

# Board of Zoning Adjustment

## Staff Report

February 4 , 2019



<b>Case No:</b>	18VARIANCE1114
<b>Project Name:</b>	Fence Height
<b>Location:</b>	1216 Abbeywood Road
<b>Owner/Applicant:</b>	Sara Jones Anderson
<b>Jurisdiction:</b>	City of St. Matthews
<b>Council District:</b>	7—Paula McCraney
<b>Case Manager:</b>	Steve Hendrix, Planning Coordinator

### REQUEST

- **Variance** from the City of St. Matthews Development Code, Section 9.1.B.1.a. to allow an existing 6 foot high wooden privacy fence to be located in the Westport Road street side yard setback.

Location	Requirement	Request	Variance
Street Side Yard	4 feet	6 feet	2 feet

### CASE SUMMARY/BACKGROUND

The subject 0.215 acre property is located on the southwestern corner of the Westport Road/Abbeywood Road intersection in the City of St. Matthews. The fence is approximately 20 feet from the property line and about 31 feet from the Westport Road pavement. The applicant has noted security, safety and noise abatement as the main reasons for the fence.

### 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 St. Matthews Development Code, Section 9.1.B.1.a. to allow the existing 6 foot high wooden privacy fence in the street side yard.

### TECHNICAL REVIEW

- No technical comments.

## **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 since the new wooden privacy fence will not create any type of sight distance concerns.

- (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, since privacy fences are common in the area.

- (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, but will provide a sense of safety and privacy to the applicant.

- (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, since the variance is only for 2 feet.

## **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 which do not generally apply to land in the general vicinity or the same zone, due to the size and shape of the lot and being on a corner.

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, since the backyard would not be as secure and the noise would probably increase.

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 applicant was not aware that a variance would be required.

## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
01/16/2019	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners
01.18/2019		Registered Neighborhood Groups in Council District 7
01/18/2019	Hearing before BOZA	Notice posted on property

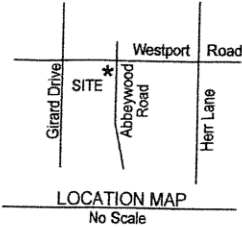
## **ATTACHMENTS**

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

**NOTES:**

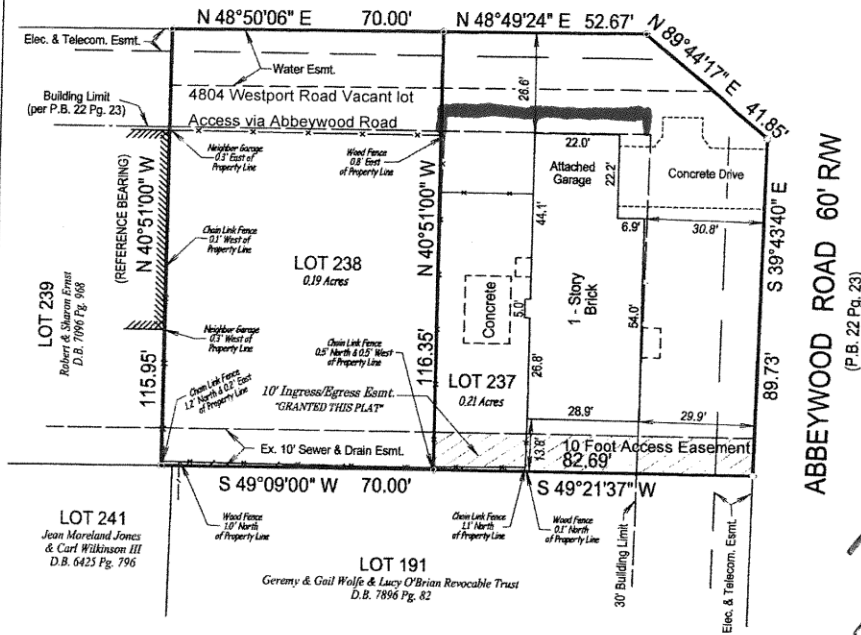
1. Site is subject to all right-of-ways, easements and restrictions of record or implied.
2. The surveyor did not make a search for easements, encumbrances, restrictions, ownership title evidence or other records that a complete and accurate title search may disclose.
3. The certification of this survey is made of this date and is subject to any future facts that more accurately describe or establish the boundary shown herein.
4. Surrounding owner information is shown per PVA records.
5. The basis of bearing was taken from the record plat.
6. Unless otherwise shown, structures shown are the footprint only.
7. This site is located in Zone X per Firm Map 2111C0030 E dated December 5, 2006 and is not located within a 100 year flood plain (0.1% chance). Flood Plain Certification is restricted to a review of the FIRM and shall not be construed as a confirmation or denial of flooding potential.

