

# Board of Zoning Adjustment Staff Report

August 1, 2016



<b>Case No:</b>	16VARIANCE1041
<b>Request:</b>	To allow an existing vinyl fence to exceed the maximum height allowed by the Development Code in the City of St. Matthews.
<b>Project Name:</b>	3531 Hycliffe Ave.
<b>Location:</b>	3531 Hycliffe Ave.
<b>Area:</b>	.185 acres
<b>Owner:</b>	Deborah and William Bass
<b>Applicant:</b>	Deborah and William Bass
<b>Representative:</b>	Deborah and William Bass
<b>Jurisdiction:</b>	St. Matthews
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Ross Allen, Planner I

### REQUEST

- Variance from the Development Code article 9.1.B.1.a to allow an existing vinyl fence to exceed the maximum height allowed in the City of St. Matthews.

Location	Requirement	Request	Variance
Street Side Yard	4 feet	6 feet	2 feet

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant has constructed a 6 ft. tall vinyl, faux rock façade, fence in the street side yard within the city of St. Matthews. The fence is approximately 20 ft. in depth and runs along Thompson Avenue for approximately 59 ft. in length. The City of St. Matthews is requesting that the applicant come into compliance per the Development Code (2003) regulations.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Residential Single Family	R-4	Neighborhood
<b>Proposed</b>	Residential Single Family	R-4	Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family	R-4	Neighborhood
<b>South</b>	Residential Single Family	R-4	Neighborhood
<b>East</b>	Residential Single Family	R-4	Neighborhood
<b>West</b>	Residential Single Family	R-4	Neighborhood

### PREVIOUS CASES ON SITE

No other cases were associated with the subject site.

### INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

## APPLICABLE PLANS AND POLICIES

Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 outside of the sight triangle and does not constrain visibility along Thompson Avenue nor Hycliffe Avenue. The additional two foot height on the fence poses no public, health, safety, or welfare 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 another 6 foot vinyl fence is present in an adjacent property 3530 Hycliffe Avenue. The applicant states that in May of 2015 he replaced a six foot tall wooden fence that was dilapidated. The applicant replaced it with the vinyl fence. Further, the applicant states that the six foot high wooden fence had been in place in the subject property since the 1970's and that a six foot tall fence has been a part of the essential character of the general vicinity for many 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 as stated previously; the existing fence is outside of sight triangles along the corner of Hycliffe Ave. and Thompson Ave., the height of the fence does not impact the views of pedestrians or vehicles. The applicant states that the fence has not been the subject of any complaints since he has lived at the property for more than 19 years.

- (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 applicant has stated the previous 6 foot tall wooden fence was of the same height as the existing vinyl fence.

### 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 since properties in the general vicinity have 6 ft. tall fences of vinyl, 3530 Hycliffe Ave., in the street side yard/s.

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 deprive the applicant of the reasonable use of the land since the applicant purchased the corner property for the reason of having a privacy fence from traffic along the corner of Hycliffe Ave. and Thompson Ave. Removal or the reduction in height of the vinyl fence would "degrade the value of the property", meaning it is no longer a private rear yard. Also, the applicant states that to remove or modify the vinyl fence would place a

financial hardship since the estimated cost of the fence was approximately \$4,800.00 dollars in order to replace the existing dilapidated wooden fence.

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 previous wooden fence was 6 feet tall and the current fence, although vinyl, is 6 ft. tall. The previous fence did pre-date the zoning regulations that St. Matthews uses, since they were effective as of 2003.

### TECHNICAL REVIEW

- No technical review was conducted.

### STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of review for granting a variance established in the Development Code (2003 for St. Matthews) from article 9.1.B.1.a to allow the existing 6' ft. vinyl fence to come into compliance within the street side yard.

