

Board of Zoning Adjustment

Staff Report

December 18, 2017



Case No:	17VARIANCE1091
Project Name:	6701 Santom Lane Fence & Pool
Location:	6701 Santom Lane
Owner(s):	Robert & Susan Marshall
Applicant:	Robert Marshall
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Dante St. Germain, Planner I

REQUEST

- **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height.
- **Variance** from Land Development Code section 4.4.10.A to allow a private swimming pool to encroach into the required street side yard setback.

Location	Requirement	Request	Variance
Fence in Street Side Yard	4 feet	6 feet	2 feet
Swimming Pool in Street Side Yard	30 feet	15 feet	15 feet

CASE SUMMARY

The subject property is located at the corner of Santom Lane and Woodbark Lane, and currently contains a two-story single-family home with a detached garage. An existing fence encloses most of the street side yard beyond the principal structure, extending to 4' 6" from the property line. The fence is six feet in height, and encloses a pool and a deck in the street side and rear yards. The applicant requests an after-the-fact variance from LDC section 4.4.3.A.1.a.i to allow the fence in the street side yard to exceed 4 feet in height.

The pool currently extends into the street side yard setback. The applicant requests a further after-the-fact variance from LDC section 4.4.10.A to allow a private swimming pool to encroach into the required street side yard setback.

STAFF FINDING

Staff finds that the requested variances are adequately justified and meet 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 from section 4.4.3.A.1.a.i to allow a fence in the street side yard to exceed 4 feet in height, and from section 4.4.10.A to allow a private swimming pool to encroach into the required street side yard setback.

CASE BACKGROUND

Enforcement case 17PM7829 is currently active on the property relating to the fence height. This case is pending Board action on the present variance request.

The fence is visible on LOJIC aerial photographs starting in 2003. The aerial photograph from 2000 does not show a fence. The Development Code in effect in 2000 restricted fence height to 4 feet in residential zoning districts, and no documentation of a variance for the fence is on file. The pool is first visible in LOJIC aerial photographs beginning in 2006.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 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 as the fence does not extend to the corner and does not obstruct sight lines for drivers.

- (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 there is a similar fence on a similarly situated corner property across the street from the subject property.

- (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 does not obstruct sight lines at the corner.

- (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 a fence is needed to protect a pool, and the six-foot height provides better deterrence to children compared with a four-foot height.

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 because an easement running through the rear yard of the subject property reduces the useable rear yard space.

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 by requiring the applicant to reduce the height of an existing fence to 4 feet.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence has already been constructed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.10.A

- (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 pool is protected by an existing fence.

- (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 the pool is screened by an existing privacy fence.

- (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 pool has existed for at least 11 years without causing a known hazard or nuisance.

- (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 an easement in the rear of the subject property limits the possible location of a pool.

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 because an easement running through the rear yard of the subject property reduces the useable rear yard space.

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 by requiring the applicant to relocate an existing pool.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the pool has already been constructed.

