

Board of Zoning Adjustment

Staff Report

May 15, 2023



Case No:	23-VARIANCE-0028_23-VARIANCE-0039_ and 23-WAIVER-0051
Project Name:	Logan Street Enclosure
Location:	1110 Logan Street
Owner:	Fam 1 Reality Group LLC
Applicant:	Ibraheem Abdallah
Jurisdiction:	Louisville Metro
Council District:	6-Phillip Baker
Case Manager:	Amy Brooks, Planner I

REQUEST:

Waiver from Land Development Code section 10.2.10.A to not provide a five-foot landscape buffer area between any lot containing a vehicular use area and a non-residentially zoned lot with a first floor residential use.

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed the maximum height in the front yard setbacks

Variance from the Land Development Code section 5.2.2 allow a structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	5ft.	2 ft.	3 ft.
Front Yard Setbacks (Logan St.)	42 in.	60 in	18 in.
Front Yard Setback (Chester Ave)	42 in	96 in.	54 in.

CASE SUMMARY/BACKGROUND

The subject site is zoned OR-2 Office-Residential in the Traditional Neighborhood Form District. The property fronts both Logan Street and Chester Avenue in the Shelby Park neighborhood. The subject property is developed with a two-story mixed-used building. The first story of the building contains 1752 square feet of business office space while the second story contains two-dwelling units. The applicant is proposing to enclose the existing wood deck and stairs in the side yard setback near the northeast property line.

In addition, the applicant has constructed a fence along the property lines that exceed the maximum allowed height in the front yard setbacks along both Logan and Chester Ave. As this is a double frontage lot, there are two front yards; both yards limit the maximum allowed fence height to 42 inches. There is an existing 11 ft wall that is on the property that was constructed prior to 2003, as well. The applicant is also proposing to provide a 3877 square- foot parking lot behind the building. As such, the parking lot requires the applicant to provide a buffer area from the adjacent first-floor residential use on the adjacent properties.

STAFF FINDINGS

Staff finds that the waiver request and side yard setback variance are adequately justified based on staff's analysis contained in the standard of review.

Staff finds that the fence height variance on Chester Ave meets the standards of review of (b), (c), and (d). However, staff is concerned the request does not meet standard (a) because the narrow street on which the fence is located has limited room for vehicular maneuverability.

Staff finds that the fence height variance on Logan Street is not adequately justified based on staff's analysis contained in the standard of review. Staff is concerned the fence does not meet standards (b) and (d) because it does not complement the character of the neighborhood.

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 variances and a waiver as established in the Land Development Code.

TECHNICAL REVIEW

The applicant will need to apply for building permits and might need to seek MSD approval for the issues concerning drainage in the vehicular use area.

INTERESTED PARTY COMMENTS

There have been no comments received by staff.

RELATED CASES

COM-ADD-22-00015
ENF-ZON-22-000424

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 10.2.10.A

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The request not to provide the landscape buffer area will not affect adjacent property owners. The applicant is planning to provide continuous 8-foot screening between both neighboring properties and the subject site thereby mitigating possible disturbance from the parking area.

- (b) The waiver will violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or

pedestrians. The lot is rather narrow and does not allow for enough room for a landscape buffer on both property lines. The area where the buffers are required are along other parking areas of the adjacent uses, and the applicant is providing a LBA on the northern property line.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring existing site conditions into compliance. The lot is rather narrow and does not allow for enough room for a landscape buffer on both property lines. The area where the buffers are required are along other parking or private yard areas of the adjacent properties.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application has incorporated other design measures that exceed the minimums of the district including providing an eight-foot screen along the perimeter property lines in the rear of the building that are adjacent to single-family residential uses.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.2

- (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, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested.

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

STAFF: The structure will not alter the essential character of the general vicinity as there are primary structures along this stretch of Logan Street that seemingly encroach into the side yard setback. The principal structures at 1108 and 1112 Logan Street are comparable examples.

- (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 structure must be constructed to comply with all building codes.

- (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 breezeway location is like other primary structures along the block that are built into the side setback. Additionally, OR-2 zoned properties have no side yard setback unless they are adjacent to single-family residential uses. Had the surrounding properties not

been single-family uses, there would have been no minimum setback from the adjacent property.

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 generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

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 not an unnecessary hardship on the applicant as the size of the proposed breezeway and existing could be reduced in size to allow for a lesser variance request.

