

# Board of Zoning Adjustment Staff Report

November 21, 2016



<b>Case No:</b>	16VARIANCE1081
<b>Request:</b>	To allow an enclosed new addition to encroach into the 30 foot street side yard setback.
<b>Project Name:</b>	Borsch Residence
<b>Location:</b>	300 Norbourne Blvd.
<b>Area:</b>	.15740 acres
<b>Owner:</b>	Natalie Borsch
<b>Applicant:</b>	Glen Coke – Coke General Contracting Inc.
<b>Representative:</b>	Glen Coke – Coke General Contracting Inc.
<b>Jurisdiction:</b>	City of St. Matthews
<b>Council District:</b>	26 – Brent T. Ackerson
<b>Case Manager:</b>	Ross Allen, Planner I

### REQUEST

- **Variance:** from the Development Code (St. Matthews Apr. 2001) Article 4 section 4.6.C.2.c to allow an addition to the principal structure to encroach 9 feet into the street side yard setback.

Location	Requirement	Request	Variance
Minimum Street Side Yard Setback	30 feet	21 feet	9 feet

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is a corner lot, Norbourne Blvd. (front yard) and Winchester Rd. (street side yard) located in an R-4 zoned parcel within a Neighborhood Form District. The applicant is proposing to construct a 23 foot wide by 17 foot long attached addition to the principal structure located in the street side yard along Winchester Rd. The proposed attached addition would encroach into the 30 foot street side yard by approximately 9 feet and approximately 21 feet from the property line.

The original recorded plat for the Parkside Section 2 Subdivision (dated Feb. 11, 1946) shows a forty foot build to limit line on the parcel along both Norbourne Blvd. and Winchester Rd. The applicant would need to have a minor plat recorded after the variance is approved with an alteration to the build to limit line.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Residential Single Family	R-4	Neighborhood
<b>Proposed</b>	Residential Single Family	R-4	Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family	R-4	Neighborhood
<b>South</b>	Residential Single Family	R-4	Neighborhood
<b>East</b>	Residential Single Family	R-4	Neighborhood
<b>West</b>	Residential Multi - Family	R-6	Neighborhood

## PREVIOUS CASES ON SITE

B-94-95: variance to allow a deck to encroach into the street side yard, the deck was 27 feet interior to the street side yard property line along Winchester Ave. (Approved by BOZA on June 19, 1995).

## INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

## APPLICABLE PLANS AND POLICIES

Development Code (Dec. 2003 for the City of St. Matthews)

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 proposed addition is approximately 23 feet from the property line. The property line is interior to a verge by approximately 16 feet with a sidewalk, both of which are coterminous to the applicant's street side yard. Last, the proposed addition is outside of sight triangles as related to the property corner posing no health, safety or issue of general welfare.

- (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 three of the residences found at the intersection of Winchester Rd. and Norbourne Blvd. have setbacks in the street side yard less than the required 30 feet as found in the St. Matthews Development Code.

- (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 proposed addition is located within the property lines, notably 23 feet from the street side yard property line posing no visual obstruction along Winchester Ave. or Norbourne Blvd. to vehicular or pedestrian traffic.

- (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 applicant will require the variance in order to have a to submit a minorplat allowing an alteration of the build limit lines as found on the plat for Parkside Subdivision 2.

## ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do 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 since the subject site is a corner lot and has two setbacks, the first for the 30' street side yard setback and the second a building limit line as found on the subdivision plat of 40'. Three other residences found at the intersection of Winchester Ave. and Norbourne Blvd have setbacks less than the required 30' and as a result are also less than the build limit line, at 40 feet interior to the parcel boundary, as found on the subdivision plat.

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 since the proposed addition is allowing for a family that is increasing in numbers. The variance if denied and a minor plat alteration to the build limit line (staff approvable) not approved then, the home owners may need to seek housing elsewhere.

3. 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.

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 since the Development Code, as used by St. Matthews, provides setbacks for Street Side yards that 30' and the subdivision plat shows a build limit line of 40' interior to the property line along Winchester Ave. and Norbourne Blvd. As a result of the street side yard setback the proposed addition would encroach into the street side yard setback and exceed the build limit line on the Parkside Section 2 subdivision. The applicant is seeking to come into compliance with the St. Matthews Development Code and conform to the restrictions as found on the subdivision plat.

