

Board of Zoning Adjustment
Staff Report
 August 7, 2017



Case No:	17VARIANCE1045
Project Name:	1300 Cherokee Road Fence
Location:	1300 Cherokee Road
Owner(s):	Nick & Kathy Ising
Applicant:	Nick Ising
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Dante St. Germain, Planner I

REQUEST

- **Variance** from Land Development Code section 4.4.3 to allow a fence in the street side yard in a Traditional form district to exceed 42 inches in height

Location	Requirement	Request	Variance
Fence in Street Side Yard	42 inches	72 inches	30 inches

CASE SUMMARY/BACKGROUND

The subject property is a corner lot located in the Cherokee Triangle neighborhood, at the intersection of Longest Avenue and Cherokee Road. It currently contains a 2 ½ story single-family residence with an existing chain-link fence. The applicant proposes to replace the chain-link fence with a board-on-board privacy fence 72 inches in height. Land Development Code section 4.4.3 allows a fence in the street side yard in a Traditional form district to be up to 42 inches in height. The proposed fence, which will be in the street side yard along Longest Avenue, is to be 72 inches in height. The applicant therefore requests a variance to allow the higher fence.

Historic Landmarks and Preservation Commission staff approved the fence under case number 17COA1168, on condition that the fence shall be painted or opaque stained. The Certificate of Appropriateness was issued July 21, 2017.

STAFF FINDING

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 the Land Development Code to allow a fence in the street side yard setback in a Traditional form district to exceed 42 inches in height.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.3

- (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 will not obstruct sight lines for motorists or pedestrians at the corner.

- (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 as a Certificate of Appropriateness has been issued approving the fence.

- (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 the fence will not obstruct sight lines or create a hazard for motorists or pedestrians at the corner.

- (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 needed to provide privacy in the rear yard of a corner lot.

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 as the lot is a corner lot which otherwise has little privacy in the rear.

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 by requiring the applicant to construct a lower fence.

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 as the fence has not yet been constructed and the applicant is requesting the variance.

