

# Board of Zoning Adjustment Staff Report

June 6, 2016



<b>Case No:</b>	15VARIANCE1069
<b>Request:</b>	Variance from street side yard fence height.
<b>Project Name:</b>	1343 Lydia Street
<b>Location:</b>	1343 Lydia Street
<b>Owner:</b>	Eddie & Nancy Hancock
<b>Applicant:</b>	Eddie & Nancy Hancock
<b>Representative:</b>	Same
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Patrick Mulvihill
<b>Case Manager:</b>	Laura Mattingly, Planner I

## REQUEST

- Variance from the Development Code section 4.4.3.A to allow a proposed fence height to exceed the maximum 3.5 ' ft. height in a street side yard.

Location	Requirement	Request	Variance
<b>Street Side Yard (Height)</b>	3.5' ft.	6' ft.	2.5' ft.

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant's home is located at the corner of Lydia Street and Clarks Lane. The fence in question has existed in place since at least 1993 when the applicant purchased the property. The fence extends out from the side of the home and around the back yard but encroaches into the street side yard setback along Clarks Lane. It extends along the side property line back to the paved parking area where it travels into the property approximately 5 to 6 feet. The applicant has been cited for the fence height and is therefore not applying for relief from the 42' street side fence height requirement.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>Proposed</b>	Residential Single Family	R-5	Traditional Neighborhood
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>South</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>East</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>West</b>	Residential Single Family	R-5	Traditional Neighborhood

## PREVIOUS CASES ON SITE

No previous cases associated with the subject property.

## INTERESTED PARTY COMMENTS

I received on general inquiry and one email from a Michael Lindle who stated that he lives across the street and that the fence does obstruct vision as people are turning from Lydia to Clarks Lane.

## APPLICABLE PLANS AND POLICIES

Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 is outside of the sight triangle (corner of Lydia Street and Clarks Lane) and the alley is a one-way in so no one should be pulling out onto Clarks Lane from the alley.

- (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 several homes in the area have similar fences, including the property across the alley to the east and across Lydia to the west.

- (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 fence has been in place for several years and does not appear to obstruct the sight distance for drivers.

- (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 in question has been in place for at least 22 years and has not changed in that time.

### 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 as properties in the general vicinity have similar size and style fences.

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 the reasonable use of the land and create an unnecessary hardship on the applicant as the fence blocks noise and provides safety from the traffic of Clarks Lane and the nearby commercial businesses.

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 fence was in place when the property was purchased in 1993.

### TECHNICAL REVIEW

- There are no technical review items.

### STAFF CONCLUSIONS

The fence height is adequately justified within the residential neighborhood, compatible within the general vicinity, and outside the sight triangles allowing for safe pedestrian and vehicular traffic. 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 standards for granting a variance as established in the Development Code from section 4.4.3.A to allow a proposed fence height to exceed the maximum allowed in a street side yard.

