

Board of Zoning Adjustment
Staff Report
 August 31, 2020



Case No:	20-VARIANCE-0062
Project Name:	Alpine Way Variance
Location:	5316 Alpine Way
Owner/Applicant:	Diane Young
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
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 yard setbacks in a Neighborhood Form District to exceed 48 inches in height.

Location	Requirement	Request	Variance
Front Yard/Street Side Yard	48 inches	50 inches	2 inches

CASE SUMMARY/BACKGROUND

The subject property is a corner lot in the Kenwood Manor subdivision at the intersection of Alpine Way and Lost Trail. It currently contains a single-family residence. The applicant has constructed a 50-inch wooden board fence within the front and street side yard setbacks. The fence appears to be in the right-of-way on the Alpine Way side according to the site plan. Staff is supportive of the variance as long as it can be demonstrated that the fence is not within the right-of-way as the fence is not an unreasonable height, there are similar fences in the area, and it does not create a hazard for pedestrians or motorists at the intersection.

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 within the front and street side yard setbacks in a Neighborhood Form District to exceed 48 inches in height.

TECHNICAL REVIEW

No technical review was undertaken.

INTERESTED PARTY COMMENTS

Staff received two emails from residents in the subdivision that are in support of the variance request and they have been attached to the agenda item.

RELATED CASES

ENF-ZON-20-000692-4 – Zoning enforcement case for the fence

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 existing fence is not within the sight triangle and there is adequate vision clearance for motorists and pedestrians.

- (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 are similar fences within front and street side yard setbacks in the general vicinity.

- (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 intersection.

- (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 slightly over the requirement.

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 property is a corner lot.

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 because the fence is slightly over 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 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.

