

Board of Zoning Adjustment
Staff Report
 October 28, 2019



Case No:	19-Variance-0048
Project Name:	Fence Height
Location:	211 Harpers Ferry Road
Owner/Applicant:	Orestes Perez
Jurisdiction:	Louisville Metro
Council District:	13—Mark Fox
Case Manager:	Steve Hendrix, Planning & Design Coordinator

REQUEST

- **Variance** from Land Development Code Section 4.4.3.A.1.a.i. to allow an existing fence to exceed four feet in height in the street side yard.

Location	Requirement	Request	Variance
Fence Height Street Side Yard (Atlanta Parkway)	4 feet	6 feet	2 feet

CASE SUMMARY/BACKGROUND

The subject 0.297 acre site is located on the east corner of the Atlanta Parkway/Harpers Ferry Road intersection. The property is north of Outer Loop, south and west of National Turnpike and east of New Cut Road. The existing fence is approximately 21 feet from the Atlanta Parkway pavement and almost 100 feet from the Atlanta Parkway/Harpers Ferry Road intersection. The variance is for two feet to allow the fence to remain at six feet high. The applicant states that the fence has been there for seven years. There are no sight distance concerns.

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 from 4.4.3.A.1.a.i. to allow the fence to be 6 feet.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 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, since the fence is approximately 21 feet from the existing Atlanta Parkway pavement and almost 100 feet from the Atlanta Parkway/Harpers Ferry Road intersection, therefore, no sight distance concerns.

- (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 privacy fences are common in the neighborhood and this one has been there for the last seven years.

- (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 it is not close to the existing pavement.

- (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 the fence will provide privacy and security to the property owner.

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 generally apply to land in the general vicinity or the same zone, since the property is located on a corner.

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, since the fence would have to be moved.

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, since the fence is existing.

