

Board of Zoning Adjustment

Staff Report

November 2, 2020



Case No:	20-VARIANCE-0116
Project Name:	Lake Dreamland Road Variance
Location:	4523 Lake Dreamland Road
Owner/Applicant:	John Townsend
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the front yard setback to exceed 48 inches in height.

Location	Requirement	Request	Variance
Front Yard	48 inches	84 inches	36 inches

CASE SUMMARY/BACKGROUND

The subject property is located in the Lake Dreamland subdivision and is zoned R-5 Single-Family Residential and is in the Neighborhood Form District. The applicant is in the process of consolidating the subject property and 4521 Lake Dreamland Road. The applicant has constructed a 7 ft. privacy fence along the eastern property line of 4521 Lake Dreamland Road that encroaches into the front yard setback. The applicant has started to put grass on the existing driveway directly next to the fence and will only use the other driveway, which is further away and will provide more vision clearance.

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 Land Development Code section 4.4.3.A.1.a.i to allow a fence within the street side yard setback in a Neighborhood Form District to exceed 48 inches in height.

TECHNICAL REVIEW

Transportation Planning reviewed the plan and has determined that Lake Dreamland Road will not be widened.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

ENF-ZON-20-001123-3 – Zoning enforcement for fence height
20-VARIANCE-0059 – Withdrawn

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 there is enough vision clearance for motorists and pedestrians. Transportation Planning has determined that Lake Dreamland Road will not be widened.

- (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 there is another 7 ft. fence in a front yard in 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 there is enough vision clearance for motorists and pedestrians. Transportation Planning has determined that Lake Dreamland Road will not be widened.

- (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 is another fence in the area that is 7ft. tall in a front yard setback.

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 surrounding properties.

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 they could lower the fence in the front yard setback portion to meet the requirement.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as a portion of the fence has been constructed and the applicant is requesting the variance.

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.

