

Board of Zoning Adjustment Staff Report

July 21, 2014



Case No:	14Variance1057
Project Name:	(none) Residential
Location:	5802 Jeanine Drive
Owner(s):	Jose E Camacho
Applicant:	Jose E Camacho
Representative:	same as above
Project Area/Size:	0.19 Acres
Jurisdiction:	Louisville Metro
Council District:	2- Barbara Shanklin
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance from the Land Development Code, Chapter 4, Section 4.4.3.A.1a(i), to allow an existing fence to exceed the maximum height.

Variance

Location	Requirement	Request	Variance
Front Yard (fence height)	48 inches	60 inches	12 inches

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant has built a fence and columns, reflecting the cuban culture, in the front yard which exceed the allowed maximum height of 48 inches. The applicant was cited for the fence height violation in October of 2012 and later summoned to appear in Jefferson County District Court on May 2014.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-5 in the Neighborhood Form District (N). It is surrounded by residential property zoned R-5 in the Neighborhood Form District (N).

	Land Use	Zoning	Form District
Subject Property			
Existing	Single-family residential	R-5	N
Proposed	Single-family residential	R-5	N
Surrounding Properties			
North	Single-family residential	R-5	N
East	Single-family residential	R-5	N
South	Single-family residential	R-5	N
West	Single-family residential	R-5	N

PREVIOUS CASES ON SITE

341656 – Violation cited for constructing a carport without a permit 5/13/09. Closed 9/1/09
12902 – Minor Plat to remove a building limit line. 6/29/09 Application expired due to inactivity.
455132 – Violation cited for fence and wall exceeding the allowed height. 10/9/12. Pending
Jefferson County District Court-The applicant appeared in District Court on 5/13/14 concerning the fence violation.

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the fence is not encroaching into any vision triangle area, and it is placed within the applicant's property boundaries.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance and the existing fence and columns do not alter the character of the neighborhood. The adjacent property has a fence around their property of a similar height.

- (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 because the fence is within the applicant's property; 25 feet from the street pavement; and 10 feet from the sidewalk.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: By constructing the fence and columns without receiving a variance and neighborhood notification prior, there was unreasonable circumvention of zoning regulations.

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 any special circumstances. The applicant constructed a fence and columns without the necessary variance approval.

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 because the fence and column materials, stone and doric, were very expensive. If the applicant has to remove or replace the fence and columns it would be a great financial loss.

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 owner is responsible for already constructing the fence and columns, without receipt of a variance.

TECHNICAL REVIEW

There are no technical review issues.

STAFF CONCLUSIONS

Based upon the information in the staff report, the analysis of the standards of review support the request to grant the variance, therefore, the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Development Code based on the testimony and evidence provided at the public hearing.

NOTIFICATION

Date	Purpose of Notice	Recipients
07/02/2014	BOZA Hearing	1 st tier adjoining property owners Neighborhood notification recipients
07/03/14	Sign Posting	Subject property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photo
5. Applicant's Justification Statement

Attachment 1: Zoning Map:



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



Zoning District Map
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**14VAR1057
 VARIANCE**
 Scale: 1:842 Date: 07/01/2014



Attachment 2: Aerial Photo:

R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
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Zoning District Map
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**14VAR1057
VARIANCE**

