

Board of Zoning Adjustment Staff Report

May 16, 2016



Case No:	16VARIANCE1011
Request:	Variance from street side yard fence height.
Project Name:	230 Monohan Drive
Location:	230 Monohan Drive
Owner:	Natalie Wilerson
Applicant:	Kurt Legel
Representative:	Kurt Legel
Jurisdiction:	City of St. Matthews
Council District:	26 – Brent T. Ackerson
Case Manager:	Ross Allen, Planner I

REQUEST

- Variance from the Development Code (St. Matthews) section 9.1.B.1.a to allow a proposed fence height to exceed the maximum 4 ' ft. height in a street side yard.

Location	Requirement	Request	Variance
Street Side Yard (Height)	4' ft.	6' ft.	2' ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant's home is situated at the corner of Winchester Road and Monohan Drive in the City of St. Matthews. The applicant is proposing to construct a 6 foot fence that would start at the corner of the home and extend approximately 21' feet towards Winchester Road turn left 90 degrees and continue along the Winchester Road street side yard, along the property line, then end at the concrete driveway.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Residential Single Family	R-5	Neighborhood (N)
Proposed	Residential Single Family	R-5	Neighborhood (N)
<i>Surrounding Properties</i>			
North	Residential Single Family	R-5	Neighborhood (N)
South	Residential Single Family	R-4	Neighborhood (N)
East	Residential Single Family	R-4, R-5	Neighborhood (N)
West	Residential Single Family	R-5	Neighborhood (N)

PREVIOUS CASES ON SITE

No previous cases associated with the subject property.

INTERESTED PARTY COMMENTS

No comments have been received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Development Code (St. Matthews)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 since the fence is outside of the sight triangle (corner of Monohan Dr. and Winchester Road) and does not encroach within the public right of way.

- (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 since two homes north of the applicant's property along Winchester Road have fences similar fences.

- (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 since the proposed fence will be within the applicant's side yard area setback at a distance of approximately 19 feet from the edge of pavement on Winchester Road and approximately 36 feet from the edge of pavement on Monohan Drive.

- (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 since zoning regulations permit fences up to a height of 4 feet, the applicant is proposing 6 feet height outside of the sight triangle and not encroaching in the public right of way for privacy.

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 not generally apply to land in the general vicinity or the same zone since properties in the general vicinity have similar size and style fences.

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 deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant since the proposed

fence is for privacy along a local road (Winchester Ave.). The applicant states that Winchester Road is heavily travelled by walkers and vehicles and the fence screens the private yard area for unwanted noise.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has not undertaken any construction to date.

TECHNICAL REVIEW

- See agency comments for development plan review comments.

STAFF CONCLUSIONS

The fence height is adequately justified within the residential neighborhood, compatible within the general vicinity, and outside the sight triangles allowing for safe pedestrian and vehicular traffic. Based upon the information in the staff report, 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 as established in the Development Code (St. Matthews) from section 9.1.B.1.a to allow a proposed fence height to exceed the maximum allowed in a street side yard within the City of St. Matthews.

