

# Board of Zoning Adjustment

## Staff Report

April 19<sup>th</sup>, 2021



**Case No:** 21-VARIANCE-0029  
**Project Name:** Leland Road Variance  
**Location:** 4003 Leland Road  
**Owner(s):** Timothy Shaner  
**Applicant:** Timothy Shaner  
**Jurisdiction:** St. Matthews  
**Council District:** 9 – Bill Hollander  
**Case Manager:** Rachel Mandell, Planner I

### **REQUEST:**

**Variance** from St. Matthews Development Code Article 4.6.C.2.b to allow an accessory structure to encroach into the required side yard setback.

| Location            | Requirement | Request | Variance |
|---------------------|-------------|---------|----------|
| Northeast Side Yard | 5'          | 1' 3"   | 3' 9"    |

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-4 Single-family Residential. The site is in the Bellewood Subdivision and is in the municipality of St. Matthews. The applicant is proposing to replace the existing garage which is currently 1' 3" from the property line. The applicant would like to maintain the location of the garage.

The applicant has received the signatures of several of the adjoining property owners, including a signature from the neighbor impacted by the variance.

### **STAFF FINDINGS**

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

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 the St. Matthews Development Code from Article 4.6.C.2.b to allow an accessory structure to encroach into the required side yard setback.

### **TECHNICAL REVIEW**

No technical review required.

### **INTERESTED PARTY COMMENTS**

Staff has not received any formal comments.

## **RELATED CASES**

None.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM ARTICLE 4.6.C.2.b**

- (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. The garage will be replacing an existing structure and will 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 the proposed structure is replacing an existing structure of the same use.

- (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 as the structure is toward the rear of the home and does not result in any changes to shared public areas. Additionally, the new construction will comply with all building codes, including fire 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 proposed garage is in the same location as the existing garage.

## **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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the existing structure is not compliant and has existed for at least the past 20 years per aerial imagery.

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 not permit the property owner to construct the addition in a way that aligns with the existing layout of the property.

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 is requesting the variance prior to beginning construction.

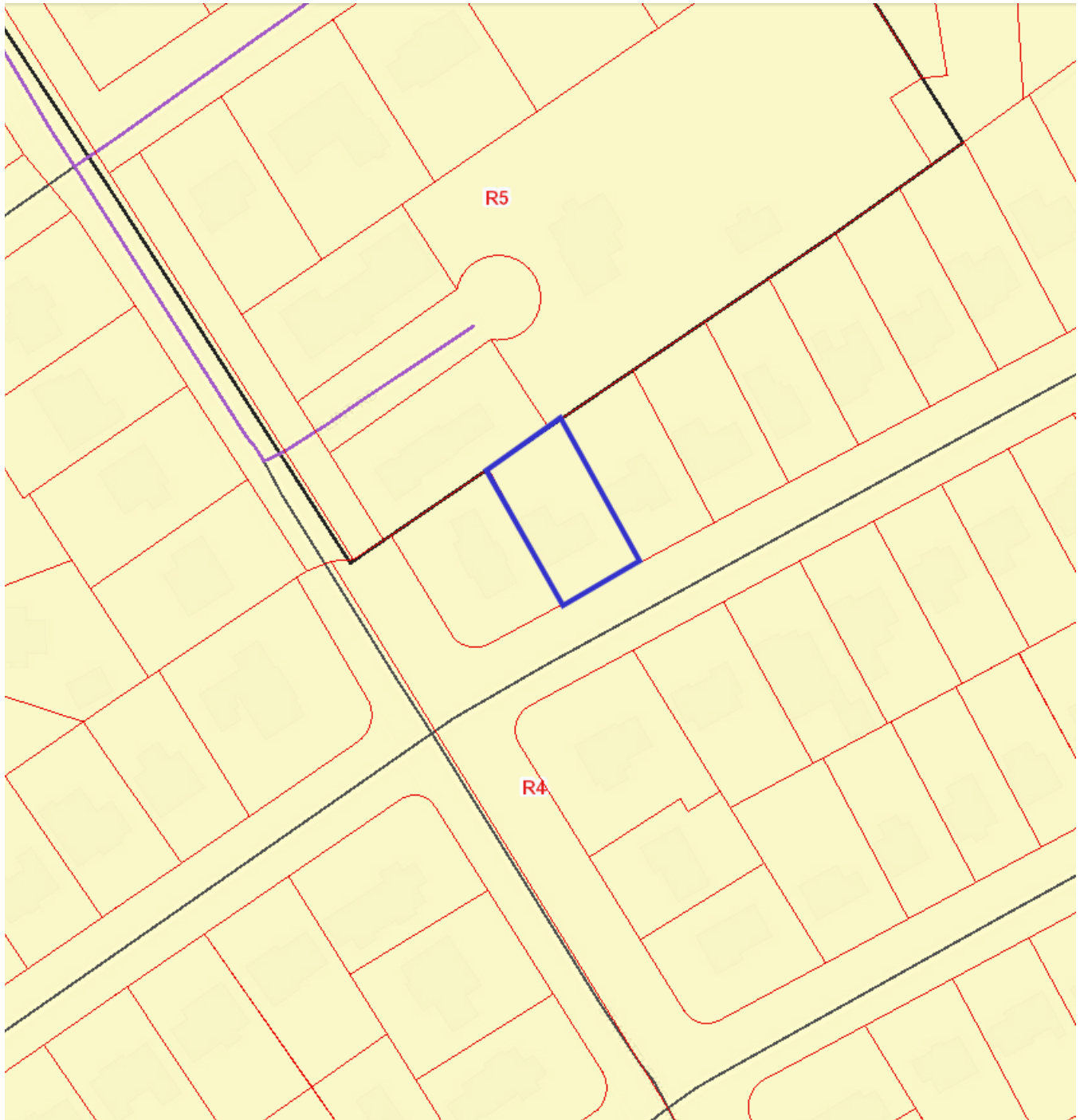
## **VARIANCE PLAN REQUIREMENT**

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.

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan

### **Zoning Map**



**Aerial Photograph**





# Site Plan

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PLANNING & DESIGN  
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