

Board of Zoning Adjustment
Staff Report
 January 27, 2020



| | |
|--------------------------|--------------------------|
| Case No: | 19-VARIANCE-0077 |
| Project Name: | S. Shelby Variance |
| Location: | 1550 S. Shelby Street |
| Owner: | Stephen Stricklin |
| Applicant: | Stephen Stricklin |
| Jurisdiction: | Louisville Metro |
| Council District: | 4 – Barbara Sexton Smith |
| Case Manager: | Nia Holt, Planner I |

REQUEST

- **Variance** from Land Development Code (LDC) section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Traditional Neighborhood Form District to exceed 42 inches in height.

| Location | Requirement | Request | Variance |
|----------------------------------|--------------------|----------------|-----------------|
| Fence in Street Side Yard | 42 inches | 84 inches | 42 inches |

CASE SUMMARY/BACKGROUND

The subject property is a corner lot located at the intersection of S. Shelby and Morgan Streets. It currently contains a single-family residence. However, the applicant has stated in his application that he intends to apply for a Community Service Facility Conditional Use Permit. The applicant has begun construction on a seven-foot wooden privacy fence with solar post caps. According to the applicant the light from the post are dim and will be directed downward, away from other properties. Construction was paused when he was informed that a variance was needed. Land Development Code section 4.4.3.A.1.a.i allows a fence in the street side yard setback in the Traditional Neighborhood Form District to be up to 42 inches in height. The fence, which is in the street side yard setback along Morgan Street, is 84 inches in height.

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 to allow a fence in the street side yard setback in a Traditional Neighborhood Form District to exceed 42 inches in height.

TECHNICAL REVIEW

Transportation Planning review approved the site plan.

RELATED CASES

There is an open enforcement case under case #ENF-ZON-19-000752-1.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

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 is not within the sight triangle and does not interfere with vision clearance at the intersection of Morgan Street and S. Shelby Street.

- (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 across the street on Morgan St. and the property backs up to Issac Shelby Traditional Academy.

- (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 will not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection. Additionally, the lighting on the fence will be directed away from other properties.

- (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 because the fence will provide screening between different land uses.

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 as the land use on this parcel differs from the general vicinity and the fence will provide screening between the different land uses.

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 not permit the property owner to provide screening which would mitigate nuisances to the single family and institutional uses of the adjoining properties.

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 as the applicant is requesting the variance and has not completed construction.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

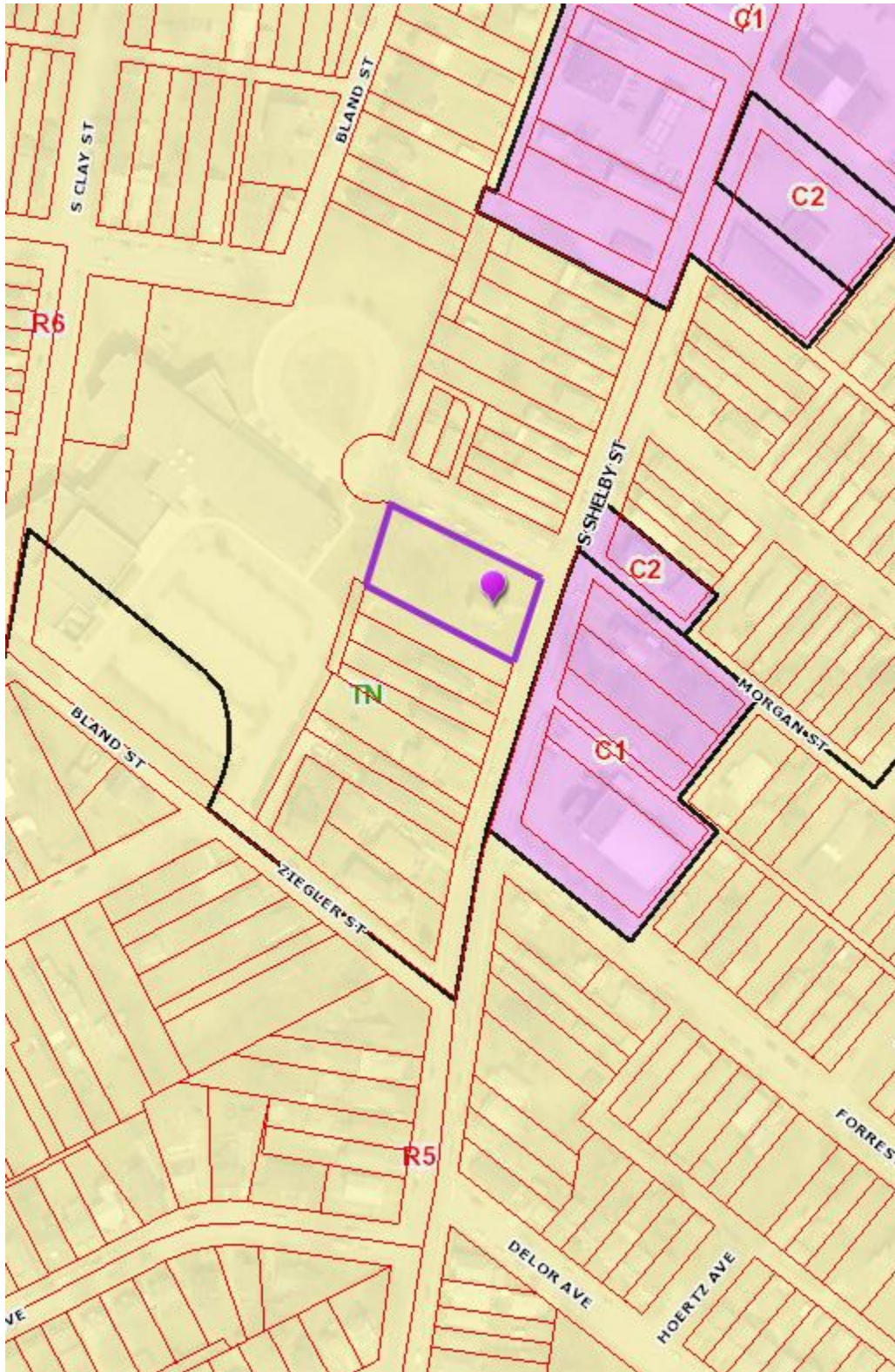
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|------------------|--------------------------|---|
| 1/9/2020 | Hearing before BOZA | 1 st tier adjoining property owners Registered Neighborhood Groups in Council District 13 |
| 1/10/2020 | Hearing before BOZA | Notice posted on property |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Agency Comments