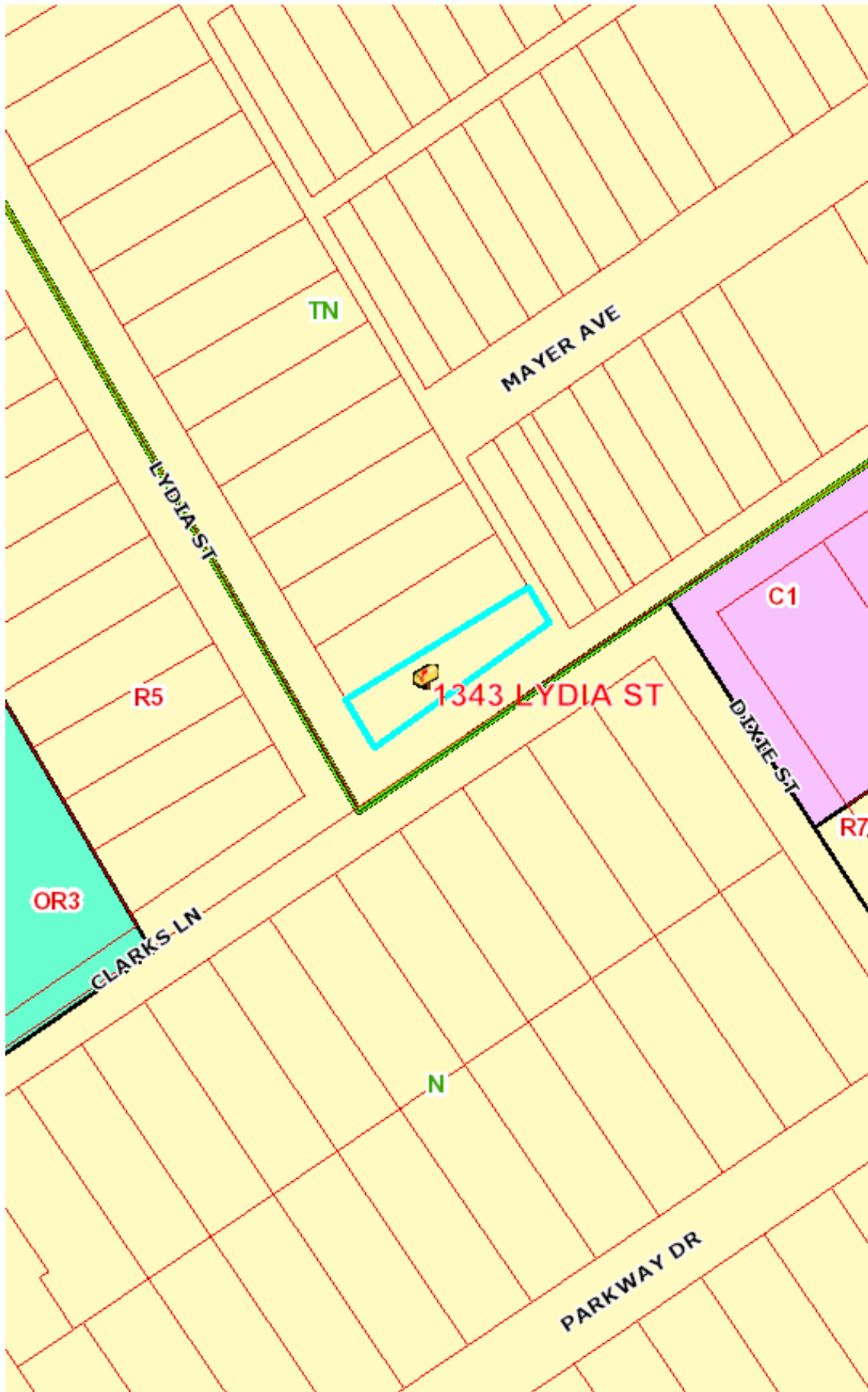
### NOTIFICATION

Date	Purpose of Notice	Recipients
May 23, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and registered neighborhood groups
May 23, 2016	Sign Posting for BOZA	Sign Posting on property

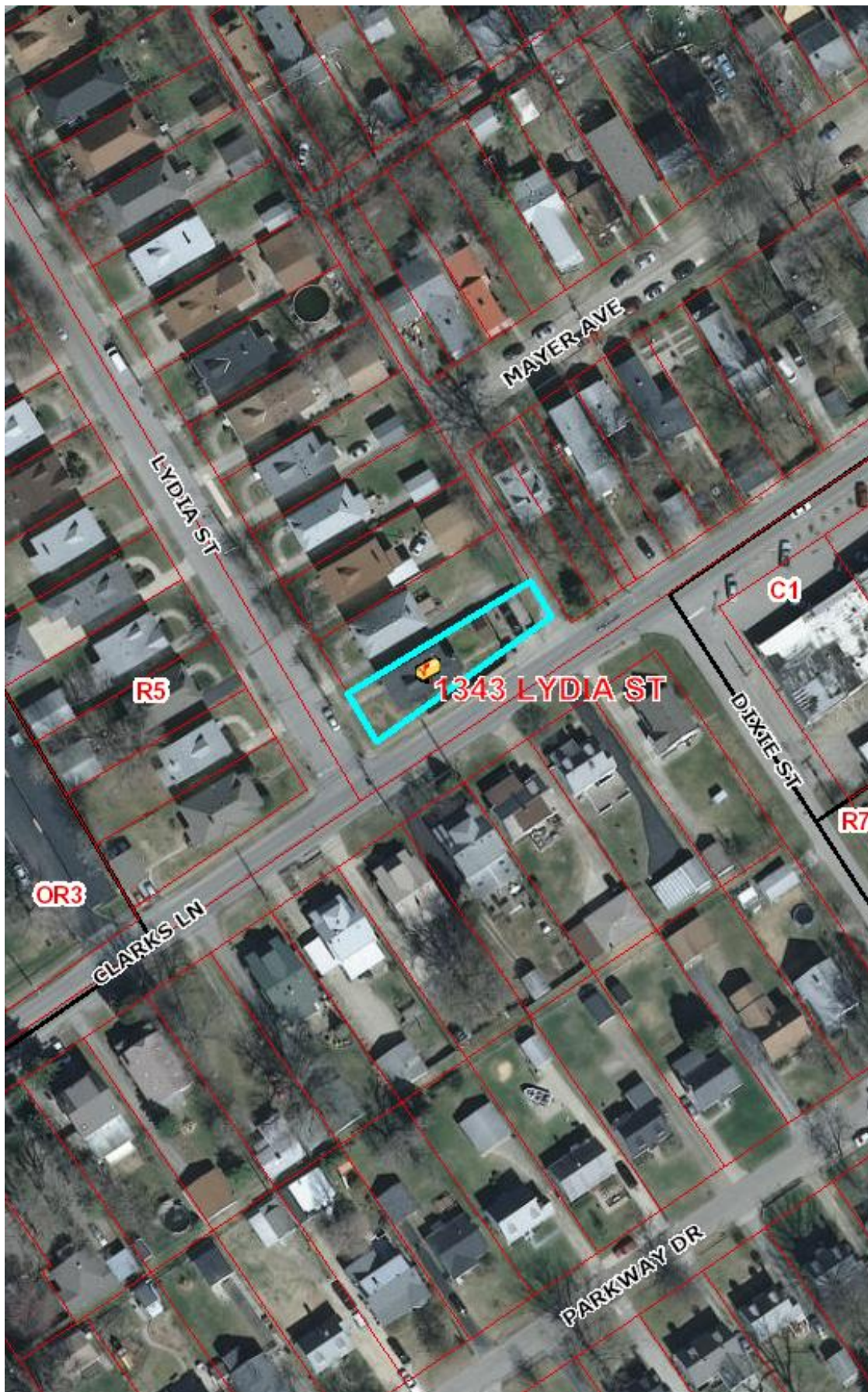
### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Inspection Report