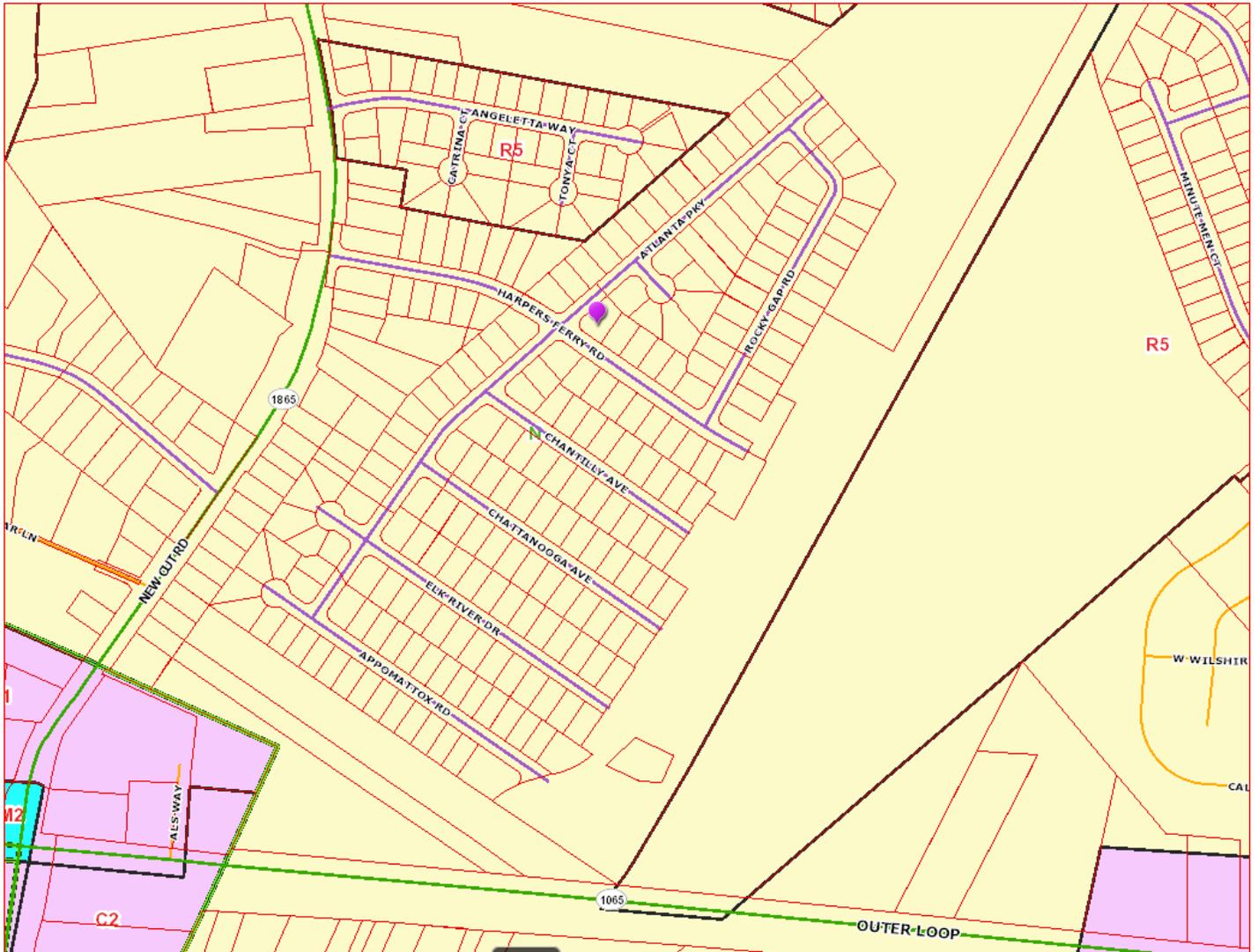
NOTIFICATION

Date	Purpose of Notice	Recipients
10-15-2019	Hearing before DRC	1 st tier adjoining property owners
10-16-2019		Registered Neighborhood Groups in Council District 13
10-18-2019	Sign Posting	Neighborhood

