

Board of Zoning Adjustment
Staff Report
 August 29, 2022



Case No:	22-VARIANCE-0088
Project Name:	Shasta Trail Fence Variance
Location:	4935 Shasta Trail
Owner/Applicant:	Cristian Rivera Villatoro
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
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 setbacks.

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

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Residential Single Family and is in the Neighborhood Form District. It is on the northwest corner of the intersection of Shasta Tr. with Exeter Ave in the Newburg Neighborhood. The site currently has a single-family residential structure and an existing 4 ft. chain link fence along the street side property line. The applicant is proposing to replace the existing chain link fence that is in disrepair with a chain link fence that is six feet in height within the street side yard setback; therefore, a variance is required for the height of the fence. A vinyl fence is shown on the site plan as well. However, this fence is out of the street side setback and is not subject to the 4 feet height limit.

STAFF FINDINGS

Staff finds that the requested variance is adequately justified and meets the standards 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.b.i.

TECHNICAL REVIEW

No outstanding technical review comments.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

No related cases.

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 fence must be constructed to comply with all building codes and the land development code, except where relief is requested. The proposed fence will be setback far enough from the edge of pavement of the street to not obstruct vision clearance and will not adversely impact the safe movement of vehicles or 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 other fences in the neighborhood that exceed 48 inches in height in the street side yard setbacks. The property is adjacent to non-residential uses and a very busy street.

- (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 fence must be constructed to comply with all building codes, and it will not adversely impact the safe movement of vehicles or pedestrians

- (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 intended to provide security and existing fence which meets regulations does not accomplish this.

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 not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision.

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 as the fence is intended to provide security and existing fence which meets regulations does not accomplish this.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

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.

