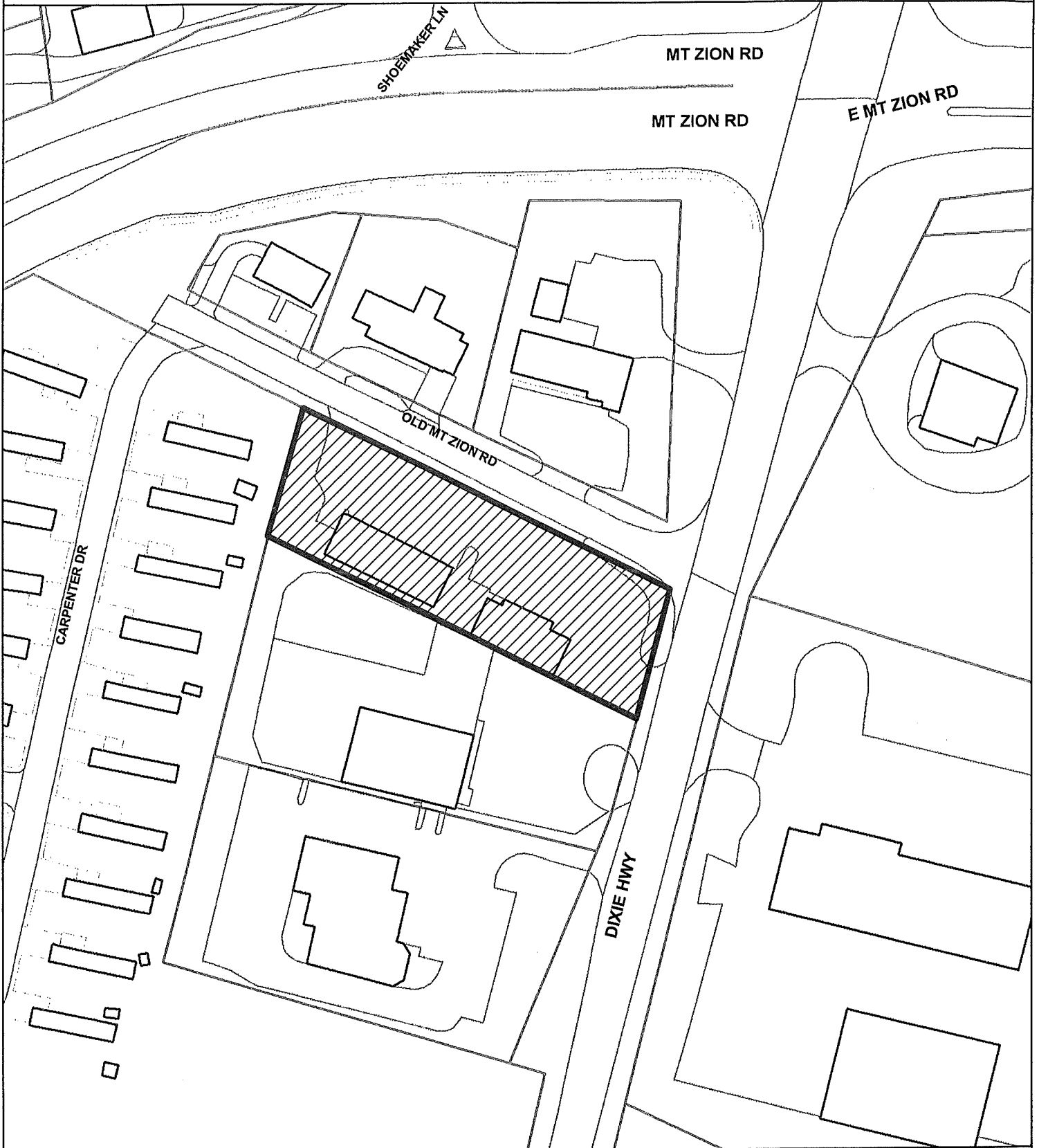
MDS/ss

Attachments

- *Vicinity Map
- *Aerial Map
- *Topographical Map
- *Zoning Map
- *2040 Future Land Use Map
- *Application
- *Development Plan

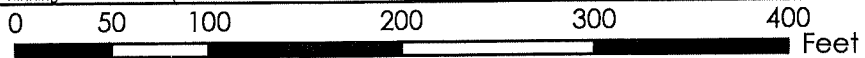
Vicinity Map

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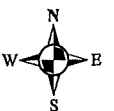
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1 inch = 100 feet



Boone County GIS - Putting Northern Kentucky on the Map



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Map File Location: G:\GIS\2022\Map Documents*.mxd

