

# Board of Zoning Adjustment

## Staff Report

October 5, 2015



<b>Case No:</b>	15Variance1061
<b>Project Name:</b>	Proposed Fence
<b>Location:</b>	4005 Mamaroneck Road
<b>Owner(s):</b>	Roland and Michon Davis
<b>Applicant:</b>	Owner
<b>Representative:</b>	Owner
<b>Project Area/Size:</b>	0.2125 acres
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	26 – Brent Ackerson
<b>Case Manager:</b>	Sherie' Long, Landscape Architect

### REQUEST

**Variance: Fence Height**

Variance from the Land Development Code Chapter 4, Section 4.4.3.A.1.i, to allow an existing fence in the front yard setback to exceed the maximum height.

Location	Requirement	Request	Variance
<b>Front Yard Setback</b>	4' (48")	6' (72")	2' (24")

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to install a 6' white vinyl fence around the northern side yard of the property. An existing wood fence has been removed and the existing chain link will be removed to allow for the installation of the proposed 6' vinyl fence. This new fence will extend 3' closer to the sidewalk and encroach into the front yard setback. A variance is required to be granted to allow a 6' fence in the front yard. In order to install the fence 3' closer to the sidewalk the existing large burning bush shrubs will be removed. New shrub plantings will be added between the new vinyl fence and the sidewalk.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-5 within the Neighborhood Form District (N). It is surrounded by single family residential, property zoned R-5 in the Neighborhood Form District (N).

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single-family Residential	R-5	N
<b>Proposed</b>	NA		
<b>Surrounding Properties</b>			
<b>North</b>	Single-family Residential	R-5	N
<b>South</b>	Single-family Residential	R-5	N
<b>East</b>	Single-family Residential	R-5	N
<b>West</b>	Single-family Residential	R-5	N

## PREVIOUS CASES ON SITE

No previous cases.

## INTERESTED PARTY COMMENT

An inquiry has been received from an adjacent property owner concerning the request. No written comments have been received.

## APPLICABLE PLANS AND POLICIES

Land Development Code  
Cornerstone 2020

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

### Variance: Fence Height

Variance from the Land Development Code Chapter 4, Section 4.4.3.A.1.i, to allow an existing fence in the front yard setback to exceed the maximum height.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the proposed 6' vinyl fence will not block views or impede traffic.

- (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 vicinity. The proposed 6' vinyl privacy fence compliments the residential character of the area. There are other fences in the vicinity which are similar to the proposed fence. Plus the applicant is providing new shrub plantings along the perimeter of the fence to enhance 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. The proposed 6' vinyl fence provides a separation of the side yard from the street providing privacy for the applicant.

- (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 the configuration of this corner lot does not provide a usable rear yard, therefore the side yard takes on a greater value and need to be screened to provide privacy.

### 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 arise from special circumstances. This corner lot does not provide a rear yard area, therefore the side yard area takes on the role of a rear yard. The addition of a privacy fence is necessary to achieve privacy from the street and the adjacent properties.

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 a hardship and deprive the applicant of a reasonable use of the land. Without the taller fence the yard would not be private and less area would be available for use as private yard.

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 the applicant took subsequent to the adoption of the zoning regulation from which relief is sought since the applicant is requesting a variance prior to the installation of the 6' vinyl fence.

### TECHNICAL REVIEW

There are no technical review issues.

### STAFF CONCLUSIONS

The standards of review and staff analysis support the granting of the variance to allow the 6' vinyl privacy fence in the front yard. The height and location of the fence provides the necessary privacy for the side yard.

Based upon the information in the staff report, the analysis of the standards of review support the request to grant the variance, therefore, the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Development Code based on the testimony and evidence provided at the public hearing.

