

Board of Zoning Adjustment

Staff Report

October 1, 2018



Case No.	18VARIANCE1072
Project Name	Fence Height Variance
Location	2514 Kings Highway
Owner/Applicant	Amy Baach/Indras Moontree
Jurisdiction	Louisville Metro
Council District	8 – Brandon Coan
Case Manager	Beth Jones, AICP, Planner II

REQUESTS

Variance to permit a fence to exceed the permitted height in an R-5 Single-Family Residential zone (LDC 4.4.3.1.)

Location	Requirement	Request	Variance
Side Yard	4 ft	6 ft	2 ft

CASE SUMMARY / BACKGROUND

The site is located on the south side of Kings Highway between Taylorsville Road and Emerson Avenue. It and all adjoining properties are zoned R-5 Single-Family Residential within a Neighborhood Form District and are single-family residential in use.

The applicant is requesting a variance for existing fencing located along the Emerson Avenue side yard. As it is the closest entrance to the home from the detached garage, the side entrance on Emerson serves as the primary access point for the home's residents. The fencing serves as a screen from adjoining properties across Emerson Avenue for this entrance and is built of horizontal wood slats with a gate and pergola near the center point.

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, 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 to permit a fence to exceed the permitted height in an R-5 Single-Family Residential zone.

TECHNICAL REVIEW

No technical review comments remain to be resolved.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties. The applicant has submitted a document signed by 18 neighbors to the property stating that “they have no complaints about the wood panel they have installed in their side yard.”

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM LDC 5.3.1 (Table 5.3.2)

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

STAFF: The requested variance does not adversely affect the public health, safety or welfare as it is located outside of the public right-of-way and does not interfere with pedestrian or vehicular traffic.

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

STAFF: The fencing does not alter the essential character of the vicinity as it is built of compatible materials in a decorative manner. In addition, the applicant has obtained the signature of neighbors in approval of the existing fencing.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The proposed construction meets current building codes and requirements and does not cause a public hazard or nuisance through excessive noise, vibration, odor or light.

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

STAFF: The requested variance is not unreasonable as it is not out of character for residential properties in the vicinity.

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 fencing provides side yard privacy for a residence on a corner lot.

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 application of the regulation would not allow the fencing to provide the privacy for which it is intended.

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 fencing was constructed before the variance was sought. The applicant did apply for and receive permission to construct the fencing from the City of Kingsley, subject to a bond.

NOTIFICATION

Date	Purpose of Notice	Recipients
9/14/2018	Hearing before BOZA	1st and 2nd tier adjoining property owners
		Registered Neighborhood Groups in Council District 8
		Sign Posting

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph

