

Board of Zoning Adjustment

Staff Report

December 18, 2017



Case No: 17VARIANCE1092
Project Name: 7700 Roswell Way Fence
Location: 7700 Roswell Way
Owner(s): Scott Spence
Applicant: Scott Spence
Jurisdiction: Louisville Metro
Council District: 11 – Kevin Kramer
Case Manager: Dante St. Germain, Planner I

REQUEST

- **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the front yard in the Neighborhood form district to exceed 48 inches in height.

Location	Requirement	Request	Variance
Fence in Front Yard	4 feet	6 feet	2 feet

CASE SUMMARY/BACKGROUND

The subject property is located at the intersection of Nachand Lane and Roswell Way, approximately ½ mile west from the intersection of Watterson Trail and S Hurstbourne Parkway. It currently contains a one-story single-family residence which faces the street side yard along Roswell Way. The applicant has constructed a six-foot tall wooden privacy fence around the rear, side, and front yards of the property, to the rear and side of the residence. The applicant requests an after-the-fact variance for the fence in the front yard setback to exceed the required 4 feet in height.

The property is currently under enforcement case 17PM14935 relating to the height of the fence. The enforcement case is currently pending action by the Board on the requested variance.

STAFF FINDING

Staff finds that the requested variance is not adequately justified and does not meet 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 section 5.1.10.F to allow a structure to encroach into the required side yard setback.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

Staff received a letter of support from Lyman Hunt, President of the Watterson Heights Neighborhood Association. Staff also received an email from Councilman Kramer's office in support of the variance.

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 fence does not obstruct sight lines at the corner.

- (b) The requested variance will alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity as there are no other similar privacy fences in front yards 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 there is no obstruction of visibility for drivers at the corner.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations as a fence that complies with zoning regulations could have been constructed by reducing the height of the fence to 4 feet. However, it is reasonable to assume that the property owner was unaware of the front yard height limitation upon installation of the fence.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise 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 not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and comparable in size to nearby properties, and houses that face the street side yard are common in the vicinity.

2. The strict application of the provisions of the regulation would not 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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because a fence that complies with the zoning regulations could be constructed which would still provide privacy in the rear of the principal structure.

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 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.

