

Board of Zoning Adjustment
Staff Report
 October 15, 2018



Case No:	18VARIANCE1089
Project Name:	Fence Height
Location:	728 South Barbee Way
Owner/Applicant:	Michael Clancey
Jurisdiction:	Louisville Metro
Council District:	15--- Marianne Butler
Case Manager:	Steve Hendrix, Planning Coordinator

REQUEST

- **Variance** from the Land Development Code, Chapter 4.4.3.A.1.a.i. to allow a proposed seven (7) foot wooden privacy fence with a one (1) foot lattice top in the street side yard, (Shelby Street).

Location	Requirement	Request	Variance
Street Side Yard	42 inches	96 inches	54 inches

CASE SUMMARY/BACKGROUND

The subject 0.08 acre property is located on the southwest corner of the South Barbee Way and South Shelby Street intersection within the Saint Joseph Neighborhood. The site is zoned R-5, Single Family Residential and in a Traditional Neighborhood Form District. The house has frontage on South Barbee Way. The applicant is requesting to replace an existing six (6) foot privacy fence along South Shelby Street at the same location, (rear corner of the house to the alley). The applicant has noted security, safety and noise abatement as the main reasons for the fence.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard of review.

Based upon the information in the staff report, and 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 established in the Land Development Code, Chapter 4.4.4.A.1.a.i. to allow a proposed 96 inch high wooden privacy fence in the street side yard.

TECHNICAL REVIEW

- No technical comments.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Chapter 4.4.3.A.1.a.i.

- (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 since the new wooden privacy fence will not create any type of sight distance concerns.

- (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, since the new fence will be replacing an existing privacy fence that has deteriorated.

- (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, but will provide a safer backyard and improve the visual appearance along this section of South Shelby Street.

- (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, since the proposal is a replacement.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone, due to the shape of the lot.

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, since the backyard would not be secure and the noise from both vehicular traffic and pedestrians would be a nuisance.

3. 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.

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, since the placement of the house and shape of lot are existing.

NOTIFICATION

Date	Purpose of Notice	Recipients
09/28/2018	Hearing before BOZA	1 st tier adjoining property owners
09/27/2018		Registered Neighborhood Groups in Council District 15
09/28/2018	Hearing before BOZA	Notice posted on property

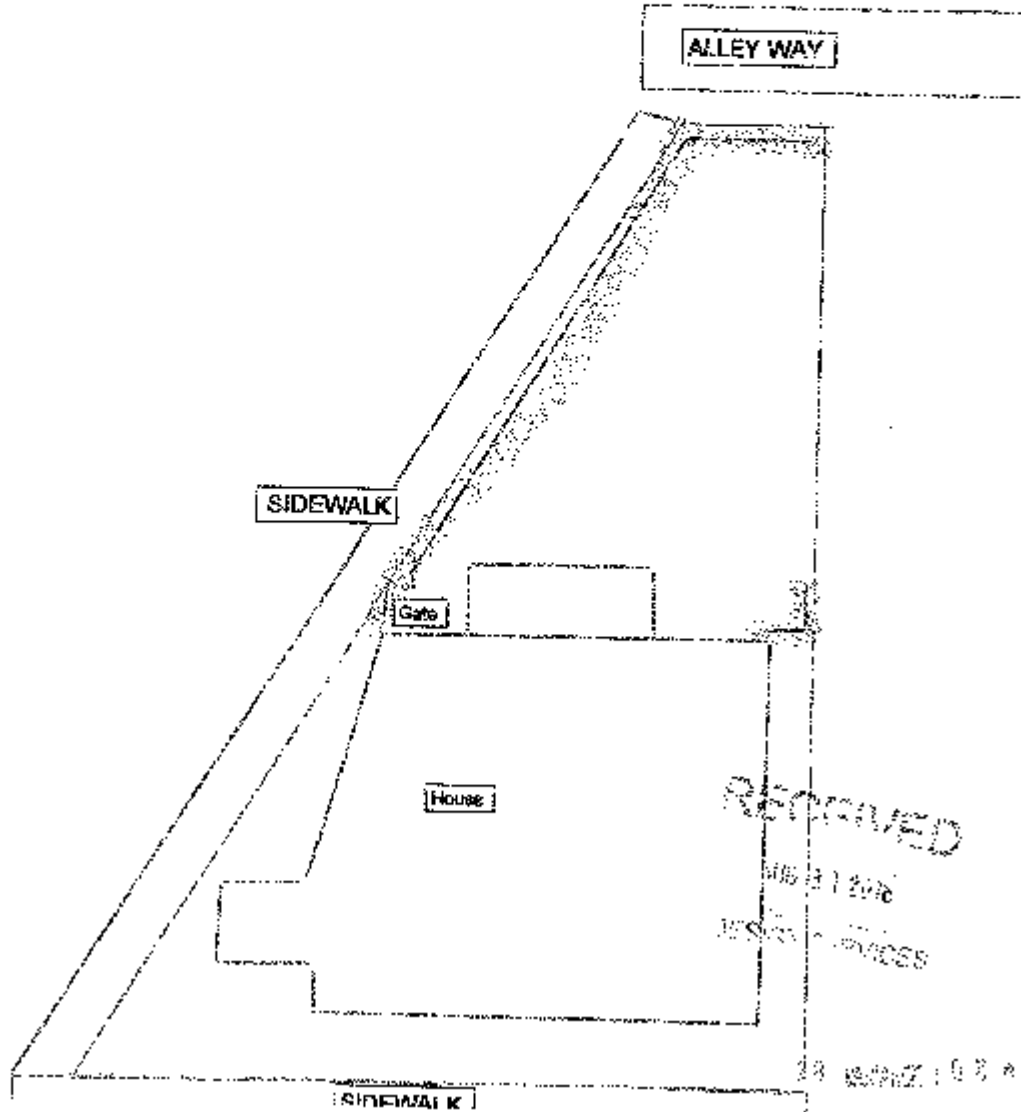
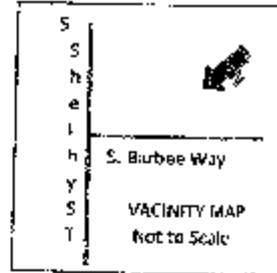
ATTACHMENTS

