

Board of Zoning Adjustment

Staff Report

September 23, 2019



Case No: 19-VARIANCE-0021
Project Name: Six Mile Lane Variance
Location: 5917 Six Mile Lane
Owner(s): The Majka Living Trust
Applicant: Bob Taylor
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Zach Schwager, Planner I

REQUEST

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

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

CASE SUMMARY/BACKGROUND

The subject property is a corner lot located in the Six Mile Addition subdivision, at the intersection of Six Mile Lane and Chevy Chase Road. It currently contains a single-family residence. The applicant has constructed a vinyl fence 72 inches in height. Land Development Code section 4.4.3.A.1.a.i allows a fence in the street side yard in the Neighborhood Form District to be up to 48 inches in height. The fence, which is in the street side yard setback along Chevy Chase Road, is 72 inches in height. The applicant therefore requests a variance to allow the higher fence.

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 Neighborhood Form District to exceed 48 inches in height.

TECHNICAL REVIEW

- No technical review was undertaken.

RELATED CASES

There is an open enforcement case for the fence height in the street side yard (19PM5510).

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.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 existing fence is not within the sight triangle and there is adequate vision clearance for motorists and pedestrians.

- (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 there are fences over 48 inches in height in front and street side yards in the area.

- (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 intersection.

- (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. The applicant has stated that the fence is on their property adjacent to the property line and staff does not have any information that contradicts that assertion

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 property is a corner lot.

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 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 and the applicant is requesting the variance.

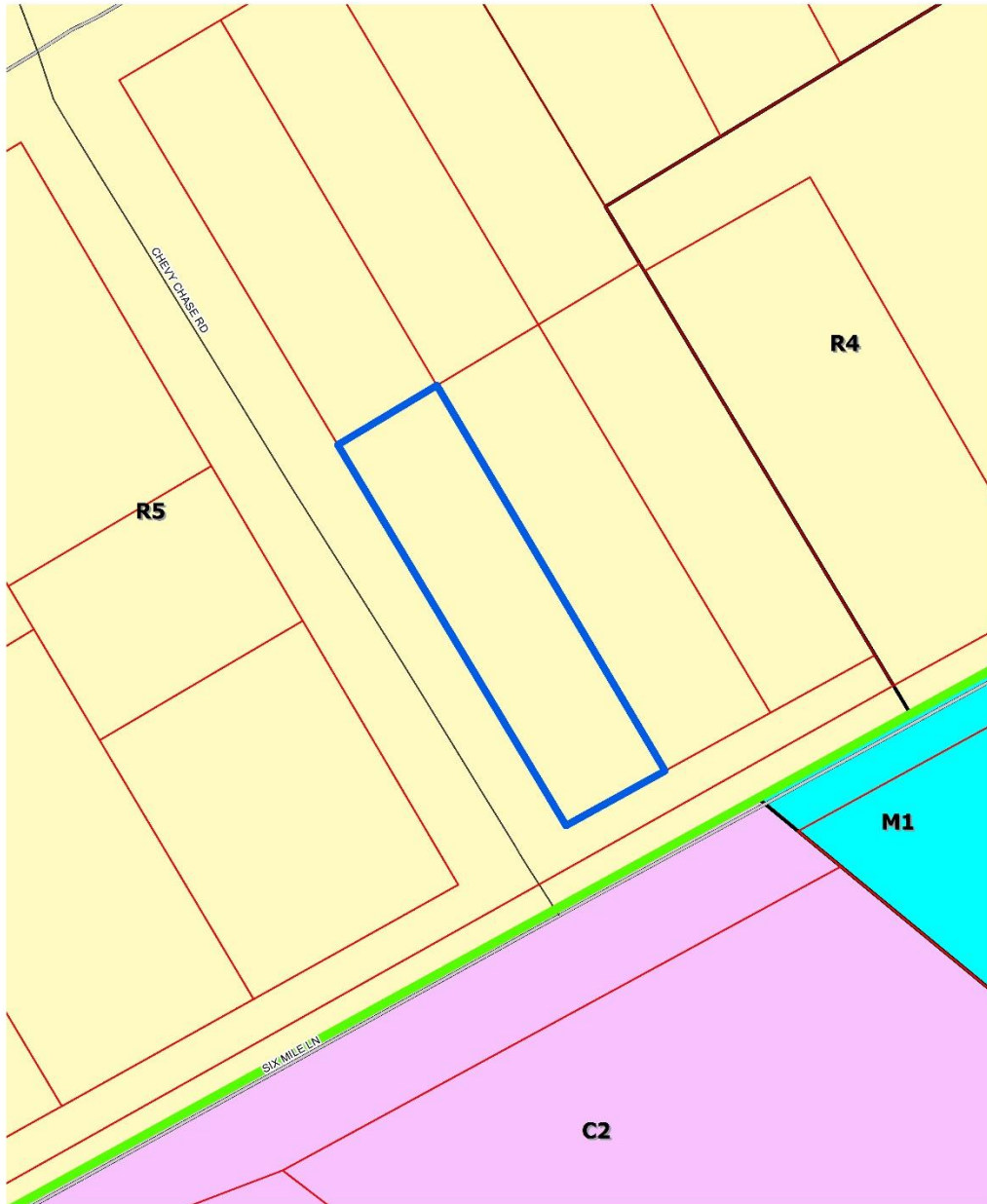
NOTIFICATION

Date	Purpose of Notice	Recipients
08/30/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 10
09/11/2019	Hearing before BOZA	Notice posted on property

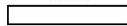
ATTACHMENTS

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

1. Zoning Map



5917 Six Mile Lane
feet



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Map Created: 9/17/2019

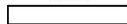


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2. Aerial Photograph



5917 Six Mile Lane
feet



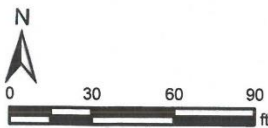
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Map Created: 9/17/2019



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3. Site Plan



5917 Six Mile Lane

Tuesday, September 17, 2019 | 9:15:41 AM



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This map is not a legal document and should only be used for general reference and identification

4. Site Photos



Subject property.



Property to the right.



Fence.



Property across Chevy Chase Road with similar fence height.