

Board of Zoning Adjustment

Staff Report

June 4, 2018



Case No:	18VARIANCE1047
Project Name:	4003 Elmwood Avenue Fence
Location:	4003 Elmwood Avenue
Owner(s):	Julie & Robert Dixon
Applicant:	Robert Dixon
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 in the required front yard setback to exceed 4 feet in height.

Location	Requirement	Request	Variance
Fence	4 feet	6 feet	2 feet

CASE SUMMARY/BACKGROUND

The subject property is located in the City of St. Matthews, and currently contains a one-story single-family residence. The residence faces Elmwood Avenue, but the front yard faces St. Matthews Avenue. The applicant proposes to construct a new six-foot privacy fence in the required front yard setback facing St. Matthews Avenue. City of St. Matthews Development Code section 9.1.B.1.a allows a fence in the required front yard setback to be no more than 4 feet in height. The applicant requests a variance to allow the fence to be 6 feet 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 City of St. Matthews Development Code section 9.1.B.1.a to allow a fence in the required front yard setback to exceed 4 feet in height.

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 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 proposed fence is to be located well away from the corner, and will not create a health, safety or welfare issue for turning vehicles.

- (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 another, similar fence across the street from this property which extends in the street side yard setback.

- (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 proposed fence will not obstruct sight lines for turning vehicles 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 the right-of-way for St. Matthews Avenue is significantly wider than the pavement, with the result that the fence will be set back considerably from the St. Matthews Avenue edge of pavement.

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 similar in size to other lots in the immediate neighborhood.

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 by preventing the applicant from constructing a privacy fence to enclose a side patio.

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 begun construction.

