

Board of Zoning Adjustment

Staff Report

May 18, 2026



Case No:	26-APPEAL-0002
Project Name:	Appeal of Nonconforming Rights
Location:	1744, 1746, and 1756 Wilson Ave
Owner(s):	Chapook Dizayee
Representative:	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	6 – Phillip Baker
Case Manager:	Amy Brooks, Planning Supervisor

REQUEST(S)

- **Appeal** of an administrative decision to deny nonconforming rights for a fence in the R-7, multi-family residential zoning district and Traditional Neighborhood form district (LDC 11.7.3).

CASE SUMMARY

An application requesting nonconforming rights for a fence was submitted to the Office of Planning on December 8, 2025. With this application, the applicant provided a description of the existing nonconforming structure, several advertisements from the Courier Journal, two (2) letters attesting to the presence of the non-conforming structure, and site photographs.

According to historic zoning maps (see findings report published with public meeting agenda), the site was zoned as Apartment C in 1931. By 1965, the zoning district was R-7 multi-family residential. Directory listings indicate that a commercial use was active prior to 1971 until 1997, at which point the provided listings indicate that the site became vacant and/or residential. The non-residential buildings and commercial use are not the subject of the current request. The fence in question is around six (6) feet at its highest point (including the masonry wall at its base) and is screened with a loose fabric. Barbed and razer wire was removed as part of the zoning enforcement case on the property. The subject site is in the Traditional Neighborhood form district which restricts fences to a maximum of 3.5 feet in the front yard setback. The request needed to establish that the non-conforming structure (fence) existed on the property in 1971 and has been present without modification or expansion to the present. Between 2016-2019, the building on the site was demolished and the fence was altered. Staff reviewed submitted documents, inspected the site, and conducted its own research using city directories. As such, staff determined that there was sufficient evidence to deny nonconforming rights for a fence in the R-7 zoning district. An appeal of this determination was submitted on February 26, 2024.

STAFF FINDING

No additional evidence has been provided by the appellant that supports a claim of nonconforming rights; therefore, the administrative decision should be affirmed, and the appeal denied.

TECHNICAL REVIEW

- Land Development Code, Section 1.3.1 (Nonconforming Use – relevant text):

A. A nonconforming use is an established activity which lawfully existed at the time of the enactment of any zoning regulation which would not permit such activity.

B. A nonconforming use may be continued until it is abandoned notwithstanding the sale of the land parcel on which the nonconforming use exists; but a nonconforming use shall not be enlarged, expanded or changed except as expressly permitted by KRS 100.253 and by Chapter 1 Part 3.

C. There shall be no increase in the floor area or the land area devoted to a nonconforming use or other enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation that made the use nonconforming was adopted.

STAFF ANALYSIS

By 1965, the subject properties were zoned R-7, multi-family residential. The request for nonconforming rights needed to establish that the non-conforming structure (fence) existed on the property in 1971 and continued without expansion to the present date. The appellant presented two (2) written statements from individuals familiar with the property in question; these non-notarized statements indicated that a fence was present in the 1970's. These affidavits alone do not support a claim of nonconforming rights and could not be supported by additional evidence.

Clear historical imagery of the fence is difficult to ascertain. In 1963, there appears to be a fence or wall on the site. The applicant provided three pieces of evidence from historical Courier Journal advertisements. The first piece of evidence shows property photos from May 20, 1962, with what appears to be a fence. The other classified advertisements are clearer. There is a fence on the properties in 1977. However, by 1975, the City of Louisville's land use regulations would have restricted the height of any fence within the front setback to 3.5 feet. There is no definitive evidence to indicate that the fence was enlarged, expanded, or modified prior to the 2019 Google Street view. In 2018, an emergency wrecking permit was approved by the city to allow for the demolition of the building at 1744 Wilson Avenue that had been destroyed by fire. The Google Street view of the site, dated June 2019, shows that the existing fence had been enlarged and modified. A fence panel had been added where the building at 1744 Wilson had once stood and both barbed wire and covering had been added to the fence. Based upon the review of the record, staff finds that the structure has undergone substantial modification and enlargement over time which negates the appellant claim of nonconforming rights.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **APPEAL** of an administrative decision to deny nonconforming rights for a fence in the R-7 zoning district and Traditional Neighborhood form district.