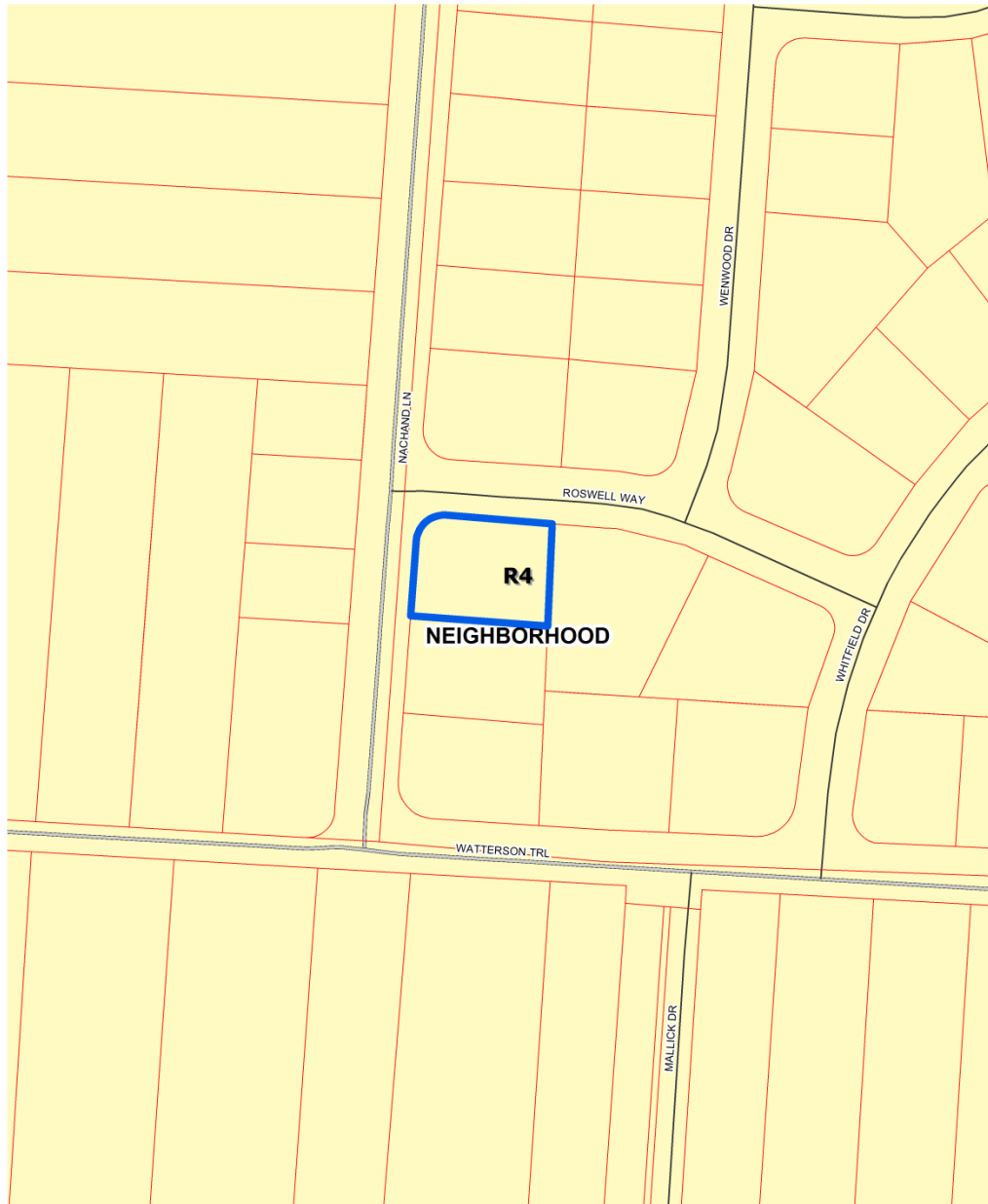
NOTIFICATION

Date	Purpose of Notice	Recipients
11/27/2017	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 11
12/01/2017	Hearing before BOZA	Notice posted on property