Scale: 1:290 Date: 07/01/2014

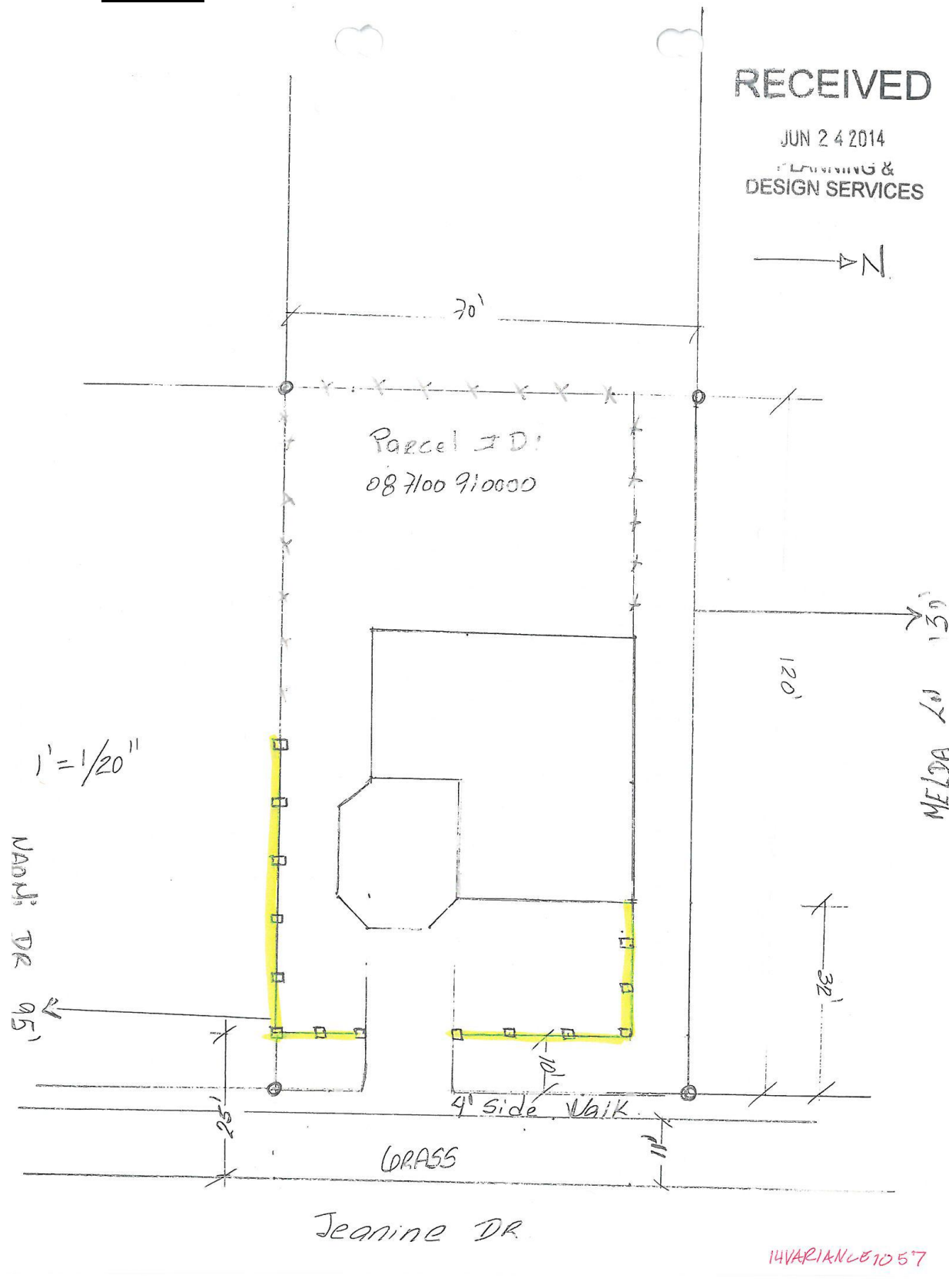
LOJIC
Louisville/Jefferson County Metropolitan Government
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Attachment 3: Site Plan:

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Attachment 4: Site Photo:



Attachment 5: Applicant's Justification Statement:

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

See attached

2. Explain how the variance will not alter the essential character of the general vicinity.

See attached

3. Explain how the variance will not cause a hazard or a nuisance to the public.

See attached

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

See attached

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Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

See attached

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

See attached

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

See attached

1. The fence is located 10'4" from the property line, the side walk is 4' and is located 11'3" from the street. The fence is 25' from the street. The property is not a corner lot and does not encroach into any public right ways nor does it block any lines out sight.
2. The fence is made of stone piers and doric columns which are of classic architectural design.
3. The fence is totally on private property, 25' from the street and 10' from the front property line.
4. The fence is only inches over regulation.

1. The residences are from Cuban culture and the fence is originated from Cuban tradition.
2. To achieve this Caribbean culture, the material was very expensive and will create an unnecessary hardship to the owner to remove & replace.
3. The fence was built in 2007. The application for a variance is to seek compliance with the Land Development Code.

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