

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: 4.7.C.2 of the St. Matthews LDC to allow vehicle parking and maneuvering in the required 5 ft side and 25 ft front yard setbacks

1. The variance will not adversely affect the public health, safety or welfare because the 5' side yard setback under the St. Matthews version of the Land Development Code is tied to the zoning line, rather than what would be the consolidated property line adjoining the neighbors and is therefore fully internal to the site. The 25' front yard setback will not adversely affect the neighboring properties as the encroachment is only for parking and will be landscaped and enhanced from its current state. The 12.5' encroachment would only be 7.5' but the site was laid out so as to provide an additional 5' buffer on the opposite west side adjoining the residential neighbor who would be more impacted by parking located up to the 5' required setback.
2. The variance will not alter the essential character of the general vicinity because this parking is for the already existing retail business and will be properly buffered through landscaping to mitigate any impacts. The current use of the property is far less intense than allowed in the C-2 zoning for the site and this will be a small addition to the use.
3. The variance will not cause a hazard or a nuisance to the public because the variances are for parking, rather than a building setback request, for a business with very limited hours compared to most retail businesses and will be properly screened and buffered.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the side yard setback will be completely internal to the site such that no adjoining property is impacted and the front yard setback is only the result of the minimum area required for the parking, and as said, was moved forward to buffer the residential neighbor who would arguably be more impacted if the parking area was shifted back further as allowed.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is a plan-certain C-2 zoned property with a far less intense use than otherwise allowed should the existing business not have space to grow and have to relocate.

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 this CUP parking area with the required setbacks are the only location on the site where additional parking could be added.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the side yard setback is internal and the front yard setback will not affect any adjoining properties, and are to allow the continued use of the existing business that has been located at this location for a long time.