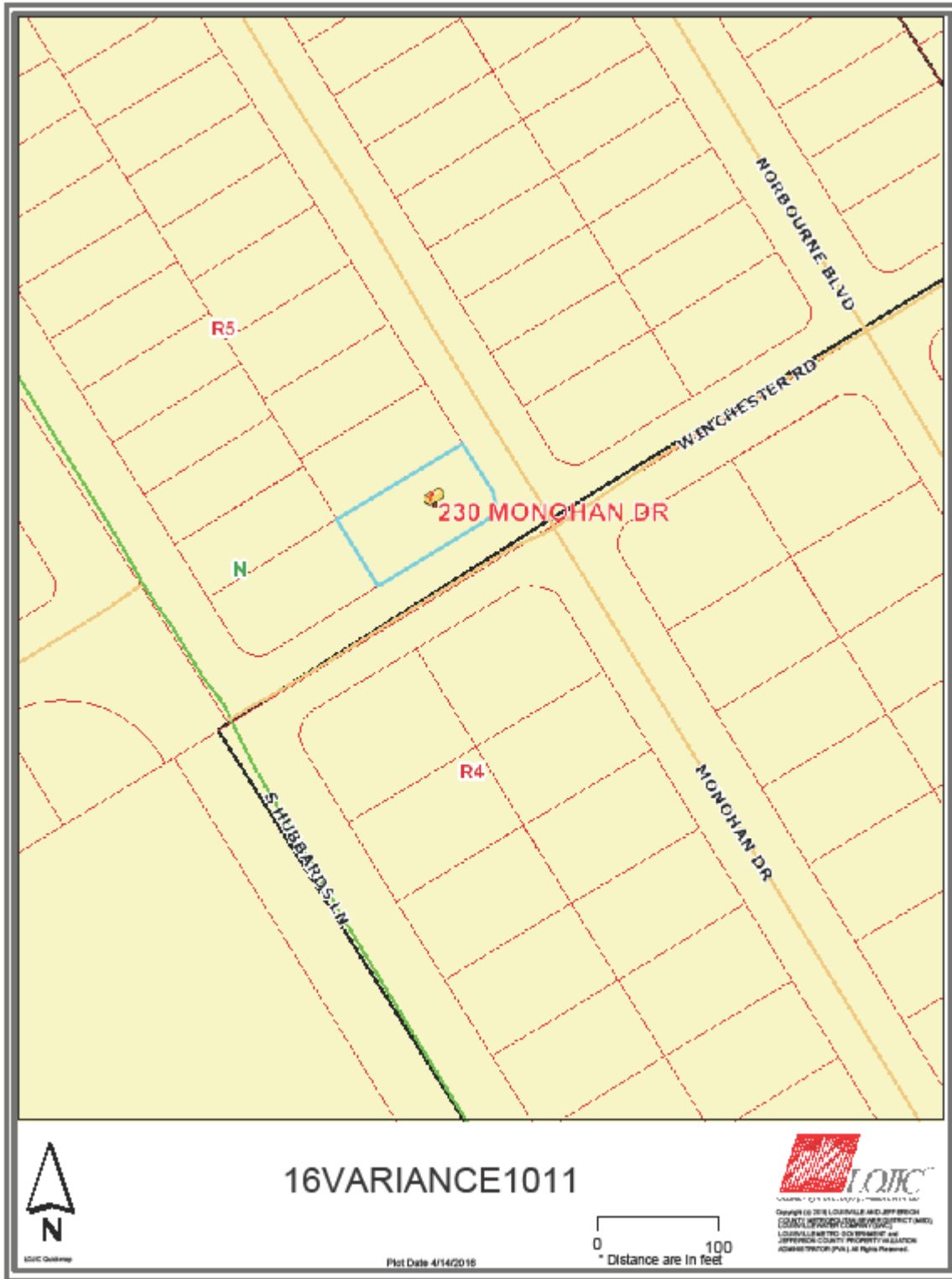
NOTIFICATION

Date	Purpose of Notice	Recipients
May 16, 2016	Hearing before BOZA	1 st tier adjoining property owners and
April 29, 2016	Sign Posting for BOZA	Sign Posting on property

