

**Board of Zoning Adjustment**  
**Staff Report**  
 September 17, 2018



<b>Case No:</b>	18VARIANCE1079
<b>Project Name:</b>	S. Shelby St. Variance
<b>Location:</b>	2113 S. Shelby Street
<b>Owner/Applicant:</b>	Michael Ballard
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Chris French, AICP, Planning Supervisor

**REQUEST**

- **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the street side yard setback to exceed 42 inches in height in the Traditional Neighborhood Form District.

Location	Requirement	Request	Variance
Street Side Yard Fence	3.5 ft.	5 ft.	1.5 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is located in the Keswick subdivision and currently contains a 1 ½ story single family residence. The applicant proposes to build a new five-foot wooden privacy fence in the street side yard. Land Development Code section 4.4.3.A.1.a.i restricts the height of fences in the street side yard to 42 inches in the Traditional Neighborhood Form District. The applicant therefore requests a variance to exceed 42 inches in height.

**STAFF FINDING**

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 Land Development Code section 4.4.3.A.1.a.i to allow a fence in the street side yard to exceed 42 inches in height.

**TECHNICAL REVIEW**

- No technical review was undertaken.

**INTERESTED PARTY COMMENTS**

Staff received an email on August 30, 2018 inquiring about the location of the fence.

Staff spoke to an adjoining property owner on the phone on September 6, 2018 inquiring about the location of the fence.

**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 as the proposed fence will not extend to the corner and will not adversely affect vehicular or pedestrian traffic.

- (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 fence will be similar to one across Texas Avenue.

- (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 proposed fence will not obstruct sight lines or create a hazard at the corner.

- (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 there are buildings with greater scale and mass than the proposed fence nearby.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise 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 not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and similar in size to other lots on the general vicinity.

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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the fence could be lowered to the standard of 42 inches.

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 as the applicant is requesting the variance and has not begun construction.

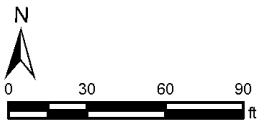
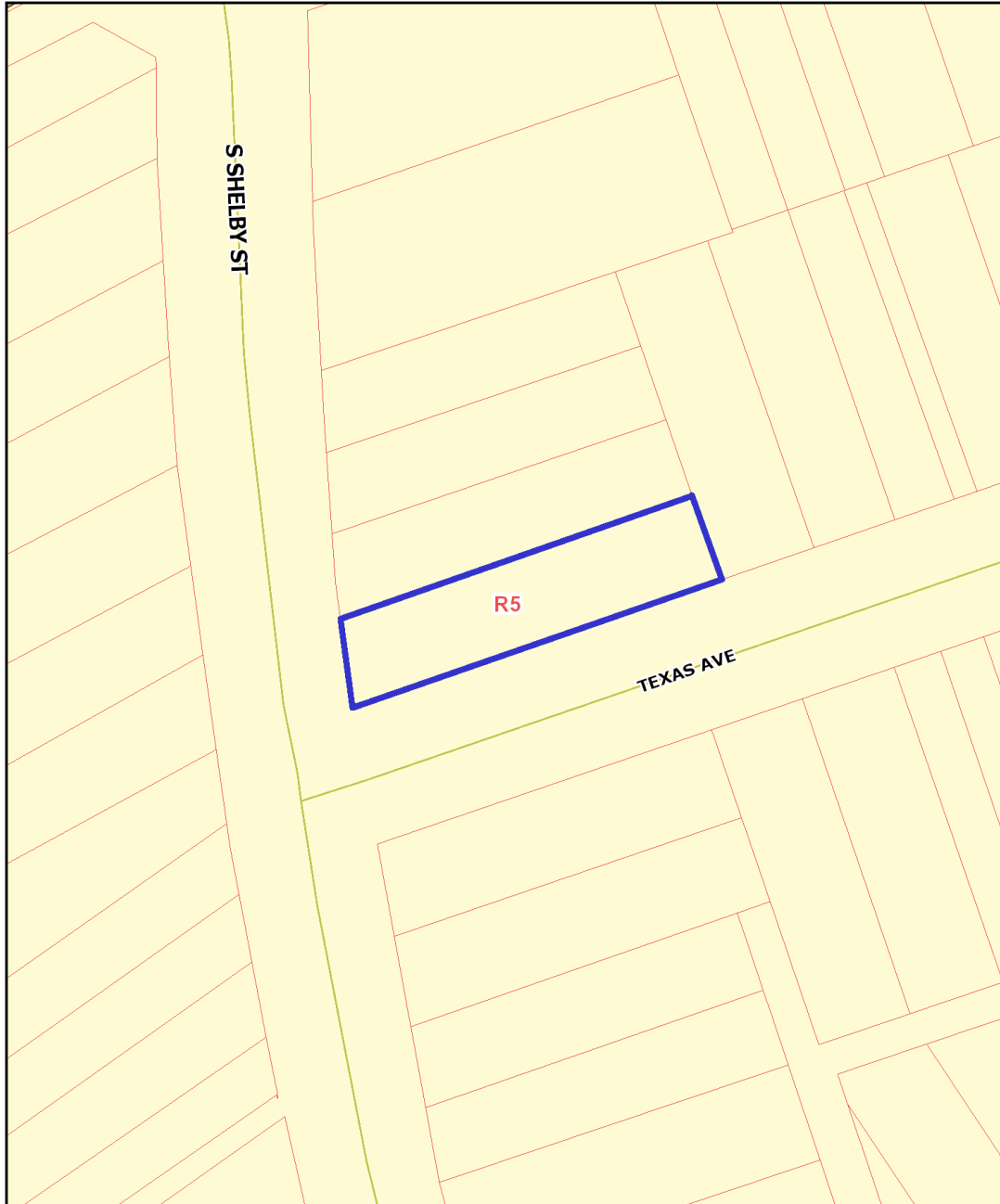
**NOTIFICATION**

