

Board of Zoning Adjustment

Staff Report

July 25, 2022



Case No: 22-MVARIANCE-0002
Project Name: Bristol Oaks Court Fence Modified Variance
Location: 8701 Bristol Oaks Court
Owner: Thomas and Kim Solomon
Applicant: Kim Solomon
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Amy Brooks, Planner I

REQUESTS:

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setbacks.

Location	Requirement	Request	Variance
Street Side Yard Fence Height	48 in.	72 in.	24 in.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Residential Single Family and is in the Neighborhood Form District. It is on the northeast corner of Bristol Oaks Dr. and Bristol Oaks Ct. in the Bristol Oaks Subdivision off of Watterson Trl. The site currently has a single-family residential structure, a detached garage and an existing 5 ft. fence in the street side yard setback. The applicant is proposing to replace the existing 5 ft. wooden fence with a vinyl fence that is six feet in height within the street side yard setback.

In 1997 a variance was requested for a 72 inch fence in the street side yard setback. The fence was approved for 60 inches in height. The existing fence is 12 ft off of property line, the applicant proposes to move the location of the fence 4 ft. closer to the property line.

STAFF FINDINGS

Staff finds that the requested variance meets standards a), c), and d) but is concerned that it does not meet standard b) because staff did not observe any other fences in the neighborhood that exceed 48 inches in height in the street side yard setback.

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 Land Development Code section 4.4.3.A.1.b.i.

TECHNICAL REVIEW

No outstanding technical review comments.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

B-079-97: A variance to allow a 5 ft. fence in the street side yard setback and to allow an existing garage to be 0 ft. from the eastern side yard property line. Approved May 05, 1997.

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, because the fence must be constructed to comply with all building codes and the land development code, except where relief is requested. The proposed fence will be setback far enough from the edge of pavement of the street to not obstruct vision clearance and will not adversely impact the safe movement of vehicles or pedestrians.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance may alter the essential character of the general vicinity as staff did not observe other fences in the neighborhood that exceed 48 inches in height in street side yard setbacks and as moving the fence location in addition to increasing the height furthers the intrusion into the street side yard setback.

- (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 because the fence must be constructed to comply with all building codes, and it will not adversely impact the safe movement of vehicles or pedestrians.

- (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 a variance was already approved for a fence in the street side yard setback.

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 does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision.

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 not create an unnecessary hardship on the applicant as the height of the proposed fence could be reduced to conform with the existing approved variance.

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 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 applicant is requesting the variance and has not begun construction.

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.

