

Board of Zoning Adjustment
Staff Report
 July 22, 2019



Case No:	19VARIANCE1049
Project Name:	W. Kentucky Street Variance
Location:	600 W, Kentucky Street
Owner(s):	P & B Land, LLC
Applicant:	Diego Franco – Radio Communications Systems
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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 and street side yards in a Traditional Neighborhood form district to exceed 42 inches in height

Location	Requirement	Request	Variance
Fence in Street Side Yard	42 inches	72 inches	30 inches

CASE SUMMARY/BACKGROUND

The subject property is a corner lot located in the Limerick neighborhood and preservation district, at the intersection of W. Kentucky Street and S. 6th Street. It currently contains a parking lot that is nonconforming in regards to TNZD standards. The applicant proposes to enclose the parking lot with an aluminum fence 72 inches in height. Land Development Code section 4.4.3.A.1.a.i allows a fence in the front and street side yard in a Traditional form district to be up to 42 inches in height. The proposed fence, which will be in the front and street side yards along S. 6th Street and W. Kentucky Street, is to be 72 inches in height. The applicant therefore requests a variance to allow the higher fence.

The Limerick Architectural Review Committee approved the fence on condition under case number 19COA1116 (see attachment #5). The Certificate of Appropriateness was issued May 14, 2019.

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 to allow a fence in the front and street side yard setbacks in a Traditional Neighborhood form district to exceed 42 inches in height.

TECHNICAL REVIEW

- The plan has received preliminary approval from Transportation Planning.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

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 applicant has agreed to create sight triangles at the corners of S. 6th Street and W. Kentucky Street and W. Kentucky Street and the alley. Therefore, the fence will not obstruct sight lines for motorists or pedestrians at the intersections.

- (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 a Certificate of Appropriateness has been issued approving the fence.

- (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 will not obstruct sight lines or create a hazard for motorists or pedestrians at the intersections.

- (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 is needed to provide security for the parking lot.

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 as the lot is a corner lot, which only provides parking.

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 by requiring the applicant to construct a lower fence.

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 fence has not yet been constructed and the applicant is requesting the variance.

NOTIFICATION

Date	Purpose of Notice	Recipients
05/22/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 6
07/08/2019	Hearing before BOZA	Notice posted on property

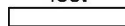
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos
5. Certificate of Appropriateness