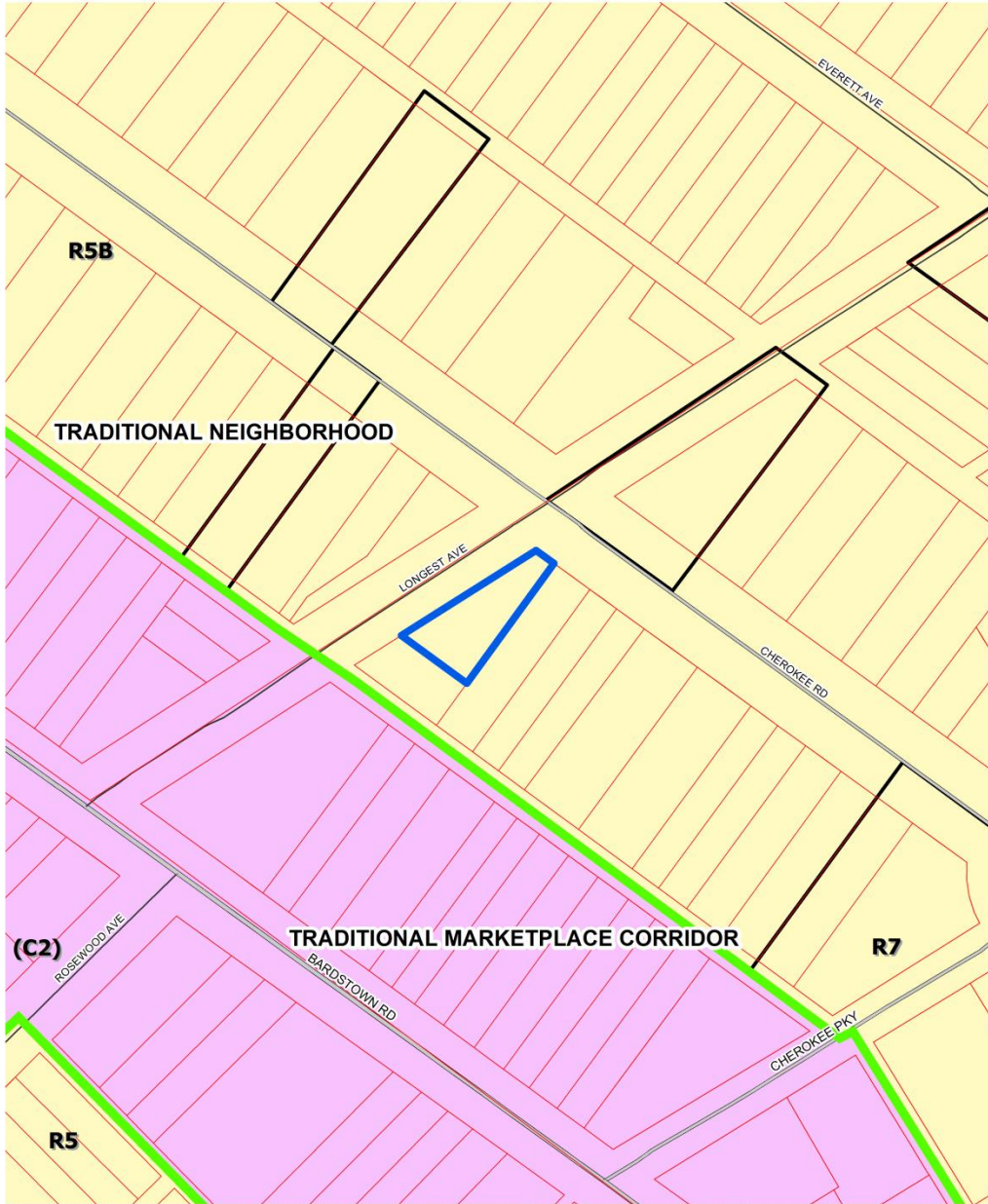
NOTIFICATION

Date	Purpose of Notice	Recipients
07/20/2017	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8
07/21/2017	Hearing before BOZA	Notice posted on property

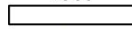
ATTACHMENTS

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

1. Zoning Map



1300 Cherokee Road
feet



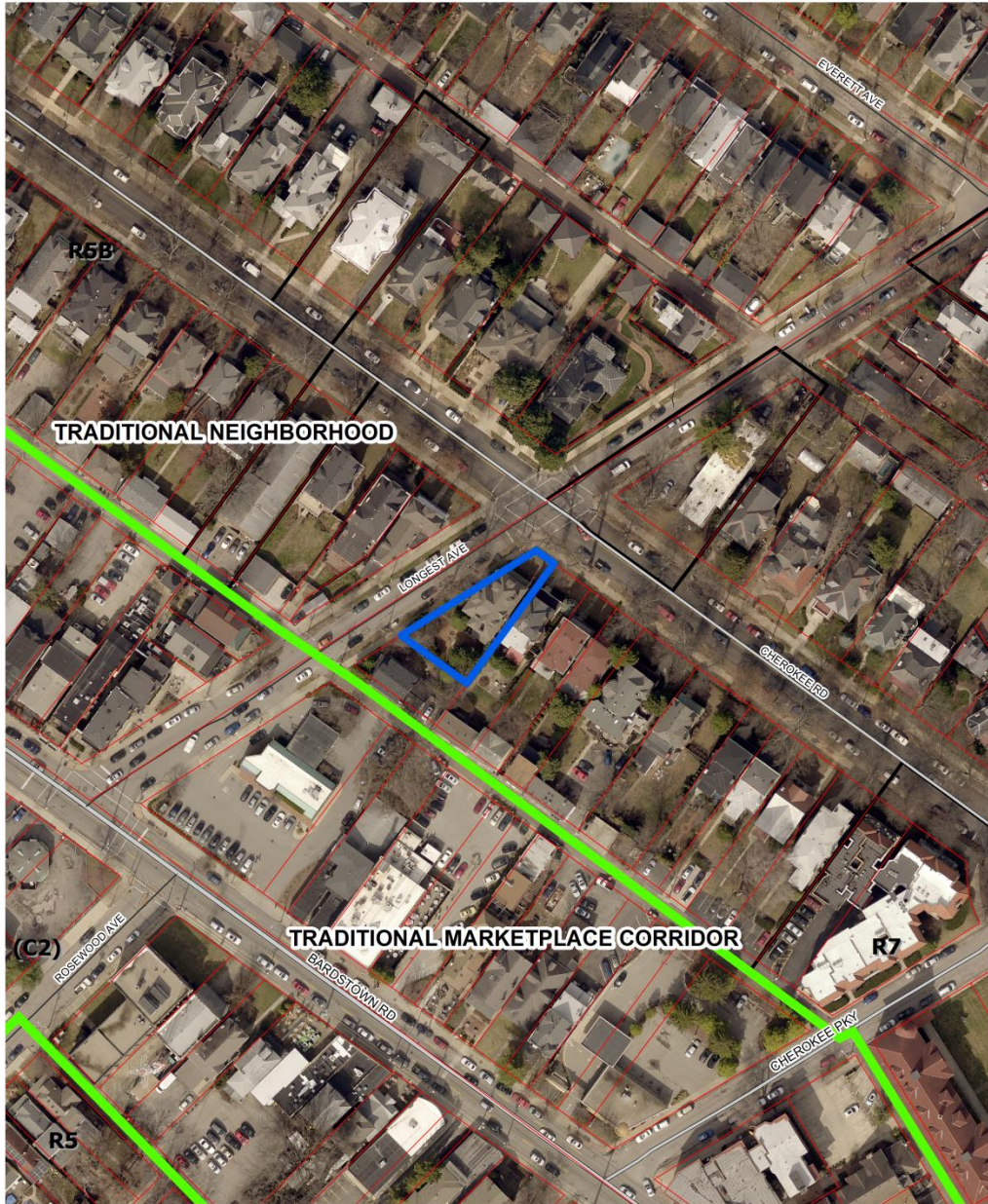
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Map Created: 7/27/2017

