

Board of Adjustment  
Thursday, April 4, 2013  
7:00 PM  
Hood Room, Matthews Town Hall

**AGENDA**

- I. CALL TO ORDER
- II. INVOCATION
- III. APPROVAL OF MIINUTES
- IV. VARIANCE REQUEST: 731 Matthews Township Parkway
- V. ADJOURNMENT

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, JANUARY 3, 2013  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chairman Eric Welsh, Vice Chairman Stephen Lee, Members Jim Mortimer and Walter Monestere; Alternate Members Jim Jiles, Jeanne Moore and Cecil Sumners; Attorney Robert Blythe; Senior Planner Jay Camp and Town Clerk Lori Canapinno

**ABSENT:** Member Derek Morgan

**CALL TO ORDER/INVOCATION**

Chairman Welsh called the meeting to order at 7:00 pm and gave the invocation.

Vice Chairman Lee made a motion to approve the minutes of the August 23, 2012 meeting. Mr. Monestere seconded and the motion was unanimously approved.

Mr. Monestere made a motion to approve the minutes of the September 13, 2012 meeting. Mr. Mortimer seconded and the motion was unanimously approved.

Mr. Sumners was appointed to act as a voting member.

**VARIANCE REQUEST: Case 2013-1; 547 West Charles Street**

**SWEARING IN**

The following were sworn in: Jay Camp, Roger Martin, Sandra Privatte Robinson

Senior Planner Jay Camp explained the applicant originally requested a variance of four feet to the minimum ten foot buffer, however staff had some concerns so the recommendation to the owner was to request a nine foot variance to the fifteen foot required screening yards instead. The request is to have only a six foot wide planting strip between this site and the adjoining residentially-zoned parcel.

The subject parcel, ID 193-251-10, is currently zoned R-20. A rezoning application is in progress to rezone that to office – O-9(CD) – for the construction of an approximately 4,200 square foot office building. The Town Board of Commissioners is scheduled to vote on the rezoning application on January 14 but they cannot render a decision without an approved variance or a redesign of the site.

The subject parcel is adjacent to one of the last residentially-zoned properties in this portion of West John Street. The Downtown Master Plan recommends office use for the area and many of the older homes have been preserved and renovated for office use.

The purpose of screening adjacent to residential areas is to provide relief from the sights, sounds and light that can accompany office or commercial uses. The Town requires better quality, taller, denser and more numerous evergreen plant materials than what would be found in other commercial locations such as shopping centers. In screening versus typical landscaping, typically 50% of the plants should be evergreen and should achieve opacity of 75% within four growing seasons.

Should this Board approve the request, staff feels it would be reasonable to place conditions on the variance to assure that a greater percentage of plant materials used are evergreen in nature, thus creating a year-round screen. The variance should apply only to the buffer width – the plant material standards and required number of plants should still apply. The total lineal feet of property line between the two parcels is approximately 75 feet, thus the requested variance affects only this portion of the overall site.

Mr. Camp explained that since the property has yet to be developed, it could be redesigned by reducing the width of the drive aisle and number of parking spaces. As a result the site may be less functional. This application also assumes that the adjacent property will be rezoned in the future. The property owner will speak regarding that issue but there are no guarantees that what is assumed will come to fruition.

The Downtown Master Plan does call for office uses on West John Street. The buffer requirement as it exists today may or may not exist in future years should the adjacent home be rezoned as most others in the area have.

The hardship is really a result of the specific site plan that has been created. It is a rather small infill site and staff recognizes the occasional difficulty in building within these constraints.

The variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. Staff recommends that measures be taken to mitigate the effects of the planting strip width reduction by requiring a greater number of evergreen plantings.

There are no apparent issues with public safety or welfare.

There was some discussion of the site's layout. There is a jog in the property line on the lot's northern boundary and the requested variance would cover the area of that jog down to Lois Street – a length of approximately 75 feet. That jog has created some difficulty in the site planning process although it is not insurmountable.

Mr. Mortimer asked if any comments from neighbors had been received. Mr. Camp explained that notice was provided to adjoining as required by statute and Ms. Private Robinson, the owner of the adjacent residential property, is in attendance and may wish to speak later in the meeting.

Roger Martin represented the property owner, Plantation Carolina LLLP (PC) and addressed the Board. He explained that PC has owned the property since 2008. The property is currently zoned R-20. They would like to develop the site for office use and have requested a rezoning to O-9(CD). There are ordinance requirements that must be met and they determined the offset/jog in the property would cause some issues. In addition, the property is located within the Downtown Overlay so additional conditions must be met.

PC recognized that this variance would be needed in order to fully utilize the site for the next 50-100 years. After speaking with the adjacent property owner, it was determined that there would probably be no objection to the request.

