

Board of Zoning Adjustment Staff Report

May 19, 2014



Case No:	14Variance1022
Request:	Variances
Project Name:	Nationwide Insurance
Location:	101 Oxford Pl., 3550 Frankfort Ave.
Owner:	CRL Properties, Inc.
Applicant:	Same
Representative:	None
Jurisdiction:	St. Matthews
Council District:	9 – Tina Ward-Pugh
Case Manager:	Latondra Yates, Planner II

REQUEST

- Variance of Sections 9.2.C. and 5.2.C.2 of the Land Development Code (LDC) adopted by the City of St. Matthews (Old Code) to allow the existing building to encroach into the required 25-ft. street side yard. The requested setback is 11.76 ft., a variance of 13.24 ft.
- Variance of Sec. 5.2.C.2. of the LDC to allow parking and maneuvering to encroach into the required 25-ft. street side yard. The requested setback is 2.22 ft., a variance of 22.78 ft.
- Variance of Sec. 5.2.C.2. of the LDC to allow parking and maneuvering to encroach into the required 25-ft. front yard. The requested setback is 5 ft., a variance of 20 ft.
- Variance of Sec. 5.2.C.2. of the LDC to allow a sign to be installed on an existing pole in the required 25-ft. front yard. The requested setbacks are 4.4 ft. from the Oxford Pl. right-of-way line, a variance of 20.6 ft., and 1.26 ft. from the Frankfort Ave. right-of-way line, a variance of 23.74 ft.

Variance

Location	Requirement	Request	Variance
Street side yard	25 ft.	11.76 ft.	7 ft.
Street side yard	25 ft.	2.22 ft.	22.78 ft.
Front yard	25 ft.	5 ft.	20 ft.
Proposed sign (Oxford Pl.)	25 ft.	4.4 ft.	20.6 ft.
Proposed sign (Frankfort Ave.)	25 ft.	1.26 ft.	23.74 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The variances are for reuse of the existing office building for Nationwide Insurance.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned OR-1 in the Traditional Marketplace Corridor (TMC) Form District. To the north, across Frankfort Ave., is Masonic Homes, zoned R-5A in the TMC. The site transitions to the Traditional Neighborhood (TN) Form District to the south and east, where there is R-4 zoned property. To the west is property zoned OR-3.

	Land Use	Zoning	Form District
Subject Property			
Existing	Office	OR-1	TMC
Proposed	Office	OR-1	TMC
Surrounding Properties			
North	Institutional/multi-family	R-5A	TMC
South	Single-family residential	R-4	TN
East	Single-family residential	R-4	TN
West	Office	OR-3	TMC

PREVIOUS CASES ON SITE

The site is part of KOMUS Subdivision, recorded in Plat Book 3, Pg. 12.

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Land Development Code
Cornerstone 2020 Comprehensive Plan- See checklist attached.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- Variance of Sections 9.2.C. and 5.2.C.2. of the Land Development Code (LDC) adopted by the City of St. Matthews (Old Code) to allow the existing building to encroach into the required 25-ft. street side yard. The requested setback is 11.76 ft., a variance of 13.24 sf.
- Variance of Sec. 5.2.C.2. of the LDC to allow parking and maneuvering to encroach into the required 25-ft. street side yard. The requested setback is 2.22 ft., a variance of 22.78 sf.
- Variance of Sec. 5.2.C.2. of the LDC to allow parking and maneuvering to encroach into the required 25-ft. front yard. The requested setback is 5 ft., a variance of 20 sf.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variances will not adversely affect the public health, safety or welfare because the proposed reuse of the existing office building will include proposed landscaping and other improvements to the site.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variances will not alter the essential character of the general vicinity because the building will be reused as an office.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variances will not cause a hazard or nuisance to the public because improvements to the overall site are proposed.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variances will not allow an unreasonable circumvention of the zoning regulations because of the building is existing.

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 variances arise from the proposed reuse of the office.

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 provision of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because application of the required yards would reduce the buildable area below what is permitted by Sec. 9.2.C. of the LDC.

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 the proposed reuse of the office.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- **Variance of Sec. 5.2.C.2. of the LDC to allow a sign to be installed on an existing pole in the required 25-ft. front yard. The requested setbacks are 4.4 ft. from the Oxford Pl. right-of-way line, a variance of 20.6 ft., and 1.26 ft. from the Frankfort Ave. right-of-way line, a variance of 23.74 ft.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because though it appears to be located within the 30-ft. sight triangle, it will be placed on an existing post with dimensions that should not impede sight distance.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variance will not alter the essential character of the general vicinity because the sign is replacing a previous one.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variance will not cause a hazard or nuisance to the public because though it appears to be located within the 30-ft. sight triangle, it will be placed on an existing post with dimensions that should not impede sight distance.

- (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 because the sign will replace a previous one.

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 variance arises from the request to reuse the sign pole to replace signage.