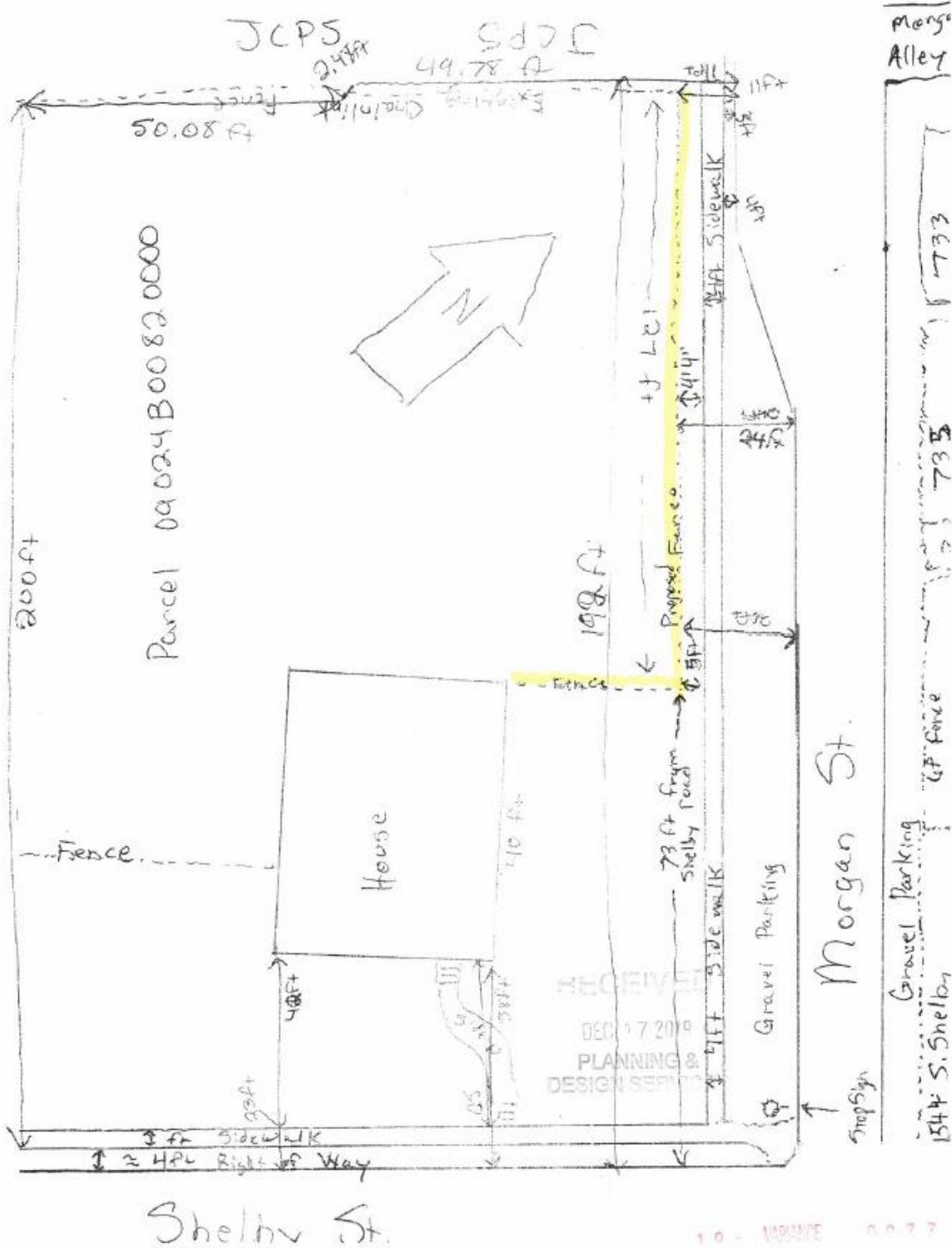
1. **Zoning Map**



2. Aerial Photograph



3. SitePlan



4. **Agency Comments**

- Transportation Planning: 19-variance-0077 is approved by Transportation. The fence must be located outside of the right-of-way of Morgan Street or 30 feet from the center of the road.