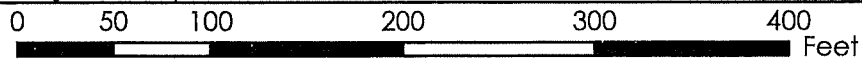
Aerial Map

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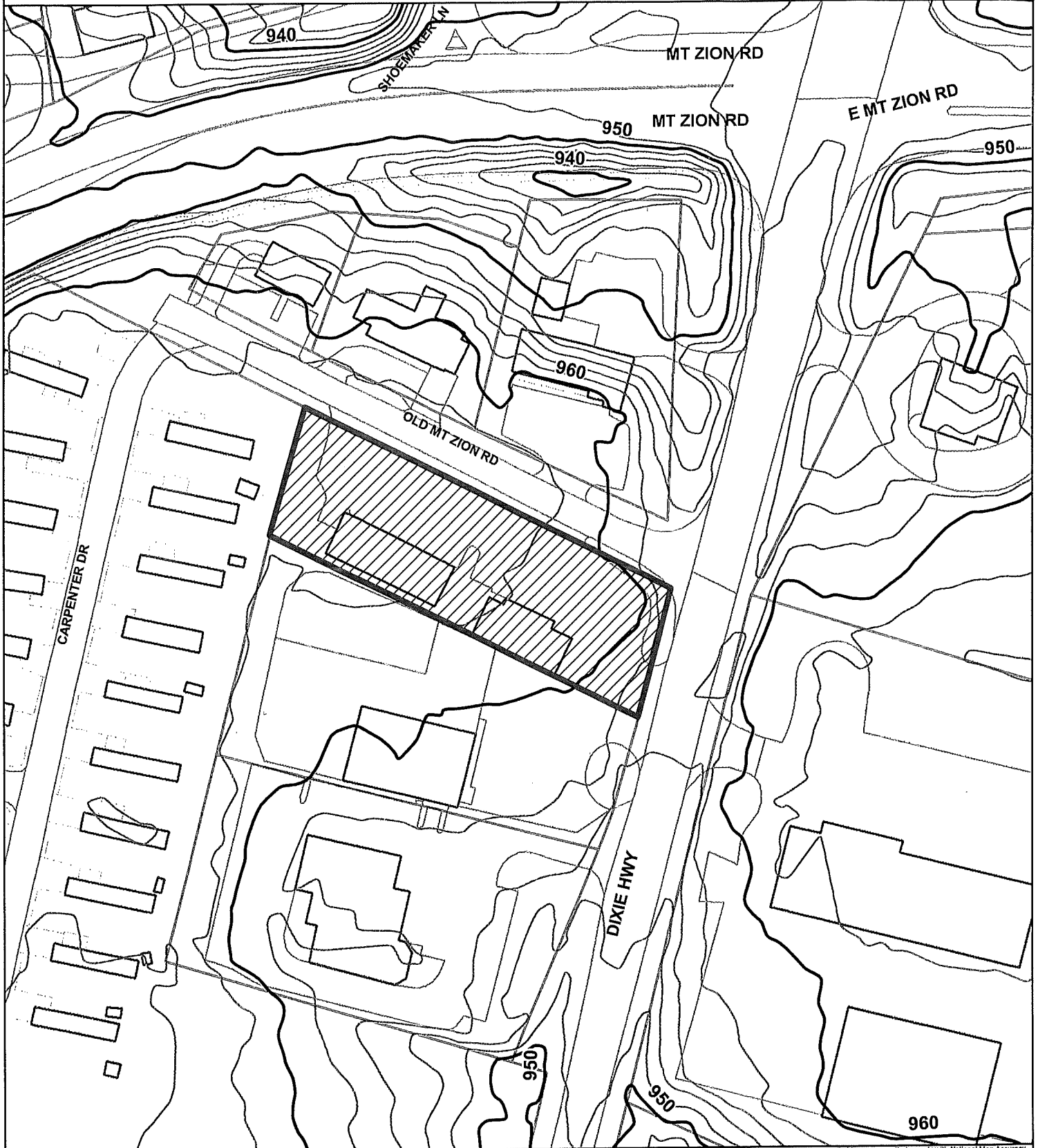


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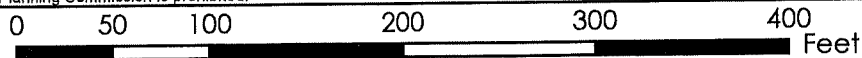
Topographic Map

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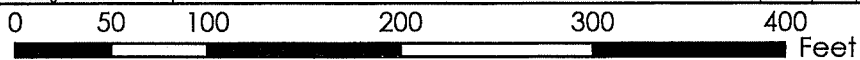
Zoning Map

