

Board of Zoning Adjustment

Staff Report

October 16, 2023



Case No:	23-VARIANCE-0129
Project Name:	Chenoweth Lane Fence Variance
Location:	353 Chenoweth Lane
Owner:	Brian & Caroline Silvers
Applicant:	Brian Silvers
Jurisdiction:	Louisville Metro
Council District:	9 – Andrew Owen
Case Manager:	Jeremy Chesler, Planner I

REQUESTS:

- **Variance** from Land Development Code (LDC), Section 4.4.3.A.1.a.i to allow a fence to exceed the maximum height of 48 inches (4') in the required street side yard setback.

Location	Requirement	Request	Variance
Street Side Yard Setback	48 in. (4')	72 in. (6')	24 in. (2')

CASE SUMMARY

The subject property is within the Neighborhood Form District. The property is located at the southeast corner of Chenoweth Lane and Druid Hills Road. The site is developed with a single-family residential structure and an accessory structure. The applicant has proposed a wooden privacy fence along the street side yard property line that will be 72 inches or 6' tall. The fence exceeds the allowed maximum height in the required street side yard setback by 24 inches or 2'.

STAFF FINDING

Staff finds that the requested variance is adequately justified based on staff's analysis contained in the standard of review.

INTERESTED PARTY COMMENTS

The applicant provided signatures from two of the adjoining property owners stating their support for the proposed fence.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 is not located in a way that would impede vision for any pedestrians or motorists.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The fence will not alter the essential character of the general vicinity as there are other properties nearby, along Chenoweth Lane with fences that appear to exceed the maximum height in the street side yard setbacks. Vegetation is present on the property that will provide visual breaks for the largest span of fence, along Druid Hills Road. Screening along the shared property line on Druid Hills currently impacts any expected view from neighboring property and mitigates the impact of the fence on the general character of the area, specifically the adjacent property owner.

- (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 is located a significant distance away from the intersection of Chenoweth Lane and Druid Hills Road and will not lead to any vision clearance issues for pedestrians or motorists.

- (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. The proposed location of the fence on the property appears to minimize the relief required and vegetation that is taller than 6' is present along the property line between lots along Druid Hills.

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 create an unnecessary hardship on the applicant as the requested variance will not adversely effect public health, safety, or welfare, cause a hazard or nuisance to the public, or negatively impact the general character of the area.

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 appropriately requesting relief prior to construction of the fence.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Variance** from Land Development Code, Section 4.4.3 to allow a fence to exceed the maximum height of 48 inches (4') in the street side yard setback.

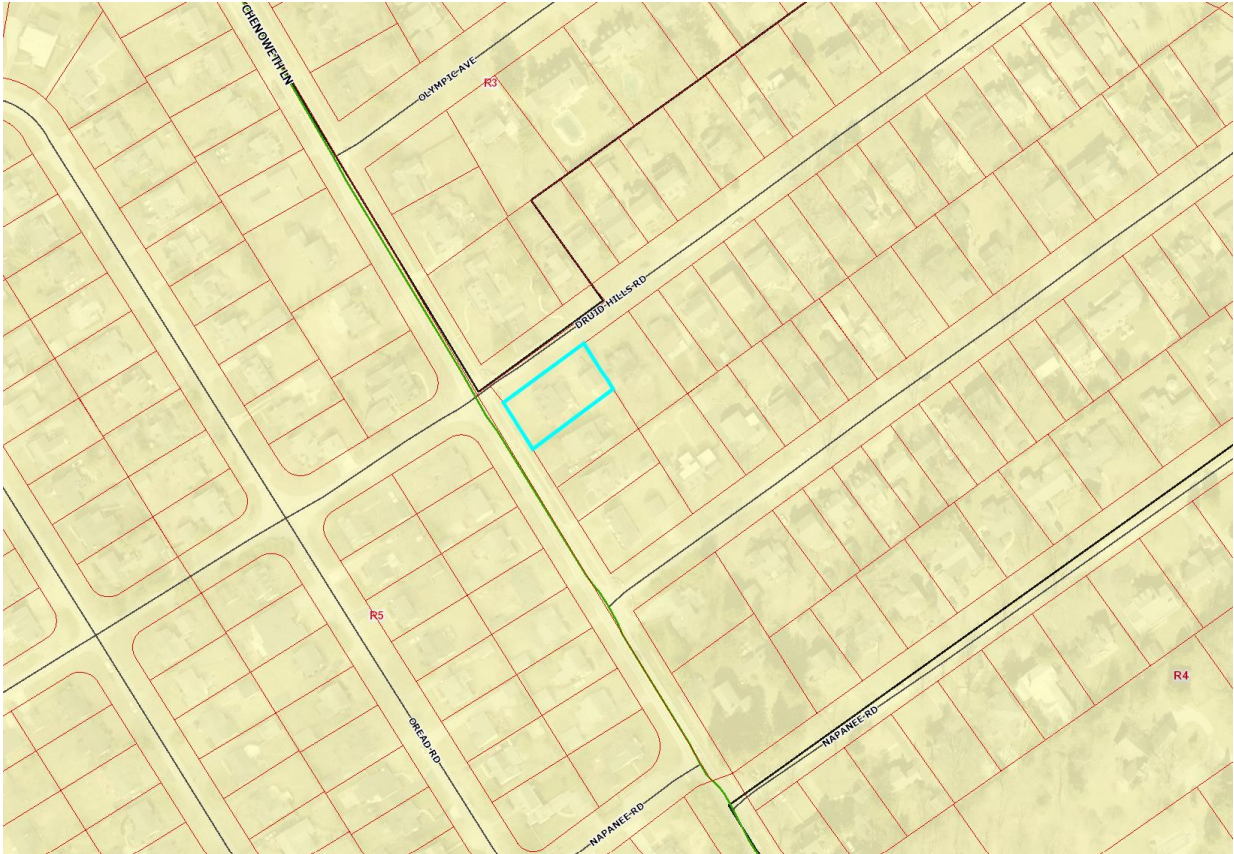
NOTIFICATION

Date	Purpose of Notice	Recipients
9/28/2023	Hearing before BOZA	1 st tier adjoining property owners
9/29/2023		Registered Neighborhood Groups in Council District 9
10/2/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

