

Board of Zoning Adjustment Staff Report

July 20, 2015



Case No:	15VARIANCE1034
Project Name:	None (Residence)
Location:	2234 Wynnewood Circle
Owner(s):	Paul and Mary Whitty
Applicant(s):	Paul and Mary Whitty
Representative(s):	Glenn Price
Project Area/Size:	0.41 acres
Existing Zoning District:	R-4, Residential Single Family
Existing Form District:	N, Neighborhood
Jurisdiction:	City of Northfield
Council District:	7 – Angela Leet
Case Manager:	Jon E. Crumbie, Planner II

REQUEST

- Variance from the Land Development Code to allow a proposed fence to exceed the maximum height requirement.

Location	Requirement	Request	Variance
Fence Height	8'	12'	4'

CASE SUMMARY

The applicants are proposing to replace a decaying 9-foot wood privacy fence with a new 12-foot board on board fence. The existing mature landscaping will be maintained.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Single Family	R-4	N
Proposed	Residential Single Family	R-4	N
Surrounding Properties			
North	Residential Single Family	R-4	N
South	Apartments	R-4	N
East	Residential Single Family	R-4	N
West	Right-of-Way		

SITE CONTEXT

The site is rectangular in shape and located on the west side of Bellevue Avenue near the northwest corner of West Woodlawn Avenue and Bellevue Avenue. The property has residential uses to the north, east, west, and apartments to the south.

PREVIOUS CASES ON SITE

There are no previous cases on this site.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (Fence Height)

(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 existing landscaping will almost completely screen the fence.

(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 because a fence currently exists in the same 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 because the existing fence is in poor condition and in need of repair/replacement.

(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 because there are similar encroachments of this type throughout the surrounding area.

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 site slopes downward at the rear approximately 3 feet toward US 42 visually making the proposed fence seem shorter.

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 because more light and noise could trespass onto the site.

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 owner is trying to conform to the existing conditions on site.

TECHNICAL REVIEW

The applicant has obtained approval letters from LG&E and AT&T to allow the fence to be built in their easement. They are located on page 8 and 9 of the staff report.

STAFF CONCLUSIONS

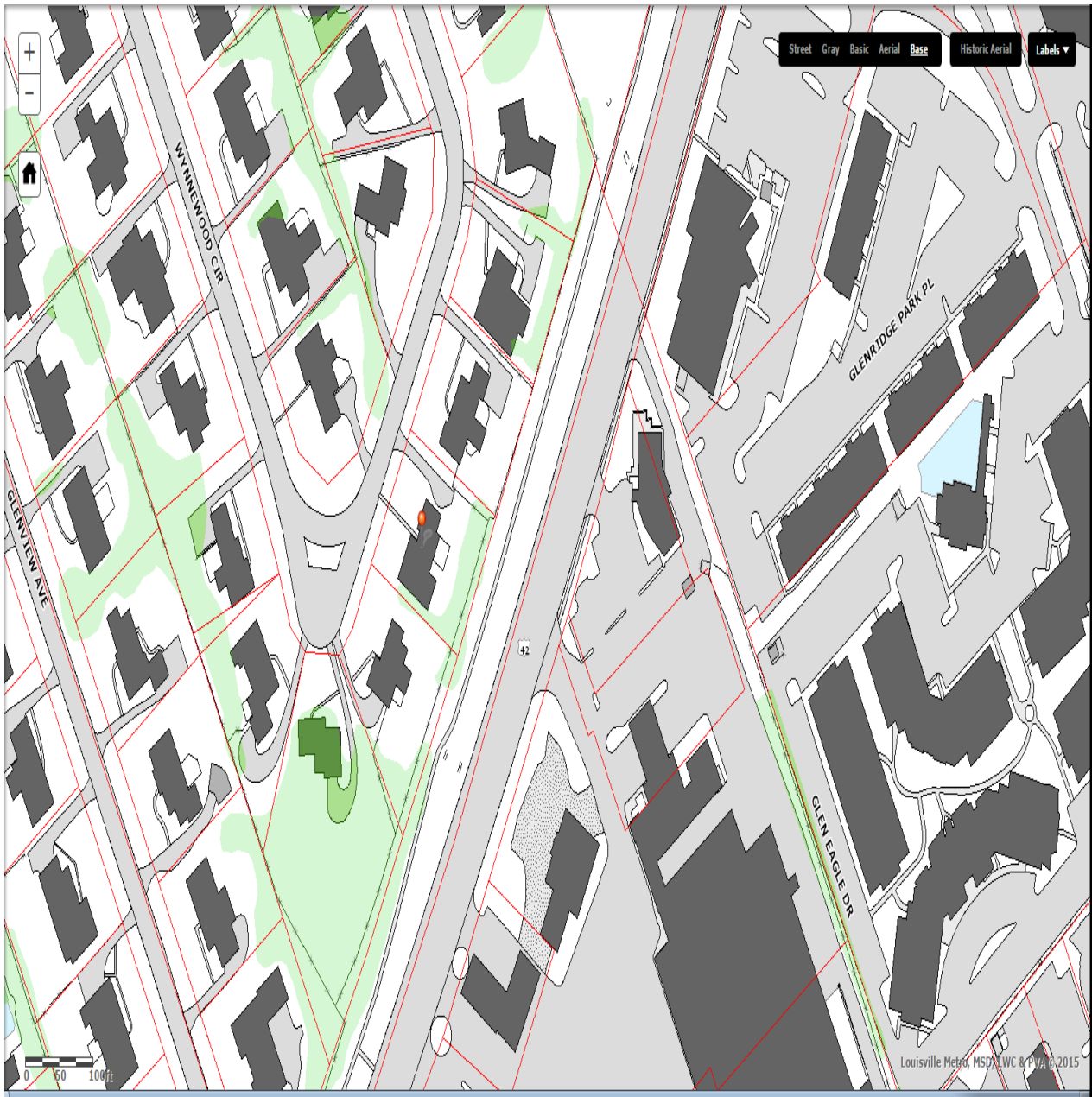
Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
6/30/2015	APO Notice	First tier adjoining property owners Neighborhood notification recipients
6/30/2015	Sign Posting	Subject Property Owner