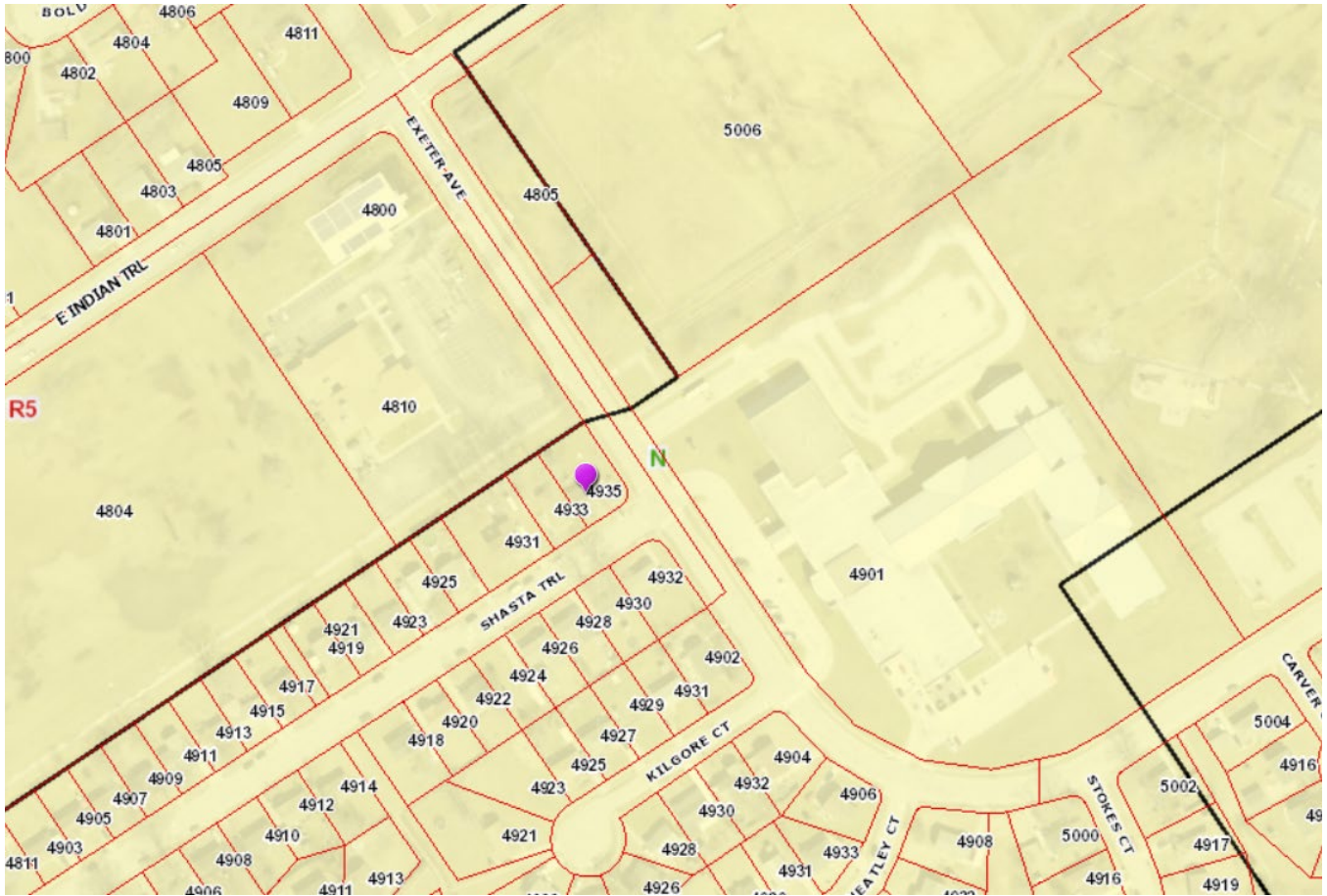
NOTIFICATION

Date	Purpose of Notice	Recipients
08/15/2022	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 2
08/11/2022	Hearing before BOZA	Notice posted on property

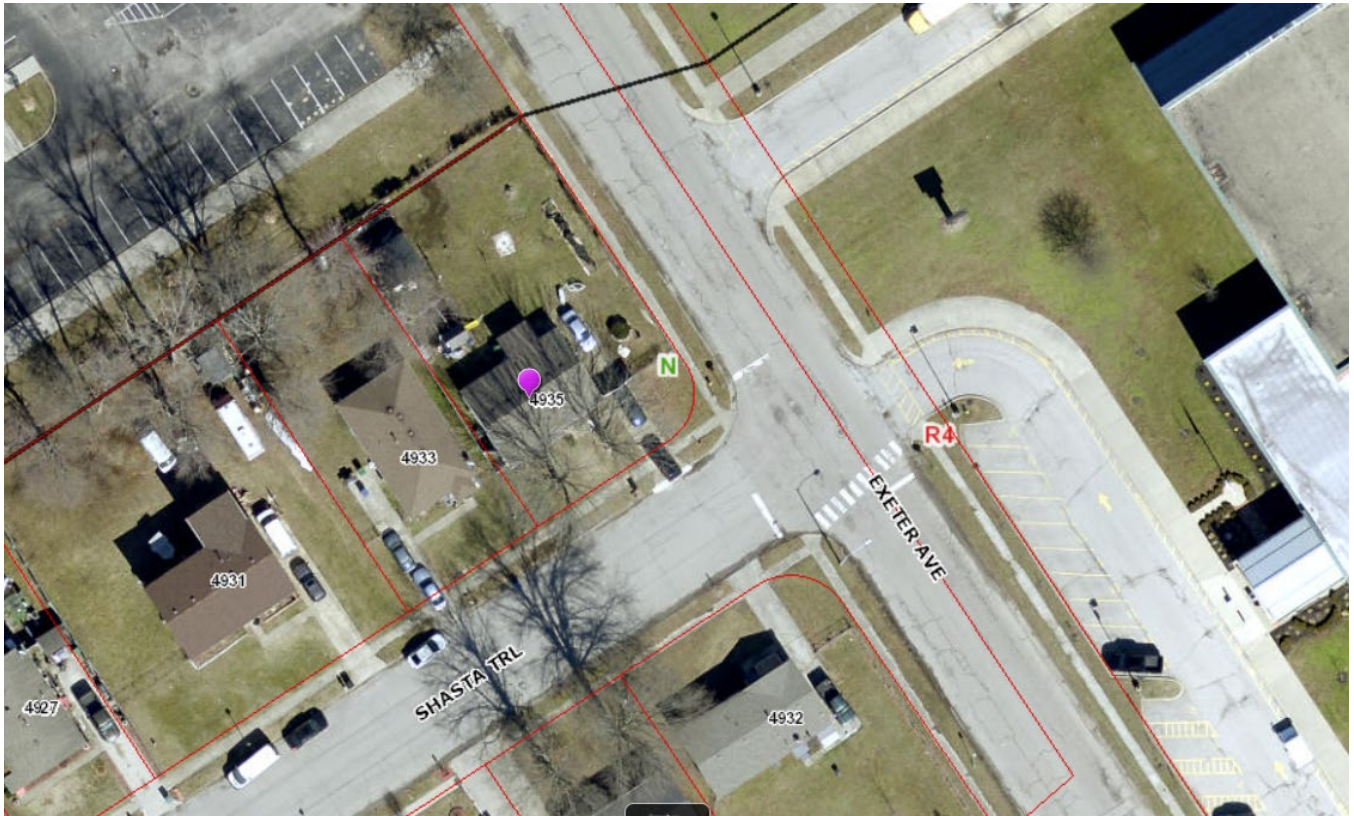
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Condition of Approval
5. Site Photos