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Boone County GIS - Putting Northern Kentucky on the Map



Map Created: xxjx2022



With Thanks to Esri and the GIS User
ArcMap Document: 2.mxd

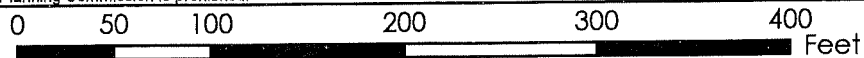
2040 Future Land Use Map

www.boonecountygis.com



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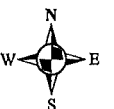
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BOONE COUNTY PLANNING COMMISSION**

RECEIVED
87928
MAR 09 2023
BOONE COUNTY
PLANNING COMMISSION

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Site Plan Review is not granted by the appropriate Board of Adjustment

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City State Zip Code
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13. 759 199 2058
Deed Book Page Group Number
14. Is the site subject to a zone change: Yes No
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ORIGINAL Property Owner's Signature: 
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

ORIGINAL Applicant's Signature: 
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- \$966.00 Fee
- Legal Description of Property (ie deed)
- List of adjacent property owners & their mailing addresses
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Meeting Date: April 12, 2023 @ 6:00pm

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 3/9/23 Fee Received: \$966 Receipt #: 87928

2. Is application complete: _____

3. Staff Reviewer: _____

4. Scheduled Board Action Date: _____

5. Board Action: _____

_____ Approved

_____ Approved with Conditions (see #6)

_____ Denial (See #7)

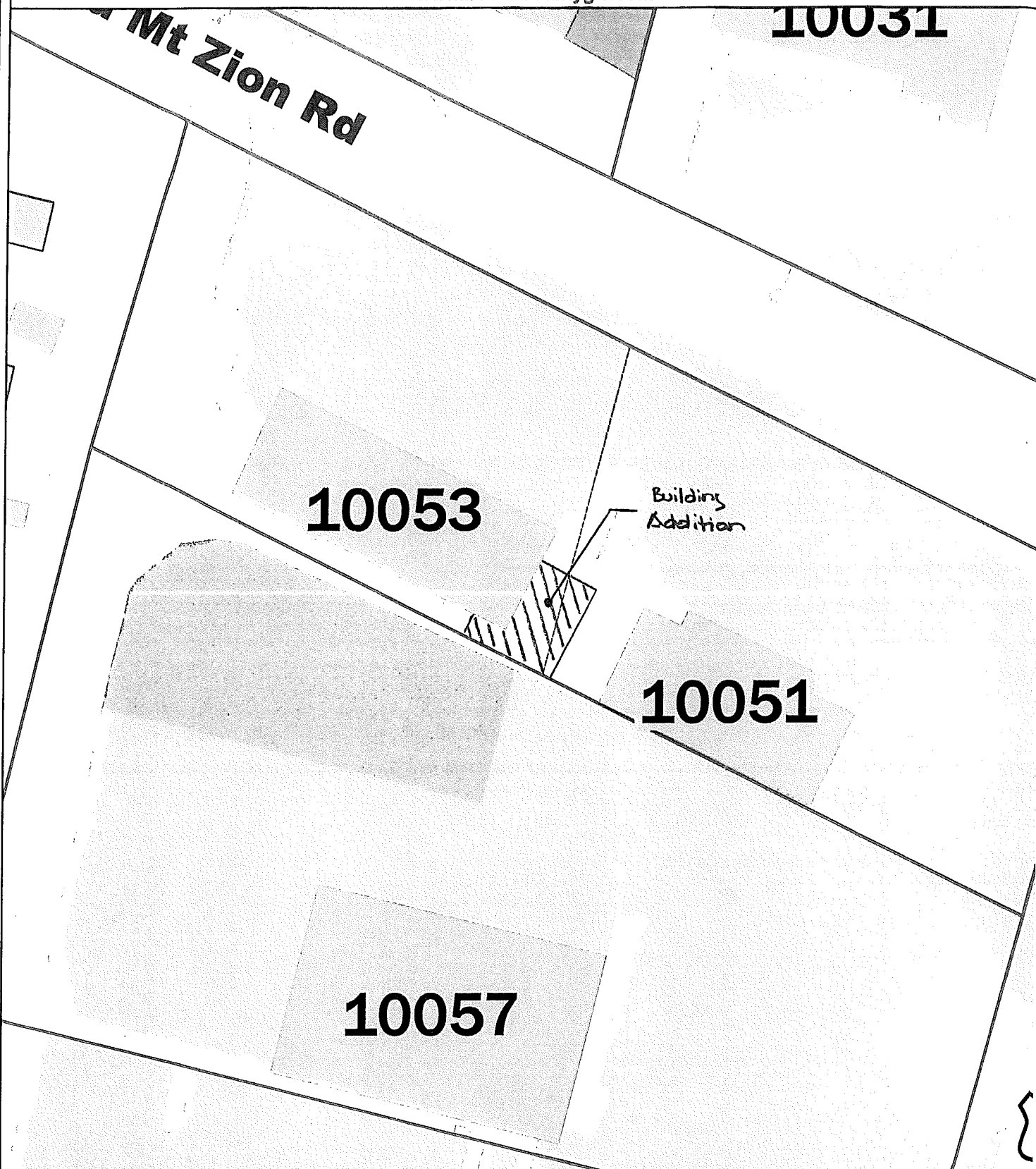
6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
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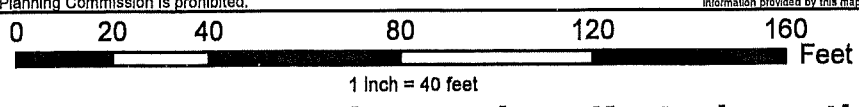
Boone County GIS Map