ATTACHMENTS

1. Zoning Map



2. Aerial Photograph



3. Justification Statement

VARIANCE JUSTIFICATION STATEMENT

RECEIVED

MAY 29 2015

PLANNING &
DESIGN SERVICES

Introduction

Our residential lot was created in approximately 1960(Northfield Subdivision) and its rear property line(120') abuts the right of way of Brownsboro Road(US 42) approximately 100 yards east of Glenview Avenue. At the time the Holiday Manor Shopping Center was constructed (@1970)directly south across Brownsboro Road, wooden privacy fences were erected corresponding variously with the rear lot lines at varying heights. Subsequently evergreen bushes and trees were planted along Brownsboro Road to screen the fences, which trees and shrubs have matured and range from 6' to 40' (see Exhibit A attached). Our existing fence is non-conforming as to the current LDC maximum height of 8' as it is 9'. The existing fence is now decaying and unsightly (see Exhibit B attached) and needs to be replaced. We have retained St. Matthews Fence and Deck Company, a reputable contractor, to erect the proposed fence.

The existing fence is located 14' inside our rear property line(see Exhibit C attached) effectively contributing 1400 square feet of our property to the right of way. As there is no gate, the existing fence creates a condition where we have premises liability and pay taxes on property that we do not have access to and cannot control. The proposed fence will be a more attractive "board on board" construction versus the existing plank type construction (see Exhibit D attached) and will have a gate which will allow us to walk to the businesses in Holiday Manor without having to drive through the subdivision. The existing and proposed fence is located within a utility easement. Attached is written documentation from AT&T and LG&E approving the relocation of the proposed fence within the easement (see Exhibit E attached). We propose to erect a new fence 12' in height for a variance of 4'.