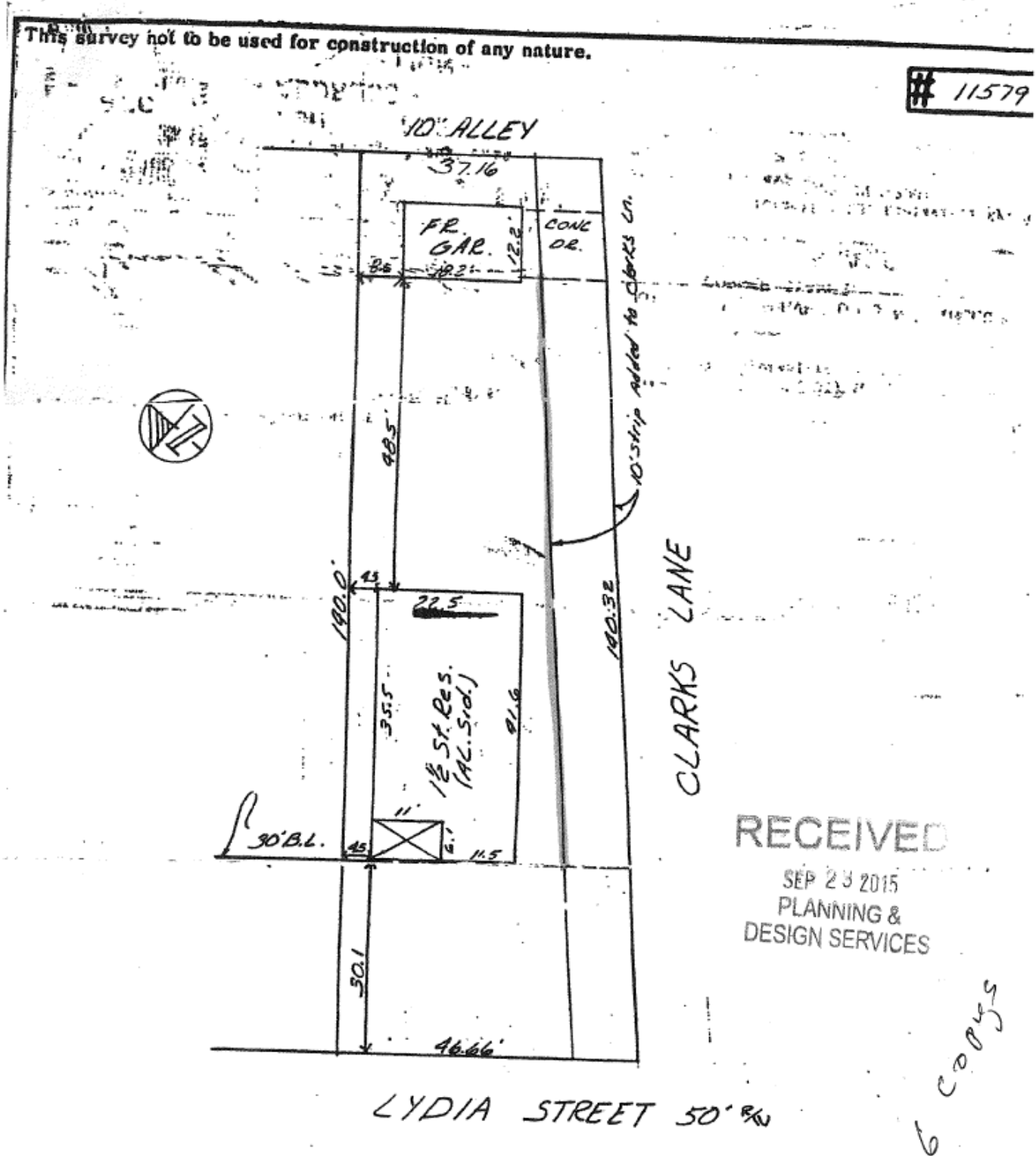
1. Zoning Map



2. Aerial Photograph



3. Site Plan



15 Variance 1069

4. Site Photos