The site plan currently shows eight parking spots are potentially affected but it has been discovered through the zoning process that one will need to be removed. That leaves seven parking spaces that will be affected by this

area. If the variance is not approved, those seven will be lost. It is possible that two spaces could be regained through the use of parallel rather than head-in parking. Parking is a great premium when there is a smaller structure. Mr. Martin has found that the more parking that can be had the better off everyone is.

The alleyway between the two rows of parking currently measures about 26 feet across. 24 feet is doable. 22 feet, which is what the alleyway would have to be reduced to if this variance is not granted, is problematic. A significant number of drivers cannot safely and correctly function in a 22 foot alleyway. Generally 24 feet is okay but expansion to 26 feet reduces confusion and maneuvering difficulty within the parking lot.

It is believed that the adjoining parcel will be placed for sale at some point in the near future. At such time, it is very likely that a developer would request business/office zoning on that parcel. If the requested variance for the subject parcel is denied, it is possible that Mr. Martin would have to build a parking lot in one manner but a few years down the road a new commercial structure will be built on the adjoining property which will eliminate the need for the requested variance. He believes the requested variance is a short-term solution with the long-term solution being answered in the near future with the redevelopment of the adjacent property.

Mr. Jiles questioned the width of the planned parking spaces. Mr. Martin said they are 8 feet 8 inches wide – a bit tight for pickup trucks and SUVs but just fine for the smaller vehicles that are becoming more popular with drivers now.

Chairman Welsh asked about required parking. Mr. Camp confirmed that the plan meets general office parking requirements but medical uses require more spaces so the building could not be used solely for medical uses. A split medical/general use mix would be fine. Mr. Martin said about three quarters of the building will be able to be used for medical with the proposed plan.

Mr. Mortimer noted that the discussion regarding the future rezoning of the adjacent parcel is speculative. Mr. Martin said that the property owner was willing to address that if called to do so by the Board.

Sandra Privatte Robinson owns the adjacent residential property in question and addressed the Board. She said she is in full agreement and supports the requested variance. It is her intent to convert her parcel – 556 West John Street, parcel ID 19325111 – to business at some point in the near future. She and her sister also own the adjacent parcels at 542 West John Street and the unnumbered narrow lot right next to it. Those have already been rezoned to commercial use and there is a renter in the home that was converted to business use some years ago. She does not see any problem with the requested variance since her now-residentially zoned property will be rezoned to commercial and the problem will become a nonissue.

There was some discussion of the future of the buffer. If the adjoining property is rezoned then this variance becomes moot. Chairman Welsh asked about conditions that may be placed on the variance. Mr. Camp explained that the general requirement for buffers between commercial uses is six feet, so it wouldn't need to change if the adjoining property is rezoned. Attorney Blythe explained that any conditions that are placed on a variance will remain in effect in perpetuity.

## **DELIBERATIONS**

Vice Chairman Lee said he has no problem with this request. It looks like there are a good number of existing plantings and the proposed plan calls for a decent mix of vegetation.

Chairman Welsh said a lot of his initial concerns regarding the adjacent land owner have now been satisfied. He

does wonder if there is a need for some additional plantings on top of what is required by ordinance as a possibly temporary measure while the adjacent property is still zoned residential. Mr. Mortimer said he had similar concerns but wasn't sure what would be reasonable. Chairman Welsh noted that the planting bed's six foot width doesn't offer a lot of area to work with. If the intent is to get to a-greater-than-75%-opacity in four years then it would have to be a row of Leyland cypresses which would look odd years later. He said he doesn't have a problem with requiring materials that achieve more opacity but suggested that a mix of shrubs, midsize trees and evergreens would look more natural.

Mr. Jiles said he feels that the adjoining property will not remain residential, so planting a row of trees back there would mark a noncontinuity in that area. He feels that staff should be allowed to handle the landscape requirements. Mr. Mortimer agreed that staff is held in great confidence but there is a question about how long it might take for the adjoining property to be rezoned. Mr. Jiles agreed but said he'd hate for the Board to set conditions for specific landscaping when none of them are landscape engineers. He said the suggestions provided by Mr. Camp in the staff report are good enough. Chairman Welsh said he was okay with not requiring any more landscaping.

Vice Chairman Lee made a motion to approve the variance to reduce the rear screening buffer width from fifteen feet to six feet. Chairman Welsh seconded.

Vice Chairman Lee read the findings of fact:

If the applicant complies with the provisions of the ordinance, he can secure a reasonable return from or make reasonable use of his property. However, because of the odd property lines/plotlines on the adjacent property, it creates a difficult situation regarding parking that is safe and usable now and in the future.