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Boone County GIS - Putting Northern Kentucky on the Map

Map Created: xx/xx/2023

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ArcMap Document: *.mxd

STAFF REPORT

#1

APPLICANT: Nidal Owda and Brigid Schwartz

LOCATION: 10051-10053 Dixie Highway

ZONING: Commercial One (C-1)

DATE: May 10, 2023 (deferred from April 12, 2023)

PROPOSAL

1. The applicant is requesting a Variance reducing the rear yard setback from ten (10) feet to zero (0) feet to allow for a building expansion.

SITE HISTORY

- 1969-
1974 Based on information contained in the Boone County GIS, the building at 10051 Dixie Highway was built.
- 2000 On November 8, 2000, the Boone Board of Adjustment approved a Conditional Use Permit for the construction and operation of a 2,520 square foot automotive repair facility.
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APPLICABLE REGULATIONS

- A. Section 202.C of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to hear and decide on applications for variances.
- B. Section 4000 of the Boone County Zoning Regulations defines a variance as a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.
- C. The Board should evaluate the request as it relates to the criteria necessary for granting a Variance as stated in Section 204.D and 204.E of the Boone County Zoning Regulations.
 1. Findings listed in Section 204.D and 204.E:

- a. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - (1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - (2) The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - (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.
 - b. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.
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RELATIONSHIP TO THE COMPREHENSIVE PLAN

- A. The Our Boone County Plan 2040 Future Land Use Plan designates the site in question as "Commercial", which is described as Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc.
- B. The following Our Boone County Plan 2040 Goals and Objectives apply to this application:
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- with the rights of neighbors and the community (Overall Goal A, Objective 3).
2. Development policies shall not discriminate against any person (Demographics Goal A, Objective 1).
 3. Provide appropriate services, housing, employment, and shopping opportunities in order to meet the needs of the population in all geographic areas of the County (Demographics Goal A, Objective 4).
 4. Industries shall be promoted in suitable locations to make the county a vital part of a strong regional economy (Economy Goal A, Objective 2).
 5. Local agriculture, business products, and services shall be encouraged and supported (Economy Goal A, Objective 4).
 6. Compact, efficient development patterns shall be encouraged for industrial, commercial, and office uses with appropriately sized and well maintained buffer spaces between the business use and other land uses (Economy Goal B, Objective 1).
 7. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe access and adequate parking (Economy Goal B, Objective 3).
- C. Dixie Highway is a state maintained arterial street providing for two-way traffic. Old Mt. Zion Road (Shoemaker Lane) is identified as a private street providing for two-way traffic with an approximate twenty (20) foot pavement width.

SURROUNDING LAND USES AND ZONING

- North: Shehan Pools and Shining Star's Learning Center (C-3)
- South: Rider's Automotive (C-1)
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- West: Mobile home park (MHP)

SITE CHARACTERISTICS

- A. The approximate 0.70 acre property is located at the southwest corner of the intersection of Dixie Highway with Old Mt. Zion Road (Shoemaker Lane).
- B. The site has approximately one hundred (100) feet of frontage along Dixie Highway and approximately three hundred (300) feet of frontage along Old Mt. Zion Road (Shoemaker Lane).
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(10051 Dixie Highway); and (2) an approximate 3,000 square foot auto service facility (10053 Dixie Highway).

- D. The site has two curb cuts onto Old Mt. Zion Road (Shoemaker Lane).
- E. The proposed addition will be set back zero (0) feet from the rear property line.