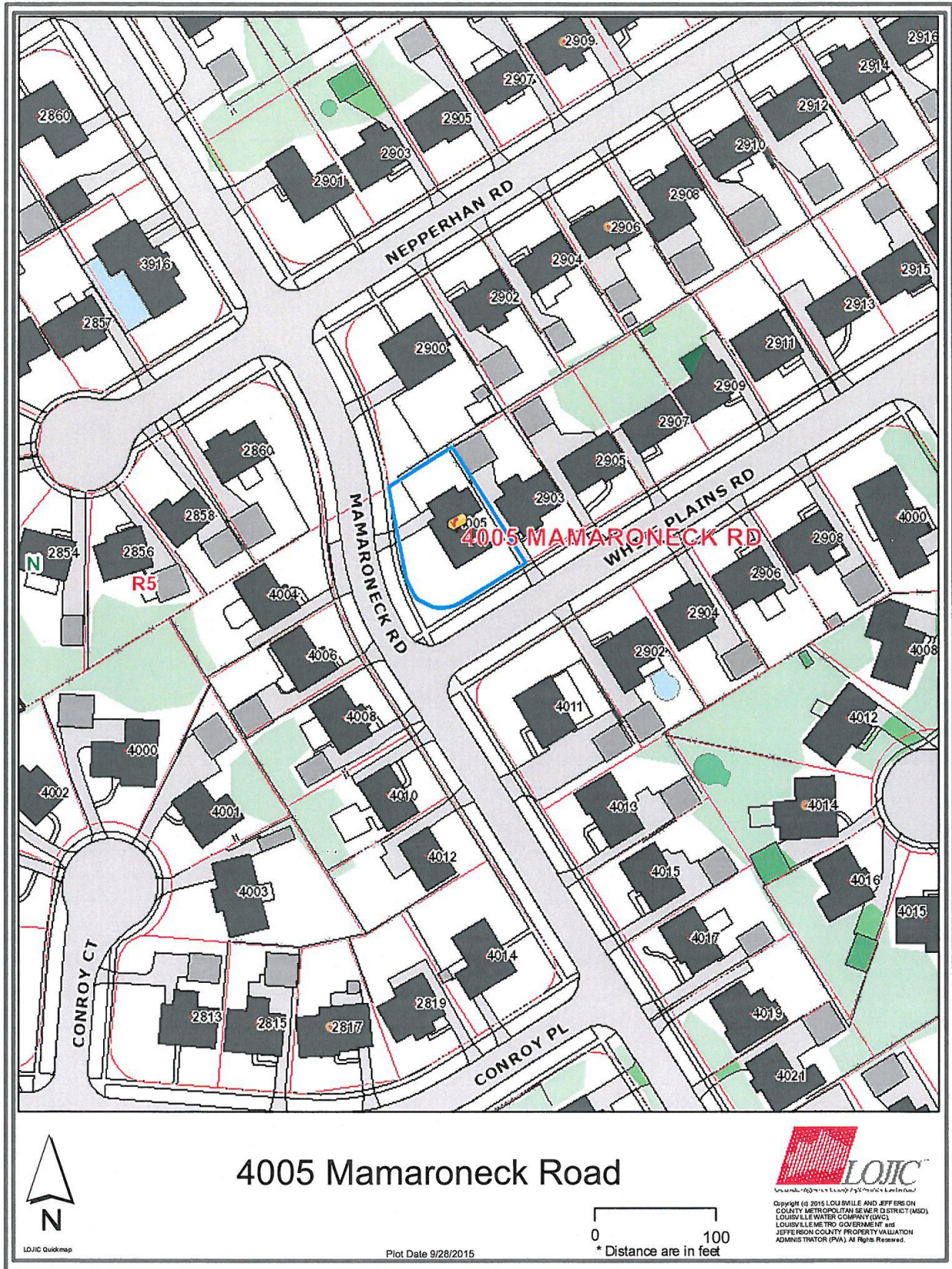
### NOTIFICATION

Date	Purpose of Notice	Recipients
09/18/2015	BOZA Hearing	Neighborhood notification recipients
09/18/2015	BOZA Hearing	1 <sup>st</sup> tier adjoining property owners
09/22/2015	Sign Posting	Subject property

