

# Board of Zoning Adjustment

## Staff Report

May 15, 2023



|                          |                                |
|--------------------------|--------------------------------|
| <b>Case No:</b>          | 23-VARIANCE-0025               |
| <b>Project Name:</b>     | 141 Chenoweth Lane             |
| <b>Location:</b>         | 141 Chenoweth Lane             |
| <b>Owner(s):</b>         | CATDAWGS141                    |
| <b>Applicant:</b>        | CATDAWGS141                    |
| <b>Jurisdiction:</b>     | City of St Matthews            |
| <b>Council District:</b> | 9- Andrew Owen                 |
| <b>Case Manager:</b>     | John Michael Lawler, Planner I |

### **REQUEST(S)**

- Variances:
  1. Variance from Section 6.3.C.2.e to permit the proposed building to encroach into the Kennison Avenue variable street side yard by 3'
  2. Variance from Section 9.1.B.1.a to permit a 6' fence instead of a 4' fence (2' variance)

### **CASE SUMMARY/BACKGROUND**

The proposal is for a 1,590 SF office building. The existing structure is proposed to be removed. The existing parking in the rear of the site is to remain. The proposed structure encroaches 3' into the variable side yard setback. That setback has a minimum width of 11' at the proposed structure and a maximum width of 18' at the proposed structure. A proposed 6' privacy fence is located along the rear property line shared with an R-4 zoned property. A portion of that 6' fence is located within the side yard setback where only a 4' fence is permitted.

### **STAFF FINDING**

Staff finds that the proposal generally meets requirements of the Land Development Code.

### **TECHNICAL REVIEW**

Development Code (1999) St. Matthews

The proposal will need to be scheduled for the Development Review Committee for development plan approval.

### **INTERESTED PARTY COMMENTS**

None received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from Section 6.3.C.2.e**

- (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 since the encroachment is adjacent to a right of way.

- (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 since the encroachment is adjacent to a right of way and since the building faces the primary street and has a similar appearance from the primary street as nearby properties.

- (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 since the encroachment is adjacent to a right of way.

- (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 since the encroachment is adjacent to a right of way.

### **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 property is a corner lot where the existing structure has some encroachment into the same street side yard.

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 regulation would not deprive the applicant of reasonable use of the land since the proposed structure could comply with the variable side yard setback.

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 action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Section 9.1.B.1.a**

- (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 fence must be constructed to comply with all building codes and the land development code, except where relief is requested. The fence is setback far enough from the edge of pavement and any vehicle corridor as neither to impede vision clearance nor adversely impact the safe movement of vehicles.

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

STAFF: The requested variance does not alter the essential character of the general vicinity as there are other wooden fences providing screening at the rear of properties along Chenoweth lane..

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

STAFF: The fence is setback far enough from the edge of pavement and any vehicle corridor as neither to impede vision clearance nor adversely impact the safe movement of vehicles.

- (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 since the fence is setback far enough from the edge of pavement and any vehicle corridor as neither to impede vision clearance nor adversely impact the safe movement of vehicles.

#### 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 arises from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is a corner lot and the screening is required between the two zoning districts.

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 applicant would not be able to provide the required screening between the lot and the adjacent lower intensity zoning.

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 actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variances**

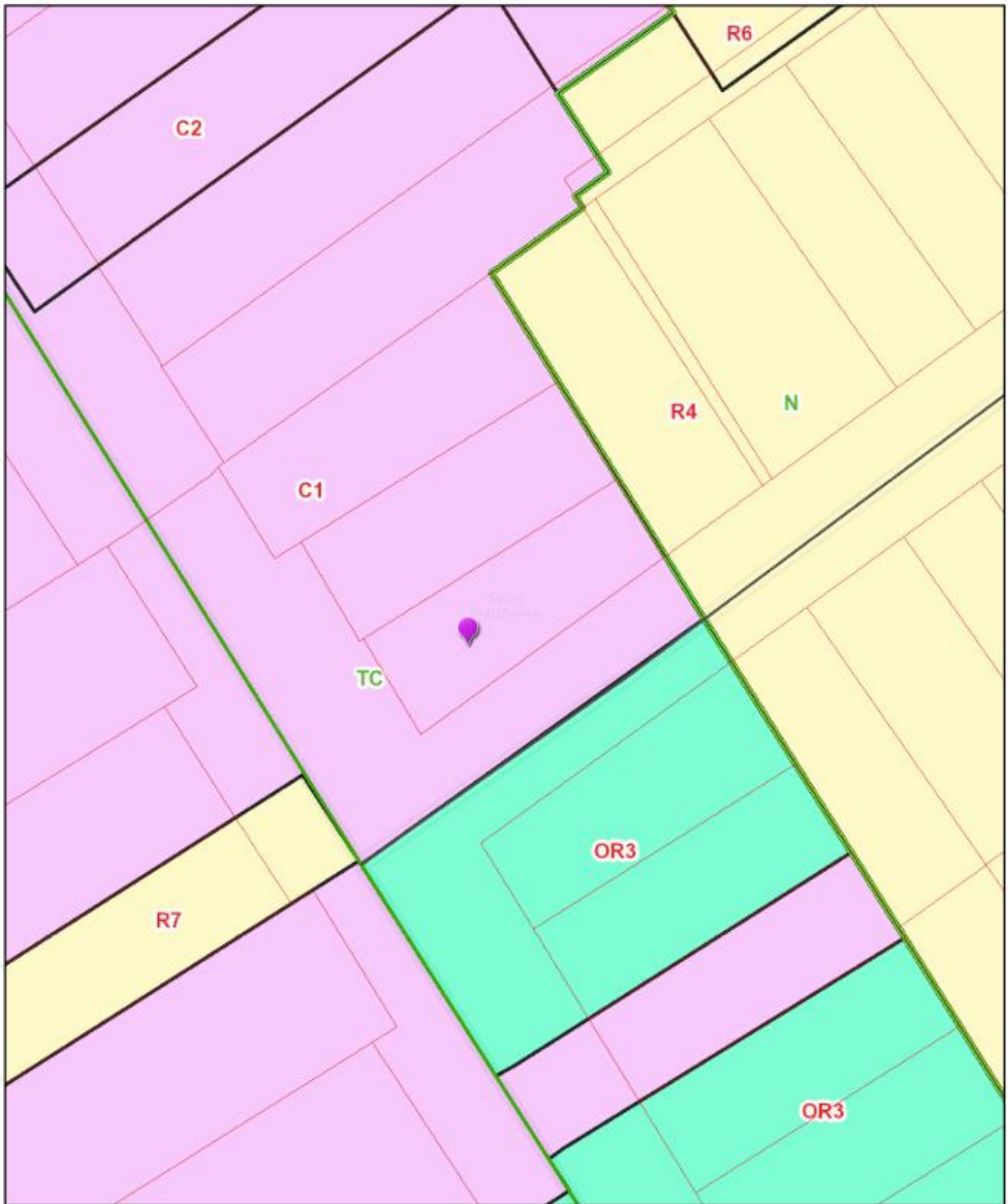
**NOTIFICATION**

| Date           | Purpose of Notice              | Recipients                                                                                             |
|----------------|--------------------------------|--------------------------------------------------------------------------------------------------------|
| <b>4/27/23</b> | Hearing before BOZA on 5/15/23 | 1 <sup>st</sup> tier adjoining property owners<br>Registered Neighborhood Groups in Council District 9 |
|                | Hearing before BOZA            | Sign Posting on property                                                                               |

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map





2. Aerial Photograph