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 provision of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because it would not allow use of an existing sign pole to replace the sign.

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 the request to reuse the sign pole to replace signage.

TECHNICAL REVIEW

1. The remainder of the required 3-ft. VUA LBA needs to be provided along Frankfort Ave. or a waiver would need to be requested.

STAFF CONCLUSIONS

The variances meet 16 of the applicable guidelines of the comprehensive plan.

Three additional compatibility guidelines need to be addressed through providing details of any proposed lighting, and by providing the remainder of the required 3-ft. VUA LBA along Frankfort Ave.

Four additional guidelines can be addressed during construction review.

Staff's analysis of the standards of review support the granting of the variances.

A recommendation should be made to the City of St. Matthews.

Based upon the information in the staff report, testimony and evidence provided, BOZA must determine if the proposal meets the standards for approval of variances as established in the Land Development Code.

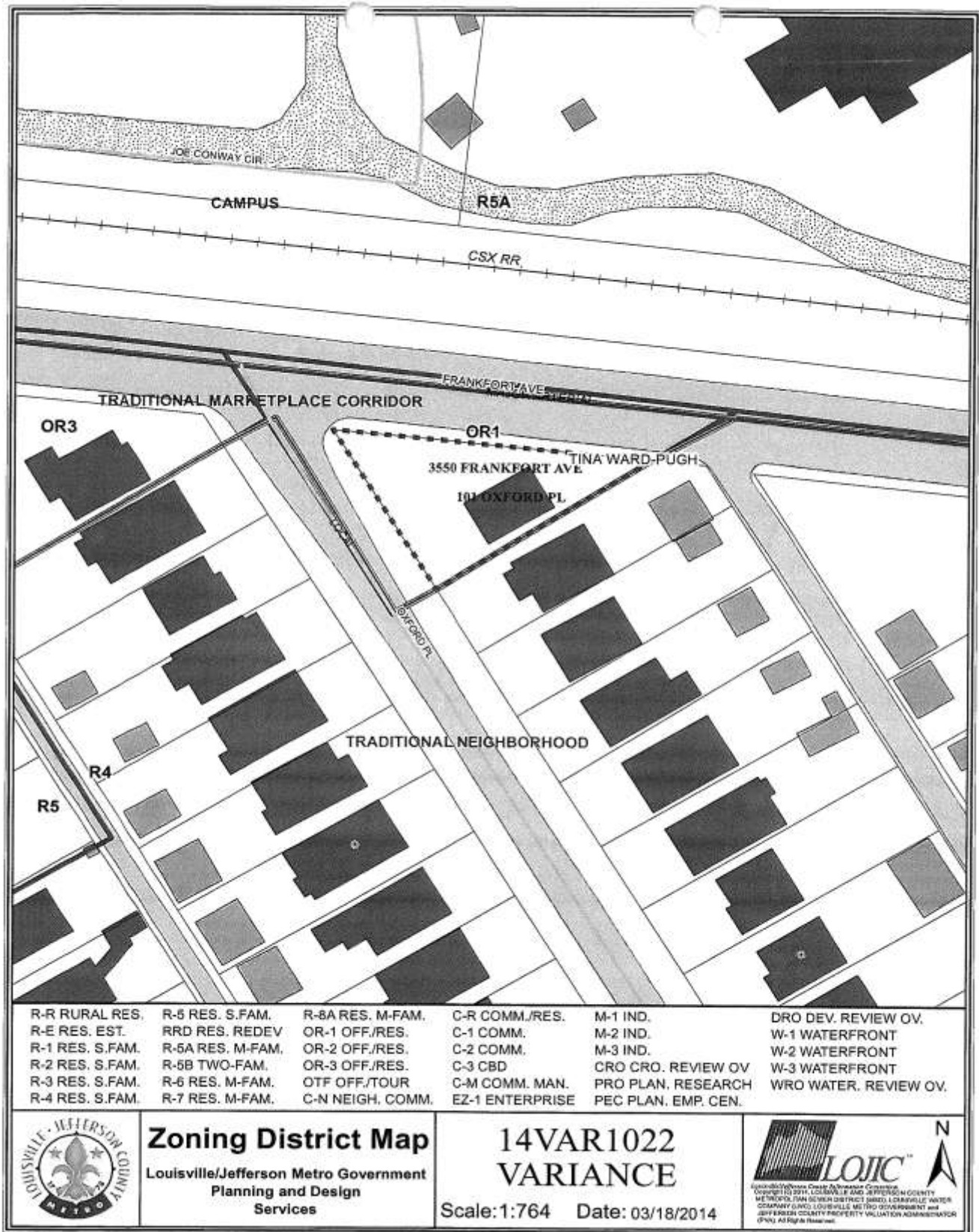
NOTIFICATION

Date	Purpose of Notice	Recipients
5/1/2014	DRC Meeting	1 st and 2 nd tier adjoining property owners Neighborhood Notification