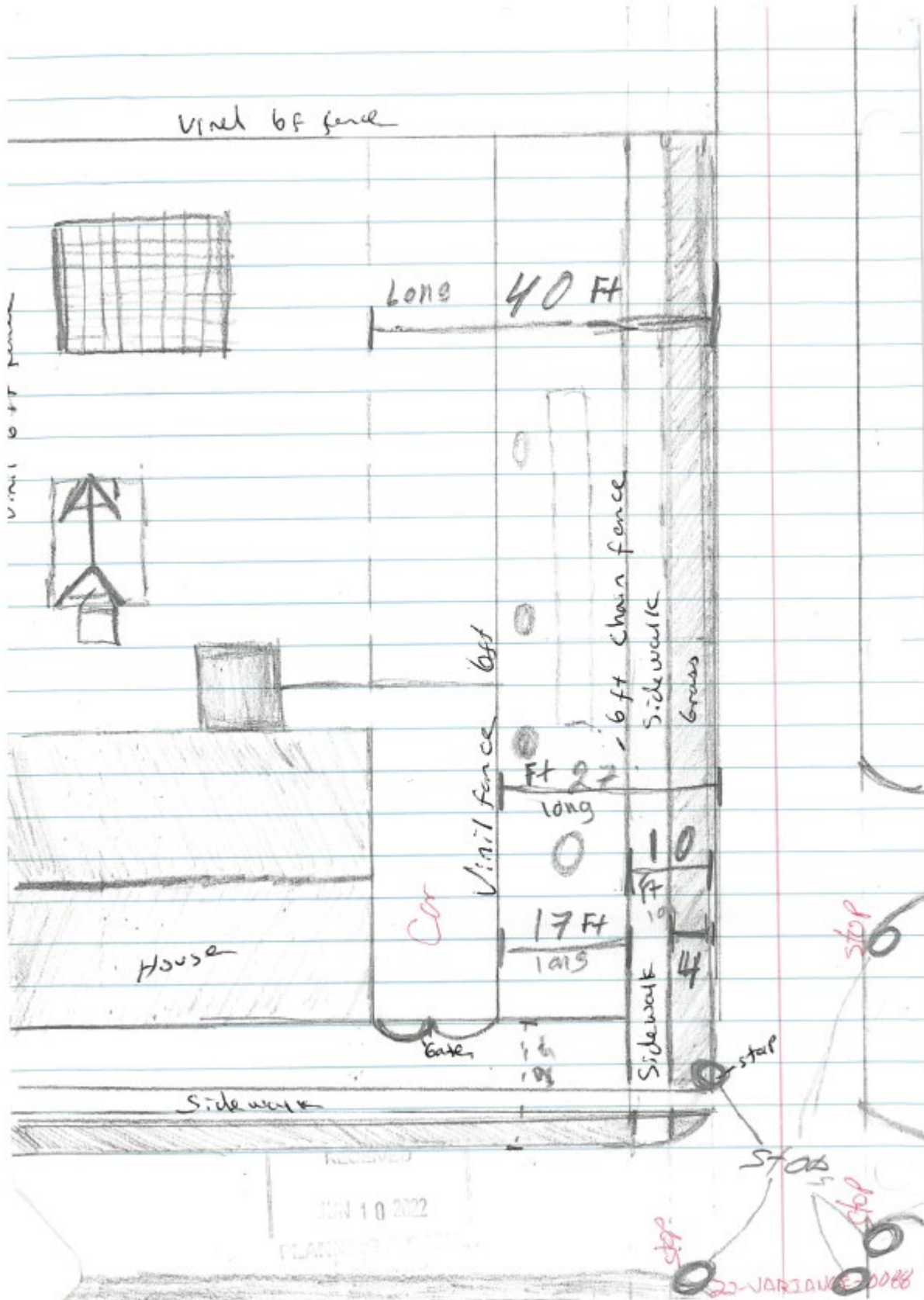
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Conditions of Approval

- 1) The finished side of wood and vinyl fences must face out towards the public right of way and adjoining properties.

5. Site Photos



Front of subject property.



Property to the left.



Across Shasta Tr.



Across Exeter Ave.



View of variance area from intersection.



View of variance area from Exeter Ave.