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. The applicant has already completed construction on the deck that is to be enclosed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.3.A.1.a.i (Chester Avenue)

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

STAFF: Staff is concerned that the height of the fence in the front yard setback along Chester Avenue may cause a potential issue to the public because there is limited room for vehicular maneuverability that could provide an impediment when entering/exiting the rear parking lot on the subject site. The width of Chester Avenue is around 15 feet when measured on GIS.

- (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 because there are several fences that front Chester Avenue that seemingly exceed 42 inches. These taller fences are providing a demarcation line between the public street, and the private parking areas provided in the neighborhood behind the principal structures.

- (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 this portion of the fence must be constructed to comply with all building codes.

- (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 eight-foot fences would be allowed from what seemingly operates as a rear yard along a rear property line, if this were not a double- frontage lot, which the LDC regulates as a front yard setback.

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 generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

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 create an unnecessary hardship on the applicant as there is sufficient open space to move the required fence out of the required 15-foot front yard setback.

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. The applicant has already completed construction on the fence.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.3.A.1.a.i (Logan Street)

- (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, because the proposed fence will be setback far enough from the edge of the pavement and any vehicle corridor as not to obstruct vision clearance.

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

STAFF: The requested variance will alter the essential character of the general vicinity because. While there is a fence at 1112 Logan that is seemingly the same height and constructed with similar material, most of the fences in the block adhere to the maximum height regulations as prescribed by the Land Development Code for the Traditional Neighborhood form district. In addition, there is no indication that the fence at 1112 Logan Street was approved to exceed 42 inches when it was constructed in 2021 or 2022. (Please see site photos for example).

- (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 proposed fence will not obstruct any vision fields associated with the safe movement of pedestrians and vehicles along Logan Street.

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

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations because the fence could be modified or shifted back to bring the site into compliance with the LDC.

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 generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

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 create an unnecessary hardship on the applicant as the fence could be modified or reduced to meet current regulations.

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. The applicant has already completed construction on the fence.

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.

