

**Board of Zoning Adjustment**  
**Staff Report**  
 October 26, 2020



<b>Case No:</b>	20-VARIANCE-0065
<b>Project Name:</b>	Bank Street Variance
<b>Location:</b>	3526 & 3528 Bank Street
<b>Owner/Applicant:</b>	Robert Payne
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5 – Donna Purvis
<b>Case Manager:</b>	Jon E. Crumbie, Planning & Design Coordinator

**REQUEST**

- **Variance** from Land Development Code (LDC) section 4.4.3.A.1.a.i to allow a fence in the front yard in a Traditional Workplace Form District to exceed 42 inches in height.

Location	Requirement	Request	Variance
Fence in Bank St. Front Yard	42 inches	72 inches	30 inches

**CASE SUMMARY/BACKGROUND**

The subject property is in the Portland Neighborhood and is zoned Urban Neighborhood in the Traditional Workplace Form District. It currently contains a single-family residence. The applicant has constructed a six-foot wooden privacy fence along the Bank Street frontage. Land Development Code section 4.4.3.A.1.a.i allows a fence in the front yard setback in the Traditional Workplace Form District to be up to 42 inches in height. The fence on the subject site is located in the front yard and is 6 feet or 72 inches 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 Land Development Code to allow a fence in the front yard setback in a Traditional Workplace Form District to exceed 42 inches in height.

## **TECHNICAL REVIEW**

No technical review was undertaken.

## **RELATED CASES**

There is an open enforcement case under case #ENF-ZON-20-000719.

## **INTERESTED PARTY COMMENTS**

None.

## **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 right of way.

- (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 are a few fences in the front yard setback although this portion of Bank Street, but they are chain link and approximately 4 feet in height.

- (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.

- (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 applicant's lot is adjacent to a vacant strip of land that serves as a cut through to the Kroger at the rear of the 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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the adjacent lot serves as a cut through to get to Kroger's.

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 as the applicant would not be able to screen and get protection from foot traffic adjacent to his property.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence has been constructed and the applicant is requesting the variance.

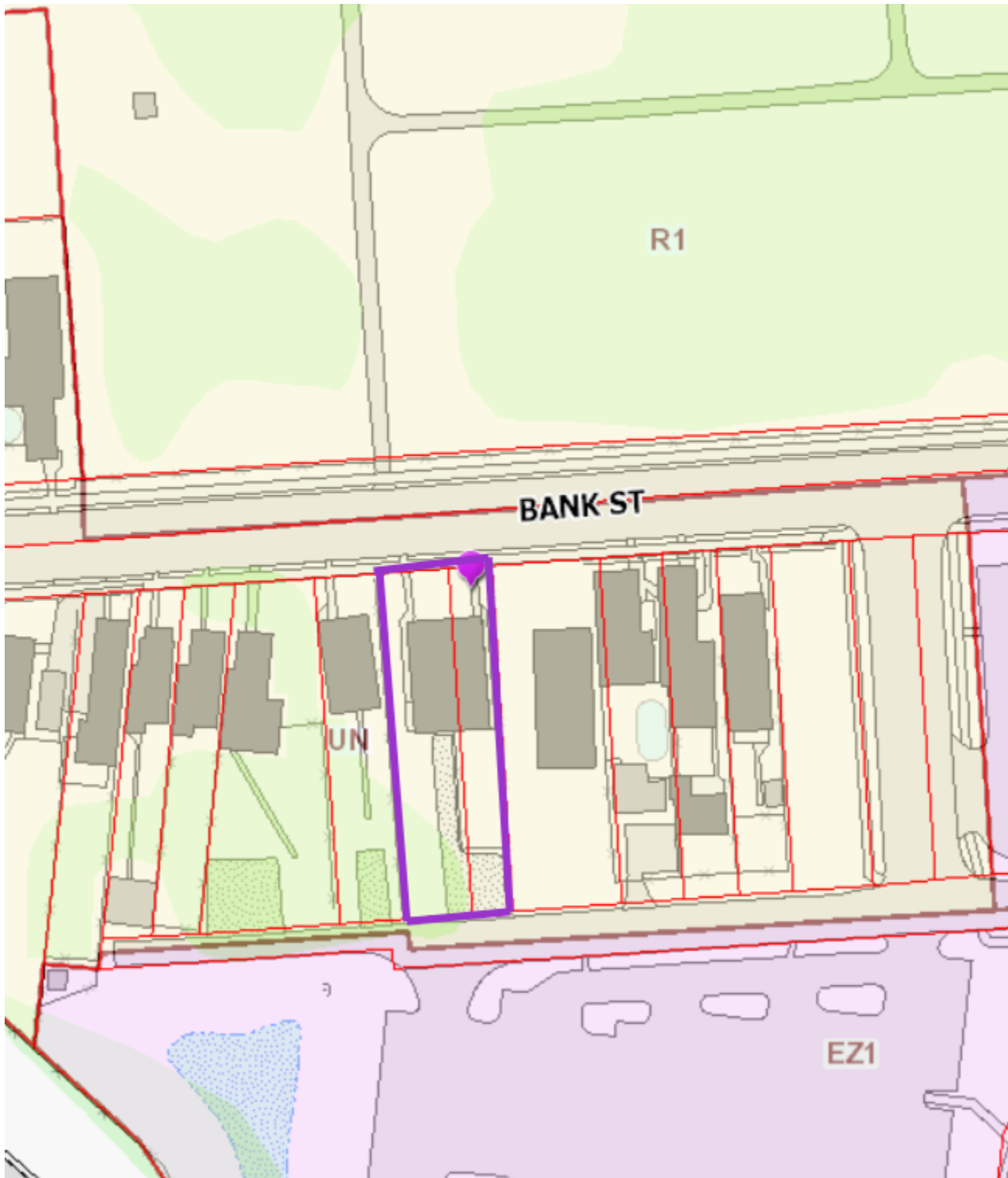
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>10/8/2020</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
<b>10/12/2020</b>	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