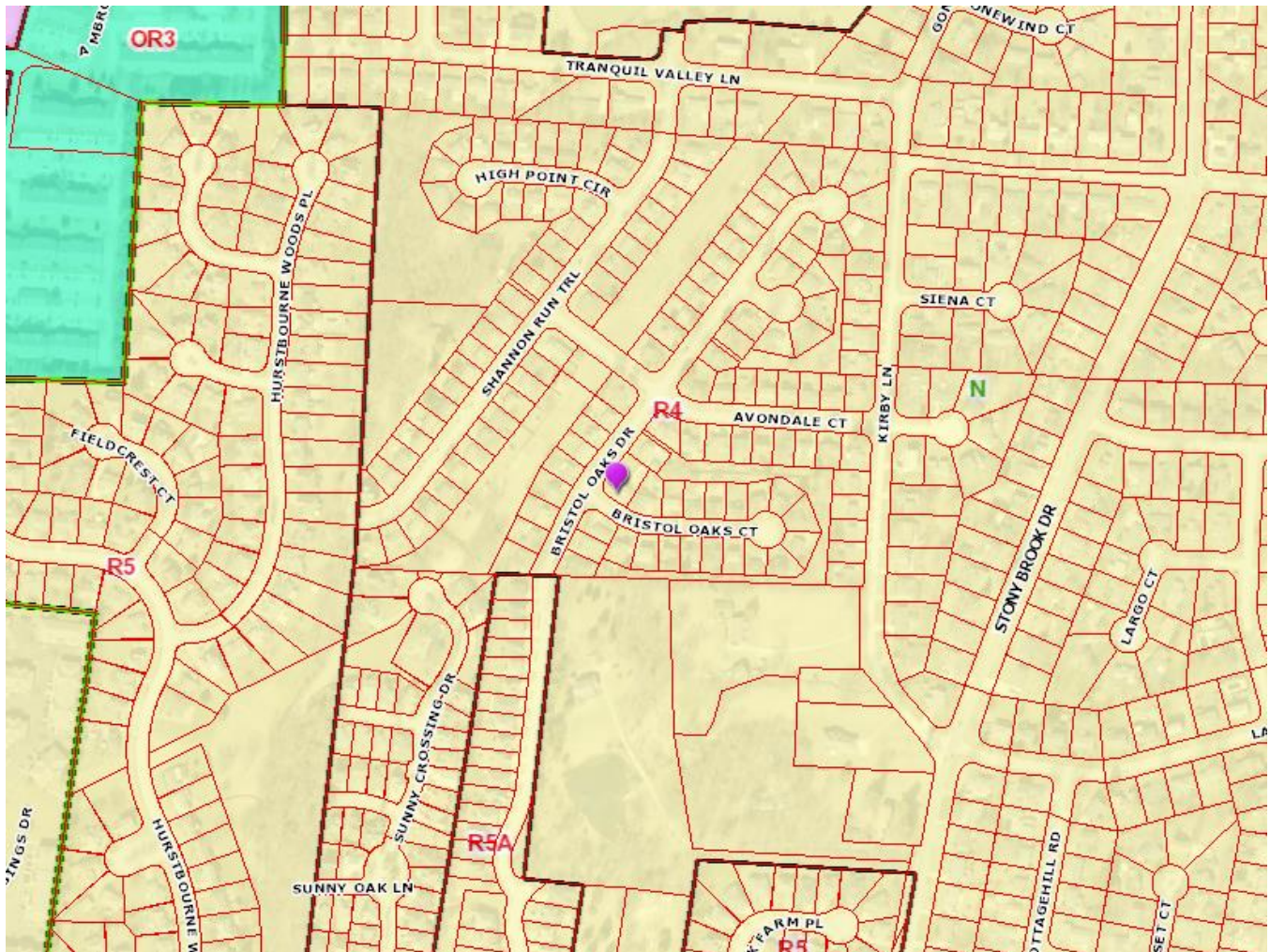
NOTIFICATION

Date	Purpose of Notice	Recipients
01/19/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 26
01/25/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Condition of Approval
5. Site Photos

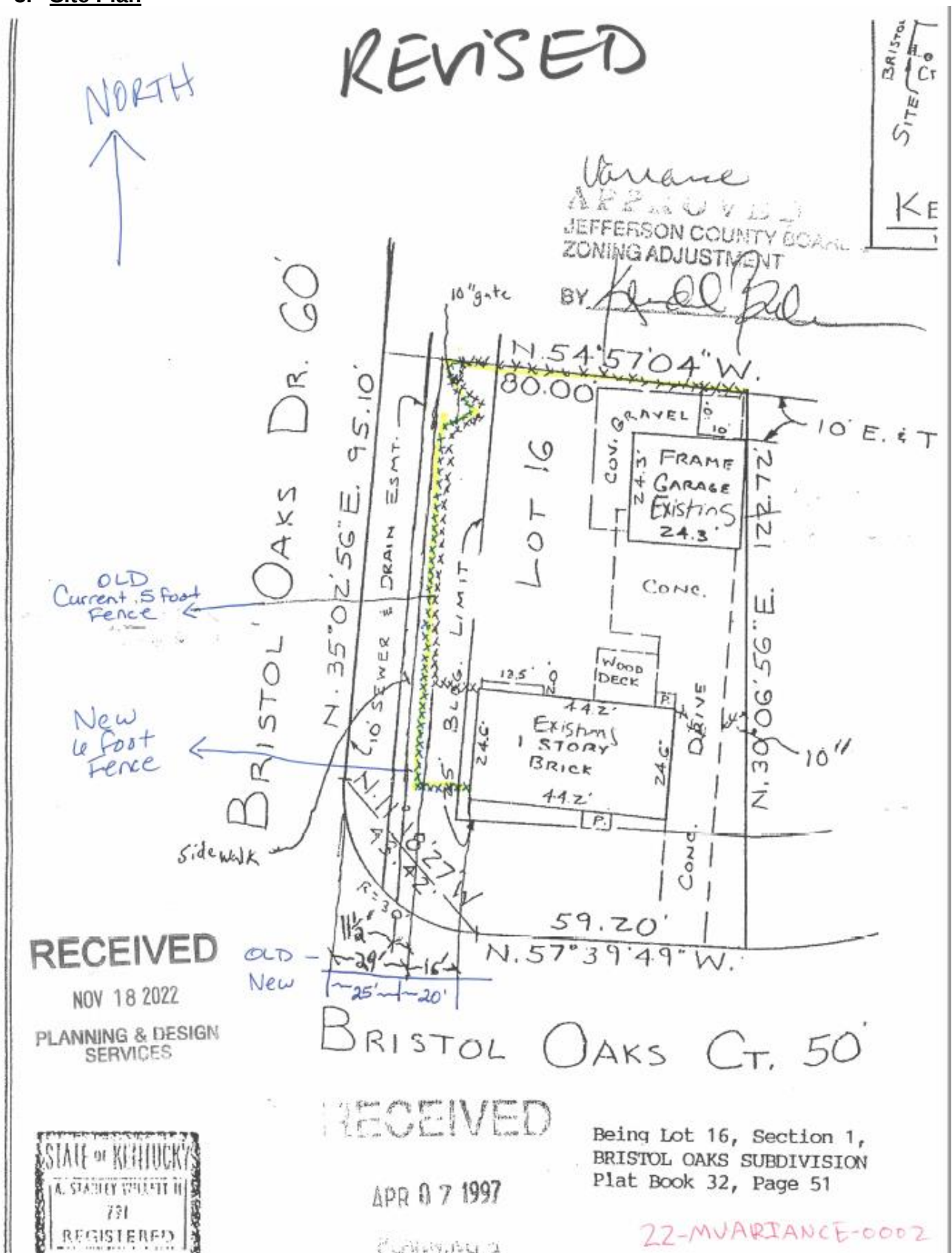
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Renderings



Fence

5. Conditions of Approval

1) The finished side of fences must face out towards the public right of way and adjoining properties.

6. Site Photos



Front of subject property.



Across Bristol Oaks Ct.



To the left of subject property, intersection with Bristol Oaks Rd.



To the right of subject property.



View of variance area from front of subject property.



View of variance area from rear of subject property.