1. The existing fence is rotting, unstable and unsightly (see Exhibit F attached). The new fence will have the supporting structure on the inside so the finished side will face Brownsboro Road with "board on board" type construction creating a more attractive appearance for the public to the extent it will be seen at all due to the dense mature shrubbery between the fence and Brownsboro Road see Exhibit A).
2. There are existing wood fences of varying heights all along this rear portion of Northfield Subdivision abutting Brownsboro Road all of which are screened by mature, existing evergreen vegetation. Our portion of this area is the most heavily screened by this vegetation which varies in height from 6' to @40'.
3. The new fence will avoid the potential failure of rotting fence and supporting posts and will have the supporting structure on the inside making it more secure for our property and the neighborhood as well as having the finished side facing the public right of way creating a much more attractive appearance to the extent it will be seen at all due to the dense existing vegetation.
4. The existing 9' fence is non-conforming and needs to be replaced. The additional height is needed to screen our property from the shopping center lighting and the noise of the ever

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increasing traffic volumes which will certainly increase when the proposed VA Hospital is built nearby.

Additional Considerations

1. Our lot backs up to a very heavily travelled federal highway (US 42) and a large shopping center(Holiday Manor) which generate excessive noise and light. The rear yard slopes down (approximately 3' fall) toward US 42 rendering the effective height of the fence less able to screen the sound and light.
2. A compliant 8' fence would be lower than the existing fence and, with the fall of the lot, would be much less effective in mitigating the nuisances of traffic noise and shopping center lighting which would deteriorate the value of our home and detract from the quiet enjoyment of our backyard.
3. The pre-existing fall of the lot and adjacent sound and light nuisances due to the location should be taken into account. Obviously this variance is necessary due to the additional height being requested is subsequent to the adoption of the current LDC fence height limitation.

Thank you for your consideration.

Respectfully submitted,

Mary and Paul Whitty

2234 Wynnewood Circle

Louisville, Kentucky 40222

Whitty, Paul B

From: Dimas, Jim <Jim.Dimas@lge-ku.com>
Sent: Friday, April 24, 2015 12:59 PM
To: Whitty, Paul B
Subject: FW: Wynnewood Subdivision
Attachments: Wynnewood Subdivision.pdf

Paul,

LG&E has no objection to the fence relocation shown on the attached drawing. Please remind your contractor of the legal requirement to call 811 to request a locate of underground facilities a minimum of two business days before digging holes for new posts. Also, we suggest that a gate or removable panel be included in the fence to facilitate access to the easement. Finally, I must point out that other utilities and telecommunications companies may be using the easement. Obviously, LG&E cannot speak for them.

Please contact me if other information would be helpful.

Jim Dimas
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, Kentucky 40202
Phone: (502) 627-3712
Fax: (502) 627-3367

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From: Stacy, Jacqueline S [<mailto:Jacqueline.Stacy@louisvilleky.gov>]
Sent: Friday, April 17, 2015 10:17 AM
To: Whitty, Paul B; Dimas, Jim
Subject: Wynnewood Subdivision

UPDATE: PDF file attached for your review.



Jacqueline S. Stacy
Administrative Assistant
Office of Mike O'Connell
Jefferson County Attorney
531 Court Place, Suite 900
Louisville, KY 40202

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Whitty, Paul B

From: ROCHE, SCOTT G <sr8832@att.com>
Sent: Thursday, May 07, 2015 10:54 AM
To: Whitty, Paul B
Cc: ROCHE, SCOTT G
Subject: FW: Wynnewood Subdivision
Attachments: Wynnewood Subdivision.pdf

Paul,
Variance authorized to place the new fence as proposed on attached Plat drawing.

Thank you,

*Scott Roche
OSPE, East KY-TN C&E
1340 E. John Rowan Blvd
Bardstown, KY 40004
502-348-4528 office
502-827-4703 cell*

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From: Whitty, Paul B [<mailto:Paul.Whitty@louisvilleky.gov>]
Sent: Thursday, May 07, 2015 10:20 AM
To: ROCHE, SCOTT G
Subject: FW: Wynnewood Subdivision

