

Board of Zoning Adjustment
Staff Report
 December 2, 2019



Case No:	19-VARIANCE-0058
Project Name:	Bland Street Variance
Location:	1480 Bland Street
Owner/Applicant:	Elizabeth Heim
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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 front yard in a Traditional Neighborhood Form District to exceed 42 inches in height.

Location	Requirement	Request	Variance
Fence in Front Yard	42 inches	72 inches	30 inches

CASE SUMMARY/BACKGROUND

The subject property is located in the Meriwether neighborhood, on the west side of Bland Street at the intersection with an unnamed alley mid-block between E. Burnett Avenue and E. Hill Street. It is zoned R-6 Residential Multi-Family in the Traditional Neighborhood Form District and currently contains a one-story single-family residence. The applicant has constructed a 72 in. wooden privacy fence along Bland Street. Land Development Code section 4.4.3.A.1.a.i allows a fence in the front yard in the Traditional Neighborhood Form District to be up to 42 inches in height.

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 front yard setback in a Traditional Neighborhood Form District to exceed 42 inches in height.

TECHNICAL REVIEW

Transportation Planning reviewed the case and stated that the fence needs to be removed from the sight triangle, which is 30 ft. from the alley. The email has been attached. The applicant has agreed to move the fence to this location.

INTERESTED PARTY COMMENTS

No interested party comments were received.

RELATED CASES

There is an open zoning enforcement case for the fence (19-000335-4).

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 fence will be moved out of the sight triangle and will provide 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 other fences in front yards in the area.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the fence will be moved out of the sight triangle and will provide adequate vision clearance for motorists and 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 will provide some privacy and security for the applicant but will also allow for adequate vision clearance for motorists and pedestrians.

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 as the property was subdivided and created a unique lot. The property is not technically a corner lot, but it is at an intersection for motorists and pedestrians.

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 because they can move the fence, which they have agreed to do.

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 applicant has already constructed the fence.

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.

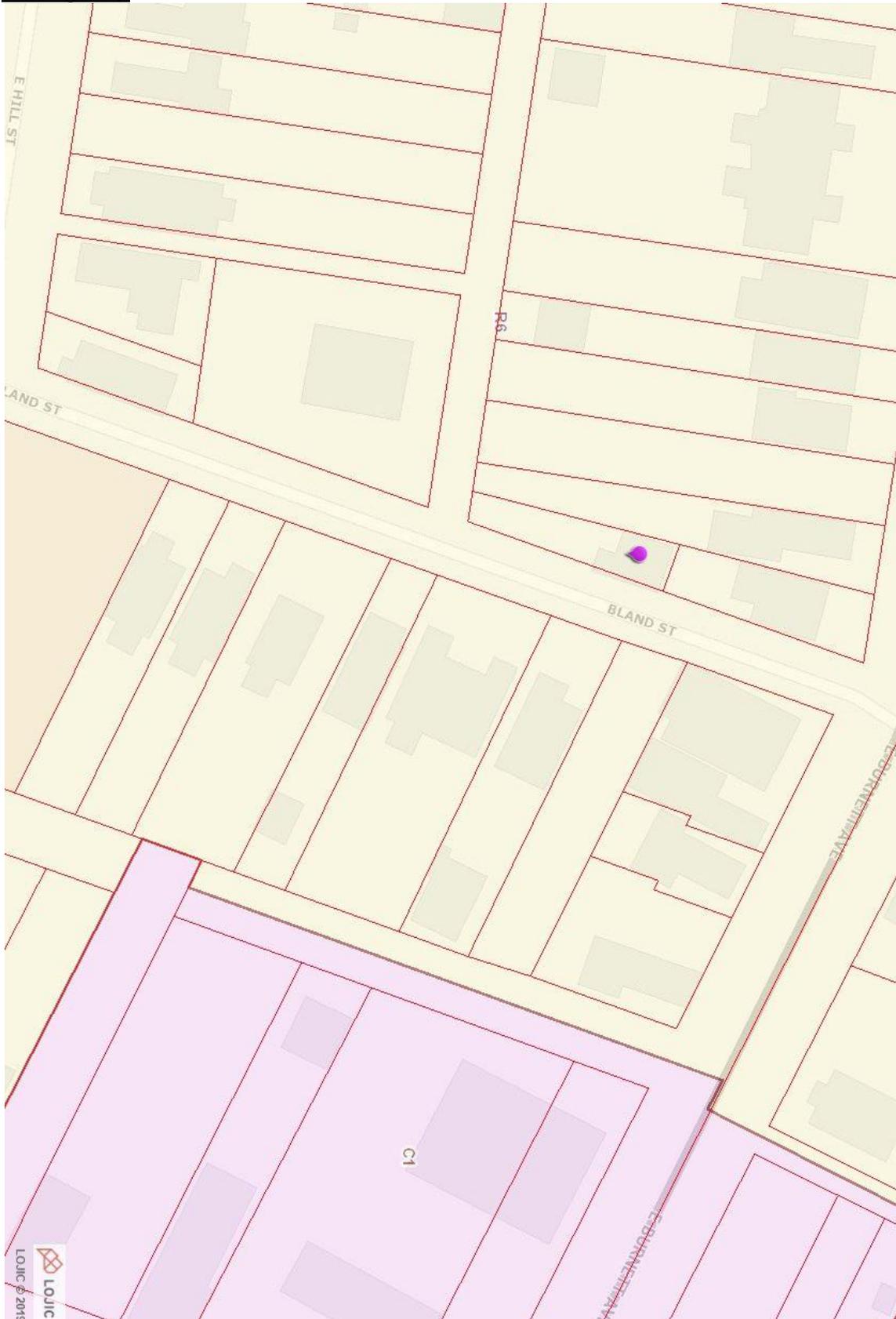
NOTIFICATION

Date	Purpose of Notice	Recipients
11/15/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
11/22/2019	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Site Plan

1/1



4. Site Photos



Subject property.



Looking toward alley from Bland Street.



Property to the right.



Properties across Bland Street.



Properties across Bland Street.



View from the alley.



View from the alley.

5. CONDITION OF APPROVAL

#1) The applicant shall move the fence on Bland Street 30 ft. from the alley edge of pavement. The applicant shall move the fence within 60 days of approval.