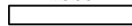


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2. Aerial Photograph



1300 Cherokee Road
feet



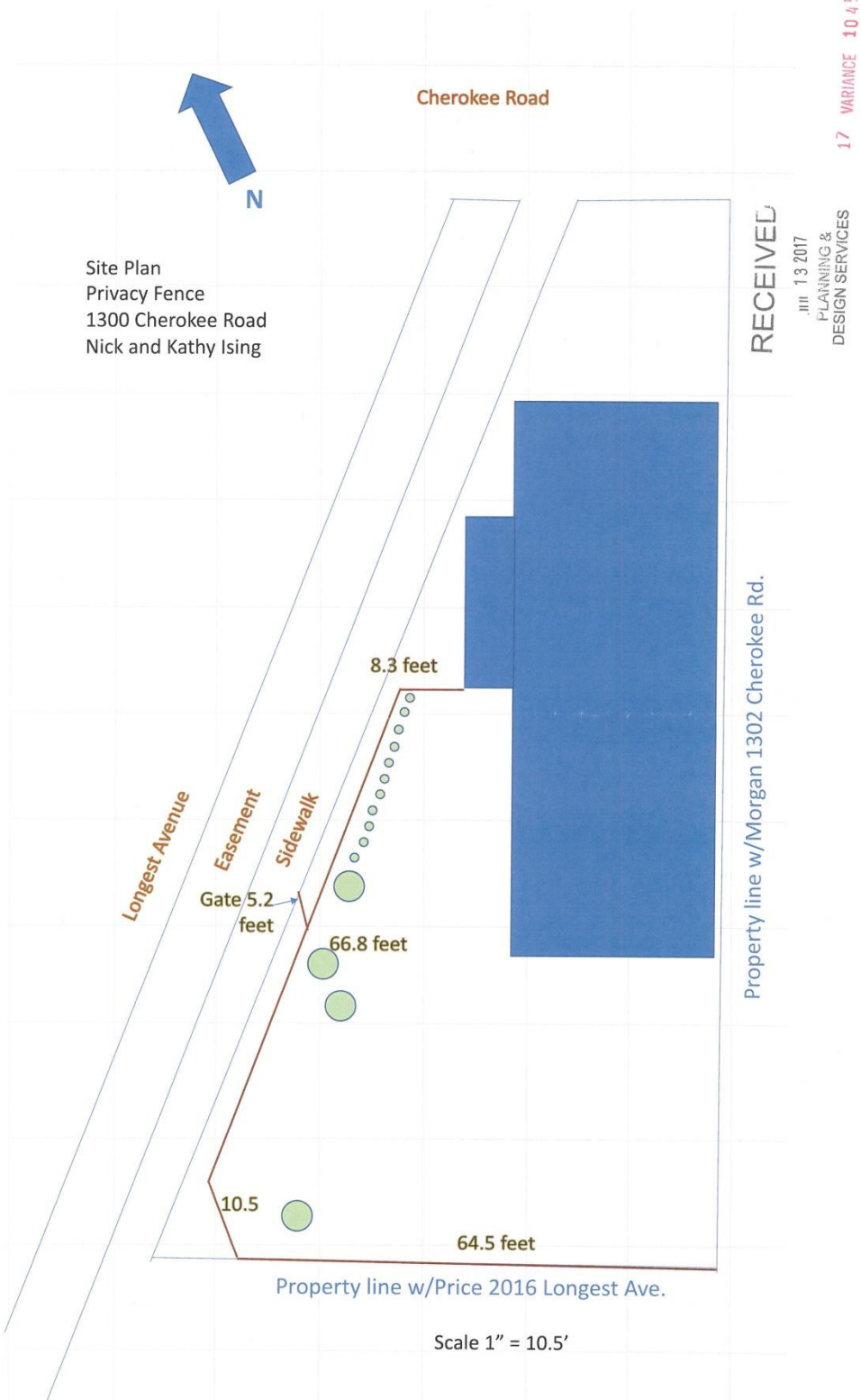
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Map Created: 7/27/2017



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3. Site Plan



4. Site Photos



The front of the subject property.



The property to the left of the subject property.



The property across Longest Avenue.



The property across Cherokee Road.



The property at the opposite corner of the intersection.



Along the side of the property where the existing fence is to be replaced.



The existing fence to be replaced.



The existing fence to be replaced.



The view into the rear yard which is proposed to be blocked with the privacy fence.