

Board of Zoning Adjustment Staff Report

July 11, 2016



Case No:	16VARIANCE1037
Request:	Proposed fence to exceed 42" inches in height within the front yard.
Project Name:	104 South 36 th Street
Location:	104 South 36 th Street
Area:	.12280 acres
Owner:	Shirley Parker
Applicant:	Shirley Parker
Representative:	Shirley Parker
Jurisdiction:	Louisville Metro
Council District:	5 – Cheri Bryant Hamilton
Case Manager:	Ross Allen, Planner I

REQUEST

- Variance from the Land Development Code section 4.4.3.A.1.a.i. to allow a proposed fence to exceed 42" inches in height in the front yard.

Location	Requirement	Request	Variance
Street Side Yard	42" in.	48" in.	6" in.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 48" in. vertical aluminum square post fence in the front and side yards of the property on an R-5 zoned parcel within a Traditional Neighborhood Form District. The applicant's aluminum fence will require the variance for the front yard area since it exceeds the LDC requirement of 42" inches in height in the Traditional Neighborhood Form District. The side yard fence height will also be 48" inches but the applicant is within her right since the opacity of the fence is less than 80% and is less than the required height allowed by LDC of 6' feet.

The applicant will construct the proposed aluminum fence in both side yards which will directly abut an existing wood fence to the rear of the property. The aluminum fence as proposed for the front yard will be approximately 40' feet in length and have two entrances that coincide with the walkway to the residence and a driveway along the South 36th Street frontage.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

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

PREVIOUS CASES ON SITE

No other cases on the subject site.

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

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 since the proposed 48" inch aluminum fence along South 36th Street frontage will be within the applicant's property and will not obstruct 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 since one other property located to the north has a chain link fence of approximately 4 feet in height (48" inches) in the front yard.

- (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 since the proposed fence will be within the applicant's property and will not obstruct the public right of way.

- (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 land development code allows for fences of up to 42 inches in height and the applicant is requesting 6" inches more than what code requires.

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 since another home in the general vicinity have fences similar in height to what the applicant is proposing.

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 since the fence is allowed up to 42" inches in the front yard within the Traditional Neighborhood Form District. The applicant's proposed fence has a height of 6" inches more than what would be required by LDC. Furthermore, the applicant states that fence is to help prevent trespassing and property damage.

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 since the applicant's recently purchased the property and have not made any attempts to construct a fence in the front yard without the required variance.

TECHNICAL REVIEW

- No technical review undertaken.

STAFF CONCLUSIONS

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 established in the Land Development Code from section 4.4.3.A.1.a.i to allow the proposed fence to exceed the 42" inch height within the front yard of a parcel in Traditional Neighborhood Form District by 6" inches for a total fence height of 48" inches.

NOTIFICATION

Date	Purpose of Notice	Recipients
June 27, 2016	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 5 Notification of Development Proposals
June 27, 2016	Sign Posting for BOZA	Sign Posting on property

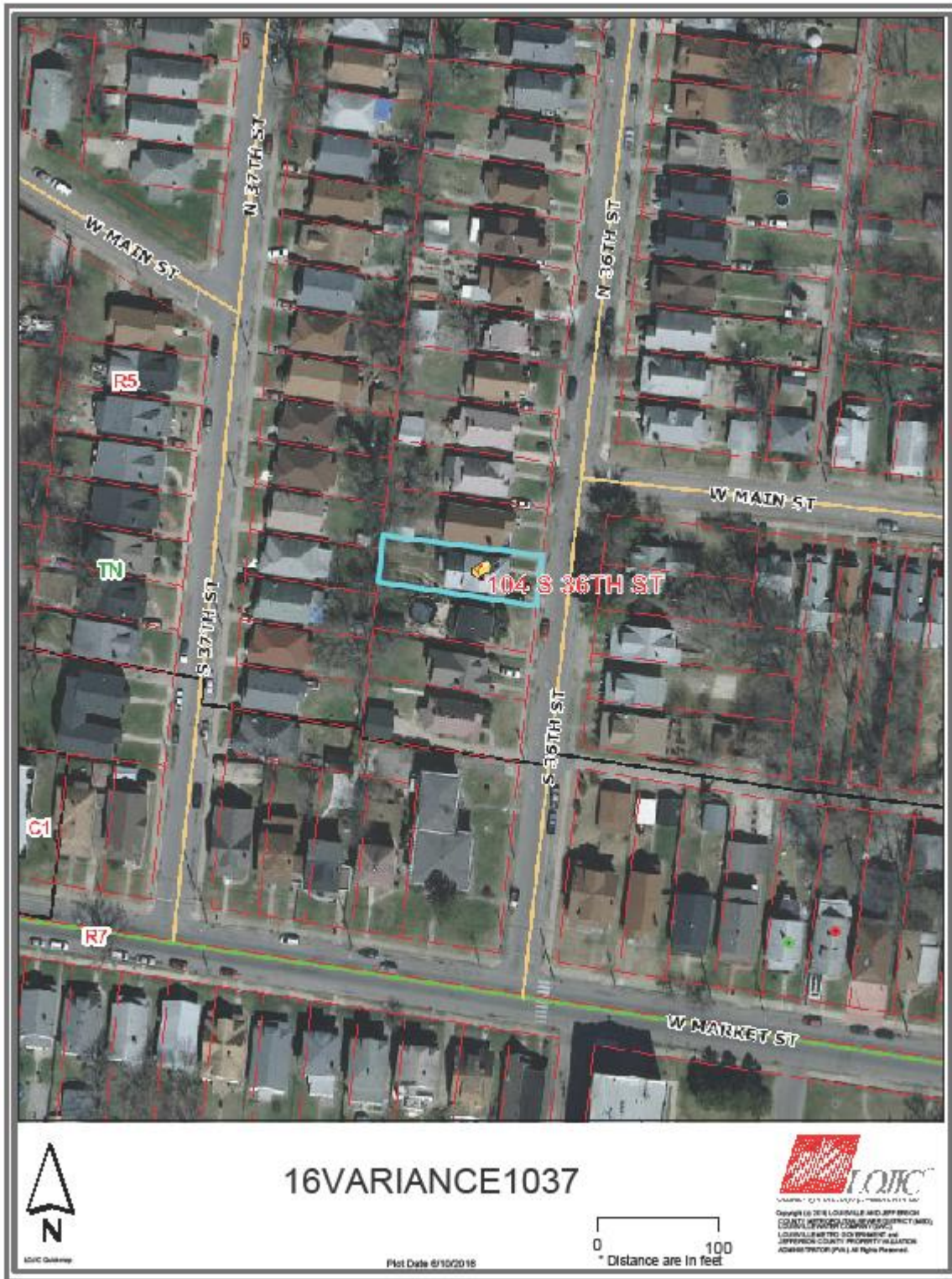
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Inspection Photos



The front of the subject site located at 104 South 36th Street.



Side Yard area where the proposed fence would meet the wood fence (shown in the red rectangle).



The side yard where the proposed aluminum fence would meet the wood fence along the rear side of home.



The six foot high wood fence at the rear of the side yard.

Surrounding Properties Photos



Property to the east of the subject site that has a chain link fence in the front yard. Many homes in the general vicinity do not have fences in the front yard. One other home south of the subject site has a side/rear yard chain link fence.