### TECHNICAL REVIEW

- None

### STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of review for granting a variance as established in the Development Code (City of St. Matthews) from Article 4 section 4.6.C.2.c to allow an proposed addition to the principal structure to encroach 9 feet into the street side yard setback along Winchester Ave. (the northwestern property line).

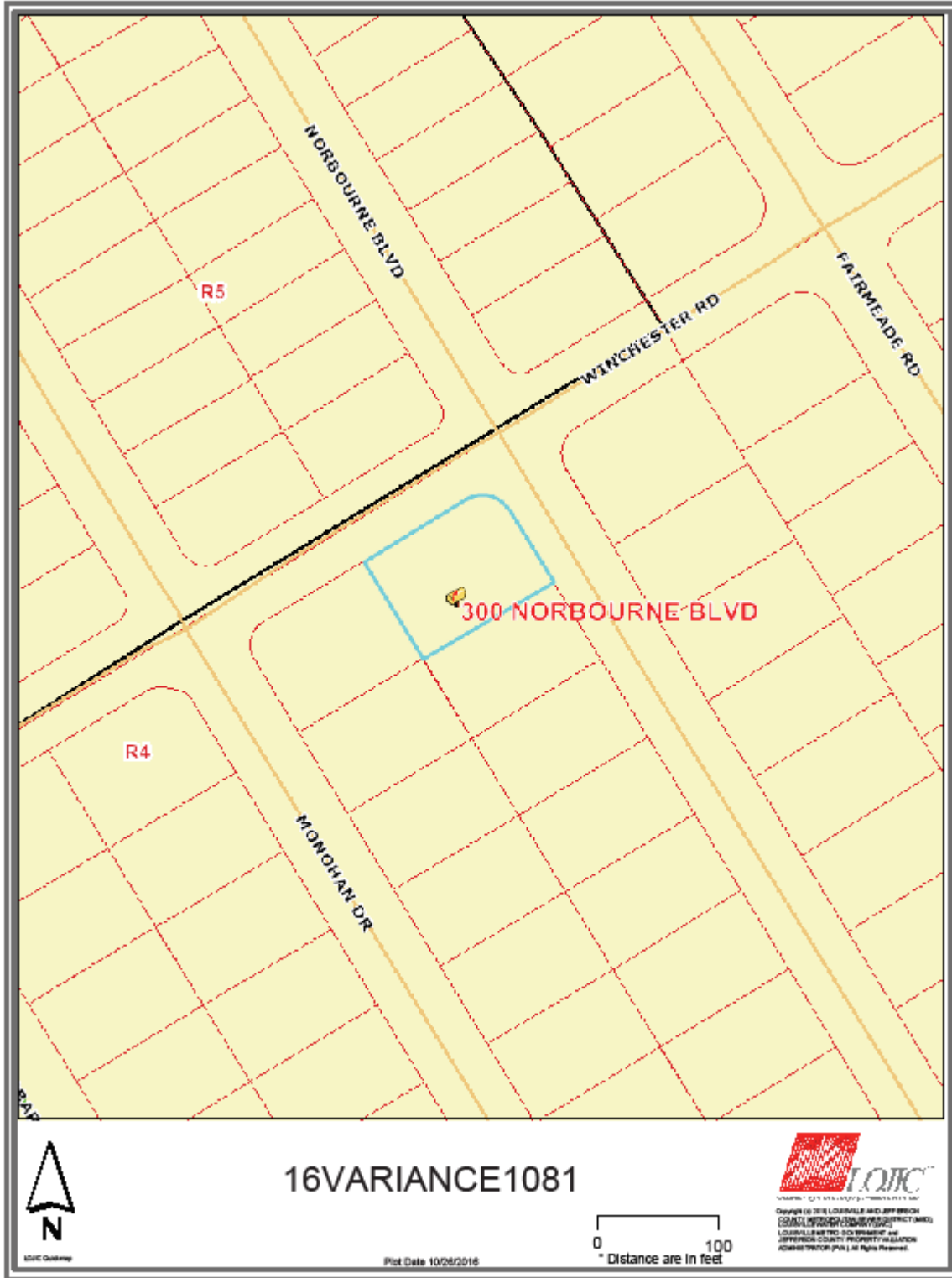
### NOTIFICATION

Date	Purpose of Notice	Recipients
November 4, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 26 Notification of Development Proposals
November 4, 2016	Sign Posting for BOZA	Sign Posting on property

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

