

# Board of Zoning Adjustment

## Staff Report

February 03, 2020



<b>Case No:</b>	19-VARIANCE-0082
<b>Project Name:</b>	Applewood Variance
<b>Location:</b>	1724 Applewood Lane
<b>Owner:</b>	Estate of Henry Kaelin Jr.
<b>Applicant:</b>	Monica Lynn Willing
<b>Jurisdiction:</b>	City of Graymoore-Devondale
<b>Council District:</b>	7 – Paula McCraney
<b>Case Manager:</b>	Nia Holt, Planner I

### REQUEST

- **Variance** from Land Development Code (LDC) section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood Form District to exceed 48 inches in height.

Location	Requirement	Request	Variance
Street Side Yard	48 inches	96 inches	48 inches

### CASE SUMMARY/BACKGROUND

The subject property is a corner lot located at the intersection of Westport Rd and Applewood Ln. There is a single-family residence on the site. The applicant plans to construct an 8 ft wooden privacy fence (or 96 inches) along the Westport Rd street side yard. The Graymoore-Devondale Land Development Code section 4.4.3.A.1.a.i allows a fence in the street side yard setback in the Neighborhood Form District to be up to 48 inches in height. According to the applicant the proposed fence will be like the fence currently on the property across Applewood Ln.

### 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 Land Development Code to allow a fence in the street side yard setback in a Neighborhood Form District to exceed 48 inches in height.

Staff proposes a condition of approval regarding the design of the fence.

### TECHNICAL REVIEW

No technical review needed.

### RELATED CASES

There are no related cases.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.3.A.1.a.i**

- (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 fence is not within the sight triangle and does not interfere with vision clearance at the intersection of Westport Rd and Applewood Ln.

- (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 a similar fence across the street on Applewood Ln and the property backs up to Westport Rd which is classified as a minor arterial.

- (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 fence will not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection.

- (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 fence will provide screening between a single-family residence and Westport Rd.

### **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 as the property is a corner lot along a busy corridor.

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 permit the property owner to provide screening to their property which would mitigate nuisances that come with being adjacent to a busy corridor such as Westport Rd.

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 started construction.

### **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.

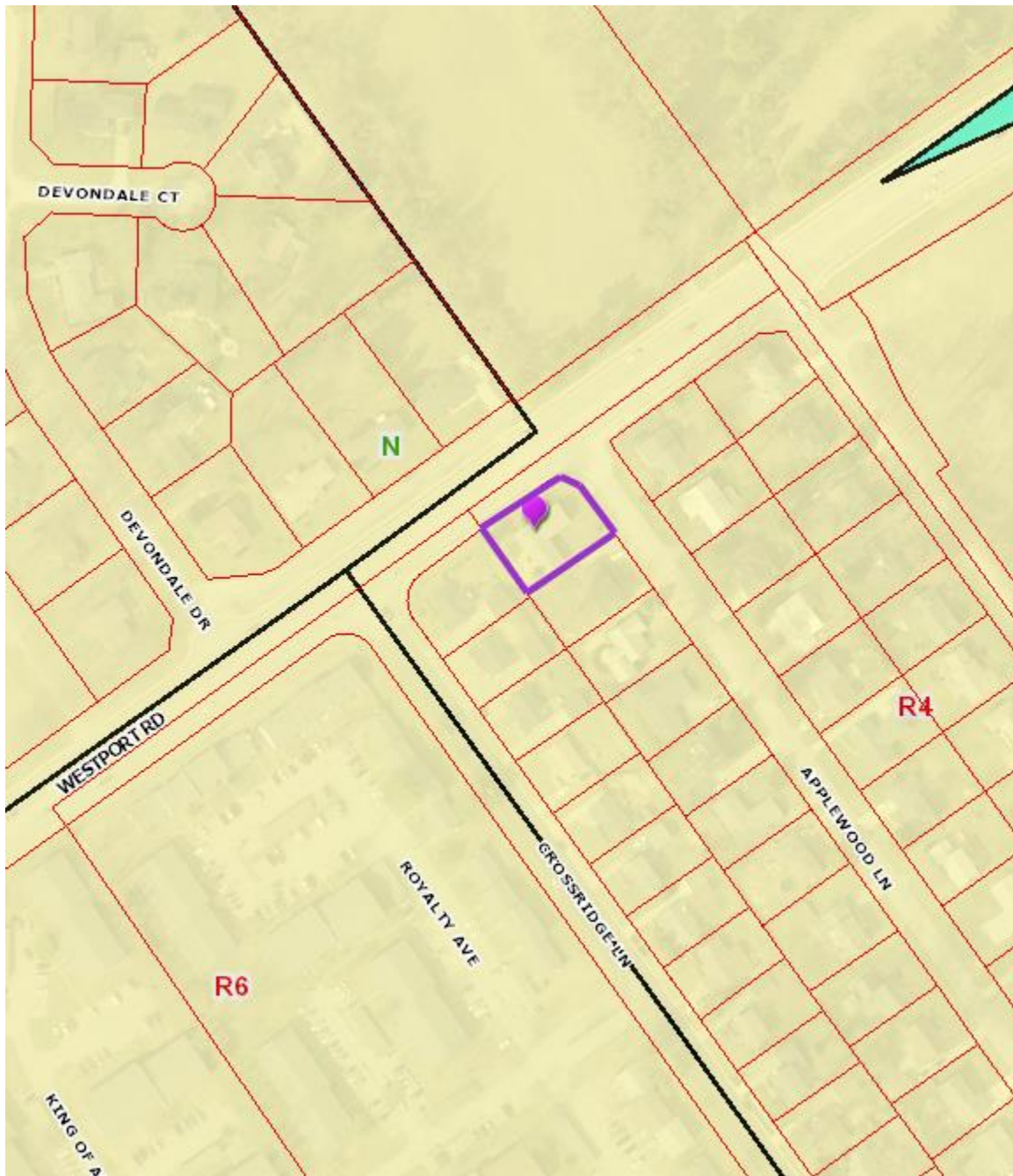
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
1/17/20	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 13
1/24/20	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Condition of Approval

1. **Zoning Map**



2. **Aerial Photograph**





3. Site Plan

12/30/2019 Proposed 8' wooden fence drawn in <sup>RED</sup> Print Layout To be placed 5' from sidewalk



#### 4. Condition of Approval

The privacy fence shall be installed outside of the right-of-way on the subject property. The finished side of the fence shall face outwards from the subject property.