

Board of Zoning Adjustment
Staff Report
 December 06, 2021



Case No:	21-VARIANCE-0162
Project Name:	Elmwood Avenue Variance
Location:	4069 Elmwood Avenue
Owner/Applicant:	David Gambol
Jurisdiction:	St. Matthews
Council District:	7 – Paula McCraney
Case Manager:	Heather Pollock, Planner I

REQUESTS:

Variance from St. Matthews Development Code section 4.6.C.2.b to allow an accessory structure to encroach into the side yard setback and section 4.6.C.2.d to encroach into the rear yard setback.

Location	Requirement	Request	Variance
Street Side Yard	6 ft.	3 ft.	3 ft.
Rear Yard	25 ft.	5 ft.	20 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Single Family and is in the Neighborhood Form District. It is on the north side of the 4000 block of Elmwood Ave. in the city of St. Matthews. The site currently has a one-story single-family residential structure with an attached garage; the applicant is proposing to build a detached garage which will encroach into the required side yard and rear yard setbacks.

STAFF FINDINGS

Staff finds that the requested variance is adequately justified and meets the standard of review.

Because the proposed garage will be less than 15 feet further to the rear of the house, it does not qualify for the exception, section 9.2.P in the St. Matthews Development Code. Therefore, the side yard setback is 6 feet. Additionally, it will occupy a total area greater than 30% of the area of the required rear yard so it does not qualify for the exception in section 9.2.Q.

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 Development Code section 4.6.C.2.b and 4.6.C.2.d to allow an accessory structure to encroach into the side yard and rear yard setbacks.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

- No interested party comments were received by staff.
- The applicant submitted the Non-Public Hearing Affidavit with signatures from all 1st tier adjoining property owners.
- The Planning Officer for the City of St. Matthews requested that the variance request be changed to a structure encroaching into the required side yard because it does not meet the requirements of section 9.2.P of the St. Matthews Development Code. Additionally, it does not meet the requirements of section 9.2.Q because it exceeds the 30 % allowed encroachment.

RELATED CASES

No related cases.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Section 4.6.C.2.b and section 4.6.C.2.d

- (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 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 properties in the area that have encroachments into the side yard and rear yard setbacks.

- (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 depth of the lot does not allow for enough space to locate the detached garage 15 feet back from the rear of the primary 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 not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the proposed detached garage is similar in size and location to others in the neighborhood.

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 depth of the lot does not allow for enough space to locate the detached garage 15 feet back from the rear of the primary structure. This causes an encroachment into the side yard and rear yard setbacks.

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 as the applicant has not started construction and is requesting the 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
	No Notice required	

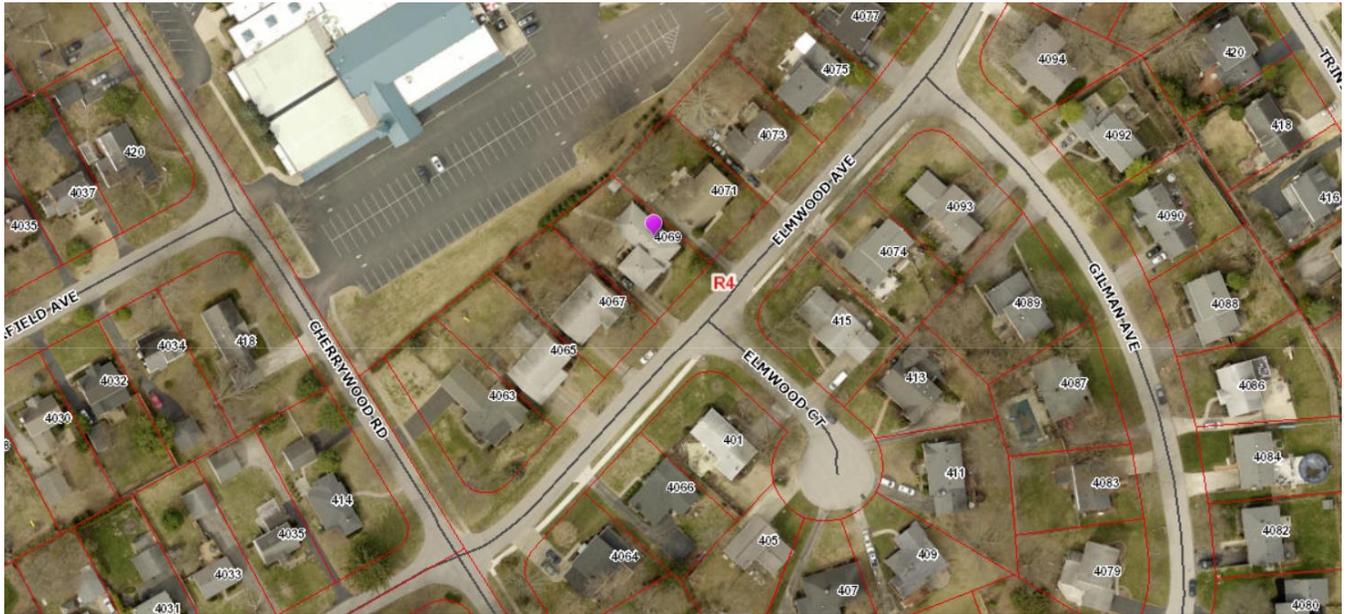
ATTACHMENTS

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.



Property to the left.



Properties to the right.



Property across street.



Variance area.



Variance area.



View of variance area from back yard.