

**Board of Zoning Adjustment**  
**Staff Report**  
August 21, 2023



<b>Case No:</b>	23-VARIANCE-0099
<b>Project Name:</b>	Northwestern Parkway Fence Variance
<b>Location:</b>	2503 Northwestern Parkway
<b>Owner:</b>	Billy and Violet Simpson
<b>Applicant:</b>	Billy Simpson
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5– Donna Purvis
<b>Case Manager:</b>	Amy Brooks, Planner I

**REQUESTS:**

- **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 42 inches in height in the front yard setback.

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Variance</b>
<b>Front Yard Fence Height</b>	<b>42 in.</b>	<b>72 in.</b>	<b>30 in.</b>

**CASE SUMMARY/BACKGROUND**

A wooden privacy-style fence that measures 7’ in height and approximately 84’ in length is located within the required front yard setback. This variance request to exceed the maximum height allowed was first heard by the Board of Zoning Adjustments on February 20, 2023. The request was denied, at that time. The applicant has since agreed to modify the height of the fence and provide landscaping.

**STAFF FINDINGS**

The requested variance is adequately justified for approval based on staff’s analysis contained in the standard of review.

**TECHNICAL REVIEW**

- The property is subject to active zoning enforcement, case ENF-ZON-22-001279, due to the fence height.

**INTERESTED PARTY COMMENTS**

All comments received have been placed in the record and made available to the Board in advance of the public hearing.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (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 fence is setback from the edge of pavement and will not impede vision clearance for travelers on the adjacent right-of-way or adversely impact the safe movement of vehicles or pedestrians.

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

STAFF: The requested variance does not alter the essential character of the general vicinity as there are other fences along Northwestern Parkway that exceed 42 inches within the required front yard setback; therefore, the fence is consistent with the established pattern within the general vicinity

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

STAFF: The fence will not cause a hazard or nuisance to the public because the fence will not impede vision clearance for travelers on the adjacent right-of-way or adversely impact the safe movement of vehicles or pedestrians.

- (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 it would not adversely affect the public health, safety, or welfare, alter the character of the area, or cause a hazard or nuisance.

### **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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is much wider than the surrounding compacted lots and contains a longer frontage along the road where a yard is present at the site of the home.

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 create an unnecessary hardship on the applicant as it would reduce the usable space of the yard area by an additional 15 feet.

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 has already 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.

**REQUIRED ACTIONS**

**APPROVE** or **DENY** the **Variance** from Land Development Code, Section 4.4.3 to allow a fence to exceed the maximum height of 42 inches in the front yard and be 72 inches in height.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
<b>08/03/2023</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents
<b>08/03/2023</b>		Registered Neighborhood Groups in Council District 5
<b>08/04/2023</b>	Hearing before BOZA	Notice posted on property

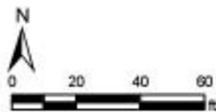
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



## 2. Aerial Photograph



Wednesday, August 9, 2023 | 1:59:05 PM



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This map is not a legal document and should only be used for general reference and identification.