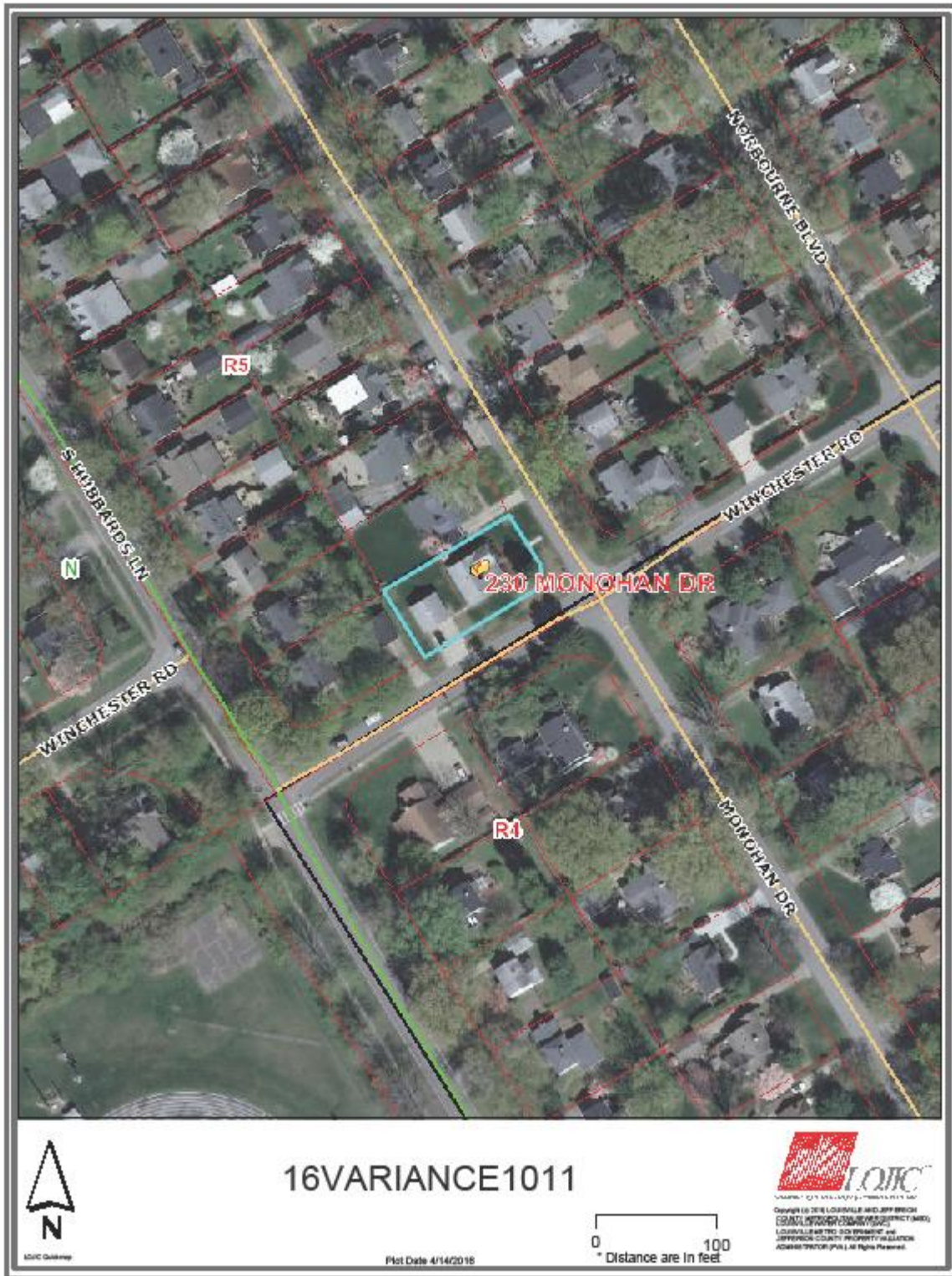
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Inspection Report

1. Zoning Map



2. Aerial Photograph



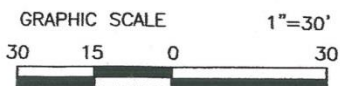
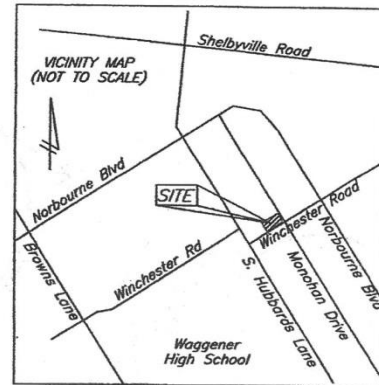
3. Site Plan

THIS PLAT IS SUBJECT TO ALL DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS, COVENANTS, RESTRICTIONS, ALL LEGAL EASEMENTS, RIGHT-OF-WAYS, ETC. WHICH MAY BE REVEALED BY A TITLE SEARCH WHETHER SHOWN ON THIS PLAT OR NOT.

THIS PLAT IS FOR PURPOSES OF OBTAINING A FENCE CONSTRUCTION PERMIT, DOES NOT REPRESENT A BOUNDARY SURVEY, AND IS NOT FOR RECORDING OF ANY TYPE



RECEIVED
APR 11 2016
PLANNING &
DESIGN SERVICES



--- = proposed 6ft fence
+ = 3" Wooden Stake Set

PLOT PLAN

PREPARED FOR Natalie Wilkerson

LOCATION 230 Monohan Drive
Louisville, KY 40207

Lot 38 Parkside Subdivision

DATE 03/31/16 SCALE 1"=30' NO. _____

MILLER/WIHRY MWGLLC
 1387 South Fourth St. Louisville, KY 40208
 Tel (502) 636-5501 • Fax (502) 638-9538
 Engineers • Land Planners • Surveyors

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4. Site Inspection Report



Looking at the subject property, 230 Monohan Drive from Winchester Road.