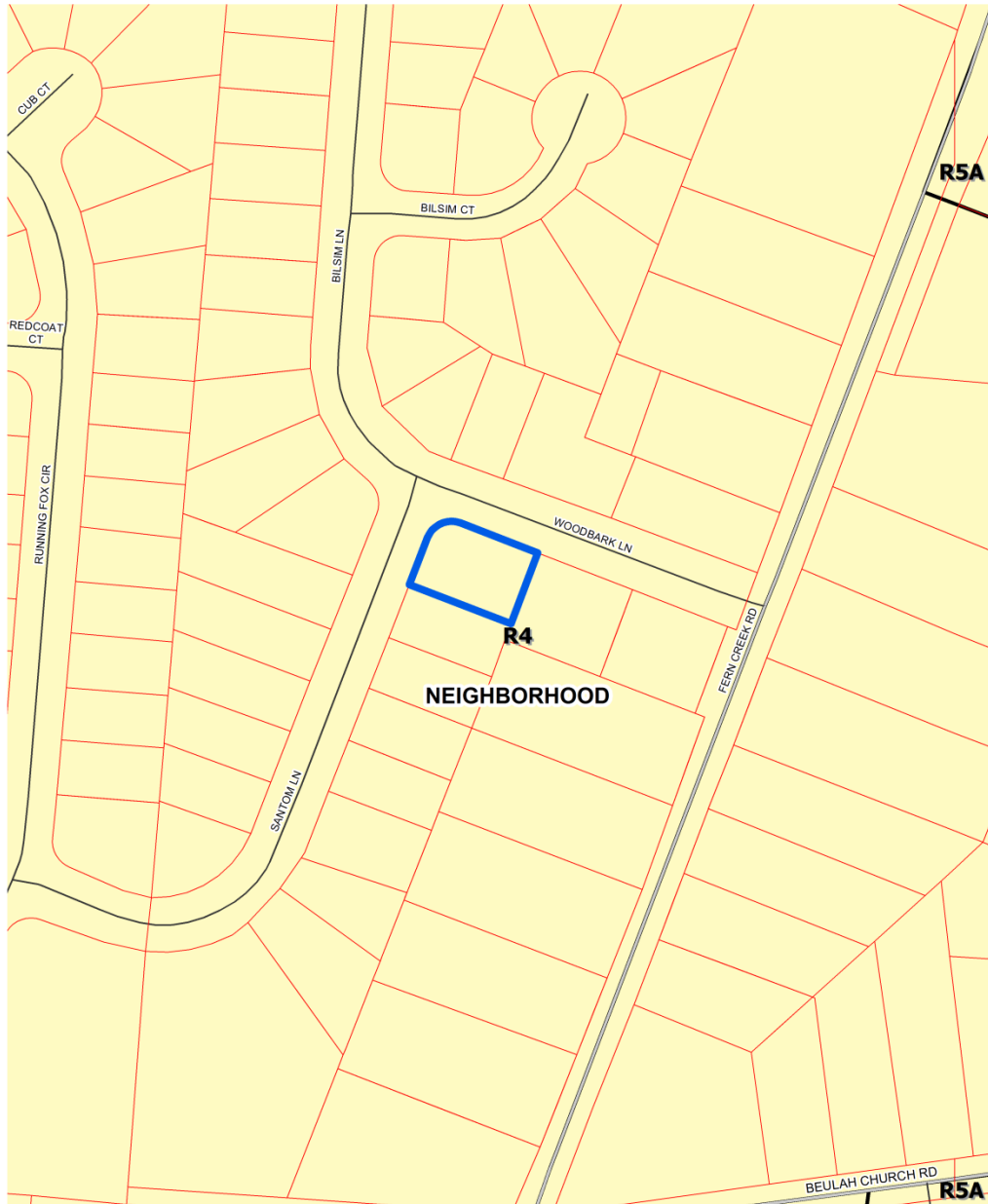
NOTIFICATION

Date	Purpose of Notice	Recipients
11/28/2017	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 22
12/01/2017	Hearing before BOZA	Notice posted on property

