

Board of Zoning Adjustment

Staff Report

April 30, 2018



Case No:	18VARIANCE1030
Project Name:	2330 Brookside Drive Fence
Location:	2330 Brookside Drive
Owner(s):	Robert Wainwright
Applicant:	Robert Wainwright
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Dante St. Germain, Planner I

REQUEST

- **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 4 feet in height in the front yard of a double-frontage lot.

Location	Requirement	Request	Variance
Fence Height	4 feet	6 feet	2 feet

CASE SUMMARY/BACKGROUND

The subject property is located in the Highlands Douglass neighborhood, near Cherokee Park. The property is double-frontage, with frontages along Brookside Drive and Valletta Lane, both local-class public streets. The principal structure faces Brookside Drive. The applicant has constructed a 6 foot tall privacy fence along the side of the property abutting one of the neighboring properties to the south-east, extending to the Valletta Lane property line.

The property is zoned R-4 in the Neighborhood form district. The front yard setback in Table 5.3.1 is 30 feet, which applies to both frontages. The 30 feet of fence that ends at Valletta Lane is therefore within the front yard setback, and subject to section 4.4.3.A.1.a.i, which states that fences and walls up to 48 inches in height in the suburban form districts may be located within the required front yards, except as provided on street corners. The applicant requests a variance to allow the 6 foot fence to remain as constructed.

The property is currently under enforcement case 17PM13731 relating to the fence 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 to exceed 4 feet in height in the front yard of a double-frontage lot.

TECHNICAL REVIEW

- No technical review was undertaken

INTERESTED PARTY COMMENTS

No interested party comments were received.

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 fence is not located at a street corner and will not create a hazardous condition.

- (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 fence is of a style typical to the area.

- (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 fence does not obstruct sight lines or cause a hazard.

- (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 fence extends to Valletta Lane but does not extend along the length of the Valletta Lane frontage.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the fence replaced trees which were removed due to poor condition which previously provided a barrier between the subject property and the abutting property.

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 may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to reduce the height of a fence needed for privacy between the subject property and abutting 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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant constructed the fence prior to requesting a variance. However, staff does not have any evidence that the violation of the zoning regulations was willful.

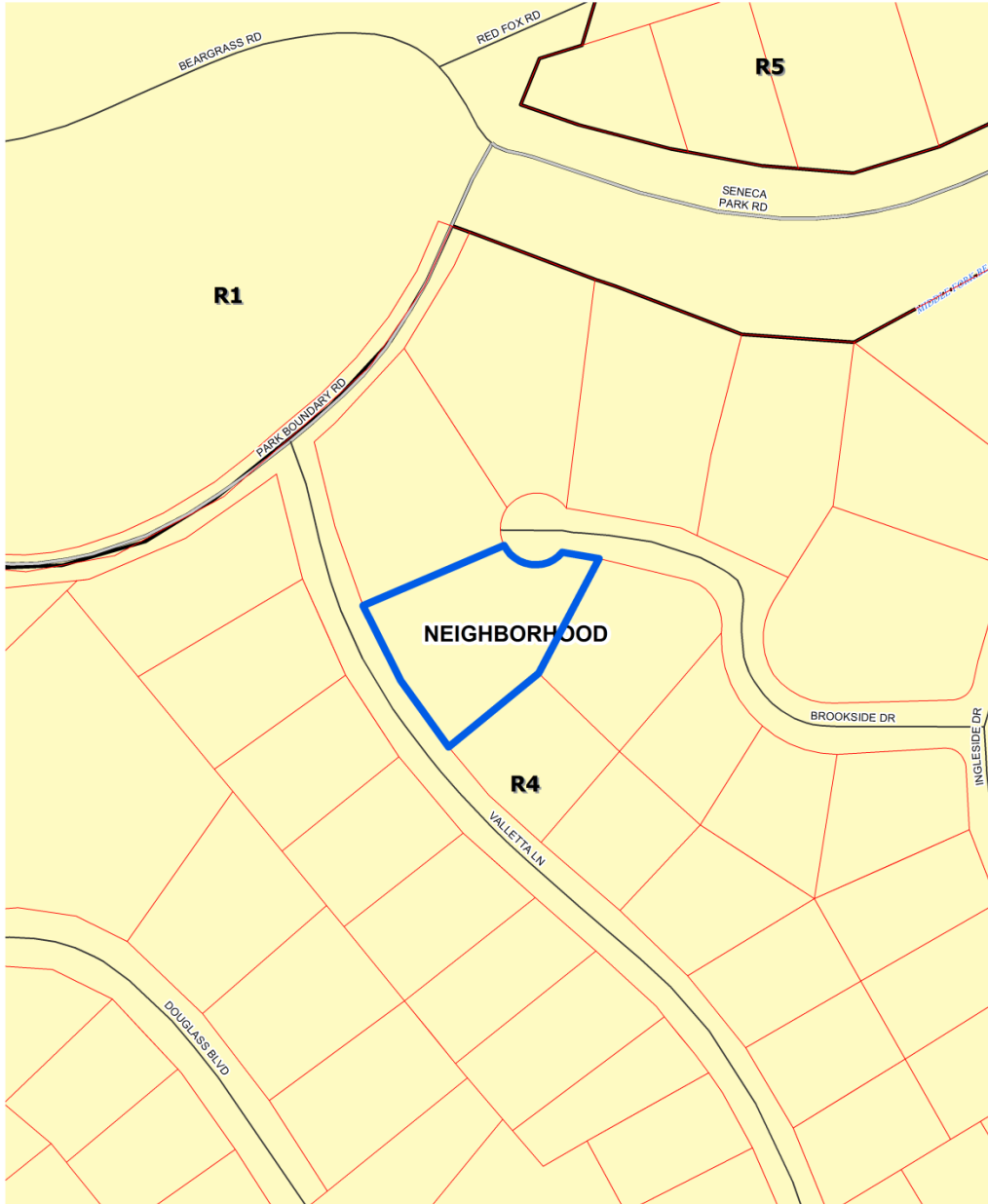
NOTIFICATION

Date	Purpose of Notice	Recipients
04/07/2018	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8
04/13/2018	Hearing before BOZA	Notice posted on property

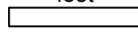
ATTACHMENTS

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

1. Zoning Map



2330 Brookside Drive
feet



140
Map Created: 4/17/2018



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2. Aerial Photograph



2330 Brookside Drive
feet

70

Map Created: 4/17/2018



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4. Site Photos



The front of the principal structure and the front yard facing Brookside Drive.



The rear of the principal structure and the front yard facing Valletta Lane.



The existing fence.



The existing fence.



The existing fence.