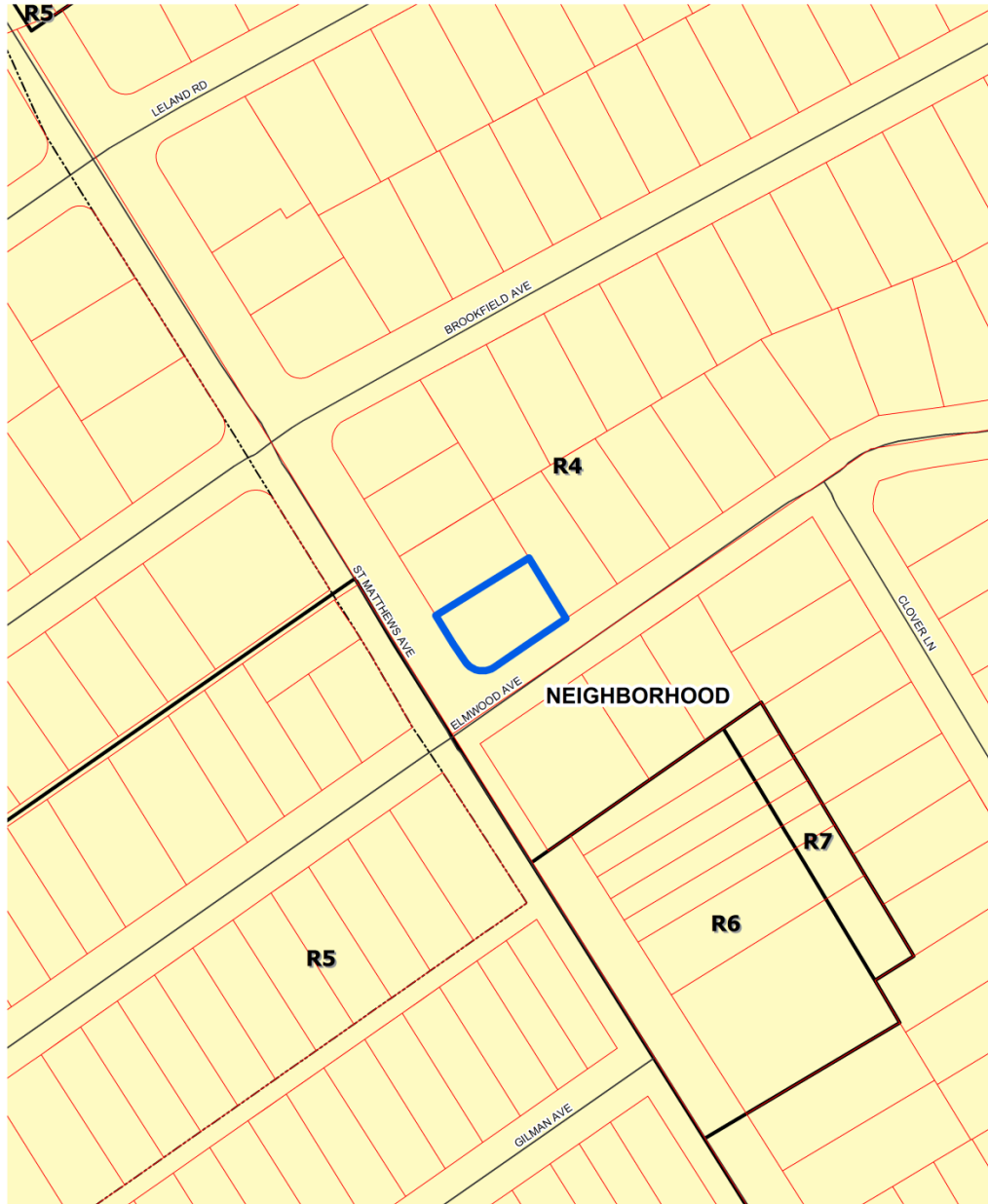
NOTIFICATION

Date	Purpose of Notice	Recipients
05/17/2018	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9
05/18/2018	Hearing before BOZA	Notice posted on property