STAFF COMMENTS

- A. Based on measurements from the Boone County GIS, the existing sports café building (10051 Dixie Highway) has a rear yard setback of zero (0) feet.
- B. Based on measurements from the Boone County GIS, the existing auto service facility building (10053 Dixie Highway) has a rear yard setback of approximately seven (7) feet.
- C. The rear wall of the existing sports café building (10051 Dixie Highway) and a fence are along the rear property line of the site in question.

CONCLUSION

- A. KRS 100.241 and Section 220 of the Boone County Zoning Regulations give the Boone County Board of Adjustment and Zoning Appeals the authority to act on the request.
- B. Sections 204.D and 204.E of the Boone County Zoning Regulations identifies criteria necessary for granting a Variance. The applicant needs to provide information as to how their application meets this criteria.

Respectfully submitted,



Michael D. Schwartz
Director, Zoning Services

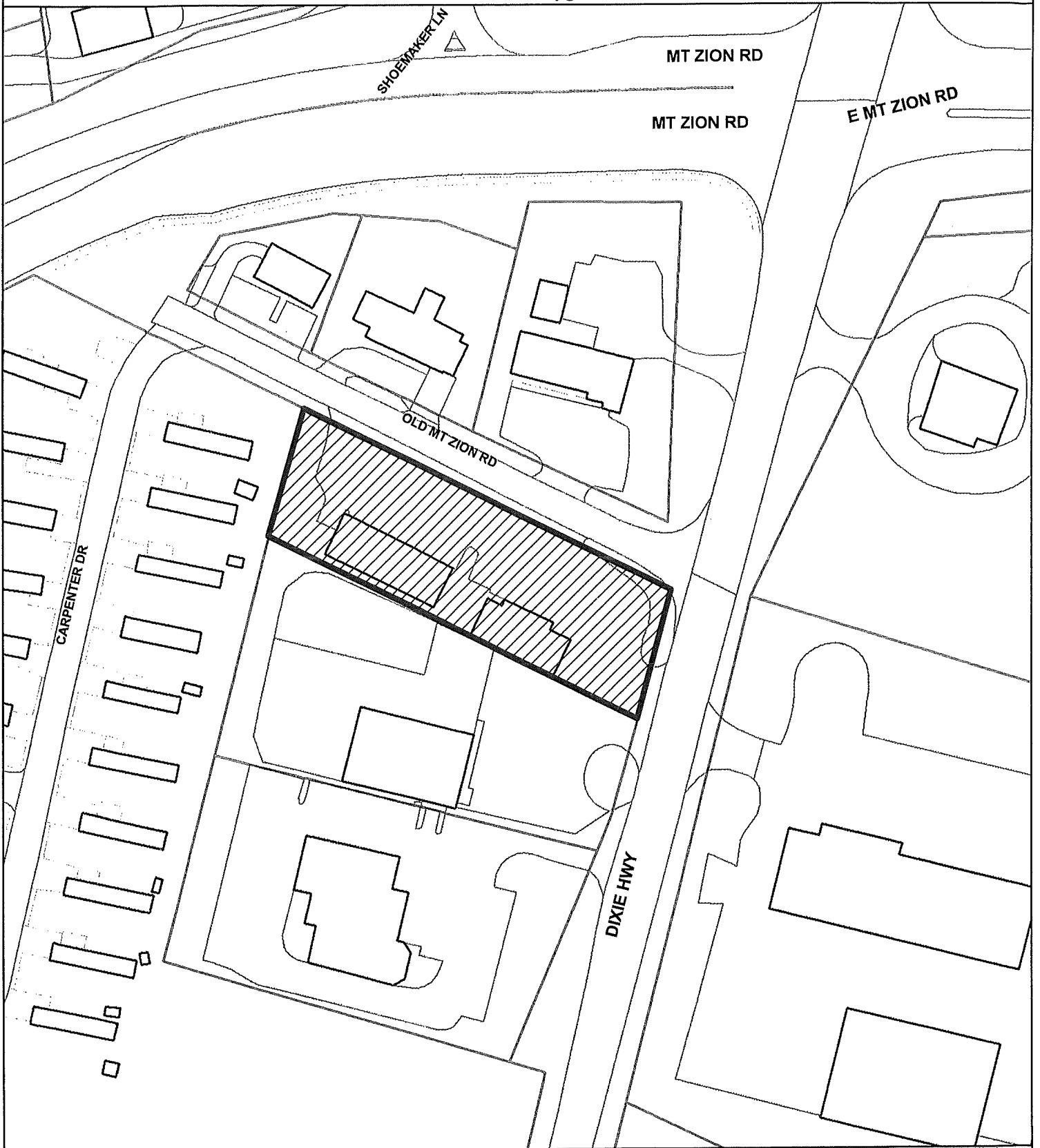
MDS/ss

Attachments

- *Vicinity Map
- *Aerial Map
- *Topographical Map
- *Zoning Map
- *2040 Future Land Use Map
- *Application
- *Development Plan