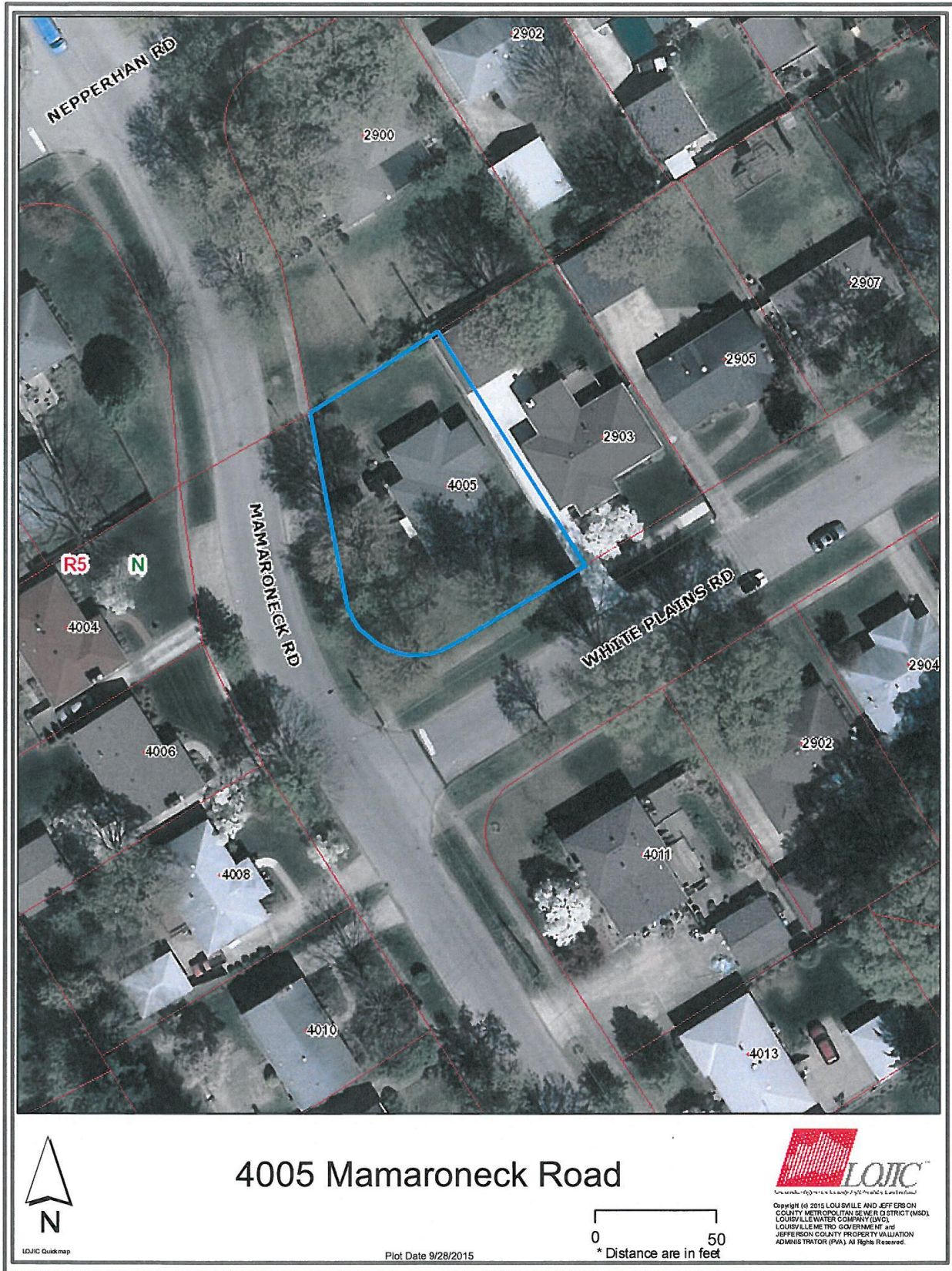
### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Applicant's Justification Statement
5. Applicant's Photographs
6. Site Photographs