The hardship is due to unique circumstances relating to property lines and the site's inclusion in the Downtown Overlay. As indicated by the property owner, those unique constraints provide a hardship. In addition, the consent of the adjacent property owner and her intention to rezone her property helps minimize the effects of the hardship.

The hardship is a result of the applicant's proposed site plan. However, the spirit of what is being proposed and evidence provided by the property owners of both the subject site and the adjacent property, in addition to the requirements of the landscape ordinance, serve as determining factors in the decision.

The variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. The narrower buffer doesn't negate the ability to appropriately landscape and buffer the area to the extent that it would be a detriment to the property in general.

The variance will secure public safety and welfare by providing a safer parking area that allows for easier movement in and out of the lot.

The motion to approve the requested variance was made and seconded and passed unanimously.

## **MISCELLANEOUS**

Mr. Camp explained that Lori Canapinno has accepted the position of Town Clerk. Mary Jo Gollnitz has accepted the position of Zoning Technician/Deputy Town Clerk and will be Clerk to the Board starting with the next meeting.

Attorney Blythe updated the Board on the case involving Premier Plastic Surgery. The Board of Adjustment denied the requested variance long ago and had to review the case for more precise findings of fact in September 2012. The attorneys for each side will meet to discuss those findings shortly. The case will not be coming back to be heard by this Board but its members may be asked to review and approve those findings from September.

## **ADJOURNMENT**

Vice Chairman Lee made a motion to adjourn. Mr. Mortimer seconded the motion and the meeting adjourned at 7:56 pm.

Respectfully submitted,

Lori Canapinno  
Town Clerk

DRAFT

## **Matthews Board Of Adjustment**

**Case 2013-02**

**Type of Request: Variance**

**April 4, 2013**

### **Summary of Request**

The applicant requests a variance to the setback requirements for lots fronting Matthews Township Parkway in the Highway Overlay District. The owner plans to renovate two existing, single family homes and add an addition to connect them together.

### **Background**

The property at 731 Matthews Township Parkway, further identified as tax parcel 19321217 consists of two, single family detached homes and an industrial warehouse structure. Although zoned I-1, light industrial, the two homes have been used as residential structures since their construction in 1963. The owner of Certified Collision adjacent to the site across West Charles St recently purchased the property and plans to convert the two homes to office use. However, due to the change of use and intention to build an infill addition between the homes, a variance of approximately 20' to setback requirements will be required to improve the properties. The site is impacted in two respects with regard to zoning and right-of-way lines. First, construction of Matthews Township Parkway most likely resulted in right-of-way acquisition for the new 4 lane road. Also, the homes predate by multiple decades the Highway Overlay District, which was adopted in the early 1990's, shortly after construction of the new roadway through the Town. The intended addition would not increase the level of nonconformity that existing today with the new front façade located on a vertical plane even with the facades of the existing homes.

### **Highway Overlay District**

The Highway Overlay District was created in response to the new Highway 51 bypass that was constructed in the early 1990's. With the new road in place, hundreds of acres were opened up to new development. The Overlay consists of specific site layout and vegetative requirements intended on created an attractive, well planned thoroughfare through Matthews. In this area of the Overlay, a minimum vegetative buffer of 30' is required.

### **Nonconforming Structures**

Although Section 153.222, nonconforming structures, allows buildings that are nonconforming to be expanded, the area of expansion must be in compliance with current code. For instance, an expansion of these homes to the rear of the site would be allowed because that area is in compliance with yard requirements. However, since the proposed infill between the homes does not meet setback requirements, a variance would be required to proceed with the planned improvements.

**Matthews Board Of Adjustment**

**Case 2013-02**

**Type of Request: Variance**

**April 4, 2013**

**Specifics of variance request**

The Highway Overlay District requires a 30' vegetative buffer with a 15' building setback from the buffer. This results in an overall 45' building setback from ROW whereas typically the I-1 district would have a 40' front setback. In this case, the corner of the existing building is approximately 20' from the ROW. Therefore, the variance request would best be structured as follows:

Variance A: Reduce the 15' setback off of the ROW to no less than 5'.

Variance B: Reduce the 30' vegetative buffer area to no less than 15'.

## Matthews Zoning Code

control, layout, and utility plans.

(10) Landscaping Plan to include:

(a) 1. Prior to any site disturbance, approximate locations and species of all deciduous and coniferous trees at least three inches DHB, and all dogwoods, redbuds and American hollies at least four feet high, which are located in any required buffer or screen area, and in any area not being disturbed by the planned development. The canopy dripline of those trees shall be delineated. A brief assessment of the above inventoried trees, indicating major deformity, disease, and or damage may be included. Where groves of the protected trees exist that will not be removed or disturbed, it is permitted to label the grove as such on the plan drawing, stating the approximate number of protected trees and species mix, without specifying data of each individual tree.