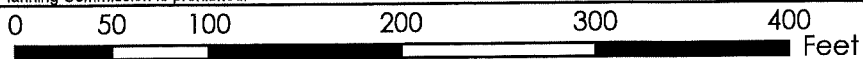
Vicinity Map

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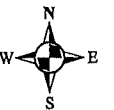
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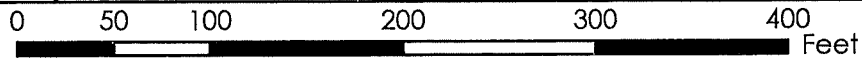
Aerial Map

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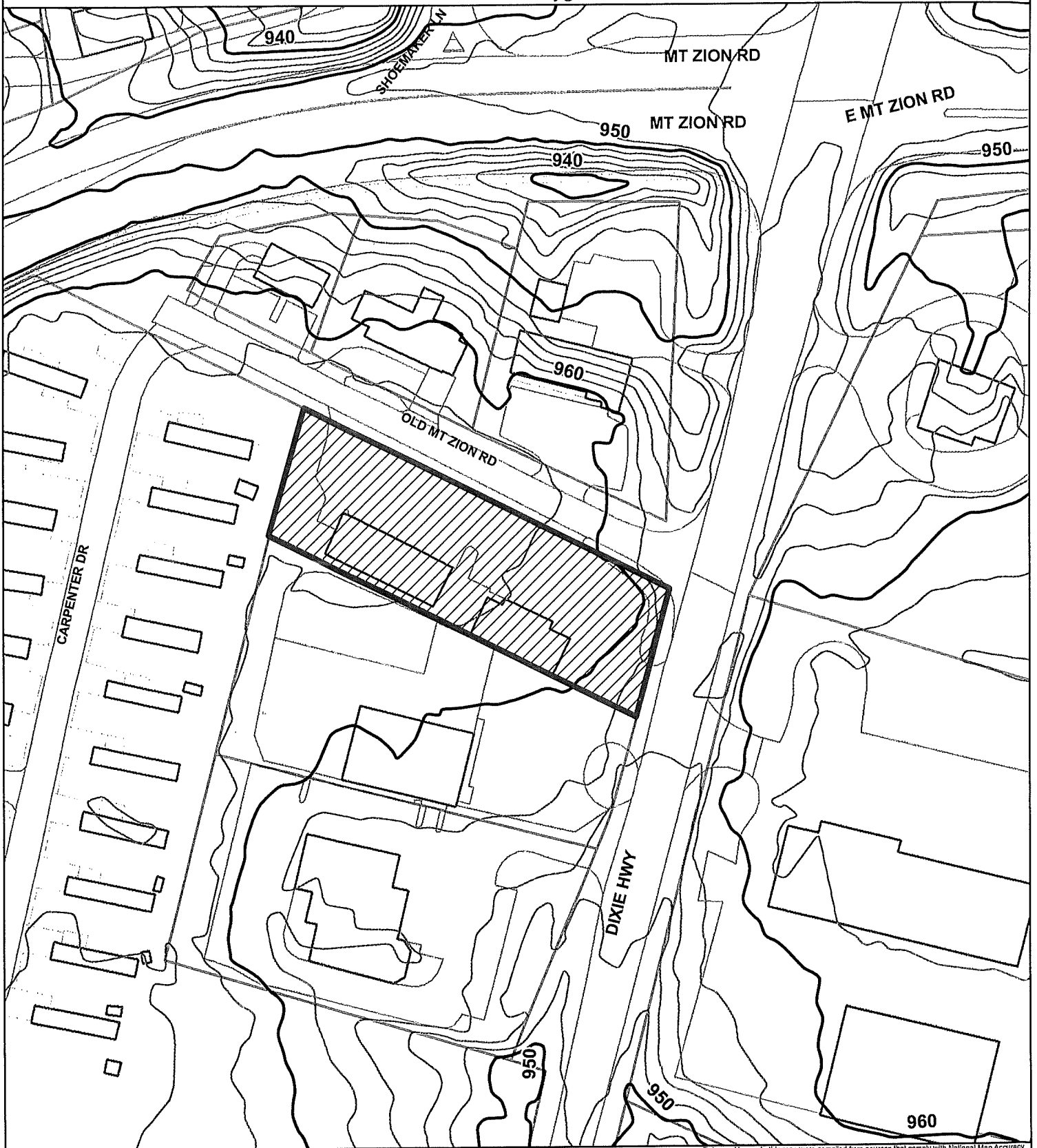
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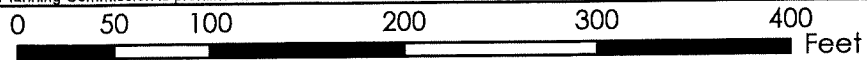
Topographic Map

