

Board of Zoning Adjustment Staff Report

November 20, 2017



Case No:	17VARIANCE1083
Project Name:	Fence and Drive
Location:	2225 Sycamore Avenue
Owner(s):	John K. Fisher
Applicant:	John K. Fisher
Representative(s):	John K. Fisher
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel P. Dock, Planner II

REQUEST(S)

- **Variance** of Land Development Code (LDC), section 4.4.3.A.1.a.i to allow a fence to be greater than 42" in the street side yard and be a maximum of 6'6" in height at its greatest point.
- **Waiver** of Land Development Code (LDC), section 5.4.1.B.1.e to allow parking in the public realm

CASE SUMMARY

Beginning at the front façade of the home and encompassing the rear yard of this single-family property, the applicant is proposing a wooden privacy style fence in the street side yard setback along Jane Street. The subject site currently contains a chain link style fence with an overgrowth of vegetation. A parking pad style driveway is proposed in the front yard/public realm area immediately off Sycamore Avenue and near the West property line. The pad will be roughly twenty-five feet in length, extend to the front porch, and allow parking for approximately one vehicle.

STAFF FINDING

The variance and waiver appear to be adequately justified and meet the standard of review based on staff analysis in the staff report. The character of the area is not impacted; public health, safety, and welfare are maintained; no nuisances or hazards result from the requested variance and waiver; and the strict application of the regulations would deprive the reasonable use of the land.

TECHNICAL REVIEW

The subject site is located in the Clifton Historic Preservation district. Approvals from preservation staff for exterior materials and design are pending.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: The requested variance will not adversely affect public health, safety or welfare as the subject site is a single-family residential property and the provision of a privacy fence provides increased security and screening from the public right-of-way.

- (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 fences of this type are not uncommon and due to the particular location of this property (topography, narrowness of the street, and tightly developed blocks) the fence will not impact the overall character of 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 encroachments will not result in any adverse impact on vehicular or pedestrian movement.

- (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 applicant desires to provide privacy to the property from a public right-of-way in manner that is compatible with character of the 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 requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

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 deprive the applicant of reasonable use of the land as the applicant desires to provide privacy to the property from a public right-of-way in manner that is compatible with character of the area, no nuisances or hazards are created, and the public health, safety, and welfare is maintained.

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 appropriate relief is being requested from the Board of zoning Adjustment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as it will allow a more accessible parking area from the public way to the single family home.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as it calls for residential development to be compatible with adjacent residential development and accessible to all persons. Parking in the public realm is not uncommon along this particular street and the slope of the rear yard makes traversing from the required accessory use area to the home difficult for individuals with physical constraints.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the driveway in the public realm is necessary to make the home habitable for the potential occupants.

- (d) Either:
 - (i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
 - (ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the waiver would not adversely impact adjacent property owners, meets the guidelines of Cornerstone 2020, and allows the desired occupants freedom of access to the residence.

REQUIRED ACTIONS

- **APPROVE or DENY** the **Variance** of Land Development Code (LDC), section 4.4.3.A.1.a.i to allow a fence to be greater than 42” in the street side yard and be a maximum of 6’6” in height at its greatest point.
- **APPROVE or DENY** the **Waiver** of Land Development Code (LDC), section 5.4.1.B.1.e to allow parking in the public realm

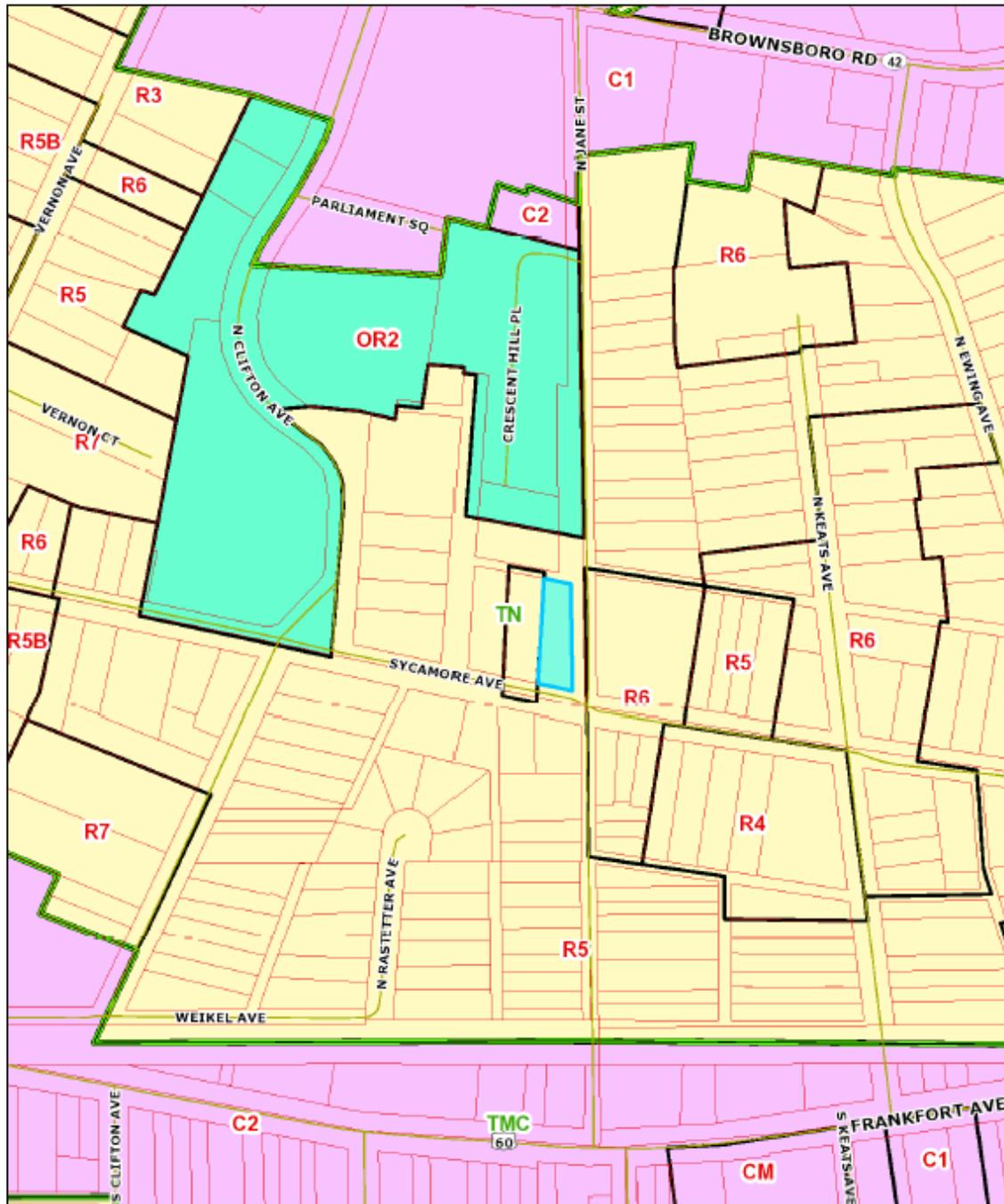
NOTIFICATION

Date	Purpose of Notice	Recipients
11/1/17	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



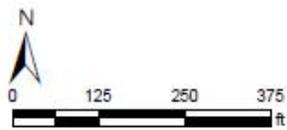
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2. Aerial Photograph



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