1. **Zoning Map**



600 W. Kentucky Street
feet



40

Map Created: 7/15/2019



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2. Aerial Photograph



600 W. Kentucky Street
feet

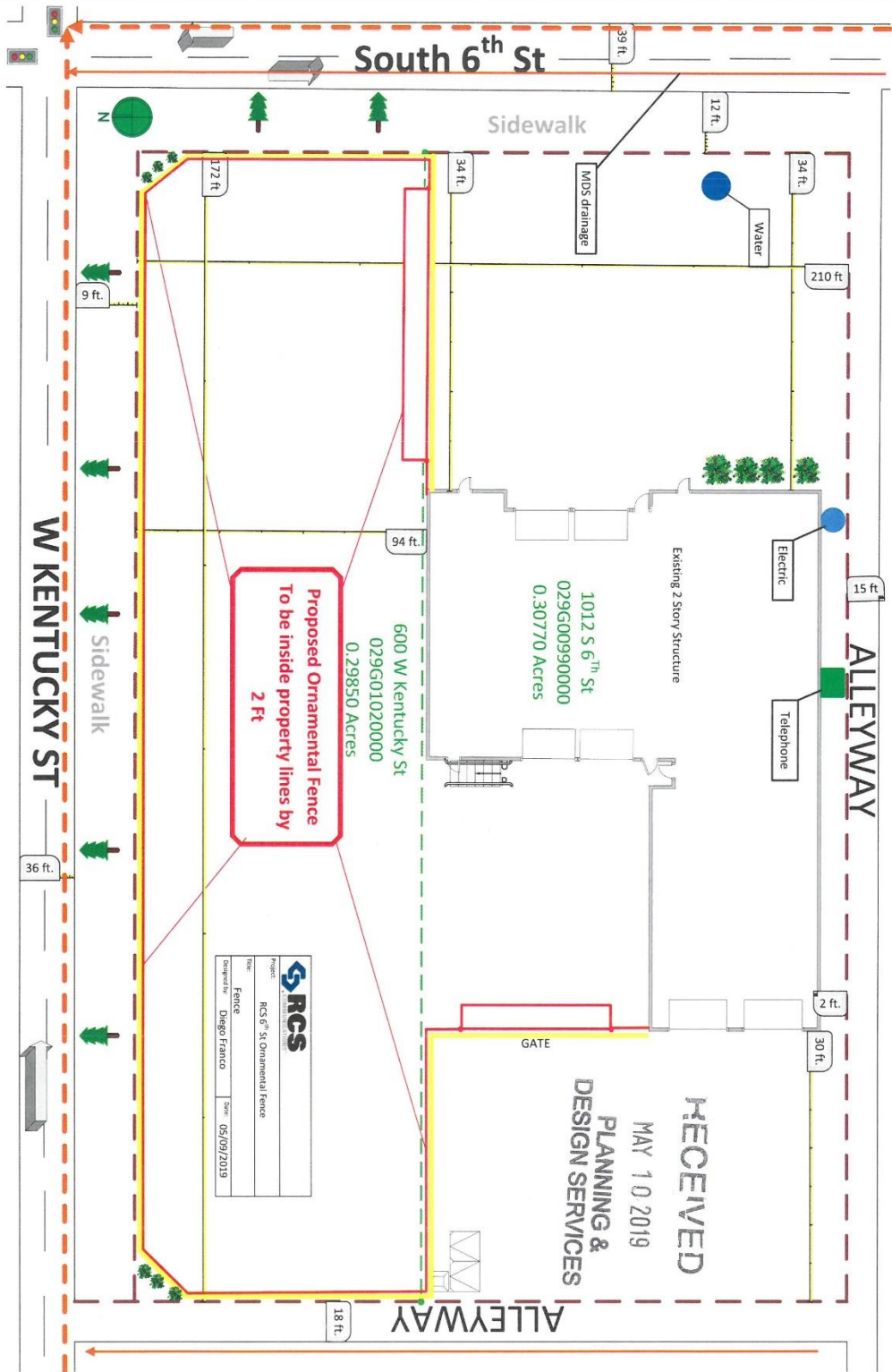
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Map Created: 7/15/2019



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3. Site Plan



4. Site Photos



Subject property.



Proposed east fence line.



Proposed north fence line.



Proposed west fence line.



Alley to the west of the subject property.



Property across S. 6th Street.



Property across W. Kentucky Street.



Subject property and property to the south.

5. Certificate of Appropriateness



**Historic Landmarks and Preservation Districts
Commission**

Certificate of Appropriateness

To: Diego Franco
Thru: Cynthia Elmore, Historic Preservation Officer
From: Limerick Architectural Review Committee
Date: May 8, 2019

Case No: 19COA1116
Classification: Committee Review

GENERAL INFORMATION

Property Address: 600 W Kentucky Street & 1012 S 6th Street

Applicant: Diego Franco
1012 S 6th Street
Louisville, KY 40203
502-587-7384
dfranco@rcs.info

Owner: Perry P. Bond
P&B Land
1421 Sylvan Way
Louisville, KY 40205
502-558-6623
ppbond@bellsouth.net

Estimated Project Cost: \$30,000.00-40,000.00

Description of proposed exterior alteration:

The applicant is seeking approval for the installation of a 6' black aluminum fence around the parking area with access gates to the lot from 1012 S 6th Street. The fence will be located in front, street side, and rear yard areas.

Communications with Applicant, Completion of Application

The application was received on April 19, 2019 and was considered complete and requiring committee review on April 24, 2019. Staff discussed the need for a committee review with the applicant after the applicant filed the request. Applicant also agreed to remove the request for chain-link on the rear and use all aluminum. Staff also informed the applicant that the fence would not meet the applicable regulations of the Land Development Code

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and review by the Board of Zoning Adjustment would be required for discretionary approval(s).