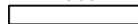
ATTACHMENTS

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

1. **Zoning Map**



6701 Santom Lane
feet

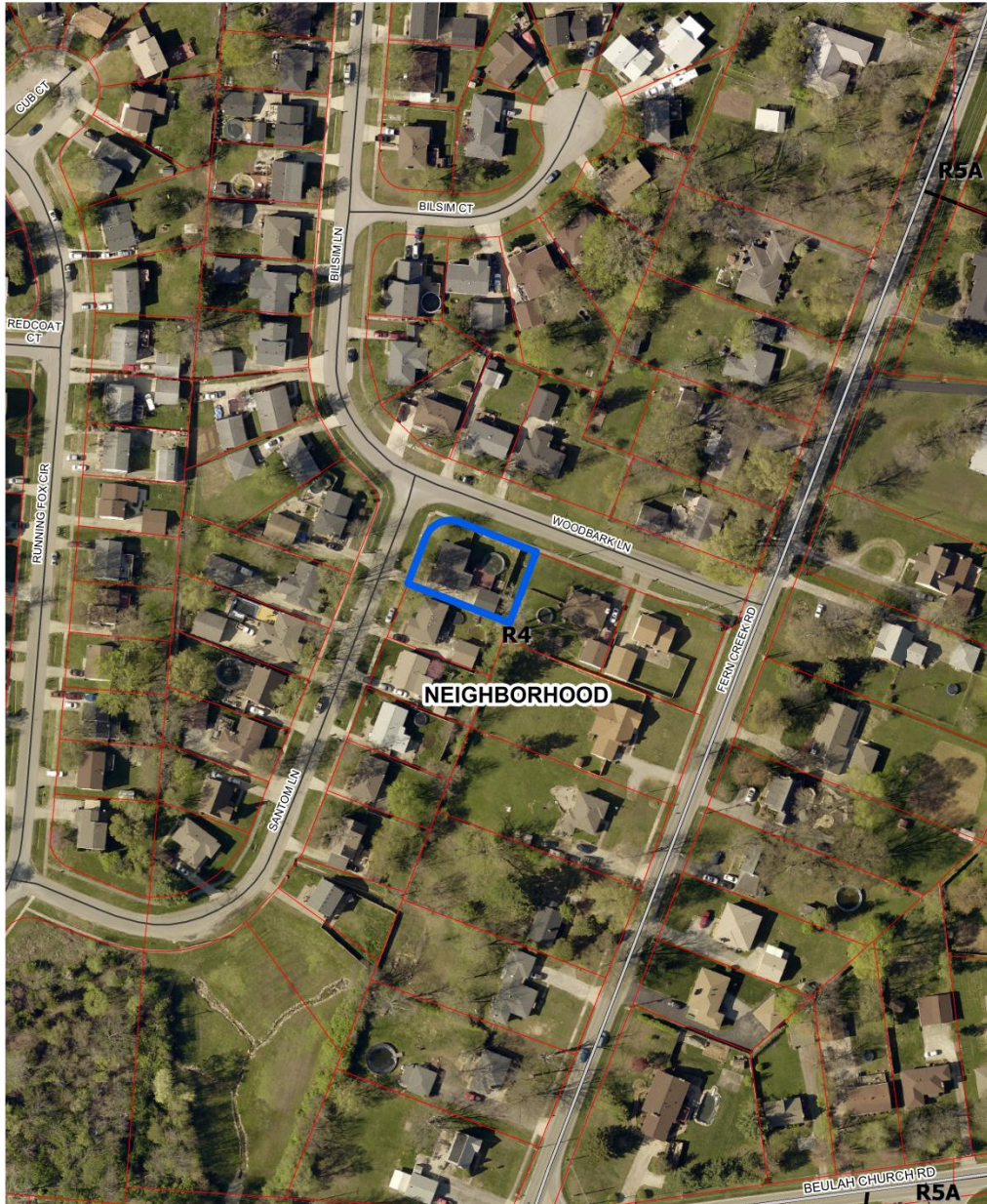


Map Created: 12/6/2017

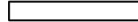


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2. Aerial Photograph



6701 Santom Lane
feet



140

Map Created: 12/6/2017



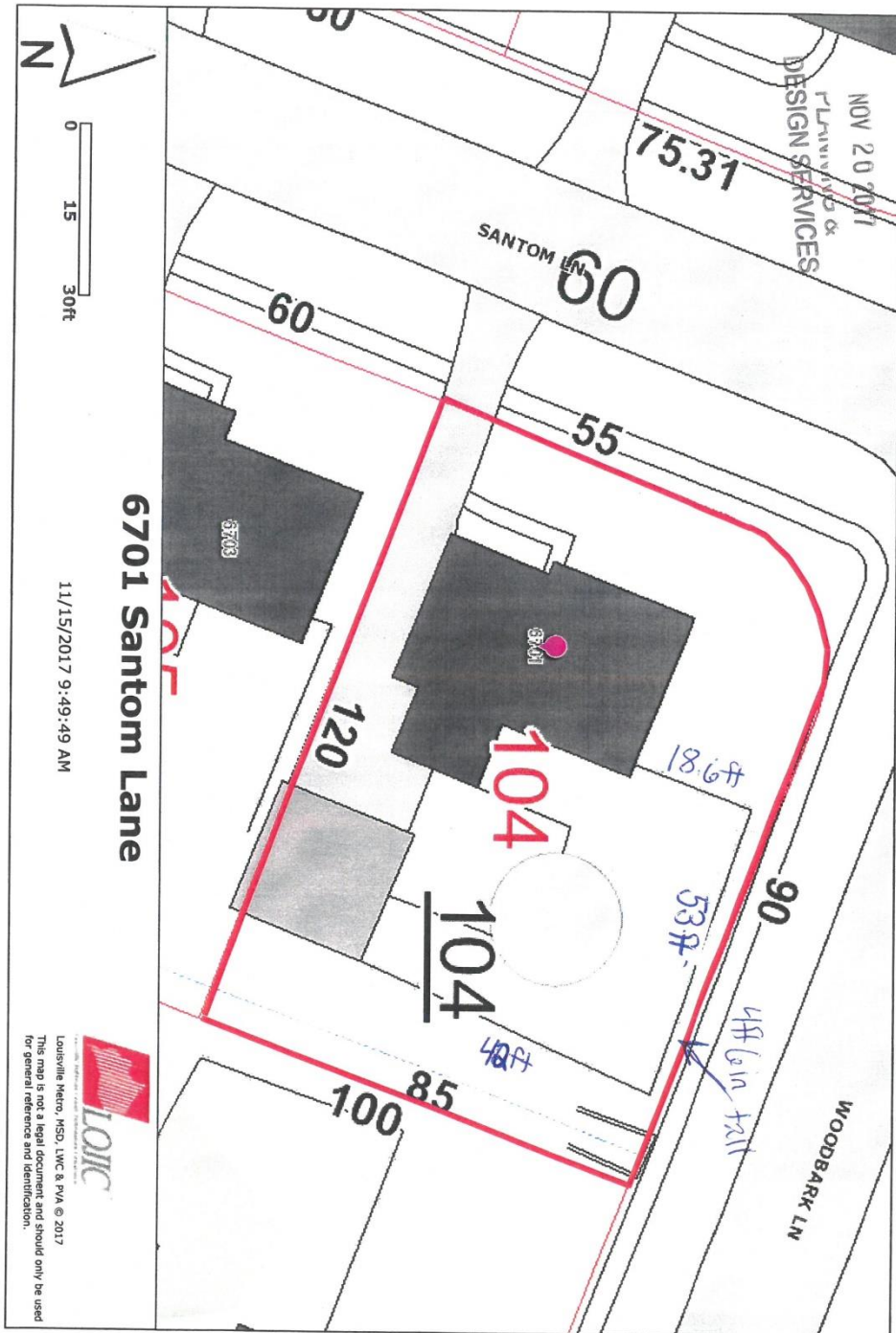
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3. Site Plan

<https://anne.louisiana.gov/scripts/71/print/85x11-landscape.html>

11/15/2017

17 VARIANCE 1097



Print Layout

Page 1 of 1

RECEIVED

NOV 20 2017

PLANNING &
DESIGN SERVICES

SANTOM LN

60

55

75.31

60

3703

6701 Santom Lane

11/15/2017 9:49:49 AM

Louisiana Metro, MSD, LWC & PVA © 2017
This map is not a legal document and should only be used
for general reference and identification.



WOODBARK LN

90

18.6 ft

53 ft

48' in trail

104

104

48 ft

85

100

4. **Site Photos**



The front of the subject property.



The property to the right of the subject property.



The properties to the left of the subject property across Woodbark Lane.



The property across Santom Lane.



The rear of the subject property where an easement restricts the use of the back yard.



The location of the variance request for the fence.



The location of the variance request for the pool.