Being Lot 237 & 238, Sect. 6  
Camelot Subdivision  
Plat Book 23, Page 22



**WESTPORT ROAD R/W VARIES**

(D.B. 7144 Pg. 117 & D.B. 7239 Pg. 568)

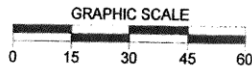


**LEGEND**  
= Existing 1" Pipe  
\* = Set 1/2"x18" Rebar with cap stamped "SCHROLL 3570"

**LAND SURVEYORS CERTIFICATE**

I hereby certify that the survey depicted by this plat was done by me or by persons under my direct supervision on June 6, 2018 by the method of random traverse. The unadjusted precision ratio of the survey is 1:18,807 and was not adjusted. The survey as shown hereon is an "Urban" Survey and the accuracy and precision of said survey meets all the specifications of this class.

William D. Schroll III Date 6-9-18  
Professional Land Surveyor, Kentucky Registration No. 3570



**BOUNDARY SURVEY & EASEMENT PLAT**  
This Survey complies with KAR 18.150

Survey of: 1216 Abbeywood Road & 4804 Westport Road  
Louisville, Ky. 40222  
Owner: Pauline B. Comish Estate  
700 Sentry Way, Louisville, Ky. 40223  
Source of Title: W.B. 685 Pg. 204  
For: Sarasota Properties, LLC.  
Ordered By: Bob Buckler  
Scale: 1" = 30'  
Drawn Date: 06/07/18 Job No: 2430/18  
Drawn By: Todd Stayton