Date	Purpose of Notice	Recipients
<b>08/30/2018</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
<b>09/05/2018</b>	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

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

1. **Zoning Map**



**2113 S. Shelby Street**

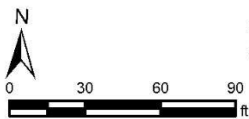
Monday, September 10, 2018 | 12:18:02 PM



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2. Aerial Photograph



**2113 S. Shelby Street**

Monday, September 10, 2018 | 12:15:31 PM

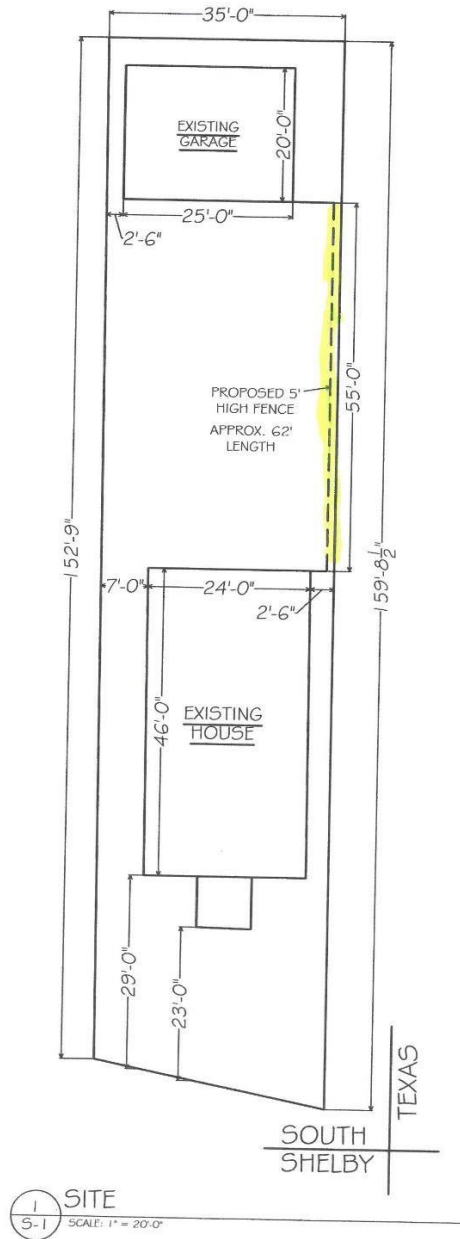


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3. Site Plan

2113 SOUTH SHELBY STREET,  
LOUISVILLE, KY. 40217  
R-5 RESIDENTIAL DISTRICT TN



RECEIVED  
AUG 13 2018  
PLANNING &  
DESIGN SERVICES

OWNER  
MIKE BALLARD  
502-510-0515

18VARIANCE1079

4. Site Photos



The front of the subject property.



The property to the left of the subject property.





The property across Texas Avenue.



The area of the proposed fence.



The existing fence across Texas Avenue.



Looking down the street side property line.



Public hearing notice sign.