2. Locations, species, and size of all protected trees proposed for removal shall be shown in outline form using a dashed line for the canopy dripline. Reasons for removing protected trees shall be explicitly stated on the Plan.

(b) Locations, dimensions, and square footage of required buffer strips and parking lot landscaping.

(c) Details of required landscaping, showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation. Each plant unit in front tree buffer areas shall be marked as meeting one of the options given in division (G)(5).

(d) Proposed timeline for landscaping.

(11) Name of the project, owner, name and address of engineer, architect, planner or landscape architect, scale, date, and north arrow.

(12) Minor changes or additions to existing development or approved plans may submit an abbreviated site plan. An abbreviated site plan shall be allowed when the proposed change is physically limited to only a contained portion of the site. An abbreviated site plan shall include but not be limited to items listed at divisions (E)(1), (E)(2), (E)(5), (E)(7), (E)(10), and (E)(11) above. The Planning Department shall determine when an abbreviated site plan may be submitted for a detailed site plan and what items must be included.

(F) *General site standards.* The standards of both the Special Highway Overlay District I and the underlying zoning district shall apply. Where the standards of the overlay district and the underlying district differ, the more restrictive standard shall apply:

(1) *Required minimum lot area:*

(a) Lots for single-family detached or attached dwellings, multi-family dwellings, and all other lots not bordering directly on the Special Highway: the required minimum lot area of the underlying district shall apply.

(b) All nonresidential lots bordering on the Special Highway shall be at least two acres in size, except that lots may be smaller: 1.) when those lots are contained within a unified multi-lot development plan which is part of a conditional district zoning process; and 2.) where shared driveway access is used; and 3.) where no more than one driveway for a minimum 500 feet of frontage along the Special Highway will exist. All lots shall be developed with a unified approach to landscaping and buffering, access points, parking and loading, lighting, and noise.

(c) Lots bordering on the Special Highway which were created prior to application of this section and which are less than two acres shall be handled in accordance with the town's existing zoning provisions governing nonconforming situations.

(2) *Lot coverage.* Stormwater retention shall be required on all lots, and in no case shall impervious surface, such as rooftops, walkways, paving, and the like exceed 75% of the site.

(3) *Yards.* The required front, side, and rear yard requirements of the underlying zoning district shall apply, except that the required protective buffer areas shall in all instances take precedence. **No building shall in any instance be closer than 15 feet from any required buffer or screen area.**

(4) *Building height.* The maximum building height limit of the underlying zoning district shall apply, except that where allowed, communications antennas or communications towers shall follow the height limits given in Section 153.172 and shall be located a minimum straight line distance of 150 feet from the nearest edge of right-of-way to the Special Highway. Where guy wires are used, their point of connection to the ground shall be used to determine the minimum 150 foot distance. (See also §153.172(F). Whichever paragraph is more restrictive shall control.) (Ord. 912, passed 1-27-97)

(5) *Parking and loading requirements.* Parking and loading requirements shall be met in accordance with the underlying zoning district, except that the special design standards of this section shall apply in the Special Highway Overlay District I.

(6) Location of parking, loading, and storage areas.

(a) Any paved or impervious surface designed or intended to be used by vehicles, including parking, loading and storage areas shall be located to the side and rear of all principal nonresidential structures of sites

## Matthews Zoning Code

fronting the Special Highway. Parking to the side of a structure shall be no closer to the Special Highway right-of-way than the structure or 60 feet, whichever is the lesser distance. For corner lots, the side of the lot facing the more major thoroughfare shall be considered the front yard for the purpose of this requirement.

(b) Exceptions to this provision may only be granted under certain circumstances:

1. When the applicant can demonstrate that placement of those facilities in the side or rear yards would require greater clearing and grading than if those facilities were to be located in the front yard. An alternative design layout showing what vegetation would be lost that can be retained by front yard paving must be provided.

2. When the applicant can demonstrate that the necessary vehicular and pedestrian circulation of the proposed use cannot function without front yard parking, loading, or storage. A written description of the use, and why the front yard vehicular use area cannot be eliminated or relocated elsewhere on the site must be provided.

(c) An enhanced landscaping plan shall be part of any request for an exception as described in divisions (a) or (b) above. Enhanced landscaping located between the vehicular use area and the Special Highway shall include evergreen shrub screening, berms, low fencing with evergreen shrubs on the street side, or a combination of methods to significantly reduce the amount of pavement and vehicles viewed from the Special Highway. In addition, any paved area used for parking requesting an exception shall be required to provide at least one existing or planted tree of a minimum three inch caliper and minimum eight foot height for every five parking spaces. These trees must be located in tree islands with minimum dimensions as given in division (J)(2). Property at a higher grade than the Special Highway shall not be reason to exempt the requirement for enhanced landscaping.