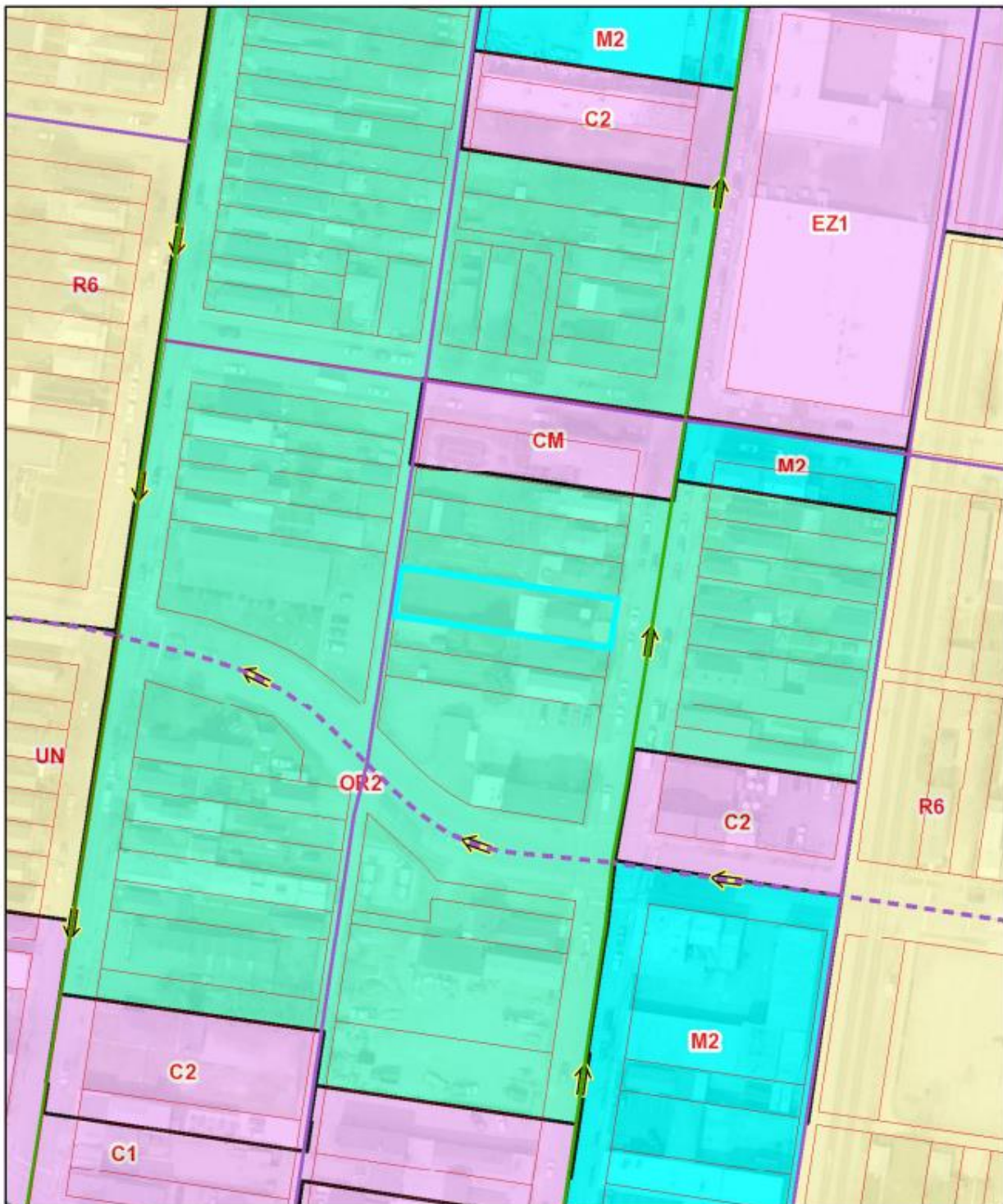
NOTIFICATION

Date	Purpose of Notice	Recipients
05/01/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 6
5/03/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



Friday, May 5, 2023 | 11:53:14 AM



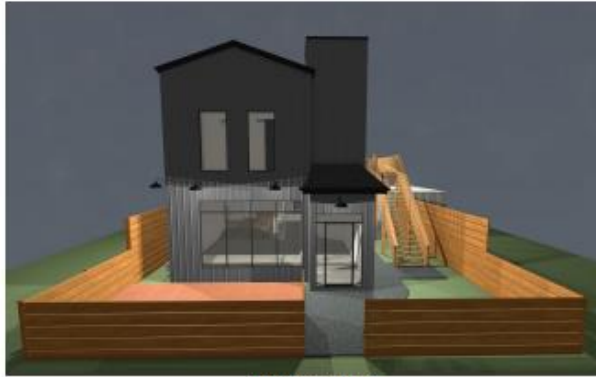
LOJIC © 2023

This map is not a legal document and should only be used for general reference and identification

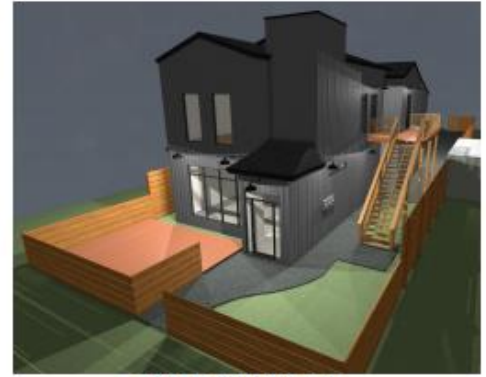
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4. Elevations



FRONT VIEW



FRONT RIGHT VIEW



FRONT LEFT VIEW



REAR LEFT VIEW



REAR RIGHT VIEW



REAR VIEW

5. Site Photos



Front of subject property.



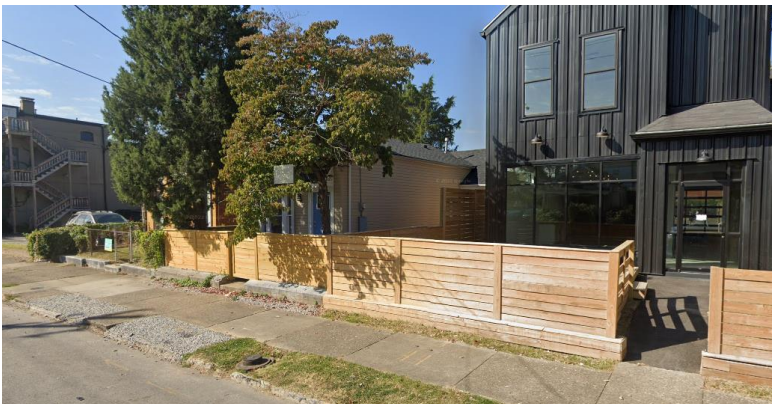
Right of the subject property.



Left of subject property.



Example of fences along the 1100 block of Logan Street. Google street view, October 2022.



1110 and 1112 Logan Street. Google Street view, October 2022.



1110 and 1112 Logan Street. Google street view, April 2021.



Across Logan Street from subject property.



View of side yard setback variance area.



View of side setback variance area.



View of fence and parking lot.



View of parking area, fence, and existing block wall.



Examples of fences along Chester Avenue