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Photo of sign
5. Cornerstone 2020 Comprehensive Plan Checklist
6. Applicant's justification statement

1. Zoning Map



2. Aerial Photograph



4. Photo of sign



3 x 2 version 2



3 x 2 version 1

5. Cornerstone 2020 Comprehensive Plan Checklist

1	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal incorporates itself into the pattern of development, which includes a mixture of low to medium intensity uses such as neighborhood-serving and specialty shops, restaurants and services. Often, these uses include apartments or offices on upper floors.	√	Reuse of an existing office building proposed.
2	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes buildings that have little or no setback, and are oriented to the street. New development respects the predominate rhythm, massing and spacing of existing buildings.	√	Existing building that observes setbacks similar to the other existing structures in the area.
4	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes on-street parking or parking in lots at the rear of the building, and includes wide sidewalks, street furniture and shade trees.	√	Parking is being replaced at the far rear corner of the lot. The configuration of the existing lot and placement of existing building limits placement of parking on the lot.
9	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	√	Reuse of an existing office building proposed.
14	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	√	Proposed development will share utilities.
15	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	√	Site served by sidewalks.
17	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	√	Reuse of an existing office building proposed.
20	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	+/-	Lighting details need to be provided to determine compliance with lighting standards, particularly, adjacent to residential, if lighting is proposed.
21	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	Proposed use located along a transit corridor and in an activity center.

22	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	+/-	The remainder of the required 3-ft. VUA LBA needs to be provided along Frankfort Ave. or a waiver requested.
23	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	+/-	The remainder of the required 3-ft. VUA LBA needs to be provided along Frankfort Ave. or a waiver requested.
24	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	Variances requested. Existing building that appears to be compatible with other structures in the area.
25	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	√	Location of existing building limits location of parking. Parking as shown would be placed further away from adjacent residential
26	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	The required landscaping is proposed.
28	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	√	Sign proposed on existing post that appears to meet sign dimensional requirements.
40	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	√	Site served by sidewalks and mass transit.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	Required parking provided.
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	

48	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	Site served by sidewalks and mass transit.
49	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	+/-	Subject to MSD approval
50	Livability Goals C1, C2, C3, C4, all related Objectives	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	+/-	Subject to APCD approval.
52	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Site served by existing utilities.
53	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	+/-	Subject to construction approval.
54	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	+/-	Subject to MSD approval.

6. Applicant's Justification Statements

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of Section 5.2.C.2 of the LDC, adopted by the City of St. Matthews, to allow the existing 1-story office building, parking and maneuvering to encroach into the 25 ft minimum street side and front yard setbacks.

1. The variances will not adversely affect the public health, safety or welfare because they represent existing built conditions, without which this office zoned and utilized property would have no or virtually no parking and vehicular access to it at all. These encroachments are existing, and so the application for variances does not change the public health, safety or welfare that currently exists.
2. The variances will not alter the essential character of the general vicinity because these encroachments represent built conditions that are known to nearby residents and who have lived with these conditions for some time.
3. The variances will not cause a hazard or a nuisance to the public because these encroachments are built conditions that have never been complained about by neighbors or the City of St. Matthews, to the best information and belief of this new property owner.
4. The variances will not allow an unreasonable circumvention of the requirements of the zoning regulations because these encroachments are built conditions, and the property to be utilized in accordance with its office zoning as it long has been requires a grant of these variances.

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Additional consideration:

1. The Variances arises from special circumstances, which do not generally apply to land in the general vicinity because this property exists at the corner of Oxford Place with significant

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frontage along Frankfort Ave where other businesses proliferate. Others used for similar commercial purposes may involve similar encroachments. But in any event this office use has long existed with parking and access as presently shown.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant could no longer utilize the property as it long has been and in accordance with the office zoning in existence for the office building that he purchased.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are a consequence of the existing conditions the applicant inherited when he purchased the property.

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of Section 5.2.C.2 of the LDC, adopted by the City of St. Matthews, to allow a sign to be installed on an existing pole in the required front yard

1. The variances will not adversely affect the public health, safety or welfare because a sign has hung on the existing pole for many years, and therefore the requested sign is not something new.
2. The variances will not alter the essential character of the general vicinity because a sign has hung on the existing pole for many years, and therefore the requested sign is not something new.
3. The variances will not cause a hazard or a nuisance to the public because it is not a large sign and one that does not obstruct the view of traffic.
4. The variances will not allow an unreasonable circumvention of the requirements of the zoning regulations because, as stated above, the sign was either legal at one time, or permitted, because it existed for years without complaint or citation.

Additional consideration:

1. The Variances arises from special circumstances, which do not generally apply to land in the general vicinity because, as stated above, this sign is not new, but rather represents a long standing, pre-existing condition.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it would lose valuable freestanding signage that was part of its expectation when it purchased this property.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are a consequence of the existing conditions the applicant inherited when he purchased the property.

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