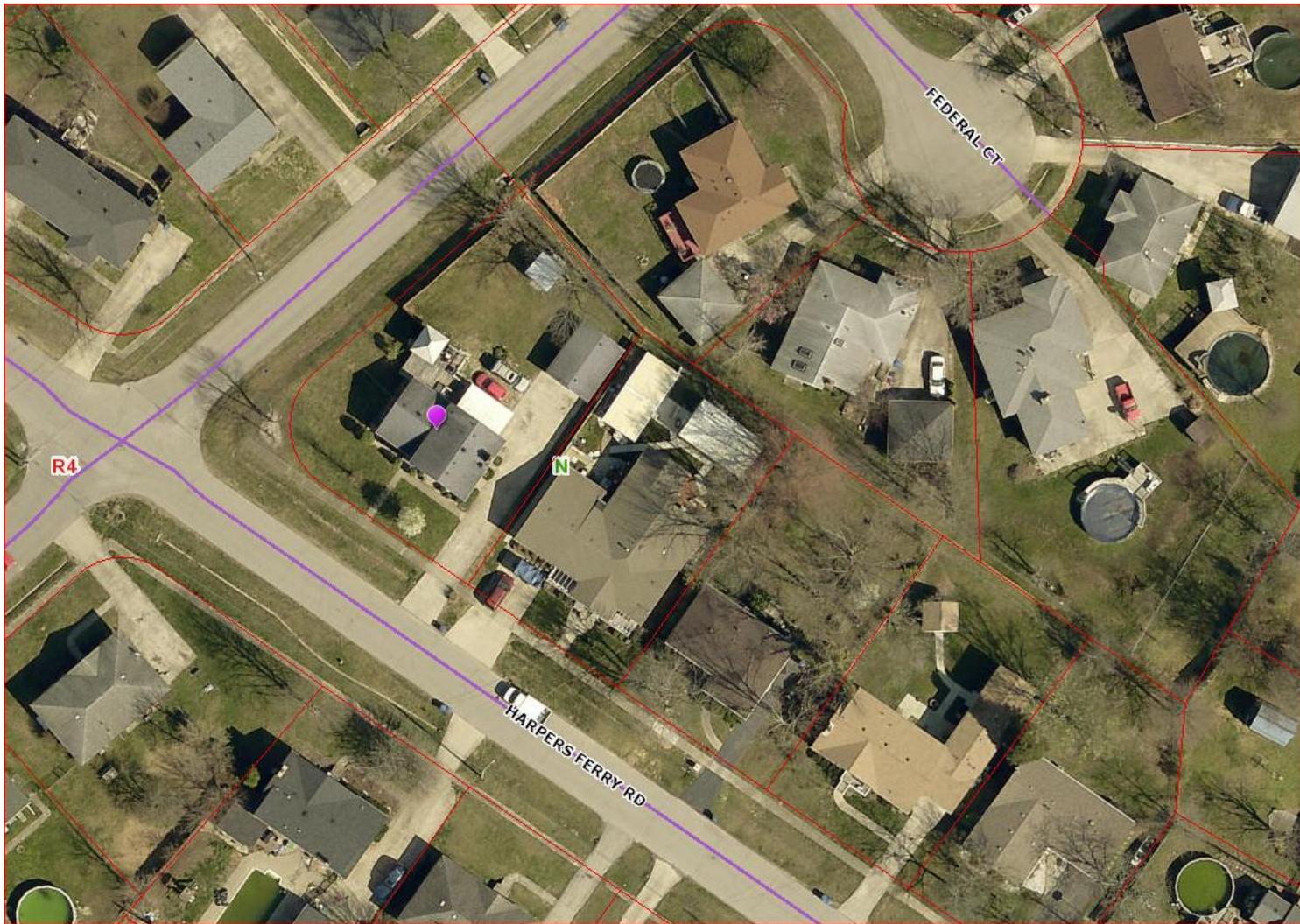
ATTACHMENTS

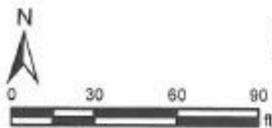
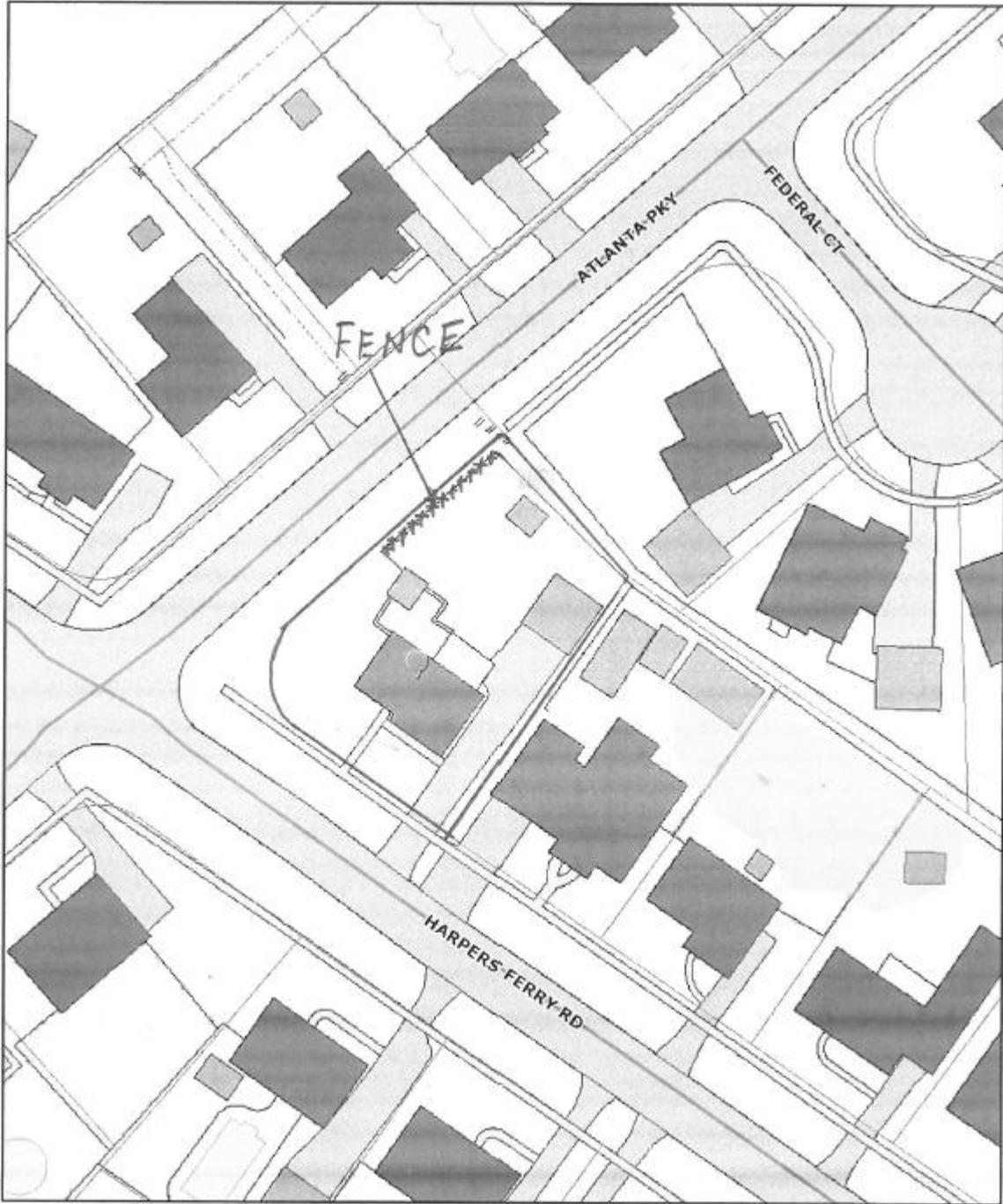
1. Zoning Map
2. Aerial Photograph
3. Fence Location Map
4. Applicant's Justification

1. Zoning Map



2. Aerial Map





211 Harpers Ferry Rd

Tuesday, October 22, 2019 | 2:48:33 PM



LOJIC © 2019

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

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

It is not blocking any right of way or access to any sort of hydrant

2. Explain how the variance will not alter the essential character of the general vicinity.

It will not alter anything since it has been up for over 7 years

3. Explain how the variance will not cause a hazard or a nuisance to the public.

the fence was placed there over 7 years ago. if it was a nuisance it should have been addressed by now

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

it allows us the use of our land with a little privacy. Plus removing it will cause an eye sore since over the years I have decorated inside the area.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

The house is located on the corner lot also we have had the fence in its current location for over 7 years

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

we were unaware that it was not allowed and had to have to remove it, plus I am close to a main road and I fear that a child could run into the street or my pets.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

yes. we have had it in place for over 7 years

RECEIVED

SEP 18 2019

PLANNING & DESIGN SERVICES

19 - VARIANCE - 0048