

Board of Zoning Adjustment
Staff Report
January 24, 2022



Case No:	21-VARIANCE-0160
Project Name:	Deyoung Fence Variance
Location:	6009 Bardstown Road
Owner/Applicant:	Beth Deyoung
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Heather Pollock, 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 setback.

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

CASE SUMMARY/BACKGROUND

The subject property is zoned R-5 Residential Single Family and is in the Neighborhood Form District. It is on the northwest corner of Bardstown Rd. and Jefferson Ave. in the Highlands Addition in Fern Creek. The site currently has a one and a half story single-family residential structure. The applicant states that the six-foot privacy fence within the street side yard setback was existing prior to the purchase of the property.

STAFF FINDINGS

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 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 setback.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

18PM20414-ZM – Zoning enforcement case for the fence.

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 structure must be constructed to comply with all building codes, including fire codes. The existing fence is set back 2 ft. from the property line and down on the other side of a ditch from the roadway.

- (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; while there are no similar fences in the area, this property is adjacent to a busy major arterial roadway and commercial uses.

- (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 structure must be constructed to comply with all building codes.

- (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 the fence is standard height for a privacy 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 does arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is a residential use adjacent to commercial uses and the fence provides some buffer.

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 fence could be reduced or the fence moved to meet the requirement along Jefferson Ave.

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 was constructed prior

to the applicant purchasing the property and the applicant is requesting the variance after the fact.

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.

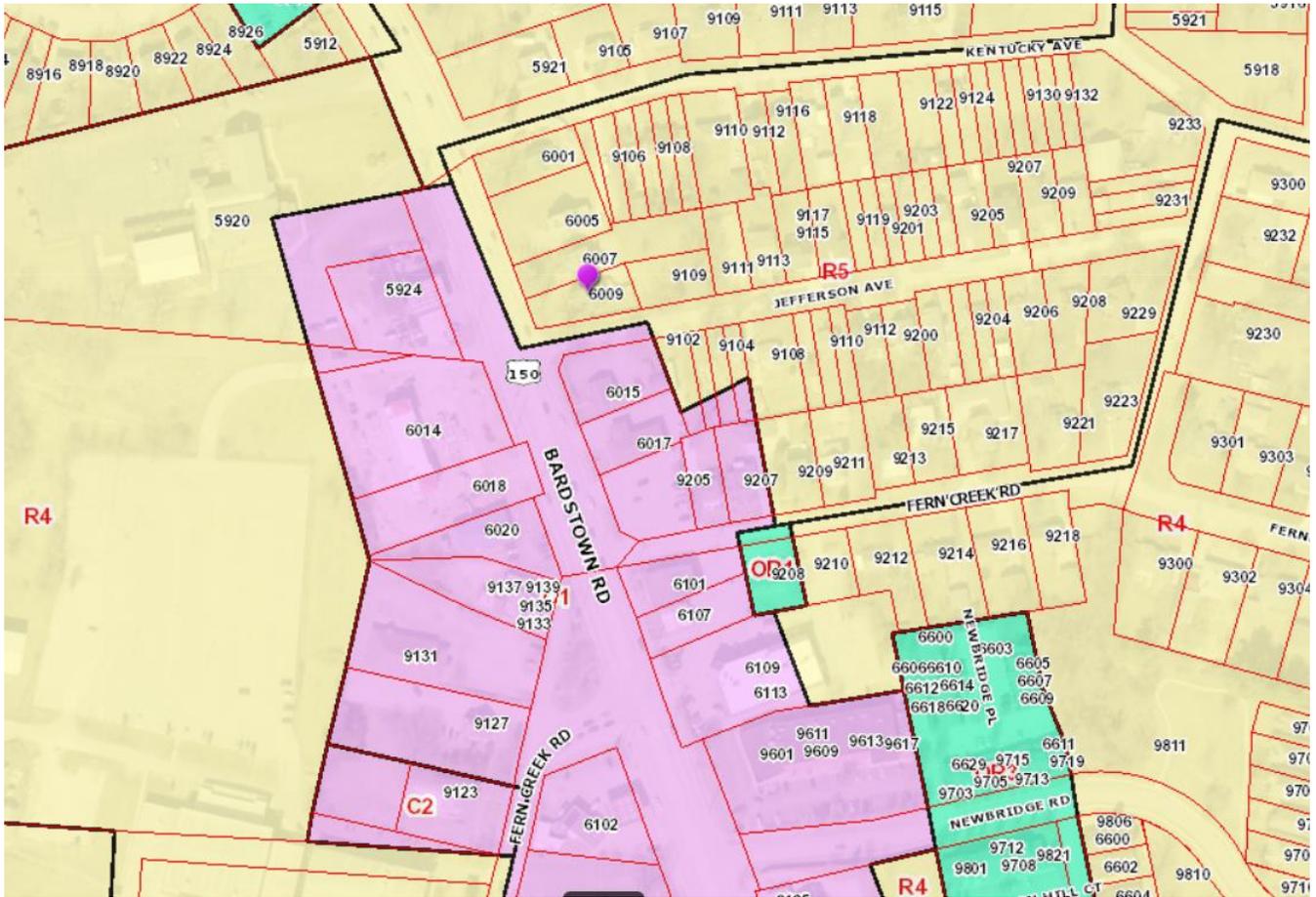
NOTIFICATION

Date	Purpose of Notice	Recipients
01/06/2022	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22
01/10/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map