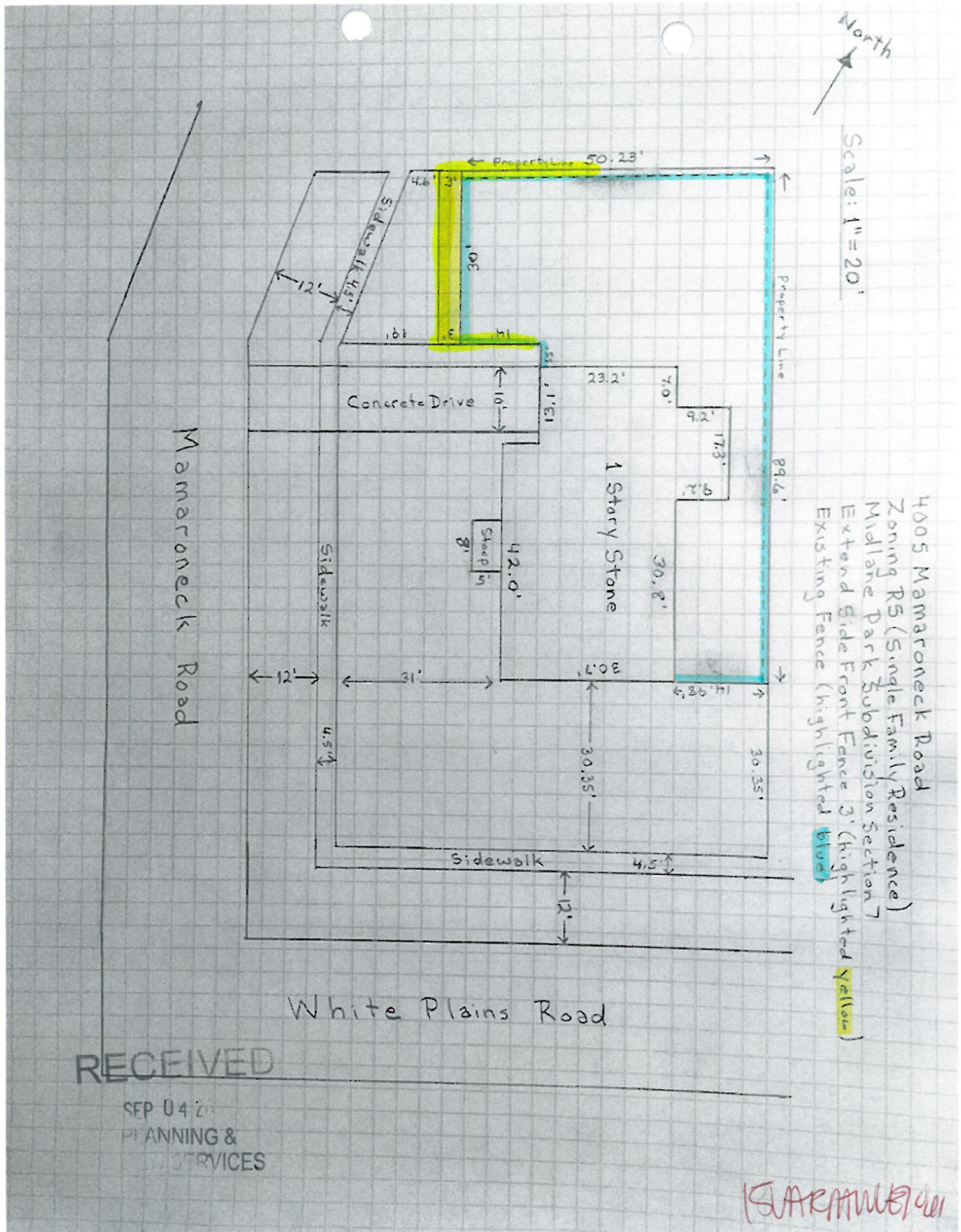
Attachment 1: Zoning Map



Attachment 2: Aerial Photo:



Attachment 3: Site Plan:



**Attachment 4: Applicant's Justification Statement**

**Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

- 1. Explain how the variance will not adversely affect the public health, safety or welfare.

*Not obstructing anyone's way - remains on private property.*

- 2. Explain how the variance will not alter the essential character of the general vicinity.

*This fence remains on private property, is not an eyesore.*

- 3. Explain how the variance will not cause a hazard or a nuisance to the public.

*This is a fence on private property.*

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- 4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

*Our "backyard" is essentially our side yard because we are a corner lot. We want a bit more space for our backyard.*

Additional consideration:

- 1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

*Our "backyard" is essentially our side yard because we are a corner lot and have very little backyard space.*

- 2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

*We just want to be able to have a reasonably sized backyard to enjoy for our own personal use.*

- 3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

*No. Because of the odd shape of our yard, since it is a corner lot, we just want to add 2-3 feet of space in our backyard.*

*KSARIN WELLS*

**Attachment 5: Applicant's Photographs**









**Attachment 6: Site Photographs**



**Side yard/ existing chain link fence to be removed**



**Adjacent property existing 6' fence**



**Existing fence across the street**



**Existing shrubs to be removed/ Existing posts from previous fence**



**Existing posts from previous fence**



**Looking from south corner intersection of White Plains and Mamaroneck Roads**