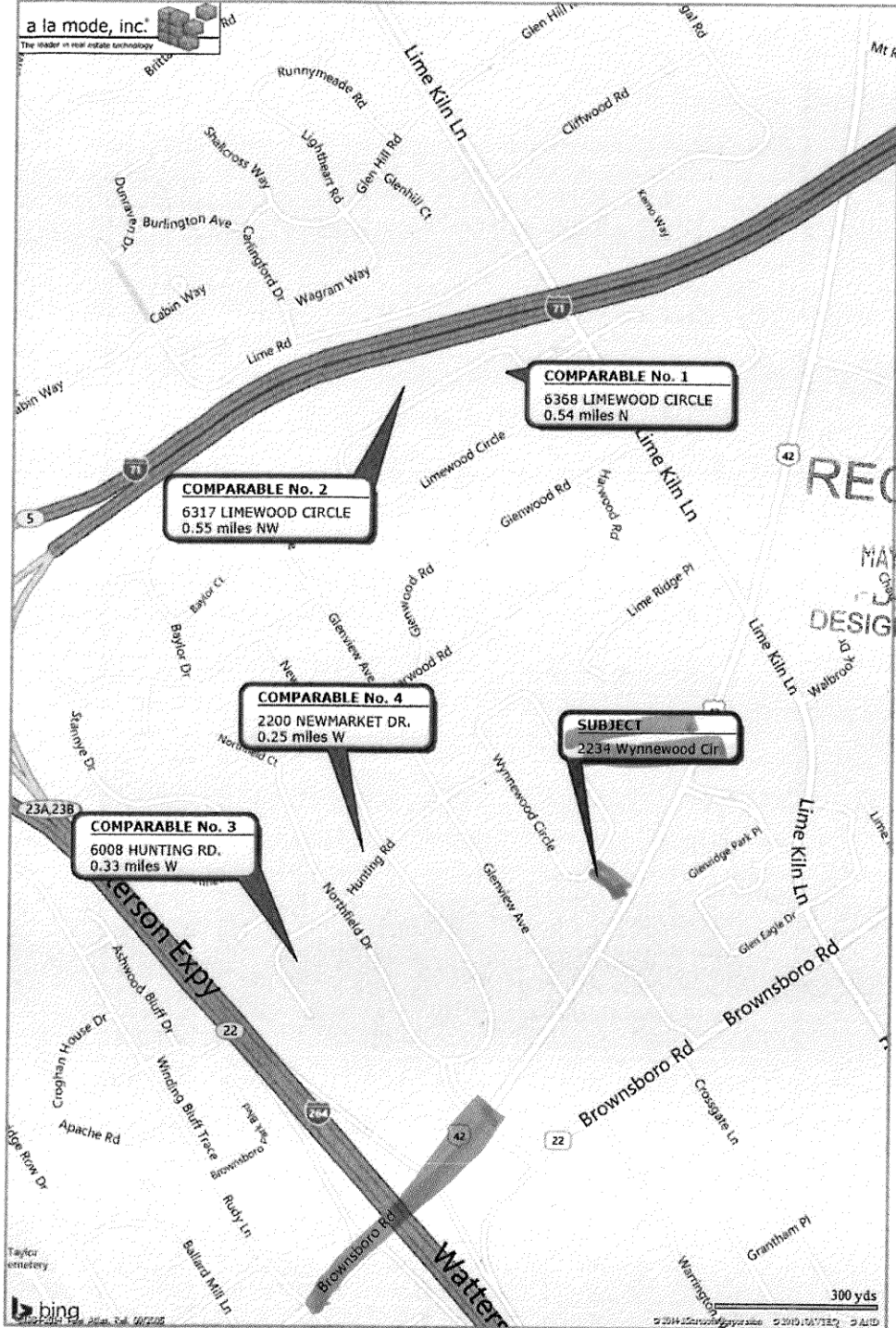
Scott
Per our conversation plats attached for your review. Please indicate approval via email. Thank you.
Paul Whitty
459-2001

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Aerial Map

Borrower	PAUL B. WHITTY/MARY H. WHITTY				
Property Address	2234 Wynnewood Cir				
City	Louisville	County	JEFFERSON	State	KY Zip Code 40222
Lender/Client	STEARNS LENDING, LLC				



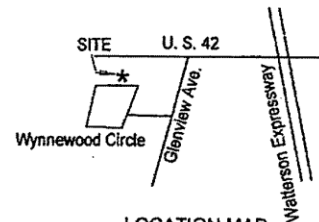
Form MAP.LOC - "TOTAL" appraisal software by a la mode, Inc. - 1-800-ALAMODE

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NOTES:

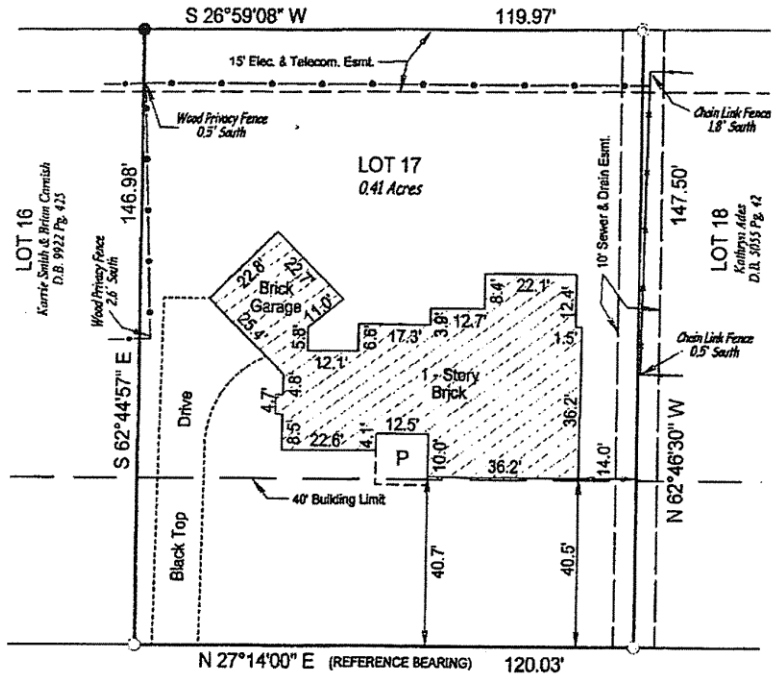
1. Site is subject to all right-of-ways, easements and restrictions of record or implied.
2. The surveyor did not make a search for easements, encumbrances, restrictions, ownership title evidence or other records that a complete and accurate title search may disclose.
3. The certification of this survey is made of this date and is subject to any future facts that more accurately describe or establish the boundary shown herein.
4. Surrounding owner information is shown per PVA records.
5. The basis of bearing was taken from the record plat.
6. This site is located in Zone X per Firm Map 21111C0016 E dated December 5, 2008 and is not located within a 100 year flood plain (0.1% chance). Flood Plain Certification is restricted to a review of the firm and shall not be construed as a confirmation or denial of flooding potential.

Being Lot 17, Sect. 2
Wynnewood Subdivision
Plat Book 14, Page 27



LOCATION MAP
No Scale

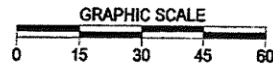
U. S. HIGHWAY 42 R/W VARIES
(P.B. 14 Pg. 27)



WYNNEWOOD CIRCLE 60' R/W
(P.B. 14 Pg. 27)



- LEGEND**
- = Existing 5/8" Rebar
 - = Existing 3/4" Pipe
 - = Existing 1/2" Pipe



BOUNDARY SURVEY
This Survey complies with K.A.R. 18:150

LAND SURVEYORS CERTIFICATE

I hereby certify that the survey depicted by this plat was done by me or by persons under my direct supervision on September 10, 2014 by the method of random traverse. The unadjusted precision ratio of the survey is 1:24,775 and was not adjusted. The survey as shown hereon is an "Urban" Survey and the accuracy and precision of said survey meets all the specifications of this class.

William D. Schroll III Date 9-11-14
Professional Land Surveyor, Kentucky Registration No. 3570

Survey of: 2234 Wynnewood Circle
Louisville, Ky. 40222
Owner: Elizabeth T. Bullock
2234 Wynnewood Circle, Louisville, Ky. 40222
Source of Title: D.B. 7016 Pg. 0048
For: Paul & Mary Whitty
Ordered By: Janet Hendricks with Wakefield/Reutlinger Realtors
Scale: 1" = 30' Job No: 1376/14
Drawn Date: 9/11/14 Drawn By: Todd Stayton

SCHROLL LAND SURVEYING LLC.
5450 Southview Dr., LOUISVILLE, KY. 40214
Phone: 502-367-7660
Mobile: 502-594-6773