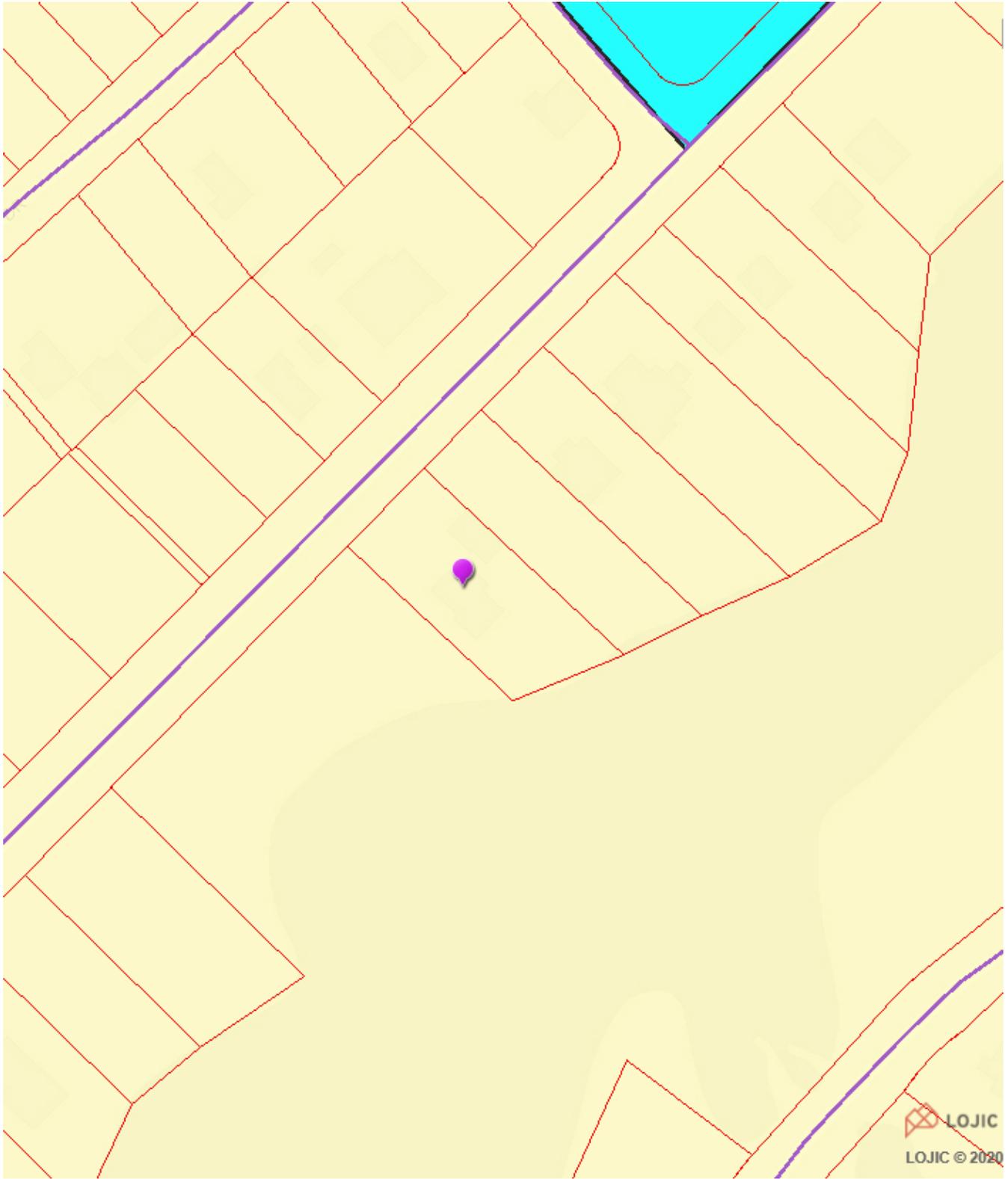
NOTIFICATION

Date	Purpose of Notice	Recipients
10/19/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 1
10/20/2020	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

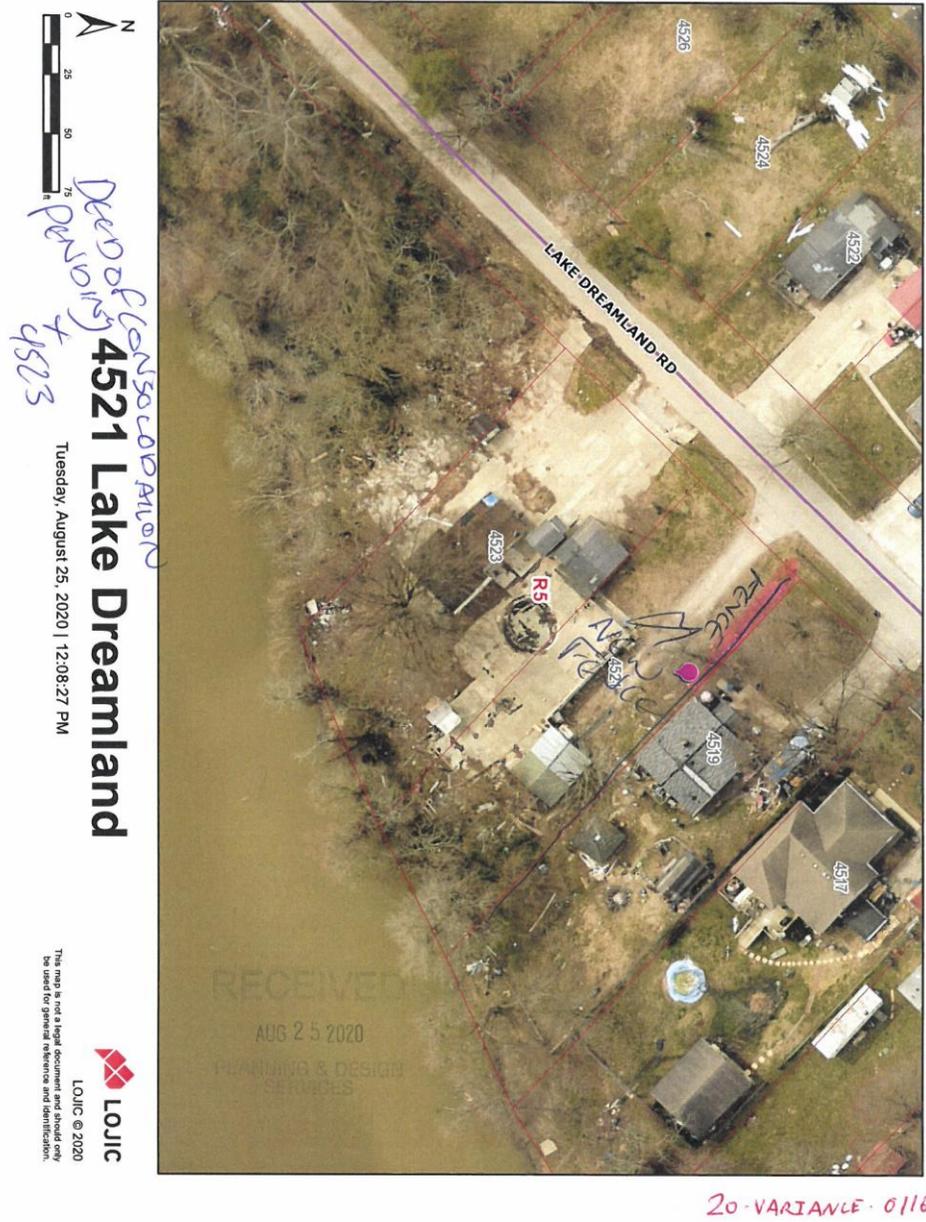
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Existing fence in the background.



Existing fence and driveway to be removed.



Existing fence and driveway to be removed.



Property to the left.



Rear of property to the left.