

Board of Zoning Adjustment Staff Report

December 5, 2016



Case No:	16VARIANCE1086
Request:	Variance to allow a proposed swimming pool to encroach into the minimum front yard setback AND a waiver to allow the pool to be constructed in a required front yard on a double frontage lot.
Project Name:	2434 Cross Hill Road Pool
Location:	2434 Cross Hill Road
Area:	.31050 acres
Owner:	Jason Lockwood
Applicant:	Jason Lockwood
Representative:	Jason Lockwood
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Ross Allen, Planner I

REQUEST

- **Variance:** from the Land Development Code section 5.3.1.C to allow a proposed swimming pool to encroach 12.5 feet into the front yard setback along Cross Hill Road (local road).

Location	Requirement	Request	Variance
Minimum Front Yard Setback	25 ft.	12.5 ft.	12.5 ft.

- **Waiver:** from LDC section 4.4.10.A to allow the proposed swimming pool to be constructed in the required front yard setback.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a swimming pool and concrete apron of approximately 22 feet by 11 feet (242 sf.) on a double frontage lot located on an R-5 zoned parcel within a Neighborhood Form District. The applicant has a residence located between Grinstead Drive (minor arterial) and Cross Hill Road (local road), being a double frontage lot. The applicant will have a 4 foot aluminum fence (height allowed by code and required by LDC section 4.4.10.D) in the front yard setback.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Single Family	R-5	Traditional Neighborhood
Proposed	Residential Single Family	R-5	Traditional Neighborhood
Surrounding Properties			
North	Residential Single Family	R-5	Traditional Neighborhood
South	Residential Single Family	R-5	Traditional Neighborhood
East	Residential Single Family	R-5	Traditional Neighborhood
West	Residential Single Family	R-5	Traditional Neighborhood

PREVIOUS CASES ON SITE

12647: variance request for a 1,386 sf. private yard area (less than the 30% required by code) resulting from a 1-story addition onto the rear of the principal structure. Approved by BOZA on June 1, 2009.

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Land Development Code (Oct. 2016)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 proposed swimming pool will be enclosed by a 48" tall aluminum fence restricting access from the general public. The distance from the property line along Cross Hill Rd. shows a distance of 17 feet from the property line however, the shortest distance is approximately 12.5 feet from the property line along Cross Hill Rd.

- (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 at least one other home in the general vicinity has a pool on a double frontage lot. However, the aforementioned home located at 2433 Top Hill Rd. has the residence situated closer to Top Hill Rd. and a pool located behind the front entrance to the home. Many homes along Cross Hill Rd. have garages (accessory structures) located to the front of the front entrance of the homes.

- (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 the lot slopes towards Grinstead Drive with the residence situated closer to Cross Hill Rd. The pool would be located to the front of the front entrance of the home along Cross Hill Road. Many of the homes along Cross Hill Road have accessory structures (garages) located to the front of the main entrances to their homes.

- (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 because the zoning district allows for accessory buildings or uses are permitted in the zoning district. However, normally swimming pools would not be allowed in the front setback but the lot has double frontage and a sloping hill. The lot area is greater facing Grinstead Drive, having sufficient space for the swimming pool, and would allow the applicant to meet the required setbacks as established for the Traditional Neighborhood Form District.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do 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 since the residence to the south of the applicants address (2434 Cross Hill Rd.) has a pool on a double frontage lot. The applicant's lot is situated on a hill along Grinstead Drive restricting the front of the home. Furthermore, the principal structure is situated approximately 100 feet from the front lot line along Grinstead Drive leaving approximately 35 feet from the property line as found along Cross Hill Road. The frontage along Cross Hill Road with a 25 foot front yard setback only allows the applicant 10 feet of space from the front façade of the home.

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 principal structure is situated approximately 100 feet from the front lot line along Grinstead Drive leaving approximately 35 feet from the property line as found along Cross Hill Road.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has not undertaken any construction to date and is asking the Board of Zoning Adjustment to consider the circumstances of the placement of the principal structure on the lot.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of LDC 4.4.10.A to allow a private swimming pool to be constructed in the required front yard:

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since at least one other home (2433 Top Hill Road) in the general vicinity has a pool on a double frontage lot. However, the home on the aforementioned lot is situated towards Top Hill Road allowing more space for the required front yard setbacks.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 Guideline 3; A 23 setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet from district standards. The proposed swimming pool will not meet front yard setbacks since this is a double frontage lot with the residence situated facing the primary entrance along Cross Hill Road, meaning the pool will be in front of the house. Although, the pool would be considered in the front of the home many homes in the general vicinity have accessory structures off of Cross Hill Road or to the front of the principal structure along Cross Hill Rd. Guideline 3; A1 states, that the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development. The applicant's proposed swimming pool is unique to their block face but not unique to the area since one other home with a double frontage has a swimming pool that would be considered to the secondary frontage along Cross Hill Rd.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the principal structure as situated on the lot is located closer to Cross Hill Road and is sloping towards Grinstead Drive, sufficient space is allowed for construction of the swimming pool and

the location between Grinstead Drive and the principal structure would allow for sufficient space to meet the form district setbacks.