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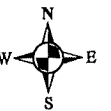
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1 inch = 100 feet



Boone County GIS - Putting Northern Kentucky on the Map



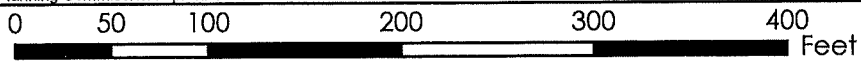
Zoning Map

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1 inch = 100 feet

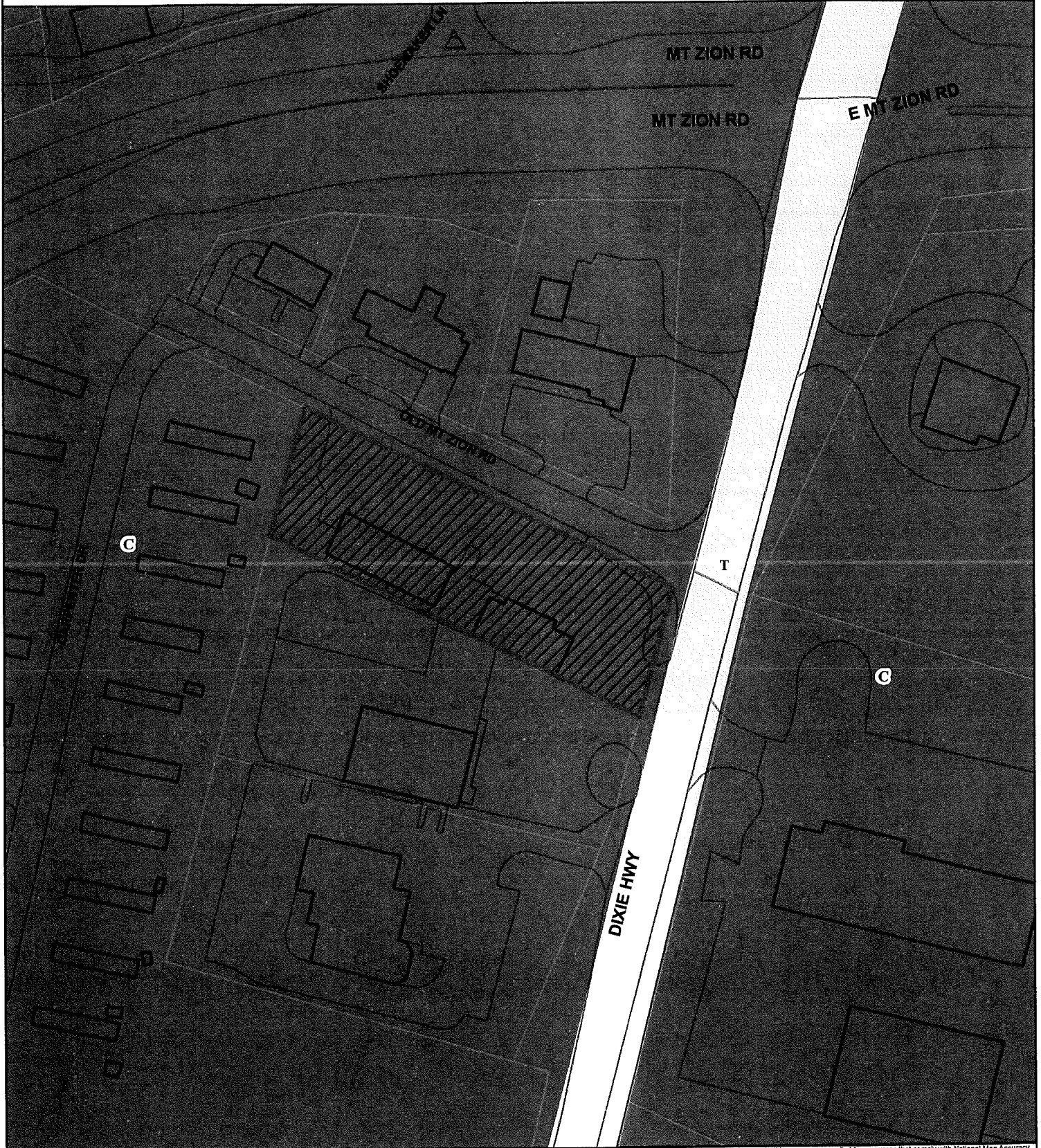


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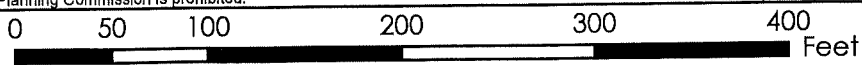
2040 Future Land Use Map

