



## CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **November 1, 2021**  
Project: **Mathias Warehouse**  
**Variance Request**  
Planner: Maegan Thomas

### BOARD OF ZONING ADJUSTMENTS AGENDA ITEM

## PH 1

## BZA 1

### VARIANCE REQUEST

Address: 353 Agnes Drive  
Parcel #: 830-37611-002

**SUMMARY:** Mathias Warehouse is requesting Variance approval to reduce required setbacks on a 3.47 acres site they plan to develop with three (3) warehouse buildings. The associated Large-Scale Development plan is being considered at the Planning Commission later in the agenda and was tabled at the applicant's request last month. Two previous variances were granted reducing the front and rear setbacks at the last Board of Zoning Adjustment meeting.

**CURRENT ZONING:** I - Industrial

**CITY WARD:** 1-Gene McCartney & Amber Ibarra

**FLOODPLAIN:** No

**INFRASTRUCTURE SERVICE AREAS** (not a guarantee of service availability):

- Water:** Tontitown Water
- Electric:** Ozarks Electric
- Sewer/Septic:** Tontitown Sewer
- Phone:** AT&T
- Natural Gas:** Source Gas
- Cable:** Cox Communications
- School District:** Springdale

**PROJECT SYNOPSIS:**

The owner of this property is Mathias Shopping Center Inc, and the applicant is Conner Threet of Crafton Tull & Associates. The property is located on the future Mathias Ave. extension, which connects to Agnes Drive, a Local Street and Fletcher Road to the south.

The applicant is requesting the side setback on the north be reduced from 75' to 25' in order to place three (3) warehouse buildings on this site. Warehouses are allowed by right in Industrial Zoning. The proposed buildings are proposed to be 19,180 sf, Building 1; 14,150 sf, Building 2; and 19,180 sf, Building 3.

Industrial Setbacks required:

Front: 100' from the ROW  
Side: 75'  
Street Side: 50' from the ROW  
Rear: 75'

The applicant's request is to reduce the side setback as follows:

- Decrease the Side Setback from 75' to 25'

This applicant has provided much of the ROW for Mathias Ave. along the front (east) side of the property. This is an important connection for the City of Tontitown, and this portion of the street is being constructed by the City of Tontitown as part of the "Fletcher Road" project. By dedicating the ROW for both these streets, the lot size became smaller, and this request is to allow the applicant to maximize the usage of the property.

Section 153.262 Powers and Duties:

*(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:***

- (1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

**Staff's Response:**

- **Staff does find special circumstances which are peculiar to this property regarding the required Side Setback for this property as the applicant has dedicated much of the ROW needed to construct Mathias Ave and Fletcher Road.**
- **This is one of the last industrial properties in this area to develop, and the lot is similar in depth to other lots within the development.**

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

**Staff's Response:**

- **The applicant has provided most of the ROW (more than their required half) for Mathias Ave., as well as ROW to the south for Fletcher Road, and therefore they could be deprived of rights when regarding the side property setback.**

that special conditions and circumstances do not result from the actions of the applicant;

**Staff's Response:**

- **At the City's request, the applicant dedicated ROW for Mathias Ave. This was not due to an action by the applicant when regarding the side setback variance request.**
- **The building design should be considered when reviewing the request for the side setback variance. The applicant could decrease the size of the proposed building to accommodate the 75' required side setback.**

and that granting the variance requested will not confer on the applicant any special

privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

**Staff's Response:**

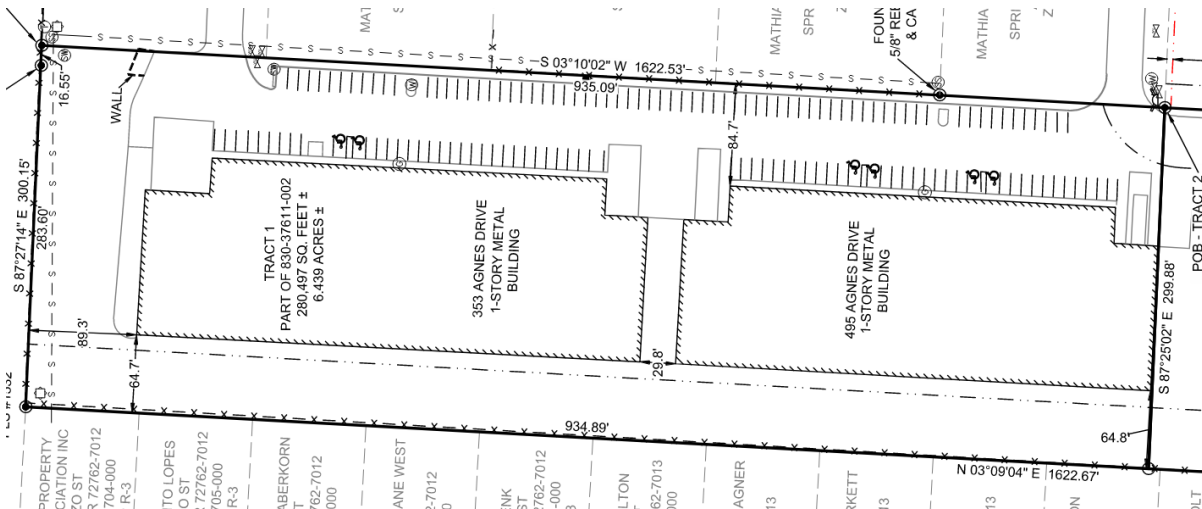
- No special privilege would be granted to the applicant. While this is one of the last lots to be developed in this Industrial area, and several other buildings do not conform to required setbacks.
- (2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

**Staff's Response:**

- The adjacent property also owned by the applicant is non-conforming. There was no variance approval found from 2015 at the time that was constructed.

Even though this property is surrounded by non-conforming structures, that is not sufficient reason to allow the reduction of the side setback.

See below and attached copy of the recent lot split.



- (3) The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

**Staff's Response:**

- The side setback variance request is for a reduction of 50' of setback.
- (4) The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**Staff's Response:**

- **The side setback variance request will be in harmony with the intent of this zoning and will not be injurious to the neighborhood due to the adjacency of other industrial uses on the north side of this property.**

*(5) In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.*

**Staff's Response:**

- **No additional conditions are recommended at this time regarding the variance request for the side setback reduction.**

*(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

**Staff's Response: Granting this request will not allow a use that is not permissible by code.**

**NEIGHBOR COMMENTS:** All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project. Staff has received no comments at this time.

**STAFF RECOMMENDATION:**

Based on the significant dedication of ROW to the City, the compatible adjacent uses on the front side and the north side, and the reduction request (75'), staff recommends approval of the request to reduce the side setback from the adjusted 75' to 25'.

**The large dedication of ROW has limited the applicant's ability to place the square footage of buildings proposed on this site.** Having a 25' separation may still allow access between the proposed structure and the adjacent property.

The property owner has dedicated a large portion of this site for public ROW both on the front (east) side of the lot for Mathias Ave., and the south side of this lot for Fletcher Road, and therefore, a unique condition applicable to this site does exist and relief should be granted so that the owner may use this property within reason.