(d) Either:

- (i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
- (ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would 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 or would create an unnecessary hardship on the applicant since the proposed swimming pool would be feasible in either location given the site context and positioning of the house towards Cross Hill Rd. However, the pool location to the front of the home along Cross Hill Rd. is restrained by the applicable front yard setback on both frontages, Grinstead Drive and Cross Hill Rd., however the location to the front of the residence facing Grinstead Drive would meet applicable LDC setbacks.

TECHNICAL REVIEW

- None

STAFF CONCLUSIONS

The variance and waiver request appear to be adequately justified and meet 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 and waiver as established in the Land Development Code (Oct. 2016) from section 5.3.1.C to allow a proposed swimming pool to encroach into the minimum front yard setback and from LDC section 4.4.10.A to allow a private swimming pool to be constructed in the required front yard on a parcel zoned R-5 in a Traditional Neighborhood Form District.

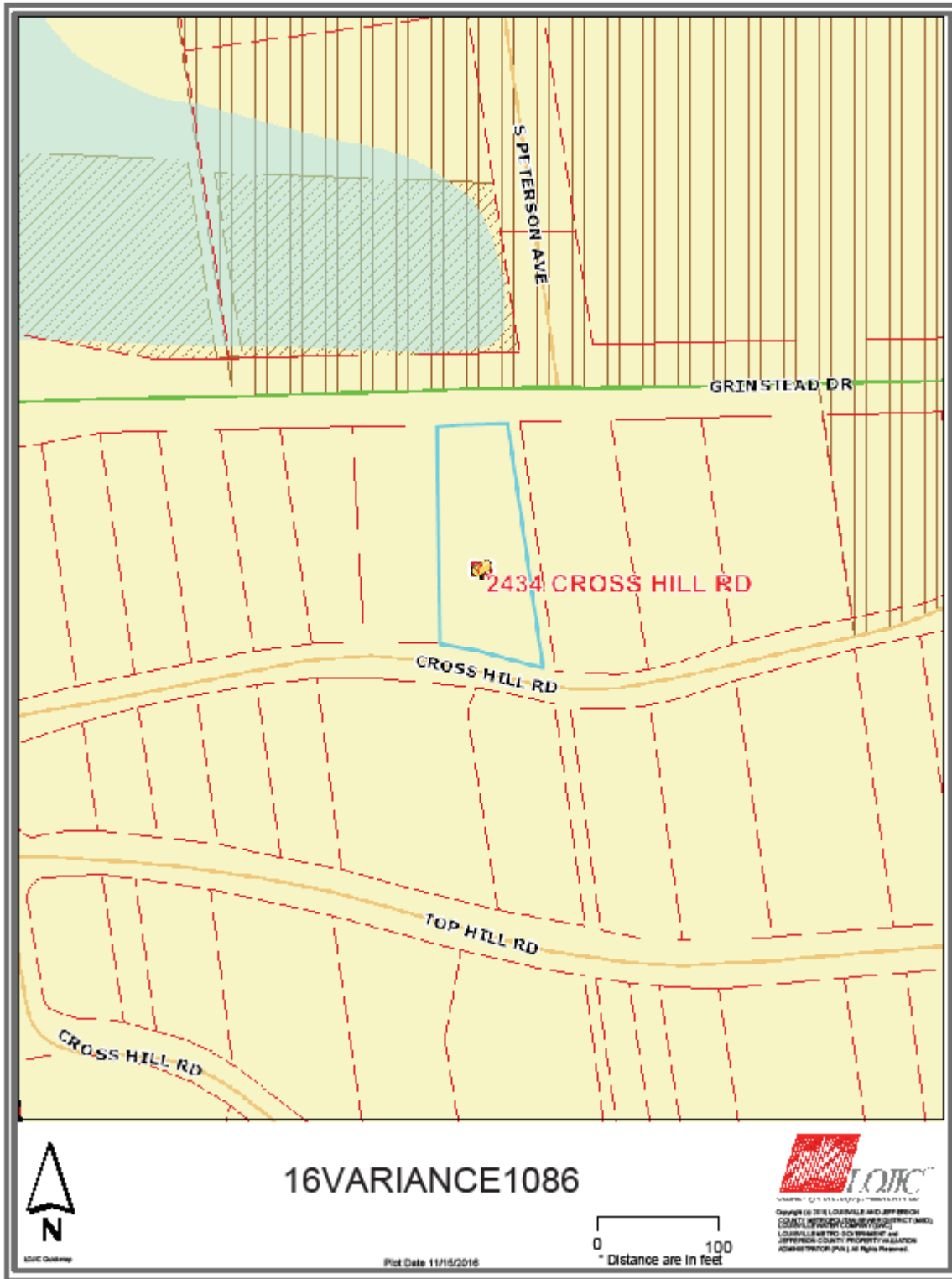
NOTIFICATION

Date	Purpose of Notice	Recipients
November 18, 2016	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
November 18, 2016	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