This case was heard by the Limerick Architectural Review Committee on Wednesday May 8, 2019 at 6:30pm in Conference Room 302, 444 S 5th Street Metro Development Center. Committee members present were Stephen Peterson, Dave Marchal, Dennis Lally, and Steve Sizemore. Staff representative Anthony Schneider presented the case. The applicant Diego Franco was present and presented the property owner's position on the proposal. The applicant stated that they have experienced a number of damages to the property and are willing to provide some landscaping and they are going to repave the lot. The committee was insistent that the Board of Zoning Adjustment consider requiring enhanced landscaping as a mitigating factor should they consider granting the variance for fence height. The committee was also concerned about the fence meeting the sight triangle requirements of the Land Development Code. Additionally, the committee requested that the fence be angled on the corners of S 6th & W Kentucky and at the alley intersection to "soften" the corners. Committee member Lally made a motion to approve with staff's finding of fact and conditions of approval. Motion was seconded by Sizemore. Motion passed unanimously.

FINDINGS

Guidelines

The following design review guidelines, approved for the Limerick Preservation District, are applicable to the proposed exterior alterations: **Site**. The report of the Commission Staff's findings of fact and conclusions with respect to these guidelines is attached to this report.

The following additional findings are incorporated in this report:

Site Context/ Background

The TNZD zoned property within the Traditional Neighborhood Form District is located on the corner of W Kentucky Street and S 6th Street. The structure is a modern office/garage structure with minimal architectural details. The site includes a large paved area currently used for parking.

Conclusions

The project as proposed would not meet Guidelines **ST13** and **ST14**. The location of the fence is along prominent corridors in the Limerick District. The fence would be 72 inches tall and exceed the maximum fence height of 29 inches allowed in front yards by 43 inches. The proposal also does not comply with the applicable standards of the Land Development Code and a variance to those regulations would be required. The Board of Zoning Adjustment would have discretionary purview over the variance request and adequate justification for the variance would need to be supplied by the applicant.

In regard to the location of the fence, the design would help to buffer the visual imposition that the parking lot has on the neighborhood and the district; however, staff recommends that the applicant incorporate landscaping into the parking lot and have the lot restriped. Adding landscaping would help increase compliance with Guideline **ST19** and make the impact of the fence's height more amenable. It is important to note that the proposed black

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aluminum fencing is common throughout the district as a means of buffering and separating the public realm from private areas for recreation and parking. A fence of a similar size is located at the St. Louis Bertrand site a few blocks to the south.

The project would meet Guidelines **ST1** and **ST11**. A security fence around a parking area is not unreasonable and the parking area does not contribute to the integrity of the district. The new fence could be seen as an enhancement and if the applicant chooses to add landscaping as a mitigation to **ST19** the proposal would be visual improvement to the site. Lastly, the access to and from the lot will be from existing curb cuts on site and will be gained via motorized gates that hinge inward toward the lot. **The committee found that while landscaping for an existing parking lot is not subject of their purview, they request that the Board of Zoning Adjustment consider that as mitigation for the variance should they choose to grant it. Additionally, the committee did note that the fence would need to comply with LDC regulations on site triangles at the corners and intersections.**

DECISION

On the basis of the information furnished by the applicant, staff recommends that the application for a Certificate of Appropriateness be **approved with the following conditions:**

1. Proposed fence shall not exceed 72" in height as measured from grade.
2. Applicant shall apply and receive a variance from the Board of Zoning Adjustment prior to construction.
3. Should the variance request be denied or modified, applicant shall work with staff on the rereview of the fencing request.
4. Applicant should consider the addition of trees and parking islands to reduce the visual impact of the parking lot on the district.
5. **Proposed fence shall comply with all applicable LDC regulations in regard to site triangles at intersecting streets and alleys.**
6. If any design changes are required, the applicant shall contact staff for review and approval.

The foregoing information is hereby incorporated in the Certificate of Appropriateness as approved and is binding upon the applicant, his successors, heirs or assigns. This Certificate does not relieve the applicant of responsibility for obtaining the necessary permits and approvals required by other governing agencies or authorities.



Stephen Peterson
Chair, Limerick ARC

5.14.19

Date

Attached Documents / Information

1. Staff Guideline Checklist

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