(d) An exception may be granted under either divisions (1) or (2) above by the Planning Department when no other variances to the Special Highway Overlay District requirements are requested. If any other variances are necessary, an exception to front yard paved areas may only be determined by the Board of Adjustment.

(7) *Location of Utility Connections.* For properties fronting the Special Highway, utilities such as water, sewer, natural gas, telephone, cable, etc., shall only be located in the portion of the required front protective buffer that is disturbed for driveway access when trees of protected size exist. If a variance to this provision is requested, the applicant must demonstrate how trees and tree roots will be protected from damage during construction or future

maintenance/repair, and that new easements will not include any existing or new trees required by division (G).

(G) *Special Highway buffer required.*

(1) As previously stated, one of the principal purposes of the Special Highway Overlay District is to preserve and protect existing natural landscaping while allowing development of individual properties. To this end, a protective buffer area shall be created on all sites fronting the Special Highway. Within this area, all deciduous and coniferous trees three inches caliper or larger, and all dogwoods, redbuds, and American hollies four feet high or larger shall be considered of protected size. The front protective buffer shall be left in a natural state to the greatest extent possible. Clearing of small brush, vines, dead wood, trash, etc., is permitted when done in a method so as not to damage roots, limbs, trunks, bark, etc., of protected vegetation. Mulch of natural material only may be placed around existing or added trees and shrubs.

(2) (a) A minimum protective buffer of 30 feet shall be established from the edge of the existing or proposed right-of-way of any Special Highway, except when a service road right-of-way abuts and parallels the Special Highway right-of-way, in which case a minimum protective yard of 25 feet shall be established from the service road right-of-way.

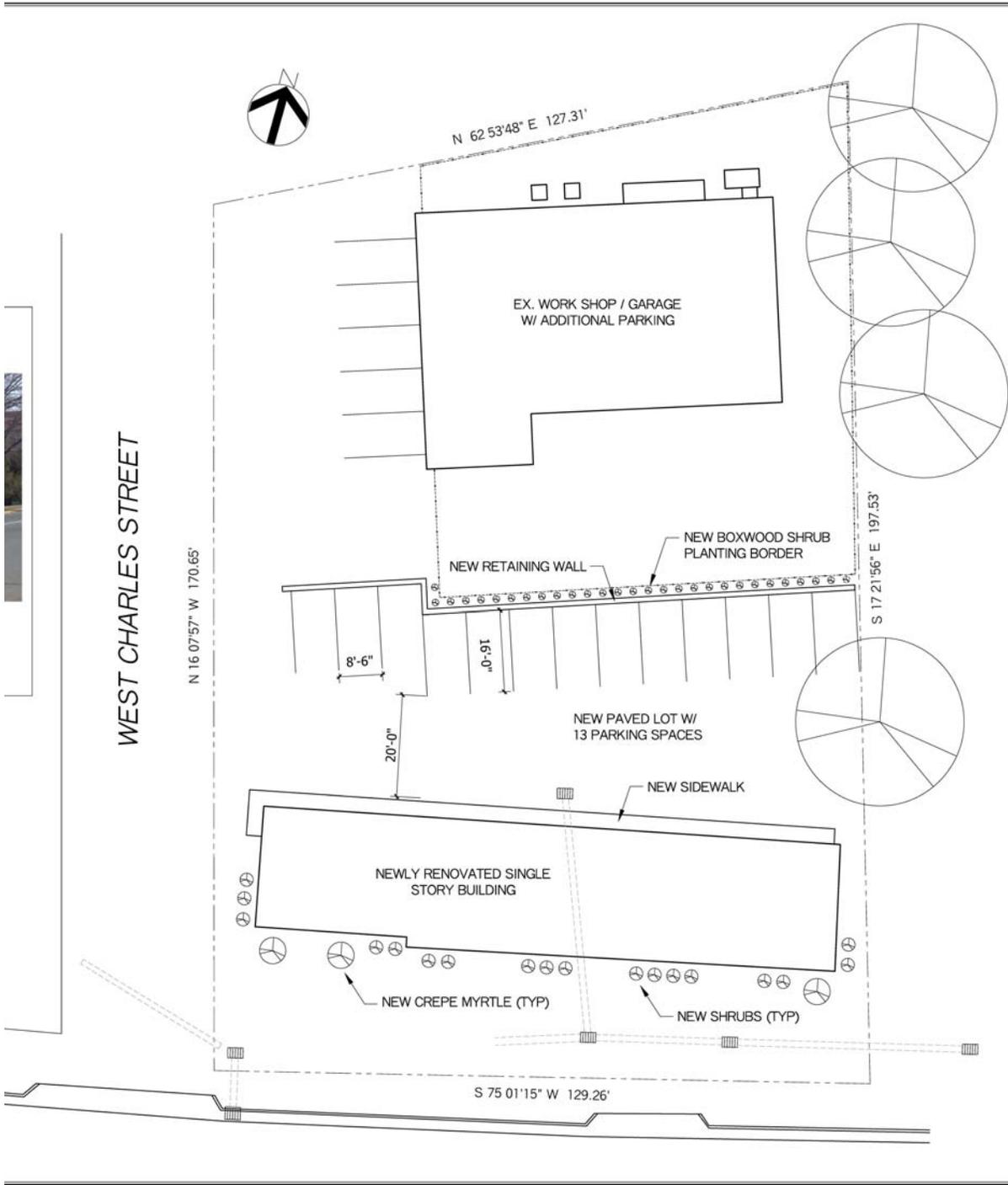
(b) When road construction, utility locations, or similar action has cleared some or all of this buffer area of tree cover, then the buffer area shall be measured from the undisturbed tree line, when one exists within 50 feet of the edge of the right-of-way. Utility easements, sidewalk easements, current or former temporary construction easements, and similar restrictions shall be shown on the site plan submittal as described in division (E)(5).