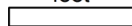
ATTACHMENTS

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

1. **Zoning Map**



7700 Roswell Way
feet

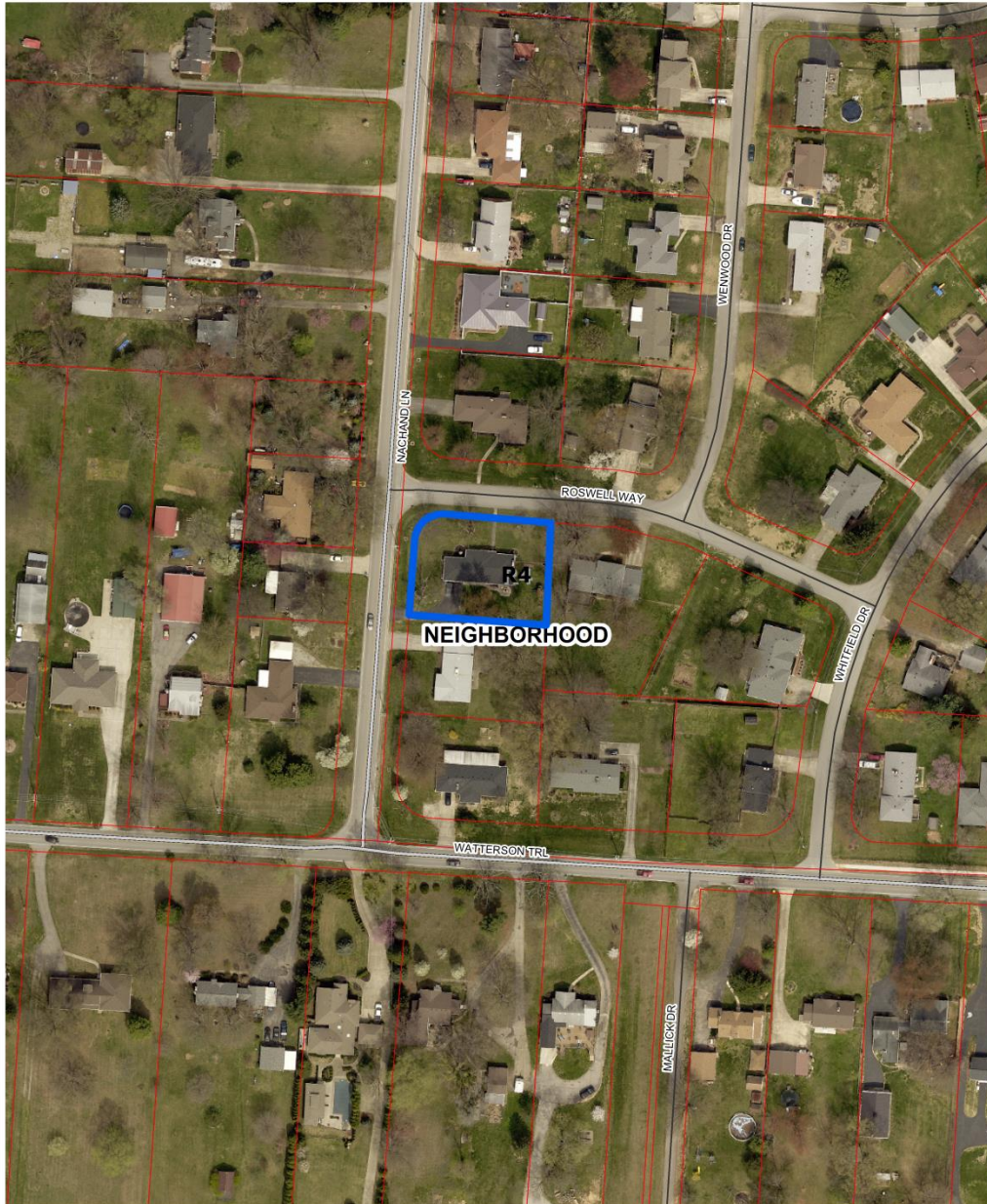


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Map Created: 12/6/2017

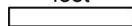


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2. Aerial Photograph



7700 Roswell Way
feet

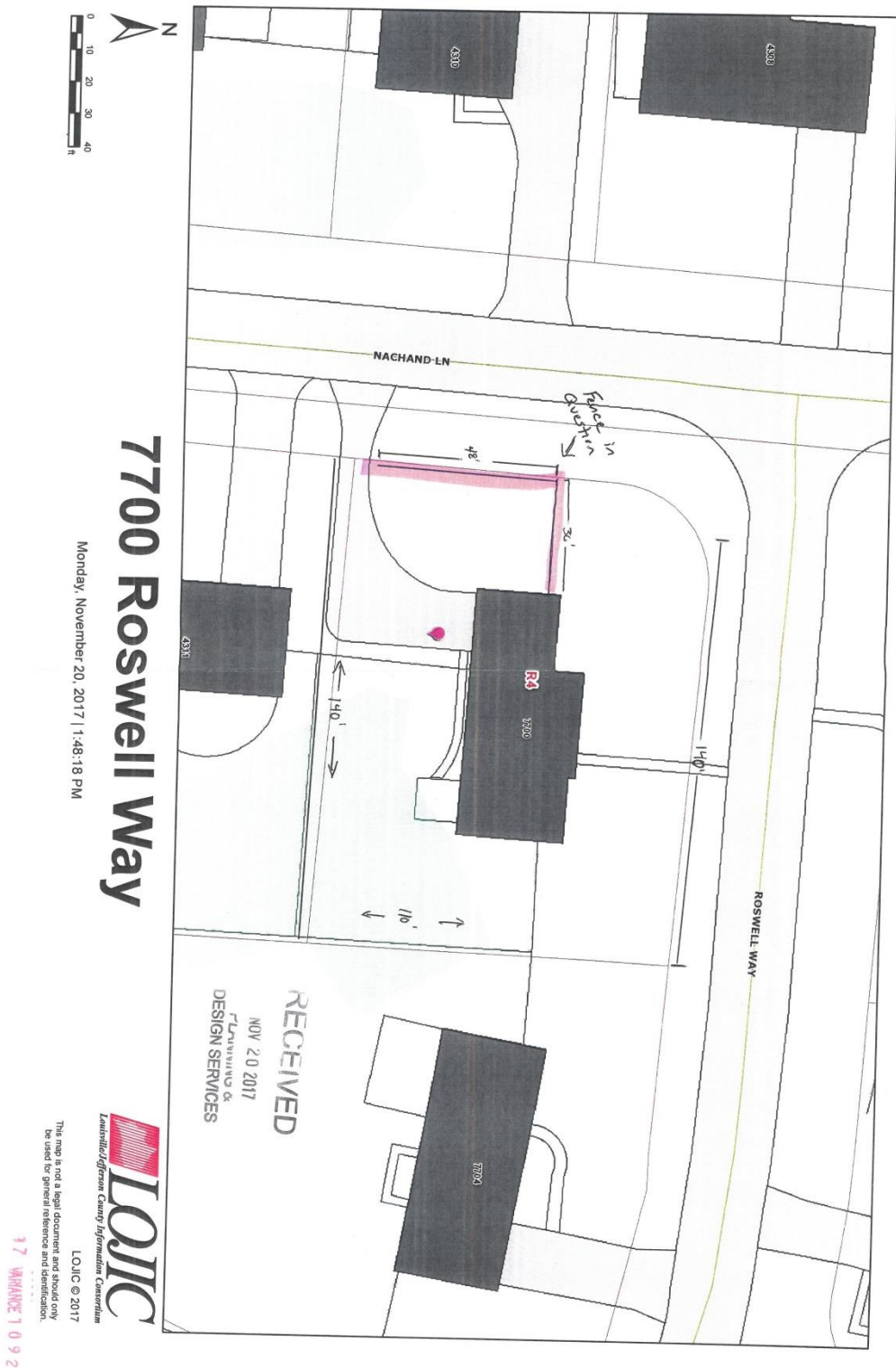


Map Created: 12/6/2017



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3. Site Plan



4. **Site Photos**



The street side yard of the subject property, toward which the house is oriented.



The property to the east of the subject property.



The property across Nachand Lane.



The fence in the front yard and the location of the requested variance.



The location of the fence in the property's front yard.