

Board of Zoning Adjustment
Staff Report
 April 16, 2018



Case No:	18VARIANCE1015
Project Name:	3522 Grandview Avenue Fence
Location:	3522 Grandview Avenue
Owner(s):	Philip Nee & Audrey Woods
Applicant:	Philip Nee
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

REQUEST

- **Variance** from City of St. Matthews Development Code section 9.1.B.1.a to allow a fence to exceed 4 feet in height in the street side yard setback.

Location	Requirement	Request	Variance
Fence Height	4 ft.	6 ft.	2 ft.

CASE SUMMARY/BACKGROUND

The subject property is located in the City of St. Matthews at the intersection of Macon Avenue and Grandview Avenue, and currently contains a one-story single-family residence. The applicant has constructed a 6-foot-tall privacy fence along Macon Avenue. The fence is partially on the applicant's property and partially within the right-of-way of Macon Avenue. The City of St. Matthews is aware of the encroachment into the right-of-way and requests a condition of approval if the Board chooses to approve the variance. The applicant requests a variance for the portion of the fence located on the subject property, to allow the fence to remain 6 feet in height. The requested variance is not for the portion of the fence within the St. Matthews right-of-way.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard of review. The City of St. Matthews requests the following condition of approval if the Board chooses to approve the variance:

Should the City of St. Matthews ever need to do work or install facilities within this portion of the right-of-way necessitating the fence be removed, the property owner shall remove the fence from within the right-of-way.

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 City of St. Matthews Development Code from section 9.1.B.1.a to allow a fence to exceed 4 feet in height in the street side yard setback.

TECHNICAL REVIEW

- The City of St. Matthews has reviewed the proposed plan and requests a condition of approval be attached to the variance, should the Board choose to approve it.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 9.1.B.1.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 portion of the fence on the applicant's property does not create a sight line or safety issue at this time.

- (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 privacy fence replaced a previously-existing chain link fence at the same location.

- (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 portion of the fence on the applicant's property does not create a hazard.

- (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 City of St. Matthews is aware of the fence and its location and only requests a condition of approval on the variance, if it is approved.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise 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 because the lot is regular in shape and of similar size to neighboring lots.

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 may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the fence in the street side yard is requested in order to create privacy in the rear yard of the property.

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 was constructed after the zoning regulations were adopted by the City of St. Matthews.

NOTIFICATION

Date	Purpose of Notice	Recipients
03/23/2018	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9
03/30/2018	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



3522 Grandview Avenue
feet

90

Map Created: 4/2/2018

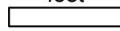


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2. Aerial Photograph



3522 Grandview Avenue
feet

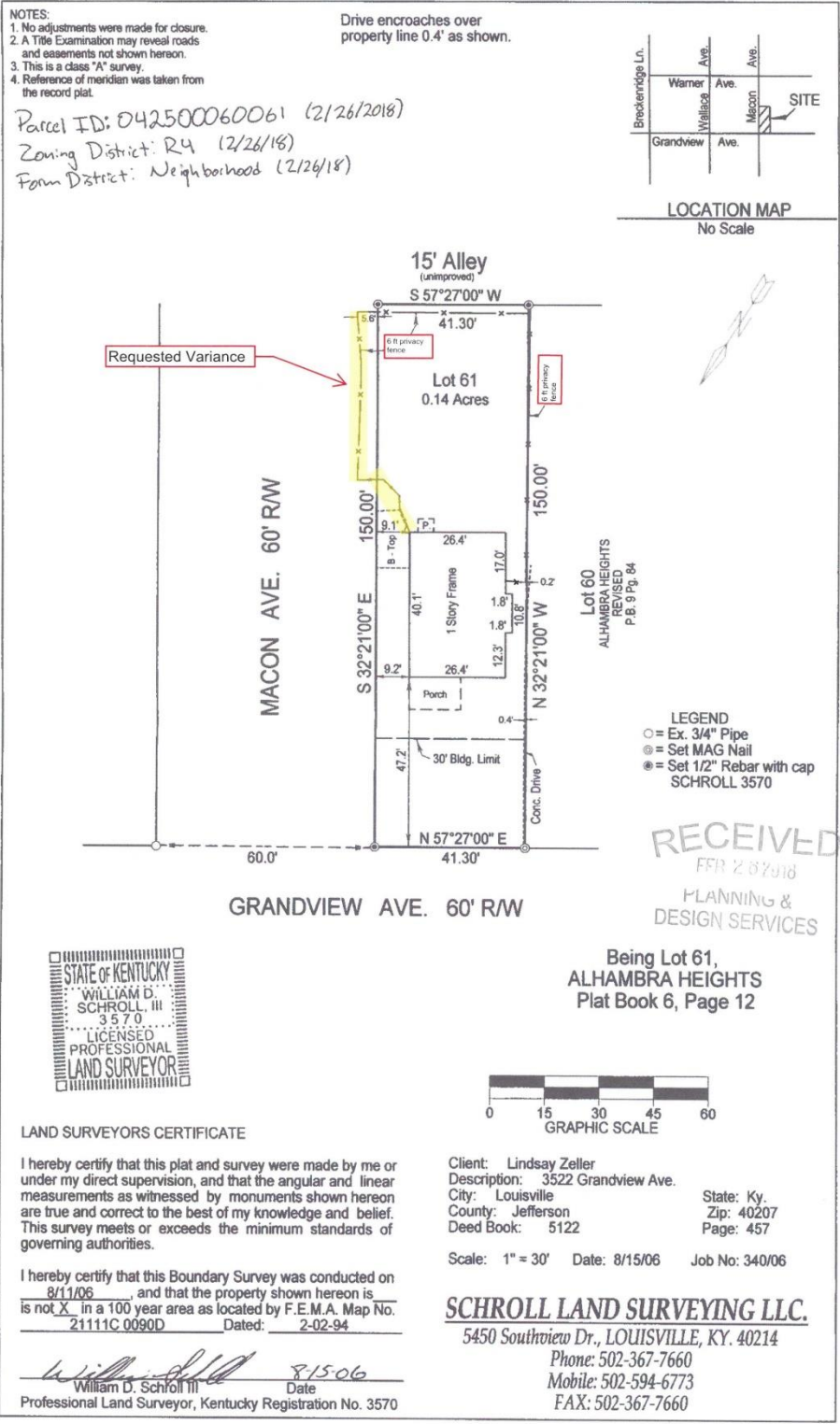


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Map Created: 4/2/2018



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3. Site Plan



5. Site Photos



The front of the subject property.



The property to the right of the subject property.



The property to the left of the subject property across Macon Avenue.



The property across Grandview Avenue.



The location of the requested variance.



The portion of the fence in the Macon Avenue right-of-way.