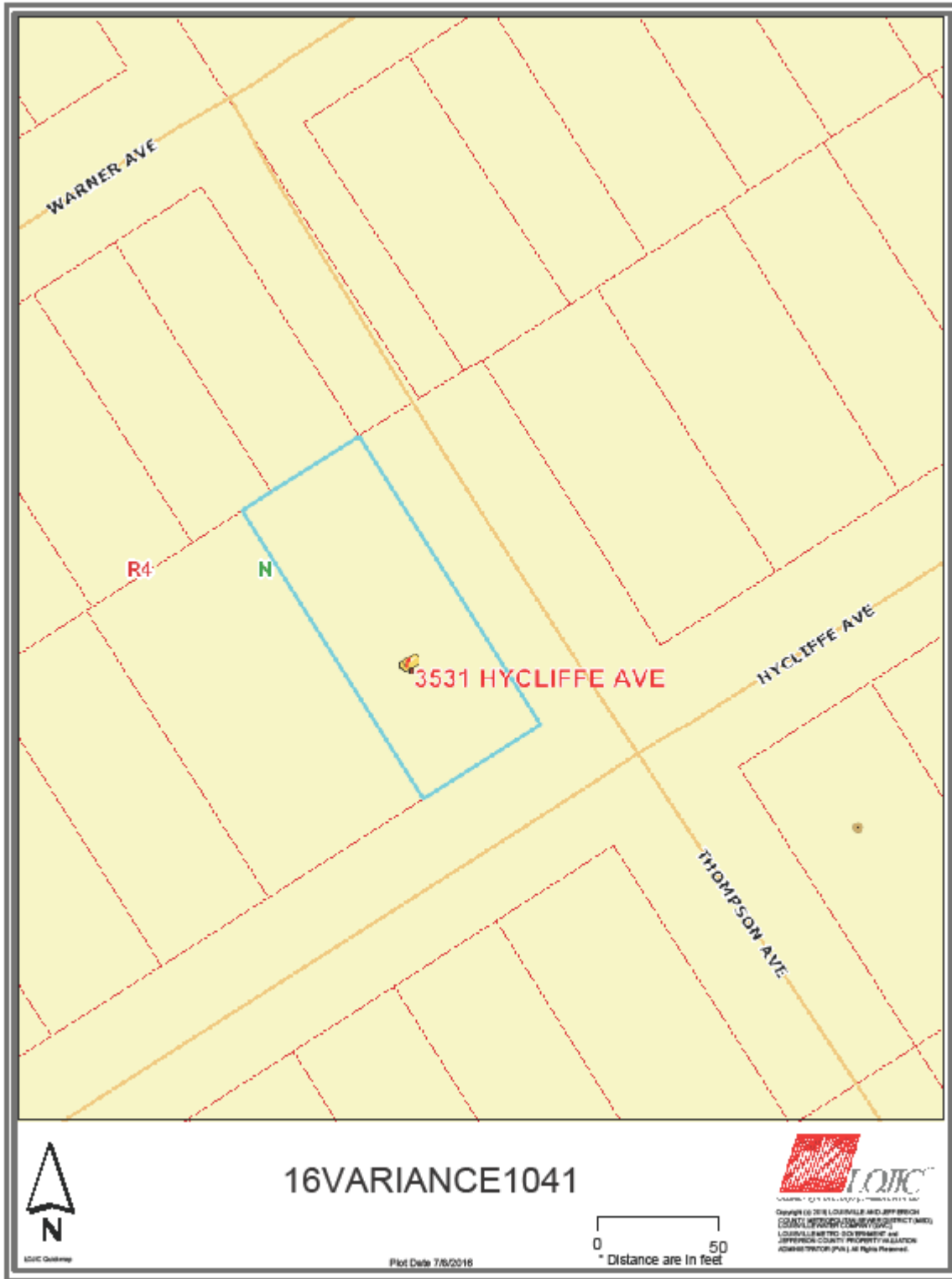
### NOTIFICATION

Date	Purpose of Notice	Recipients
July 15, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
July 15, 2016	Sign Posting for BOZA	Sign Posting on property

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