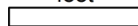
ATTACHMENTS

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

1. **Zoning Map**



4003 Elmwood Avenue
feet

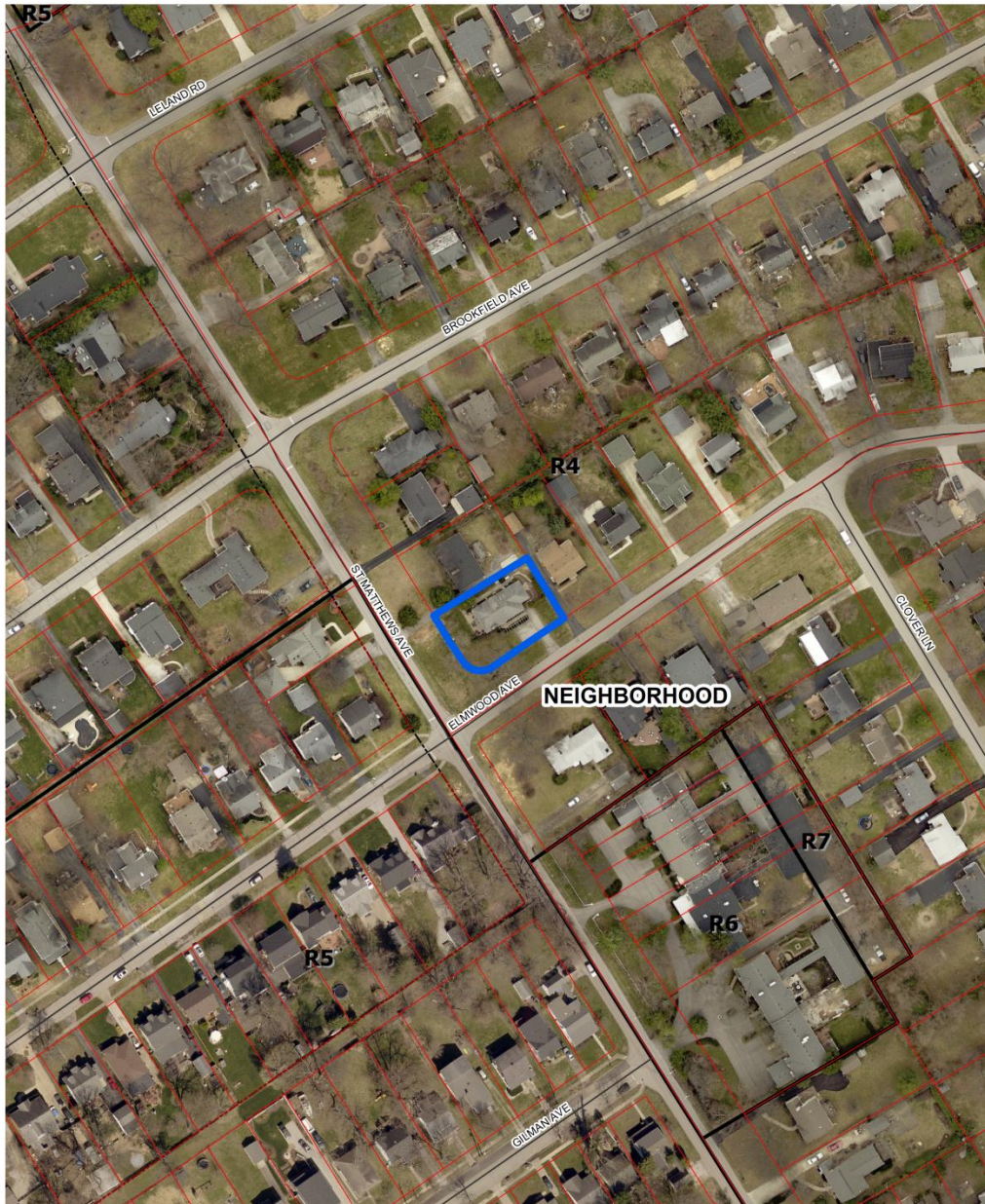


140
Map Created: 5/23/2018

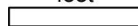


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2. Aerial Photograph



4003 Elmwood Avenue
feet

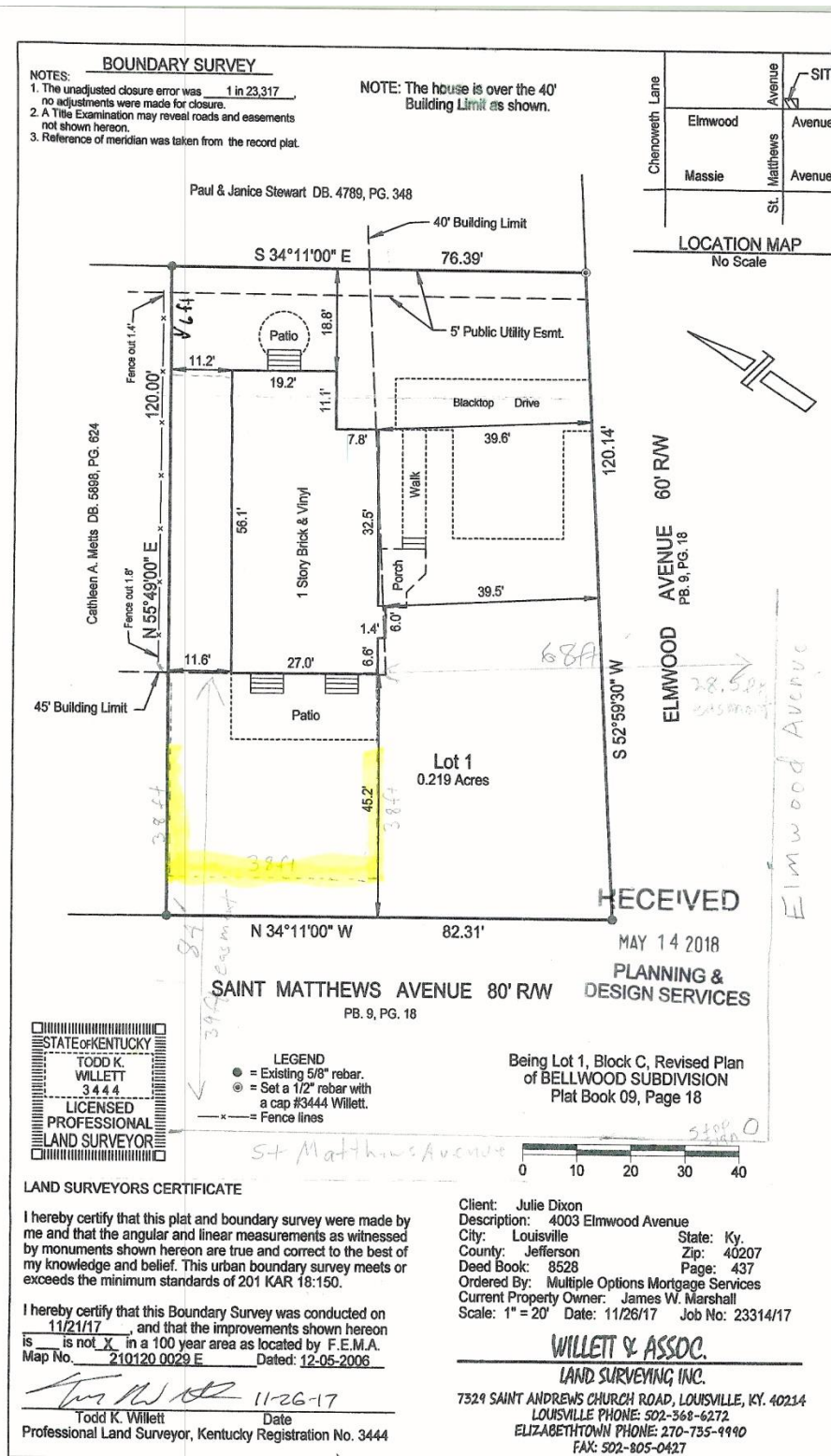


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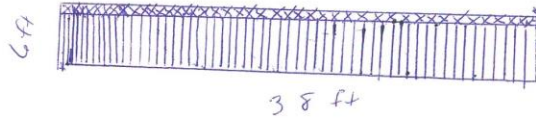


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3. Site Plan



4. Elevation



RECEIVED
MAY 14 2018
PLANNING &
DESIGN SERVICES

1" = 10 ft

1" X 6" X 5 pickets with posts on inside of fence with framed lattice
38 feet with no gates. Access from house on
3 sides on the other side (back) of house in the 10 1/2 foot section
gate from edge of house to existing fence
going

181144-DNC-0010

5. **Site Photos**



The front of the subject property and the side of the residence with the patio to be enclosed.



The street side yard of the subject property and the front of the residence.



The property across Elmwood Avenue.



The property across St. Matthews Avenue with a similar fence.



The property to the left of the subject property.



The existing front yard and yard within the St. Matthews Avenue right of way.



A nearby, similar fence.