

# Board of Zoning Adjustment

## Staff Report

November 7, 2022



<b>Case No:</b>	22-VARIANCE-0135
<b>Project Name:</b>	Cherrywood Road Variance
<b>Location:</b>	420 Cherrywood Road
<b>Owner:</b>	David and Donna Long
<b>Applicant:</b>	Michael Cadden
<b>Jurisdiction:</b>	City of St. Matthews
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Amy Brooks, Planner I

**REQUESTS:**

**Variance** from City of St. Matthews Development Code section 4.6.C.2.c to allow a structure to encroach into the required street side yard setback.

Location	Requirement	Request	Variance
Street Side Yard	25 ft.	22 ft inches	3 inches

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R-4 Residential Single Family and is in the Neighborhood Form District. It is located at the intersection of Cherrywood Road and Brookfield Avenue in the City of St. Matthews. The site currently has a one-story single-family residential structure with a patio on the east side of the structure. The applicant is proposing to expand the existing patio that, according to the applicant, will be 22 feet inches from the street side property line; therefore, a variance is required.

**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 St. Matthews Development Code section 4.7.C.2.c to allow a structure to encroach into the required street side yard setback.

**TECHNICAL REVIEW**

The applicant is required to obtain a building permit and the proposed addition or structure may require alterations to the proposed building plans in order to meet building code requirements.

**INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

**RELATED CASES**

None

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.6.C.2.c**

- (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 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 there are other street side yard encroachments such as a similar encroachment three blocks south at the intersection of Cherrywood Road and Massie Avenue.

- (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.

- (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 will be set at a similar distance from the side street as other existing additions in the vicinity, such as a similar encroachment three blocks south at the intersection of Cherrywood Road and Massie Avenue.

**ADDITIONAL CONSIDERATIONS:**

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the property is similar in size and shape to other properties in the area.

- b. The strict application of the provisions of the regulation would deprive the applicant of 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 not create an unnecessary hardship on the applicant.

- c. Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations.

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 a variance and has not yet begun construction on the addition.

- d. Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public.

STAFF: The variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public as it will be constructed to meet all building codes and there are properties in the neighborhood with setbacks.

**VARIANCE PLAN REQUIREMENT**

In accordance with the St. Matthews Development Code Section 9.1.D, portions of this regulation that govern height or length or setback requirements may be modified by the appropriate Board of Zoning Adjustment. The Board may grant a dimensional variance after a public hearing if the requirements of KRS 100.243 are found to be met.