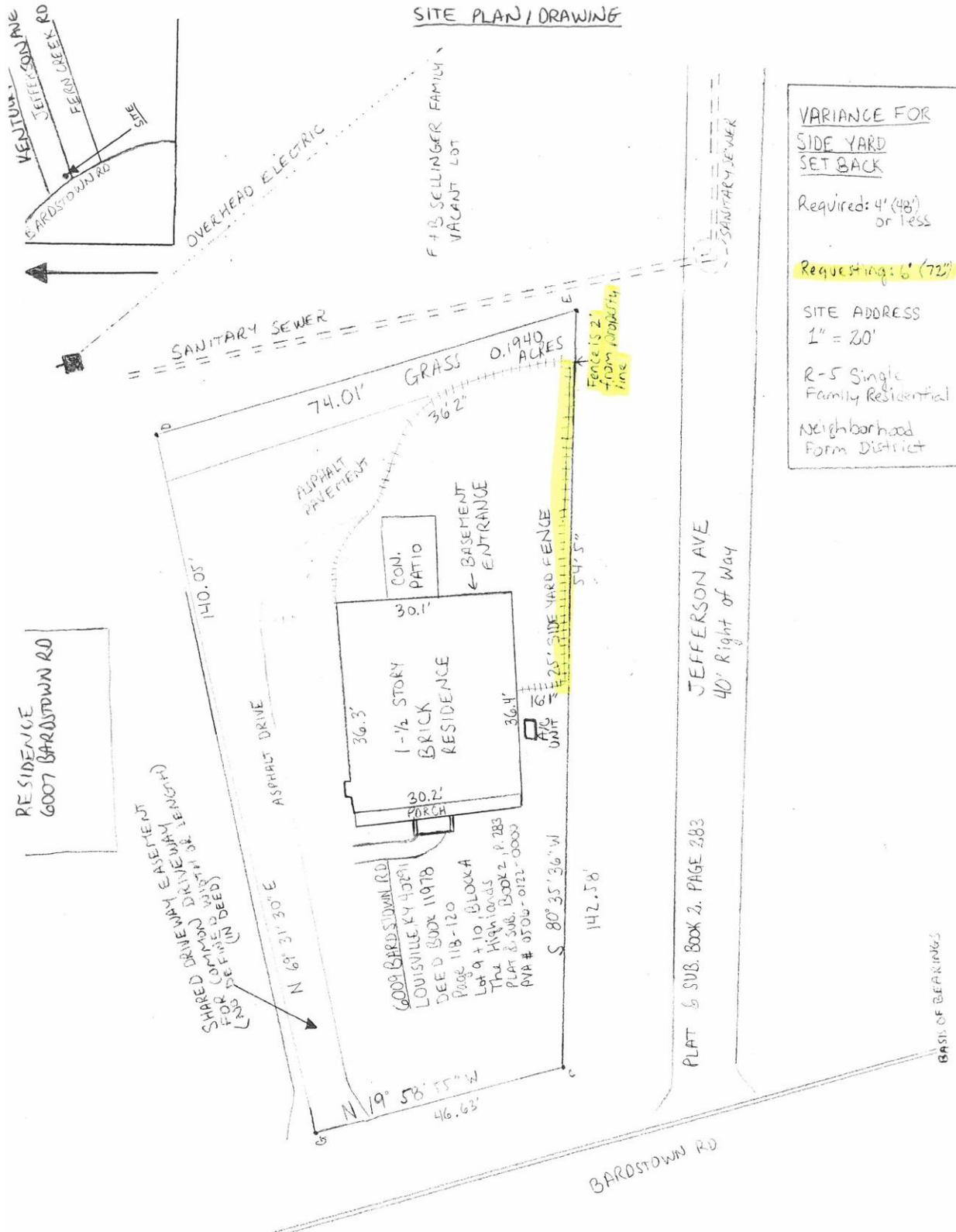


2. Aerial Photograph



Site Plan

SITE PLAN / DRAWING



Site Photos



Front of subject property.



Property to the left



Side street to the right.



Across Bardstown Rd.



View from intersection of Jefferson Ave. and Bardstown Rd.



View of fence from Jefferson Ave.



Fence from rear of subject property, along Jefferson Ave