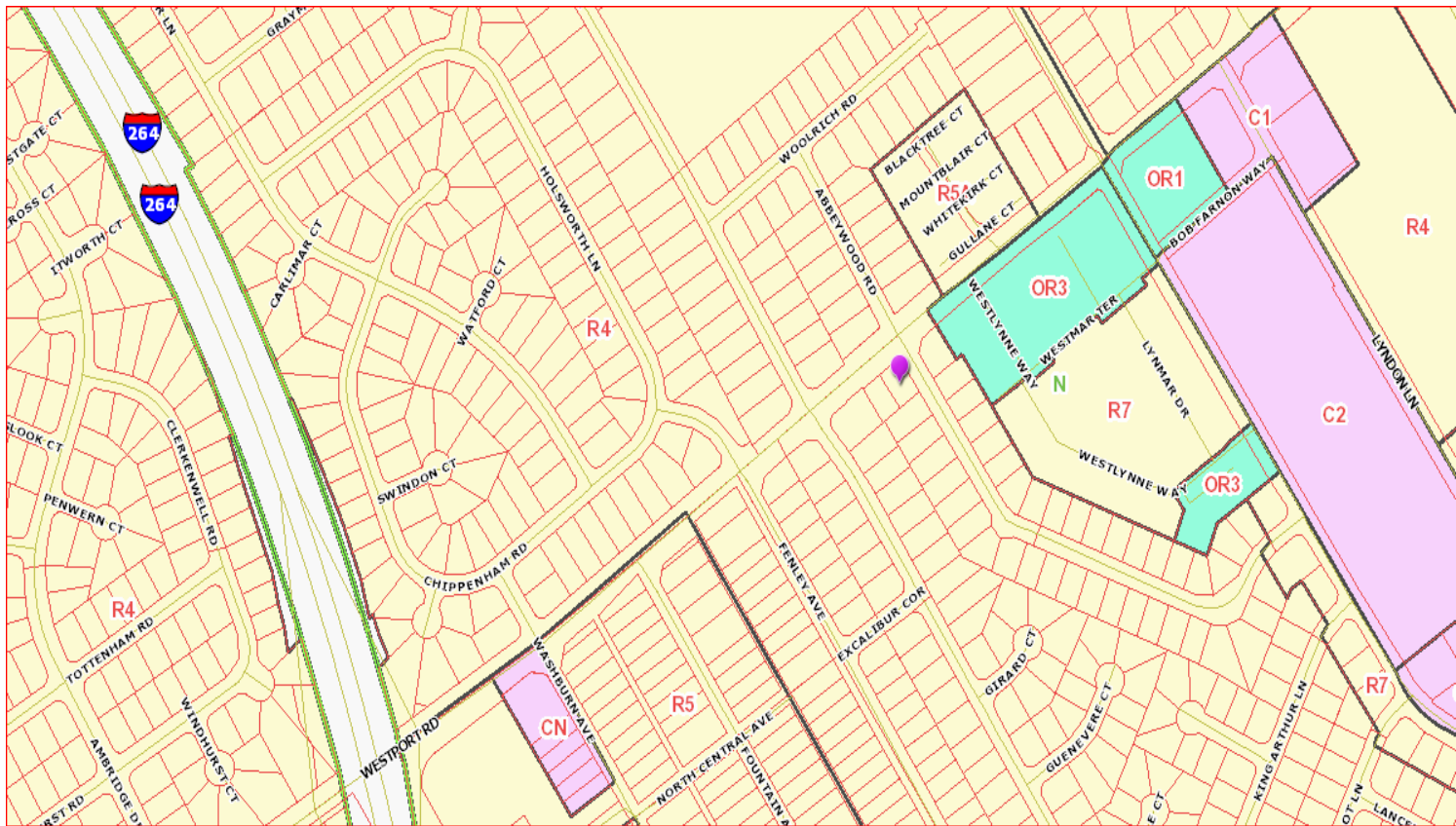
**SCHROLL LAND SURVEYING LLC.**

5450 Southview Dr., LOUISVILLE, KY. 40214  
Phone: 502-367-7660  
Mobile: 502-594-6773

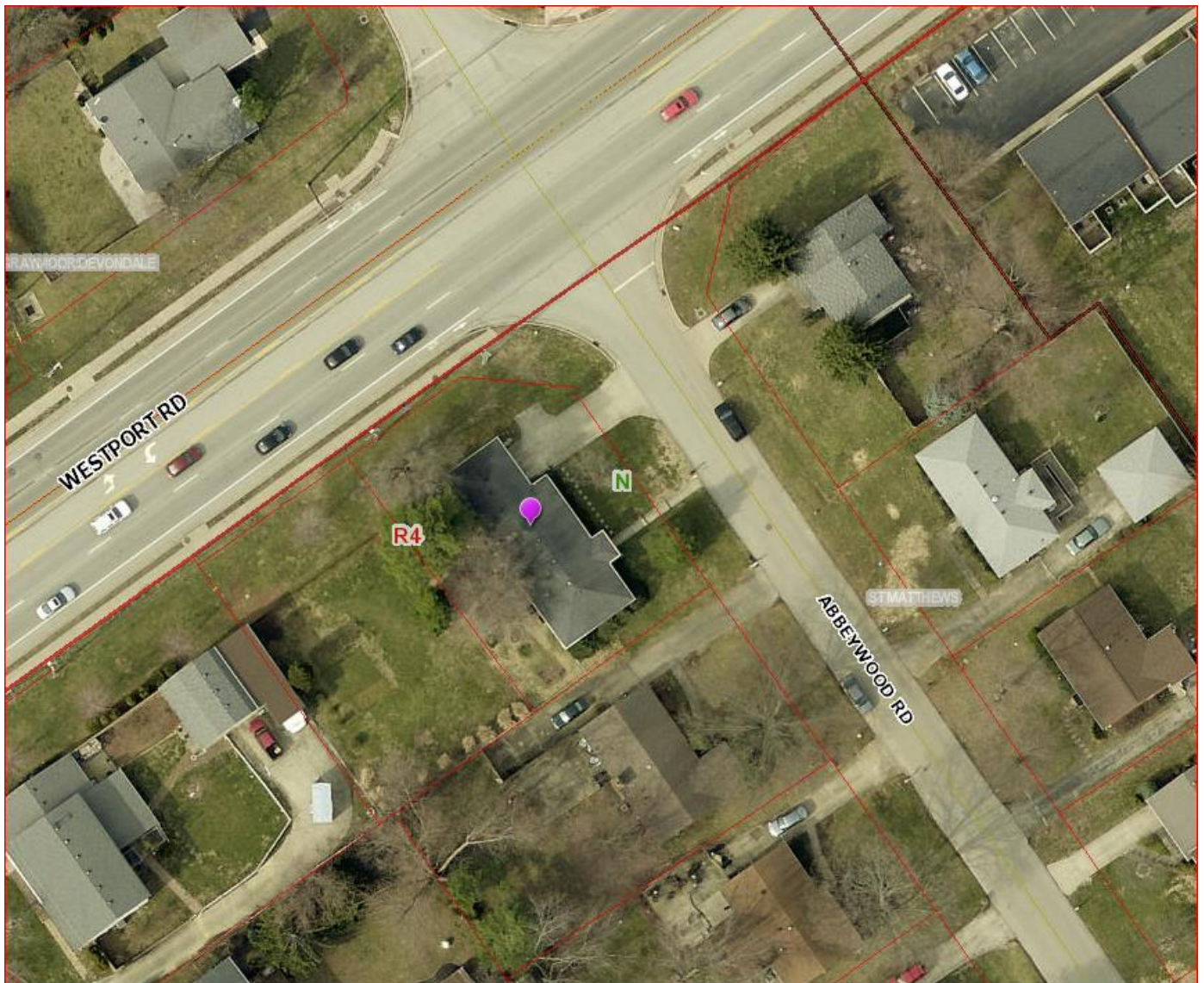
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DEC 13 2018  
DESIGN SERVICES

18Variance1114

# Zoning Map



## Aerial Map





(Looking west down Westport Road toward the Watterson)



Looking east down Westport Road toward Herr Lane





**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.

The variance for the fence at the North side of my property is on Westport Rd. It provides privacy, noise abatement and safety for me.

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

The fence which is already in place is an upgrade to the corner of Adeywood and Westport, now the constant stream of cars and trucks can't see in my backyard therefore improving the neighborhood.

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

The fence which is far from my property line on Westport doesn't cause any hazard to drivers or pedestrians. It may stop a speeding car from hitting my house in a car accident.

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

This variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the fence is purely a privacy fence that also improves the look of neighborhood.

**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).

I do have special circumstances that force me to fence my back and side yard.

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.

If I had to lower the Westport Rd. fence to 4', I would then be vulnerable to many things: robbery, etc.

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

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