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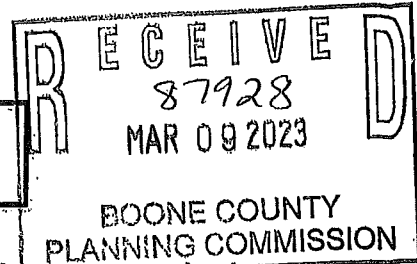
1 inch = 100 feet



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**BOARD OF ADJUSTMENT
BOONE COUNTY PLANNING COMMISSION**



Five (5) scaled copies and one (1) 11 x 17 reduction of submitted drawings are required


Site Plan Review is not granted by the appropriate Board of Adjustment


An application consists of all fees paid in full, submitted drawings, and a completed application form

SECTION A: (To be completed by applicant)

1. Check One Boone Florence Walton Union
2. Check One Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
3. Applicant: Nidal Owda & Brigid Schwartz
Address: 10053 DIXIE Highway
Florence Ky 41042
City State Zip Code
Phone Number: 859-393-8959 Fax Number: _____
Email: brigidschwartz@gmail.com
4. Description of Request:
To keep the existing structure
that was added on
5. Name of Development: _____
6. Location of Development: 10053 Dixie Hwy Florence Ky 41042
Florence Ky 41042
City State Zip Code
7. Acreage Under Review: 1/4
8. Lot Number and Name of Subdivision (if part of a subdivision):
N/A
9. Current Owner: Brigid Schwartz
Address: 9028 Fort Henry Drive
Union Ky 41091
City State Zip Code
Phone Number: 859-393-8959 Fax Number: _____
Email: brigidschwartz@gmail.com

10. Proposed Use(s) on Site: Storage
11. Total Square Footage of Existing and/or Proposed Buildings: 1250 sq. feet
12. Current Zoning: C-1
13. 759 199 2058
Deed Book Page Group Number
14. Is the site subject to a zone change: Yes No
If yes, date of approval: _____
15. Have you submitted a Site Plan with this request: Yes No
16. Have you submitted a list of adjoining property owners with this request: Yes No
17. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: 
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: 
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

- \$966.00 Fee
- Legal Description of Property (ie deed)
- List of adjacent property owners & their mailing addresses
- Application Deadline: March 21, 2023
- Meeting Date: April 12, 2023 @ 6:00pm

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 3/9/23 Fee Received: \$966 Receipt #: 87928

2. Is application complete: _____

3. Staff Reviewer: _____

4. Scheduled Board Action Date: _____

5. Board Action: _____

- Approved
- Approved with Conditions (see #6)
- Denial (See #7)

6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

Boone County GIS Map

www.boonecountygis.com

10031

Mt Zion Rd

10053

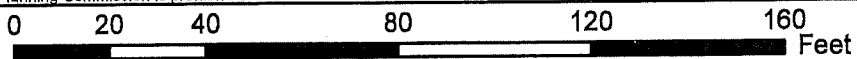
Building Addition

10051

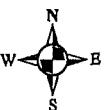
10057

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1 inch = 40 feet



Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 03/20/2023

Boone County GIS
ArcMap Document: *.mxd

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Brigid Schwartz
9028 Fort Henry Dr
Union, KY 41091
2. ADDRESS OF PROPERTY
10053 Dixie Hwy
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Schwartz Variance
4. DEED BOOK 759 PAGE NO. 199 GROUP NO. 2058
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment: Conditional Use Permit
From _____ To _____
- Development Plan Conditional Zoning
- Subdivision Plat Other:
(Not Recorded)
- Variance
6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005



SIGNATURE OF COMPLETING OFFICIAL

Michael D. Schwartz, Director, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE


Subscribed, sworn to, and acknowledged before me by Michael D. Schwartz on behalf of the Boone

County Planning Commission this 11th day of May, 2023.

Treva L. Beagle
Notary ID KYNP37603
NOTARY PUBLIC, State at Large

My commission Expires:
November 12, 2025

This instrument was prepared for recording purposes only by:



Nicole Dierna
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)