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

1. Zoning Map

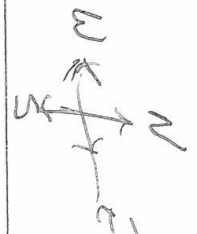


2. Aerial Photograph



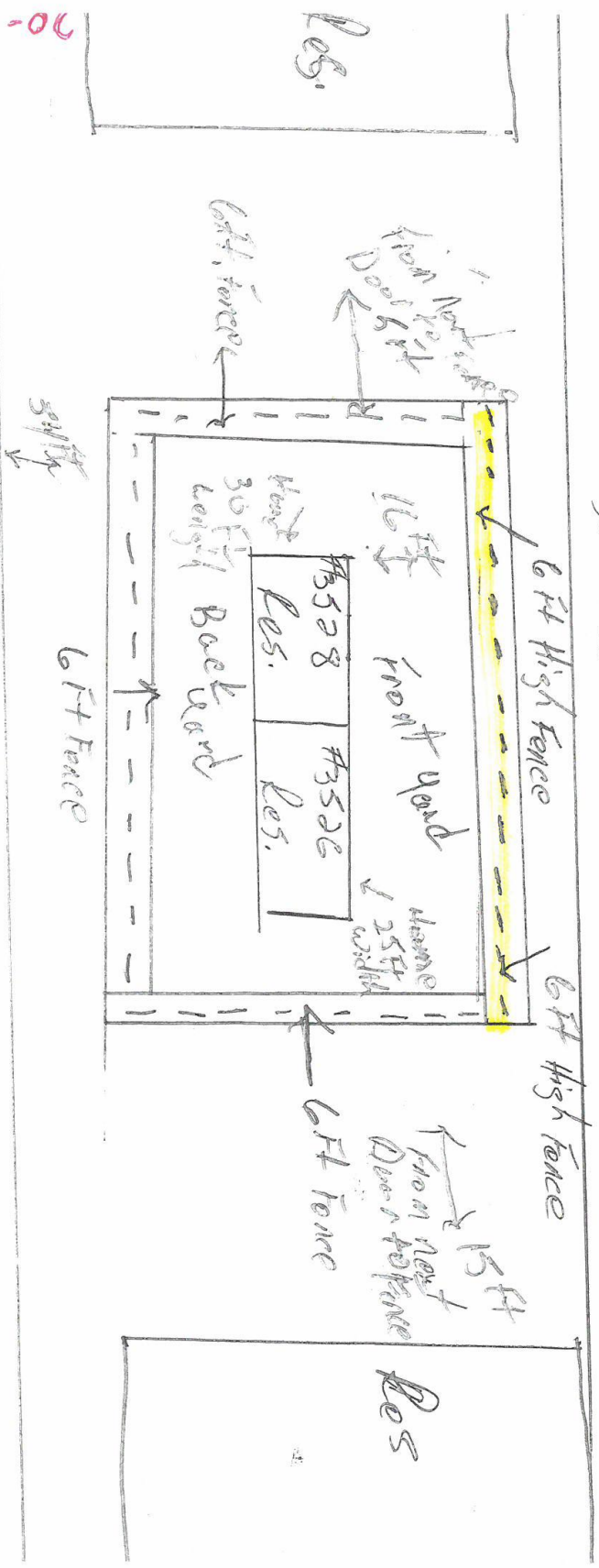
3. Site Plan

From Robert Hight - Gravel yard



Bank Street

side walk



Alley

Kroger

20-VARIANCE-0065

RECEIVED  
 AUG 28 2020  
 PLANNING & DESIGN SERVICES



**4. Site Photo**