(c) Where no natural vegetation including trees of protected size exists within a 50 foot depth from the right-of-way of the Special Highway, then the minimum buffer area shall be measured from the edge of the right-of-way.

(3) A minimum protective yard of 25 feet shall be established adjacent to any street right-of-way which intersects and shares common access with the Special Highway for a distance of 200 feet from the intersection of the rights-of-way of the street and the Special Highway.

(4) In a case where an individual parcel has been rendered virtually unusable due to establishment of the buffer area, there may be grounds for a variance or appeal, provided that all other conditions set forth in this section are met. In granting any such variance or appeal, the Town Board of Adjustment may require the applicant to compensate in equivalent landscaping improvements any vegetative matter that is lost through an encroachment into the buffer area.

# Overall Site Plan



KEYWORD	
REAL	
<b>K CONSULTING</b>	
<b>CERTIFIED COLLISION SERVICES</b>	
<b>PKG LOT &amp; BLDG RENOVATIONS</b>	
731 / 254 MATTHEWS TOWNSHIP PARKWAY MATTHEWS, NORTH CAROLINA 28105	
DRAWN BY: WSK	
APPROVED BY: WSK	
SCALE: 1/8"=1'-0"	
DATE: 02/24/2013	
DWG NO: 13-09-01	
SHEET TITLE: PARKING LOT & BUILDING RENOVATIONS	
SHEET NO. <b>CCS.01</b>	

**Matthews Board Of Adjustment**

**Case 2013-01**

**Type of Request: Variance**

**April 4, 2013**



731/ 735 MATTHEWS TOWNSHIP PARKWAY  
EXTERIOR VIEW

**JBA**  
JENNIFER BENSON  
ARCHITECTURE

5803 Parkstone Drive, Matthews, NC 28104  
704-930-8592 www.jenbarchitecture.com

**Matthews Board Of Adjustment**

**Case 2013-01**

**Type of Request: Variance**

**April 4, 2013**



## Board of Adjustment Worksheet

### Findings of Fact

*This form can be used by the Matthews Board of Adjustment during deliberations on zoning variance cases to assist in developing required findings of fact to support approval for, or denial of, a variance request. Staff comments are provided here for each finding listed in the state statute. Board members may choose to use the information provided by staff, the applicant, other sworn testimony, and personal observations mentioned in the hearing in making their determinations on these findings.*

1. If the applicant complies with the provisions of the ordinance he can/cannot secure a reasonable return from, or make reasonable use of, his property. (It is not sufficient that failure to grant a variance simply makes the property less valuable.)

**Even with I-1 zoning, the single family homes still require a change of use to be occupied as office. This alone still requires a variance even with no building additions.**

2. The hardship of which the applicant complains does/does not result from unique circumstance related to the applicant's land. (Hardship common to an entire group of properties resulting in overly restrictive regulations should be referred to the Planning Board. Unique personal or family hardships cannot be considered since a variance applies to, and runs with, the land.)