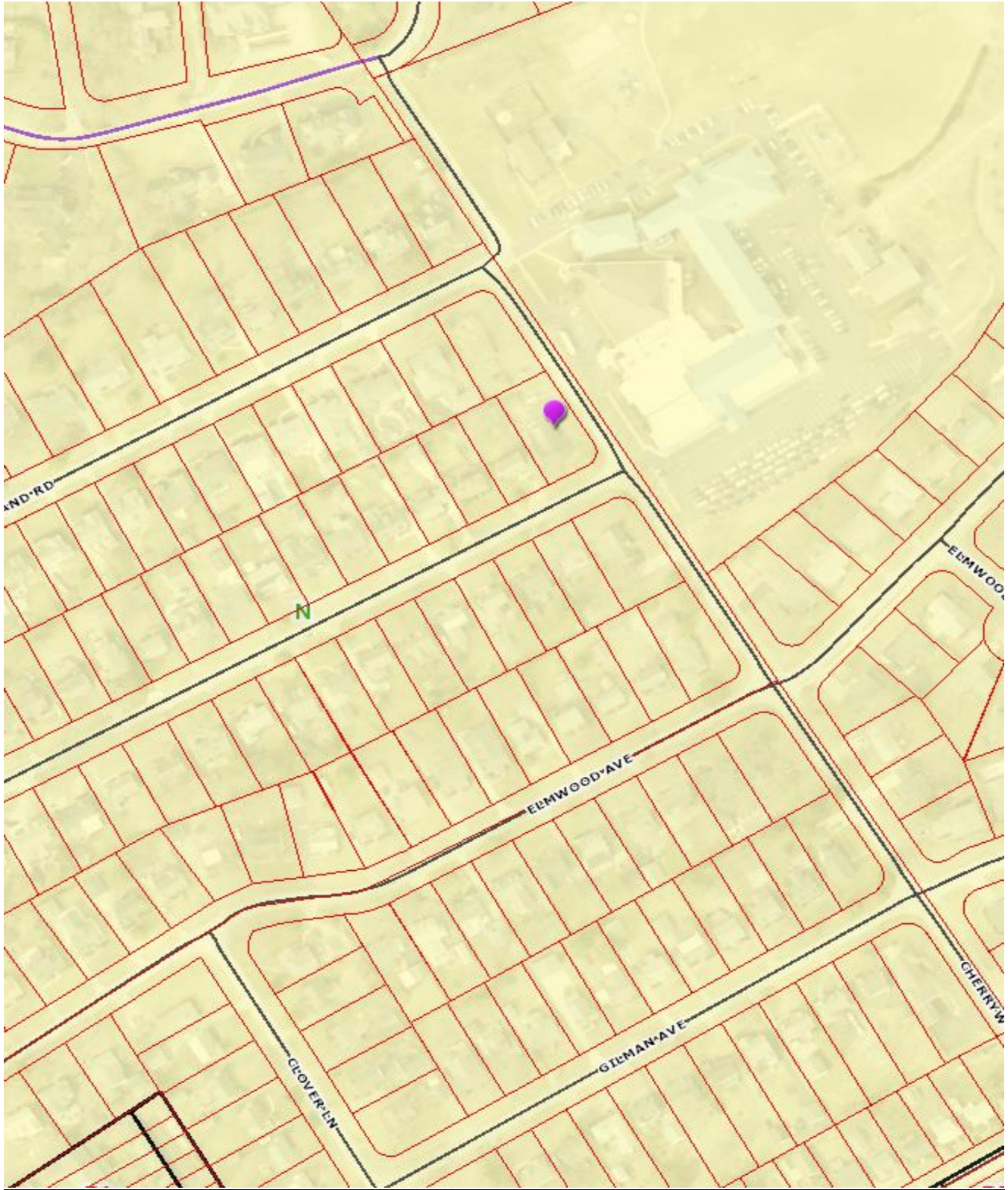
**NOTIFICATION**

Date	Purpose of Notice	Recipients
N/A	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 9
N/A	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos
5. Condition of Approval