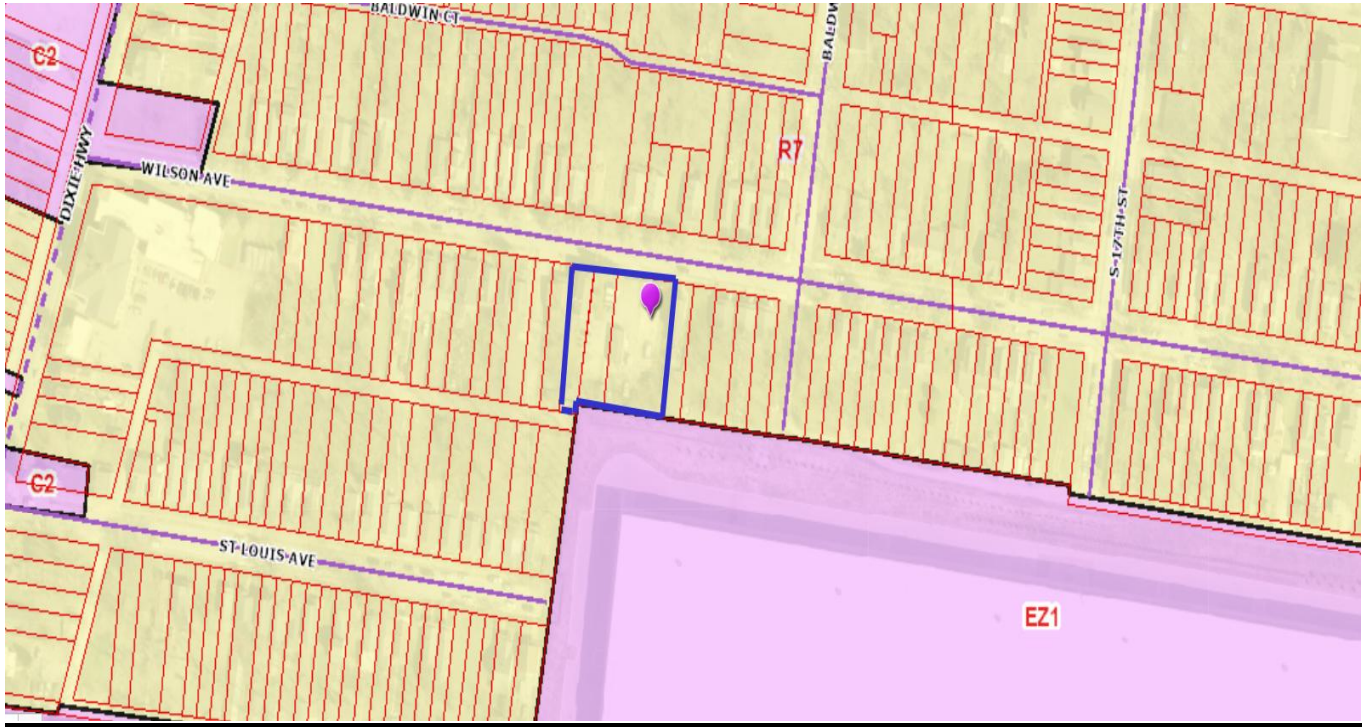
NOTIFICATION

Date	Purpose of Notice	Recipients
04/20/2026 04/20/2026	Hearing before BOZA	1 st tier adjoining property owners and current residents; Registered Neighborhood Groups in Council District 6
05/09/2026	Hearing before BOZA	Legal Advertisement

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