**The subject property is unlike many of the newer properties along Highway 51 due to the shallow setback of the homes.**

3. The hardship is/is not the result of the applicant's own actions.

**The homes were constructed in 1963 long before the current 4 lane roadway and Overlay requirements**

4. The variance will/will not be in harmony with the general purpose and intent of the ordinance and will/will not preserve its spirit. (Any variance granted should be the least possible deviation from the ordinance standards that will allow a reasonable use of the land without sustainability detracting from the character of the neighborhood.)

**The owner intends to install new landscape to bring the property more closely in compliance with surrounding properties**

5. The variance will/will not secure the public safety and welfare and will/will not do substantial justice. (Any decision on a variance request should consider that the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

**A driveway along Township Parkway will be closed with access only allowed off of West Charles St. This more closely matches Overlay requirements for reduction and or/combination of drive access points along the Parkway resulting in a safer driving environment.**



232 Matthews Station Street  
Matthews, NC 28105  
704.847.4411

**APPLICATION FOR A ZONING VARIANCE**

DATE FILED MARCH 18, 2013

HEARING DATE APRIL 4, 2013 TIME 9 PM

LOCATION: Hood Road, Matthews Town Hall, 232 Matthews Station Street, Matthews, NC 28105

To the Matthews Board of Adjustment:

I, Mark Tantillo (print name), hereby petition the Board of Adjustment of the Town of Matthews for a VARIANCE from the literal provisions of the MATTHEWS ZONING ORDINANCE because I am prohibited from using the parcel of land described below in the following manner:

With the construction of highway 51 our 40' setback requirement was impeded. We are asking for a 20' setback variance in order to combine the 2 existing structures on the site into one retail/ office building. This will improve the area with landscaping, curb appeal and driver safety, as well as bring jobs and tax revenue into the town with new businesses that will open up.

The property is located at 731/735 Matthews Township Parkway, Matthews, NC (address) and is shown on the Mecklenburg County tax map as parcel number(s) 19321217.

The section(s) of the Zoning Ordinance which affect this ruling is/are 153.051 Modification of Development Standards  
(d) Front setback at 40'

The present zoning of the property is Industrial (I-1).

**APPLICATION FOR A ZONING VARIANCE, PAGE 2**

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. By law, the Board is required to reach three conclusions as a prerequisite to issuing a variance: (1) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance; (2) that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit; and, (3) that in the granting of the variance the public safety and welfare have been assured and substantial justice has been done. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these three required conclusions. **IT WILL BE YOUR RESPONSIBILITY TO PRESENT THESE FACTS BY SWORN TESTIMONY AND COMPETENT EVIDENCE.**

(1) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether in a particular situation "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

- (a) If he/she complies with the provisions of the ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his/her property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

The buildings on this property were built in 1963, therefore they pre-date Highway 51. In order to make proper use of the property we will be improving landscaping, curb appeal and safety of traffic. We will be combining the 2 existing residences to provide a cohesive look to the site. The existing setback will remain the same and the new construction will be between and inline with the existing buildings. Because of the changing area residences are no longer suitable for this area. Therefore it will be changed into retail/ office space.

- (b) The hardship of which the applicant complains results from unique circumstances related to the applicant's land. (Note: Hardships common to an entire neighborhood resulting from overly restrictive zoning regulations should be referred to the Planning Board. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.)

The hardship of relocating the buildings would be cost prohibitive for the project. We will also be improving the area with the relocation of the driveway from a high traffic area (Hwy 51) to a side street (West Charles Street)

- (c) The hardship is not the result of the applicant's own actions.

Because of the construction of Highway 51 the setback was impeded.

(2) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

Intent is to keep the same existing setback but improve compliance with highway overlay.

(3) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

We will be removing the existing drieway on 51 therefore improving the safety of vehicles entering and existing the property. Cars will enter the property from West Charles Street. Improving this site will not only help the aesthetics of the area but will also help economically. Because the use will change to retail and office, it will bring in jobs and tax revenue to the town and state.

**I certify that all of the information presented by me in this application, including attachments, is accurate to the best of my knowledge, information and belief.**

