

Board of Zoning Adjustment
Staff Report
January 23, 2023



Case No:	20-VARIANCE-0169
Project Name:	Princess Way Variance
Location:	6000 Princess Way
Owner:	Silver Lining Investments, LLC
Applicant:	Robert Thomas
Jurisdiction:	Louisville Metro
Council District:	23 – Jeff Hudson
Case Manager:	Amy Brooks, Planner I

REQUESTS:

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the front yard setback to exceed the maximum height allowance.

Location	Requirement	Request	Variance
Front Yard	48 in.	78 in.	30 in.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Residential Single-Family in the Neighborhood Form District. It is on the southeast corner of Princess Way and Joyce Drive. The property is currently developed with a one-story single-family residence. The applicant has already constructed a 78 inch wooden privacy fence in the front yard setback running parallel to Joyce Drive.

The Board of Zoning Adjustment heard this case on May 23, 2022, but was deferred to the June 27, 2022, meeting. The case has been continued several times for the applicant to explore changes to the fence that would address the visual impact of this fence along this street side line. These changes could include moving the fence back, adding landscaping and other mitigation techniques.

STAFF FINDINGS

Staff finds that the requested variance is not adequately justified and does not meet the standards 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 Land Development Code section 4.4.3.A.1.a.i to allow a fence in the front yard setback to exceed the maximum height allowance.

TECHNICAL REVIEW

None.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

RELATED CASES

ENF-ZON-20-000680-5 - Zoning Enforcement case for the fence height.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.3.A.1.a.i

- (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 proposed fence will be setback far enough from the edge of the pavement and any vehicle corridor to ameliorate any possible vision clearance issues.

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

STAFF: The requested variance will alter the essential character of the general vicinity. There are not any other fences that exceed the allowed maximum height within the front yard setback to this degree within the surrounding neighborhood.

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

STAFF: The variance site plan neither appears to reference a survey nor to have been drafted by a design professional. As such, the provided plan does not reflect accurate property lines, and it indicates that the existing fence may well be in the right-of-way, which would cause a hazard or nuisance to the public.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations as the fence could be moved out of the required 15 feet front yard setback and be allowed at the requested height without the need for the variance.

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 not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision

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 create an unnecessary hardship on the applicant as the applicant could move the fence further from the public right-of-way and/or reduce the height.

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 taken by the applicant subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has constructed the fence.

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.

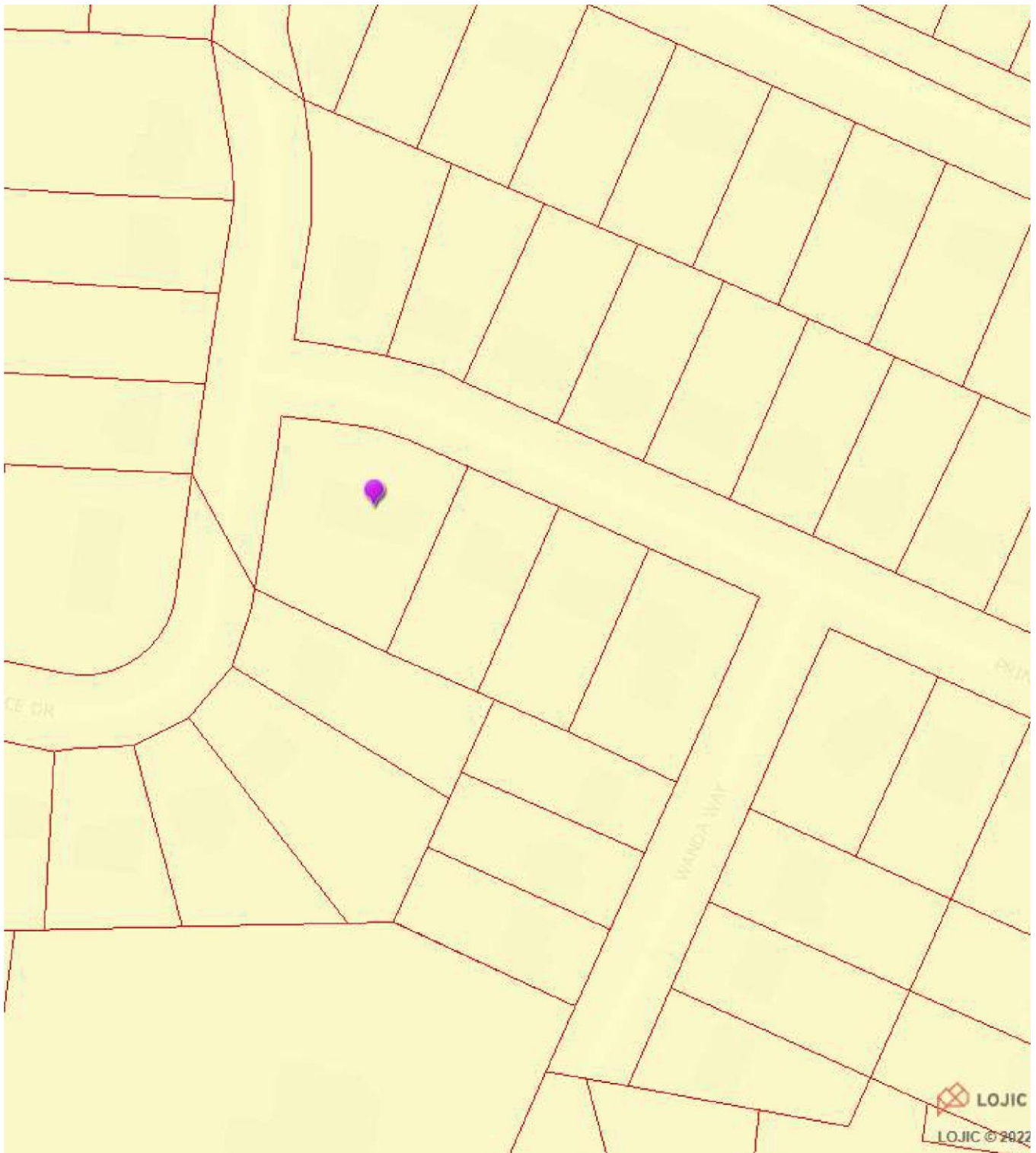
NOTIFICATION

Date	Purpose of Notice	Recipients
01/09/23	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 23
01/11/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph/Site Plan



3. Site Photos



Front of subject property.



Property across Princess Way.



Property across Joyce Drive



View of fence from intersection.



View of fence from property looking toward the intersection at Princess Way and Joyce Drive.

4. **Conditions of Approval**

- 1) The finished side of wood and vinyl fences must face out towards the public right of way and adjoining properties.