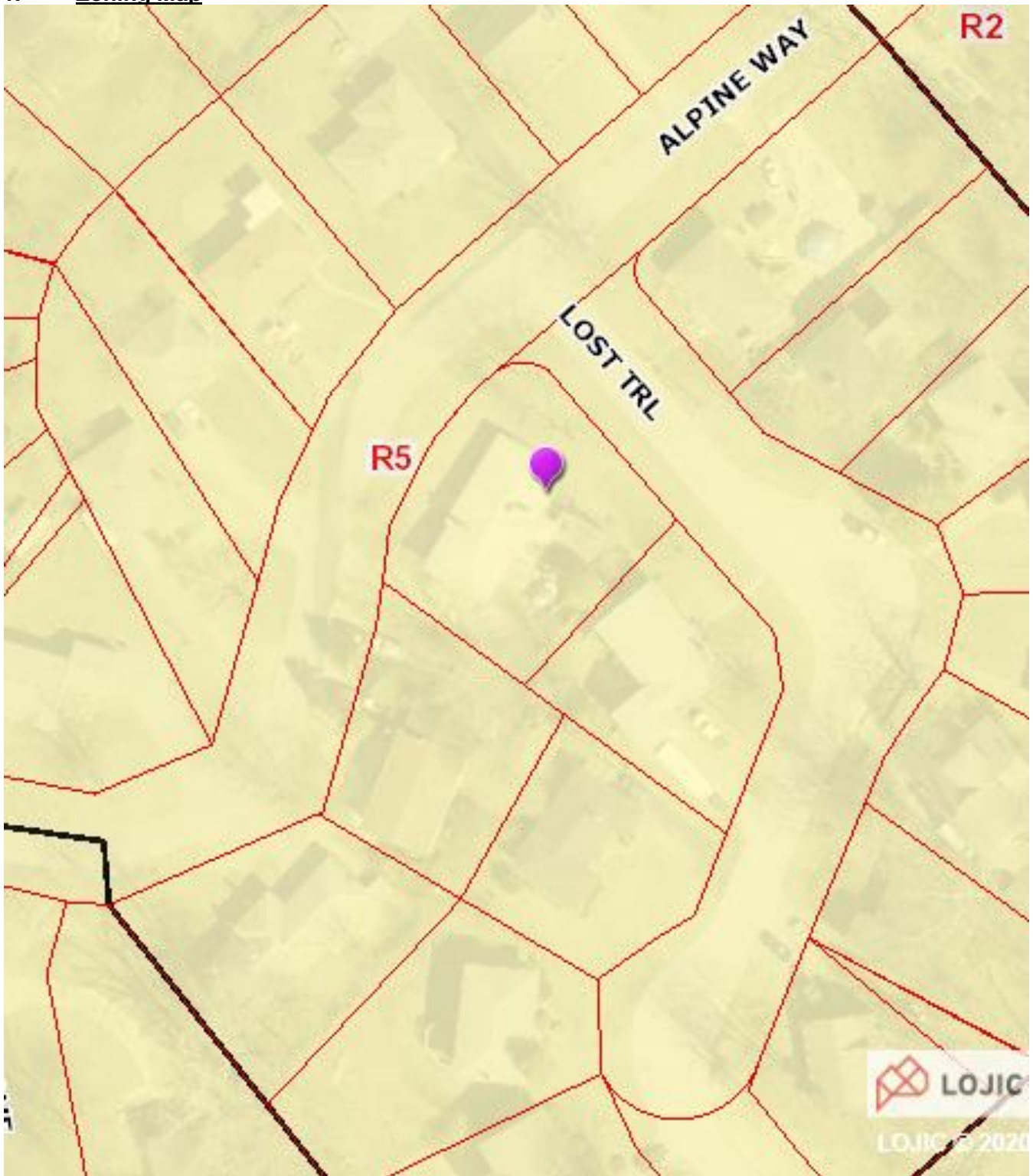
NOTIFICATION

Date	Purpose of Notice	Recipients
8/14/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 21
8/18/2020	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

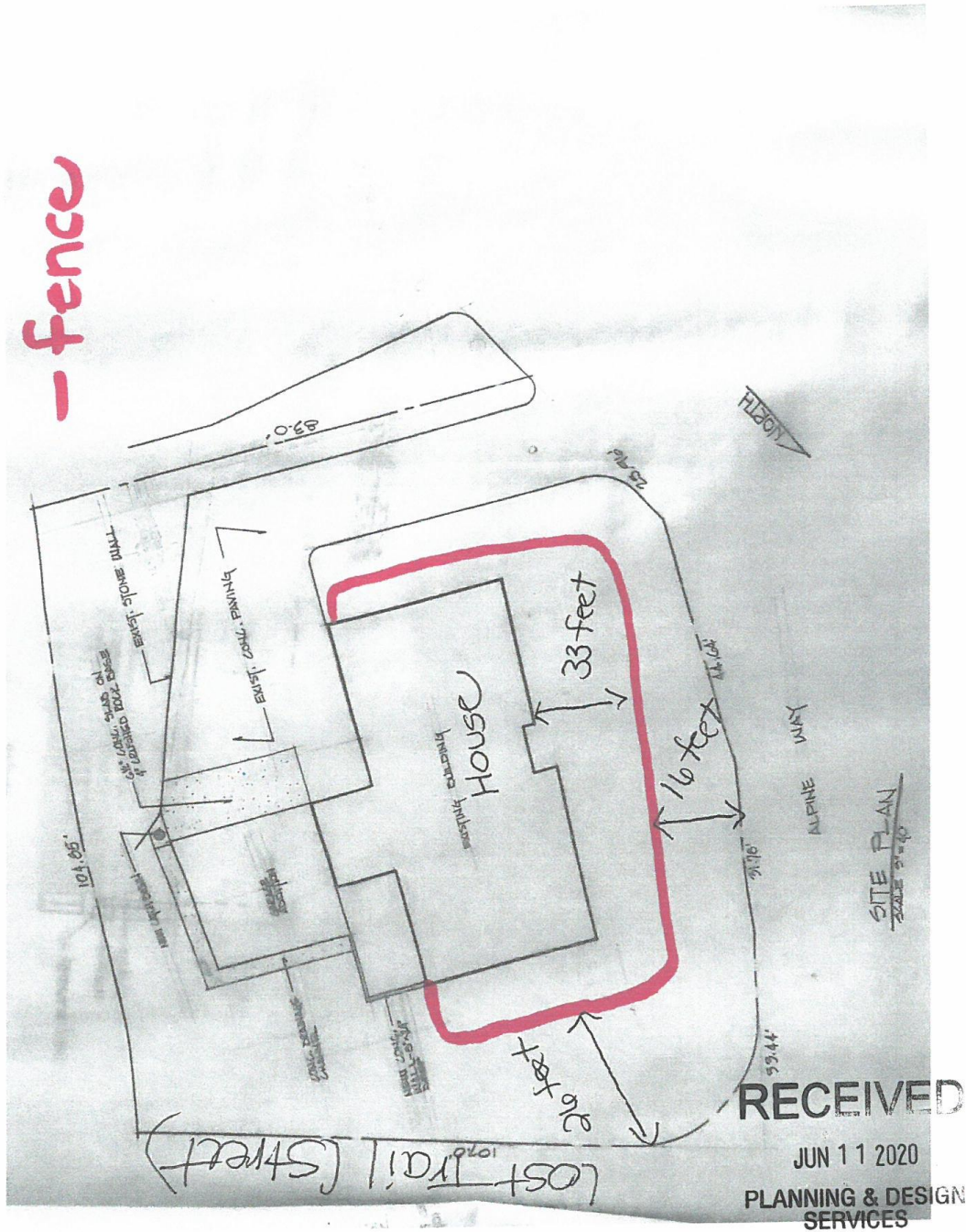
1. Zoning Map



2. Aerial Photograph



3. Site Plan



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4. Site Photos



Fence along Alpine Way within the street side yard setback.



Fence from Alpine Way.



Area provided for vision clearance.



Looking down Alpine Way.