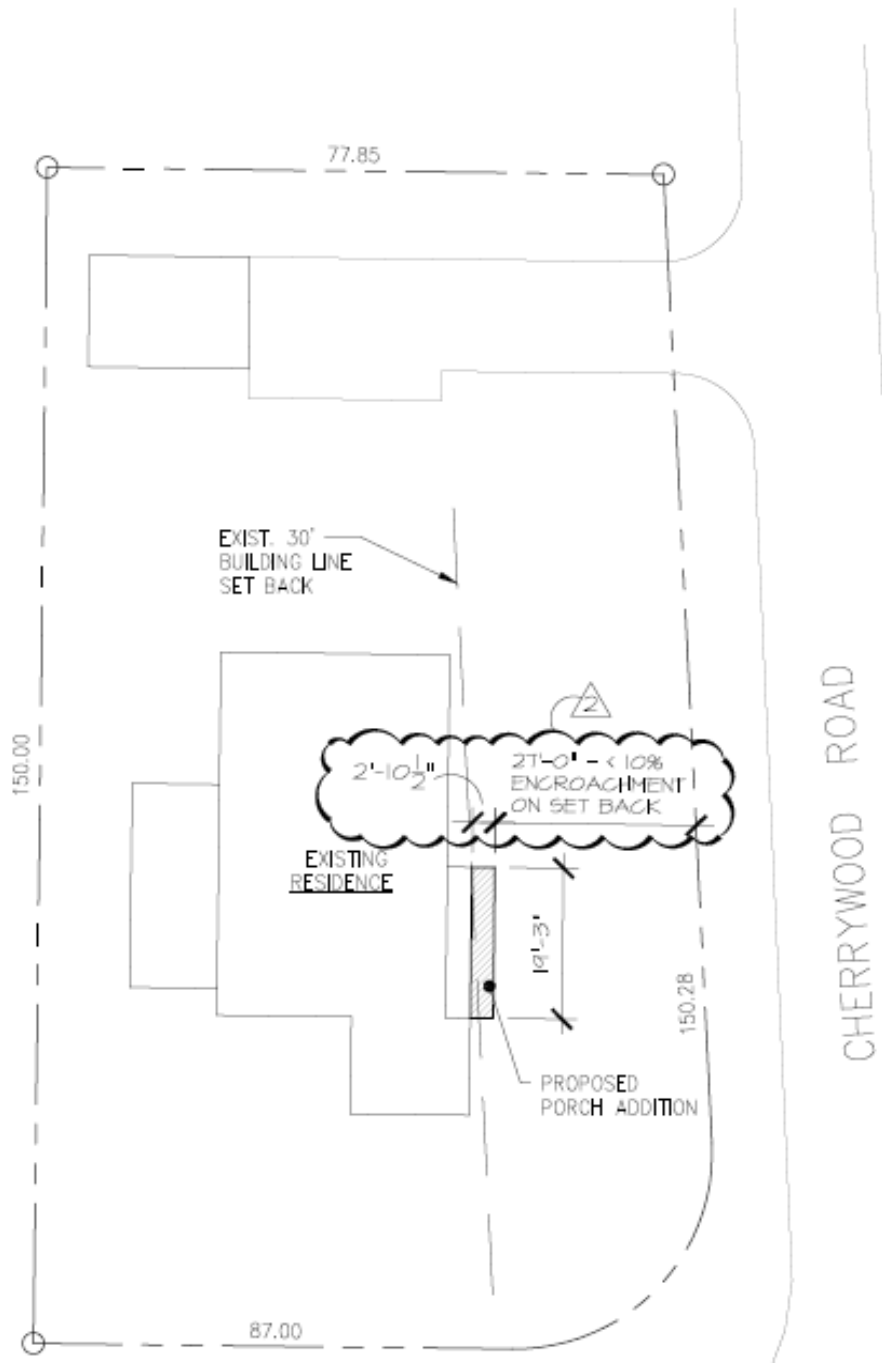
1. Zoning Map



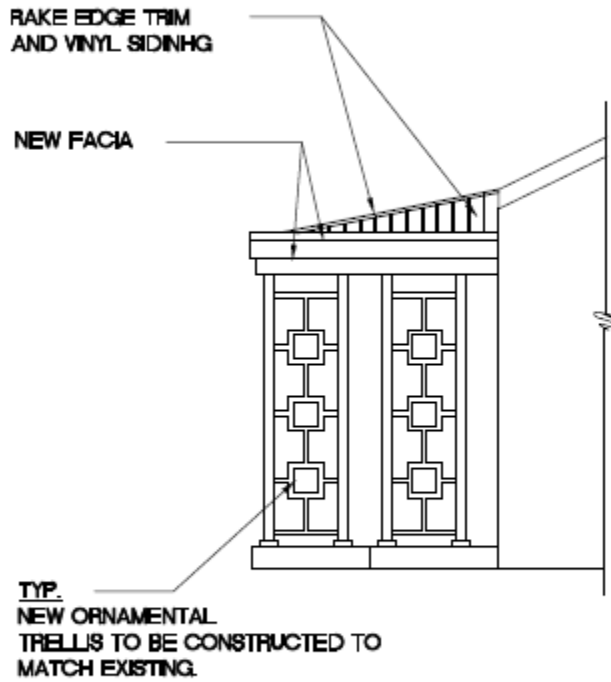
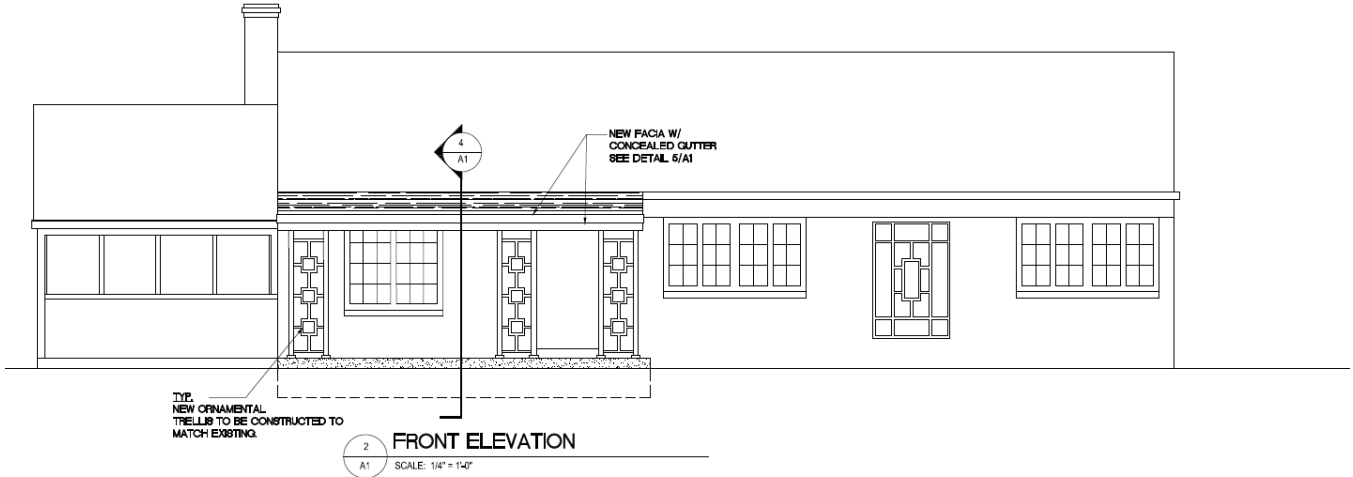
2. Aerial Photograph



3. Site Plan



## 4. Elevations



**5. Site Photos**



View of Variance area from Cherrywood Rd (street side yard).



View of Variance Area





View of Front yard from Brookfield Ave



View of subject property at corner of Brookfield Avenue and Cherrywood Lane



Property to the left of subject site.



Property to the left of subject site.



Property across the street from subject site.