Mark Tantillo  
Print applicant name

704-814-9490  
Telephone number of applicant

\_\_\_\_\_  
Telephone number of representative

\_\_\_\_\_  
Print representative's name

\_\_\_\_\_  
Date

[Handwritten Signature]  
Signature of applicant

705 Matthews Township Pike  
Mailing address of applicant

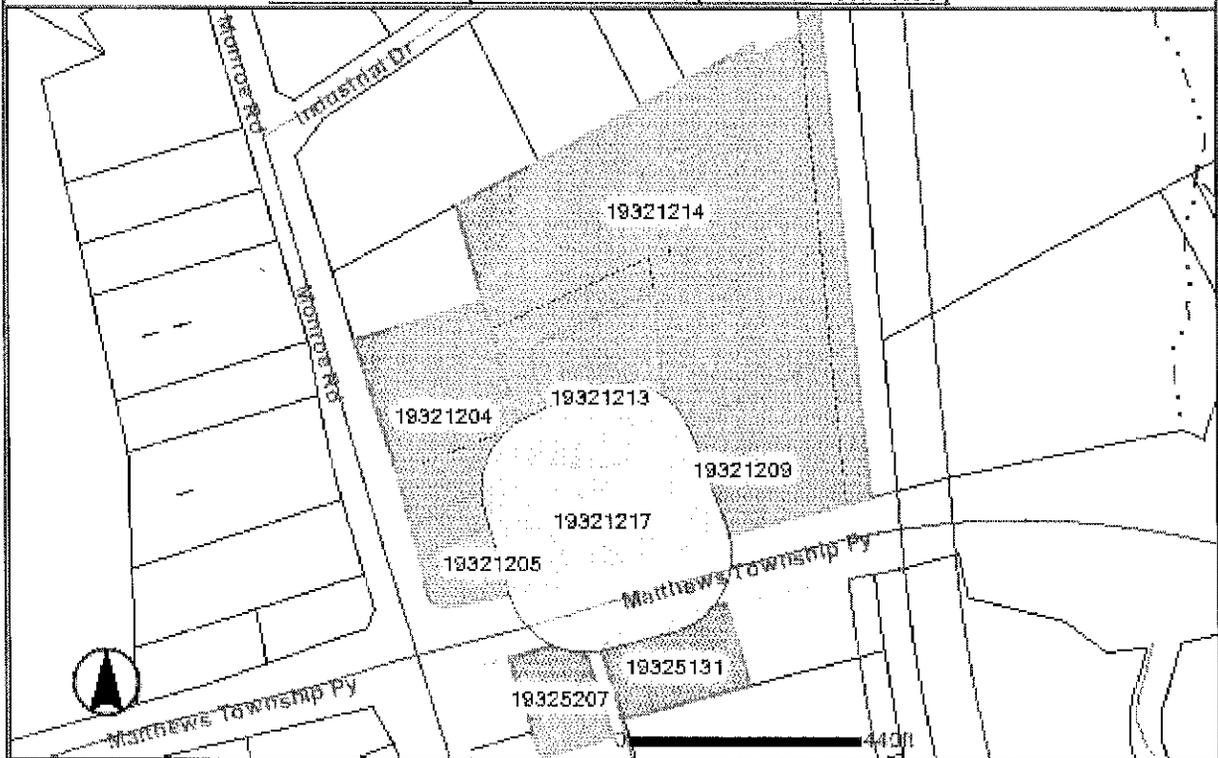
\_\_\_\_\_  
Signature of representative

\_\_\_\_\_  
Mailing address of representative

\_\_\_\_\_  
Date

**Mecklenburg County, NC POLARIS**  
**Property Ownership Land Records Information System**  
**Adjoining Owner's Report**  
 Buffer Distance: 150 Feet  
 3/5/2013 2:59:44 PM

[Click Here to Open Owner's List \(Comma-Delimited\)](#)



This map is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Parcel ID	Owner Name	Mailing Address	City	State	ZIP	Legal Description	Deed Book	Deed Page	Land Area
19321204	STRONGHAVEN INCORPORATED	11135 MONROE RD	MATTHEWS	NC	28105	NA	08853	070	2.147 AC
19321205	NEW LIFE HOLDINGS LLC	6306 ARCHFIELD CT	WAXHAW	NC	28173	P1-11 BC M3-17	25793	505	0.751 AC
19321209	DEPT-PT-NC-07101 PSAC DEVELOPMENT PARTNERS LP	PO BOX 25025	GLENDALE	CA	91201-5025	P3-11 BD M3-17	10933	016	2.66 AC
19321213	STRONGHAVEN INC	11135 MONROE RD	MATTHEWS	NC	28105	NA	08852	970	1.471 AC
19321214	SELECT HOLDINGS LLC	11145 MONROE RD	MATTHEWS	NC	28105	NA	20949	755	8.3323 AC
19321217	SAMSAL LLC	731 MATTHEWS TOWNSHIP PKWY	MATTHEWS	NC	28105	NA	27853	907	0.537 AC
19325131	SILVER CHARLES LLC	4425 RANDOLPH RD SUITE 321	CHARLOTTE	NC	28211	L4-8 P1-3 P9&15 BE M3-17	27856	26	0.89 AC
19325207	KENNETH P OUTEN AND DORIS OUTEN	4600 STALLINGS RD	MATTHEWS	NC	28105	L23-28 &P20-22 BB M3-17	03781	425	0 AC