1. Site Plan
2. Zoning Map
3. Aerial Photograph
4. Site Photos

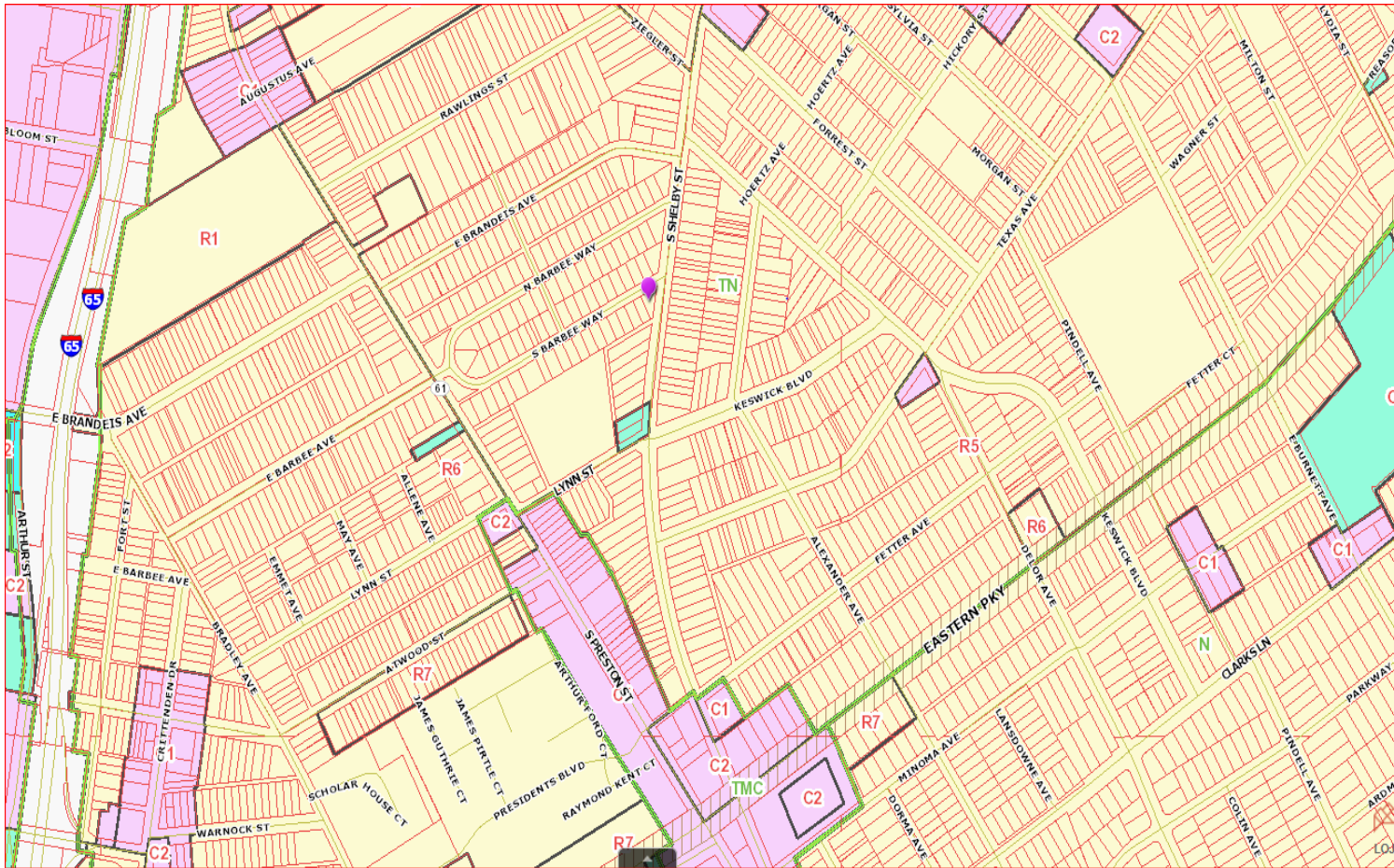
728 S. BARBEE WAY
LOUISVILLE, KY 40217

Scale: 1" = 10'

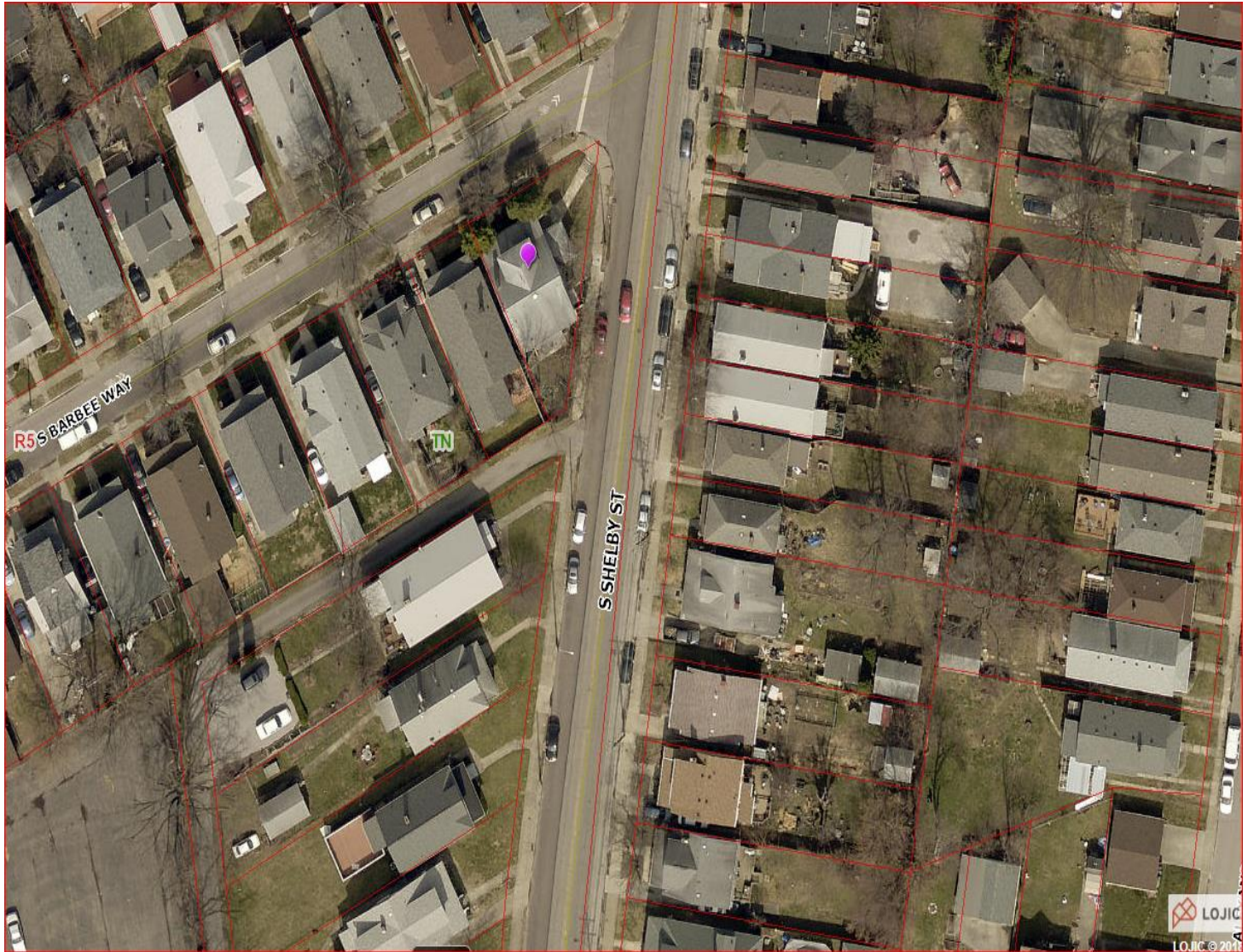
R-5 Residential District
Traditional Neighborhood Form District



Zoning Map



Aerial Map



Front of house facing South Barbee Way



Existing fence along South Shelby Street



Existing fence along South Shelby Street

