

Board of Zoning Adjustment

Staff Report

October 26, 2020



Case No:	20-VARIANCE-0115
Project Name:	S. 1 st Street Variance
Location:	1301 S. 1 st Street
Owner/Applicant:	James Lynd
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the street side yard setback in a Traditional Neighborhood Form District to exceed 42 inches in height.

Location	Requirement	Request	Variance
Street Side Yard	42 inches	60 inches	18 inches

CASE SUMMARY/BACKGROUND

The subject property is a corner lot in the Old Louisville neighborhood and preservation district at the intersection of S. 1st Street and E. Ormsby Avenue. The applicant proposes to construct a 60-inch cast iron fence within the street side yard setback.

Historic Landmarks and Preservation Commission staff approved the fence on condition under case number 20-COA-0086 on June 2, 2020. Planning & Design Staff does not have any recommended conditions.

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 Land Development Code section 4.4.3.A.1.a.i to allow a fence within the street side yard setback in a Traditional Neighborhood Form District to exceed 42 inches in height.

TECHNICAL REVIEW

Transportation Planning has not concluded their review yet and their comments will be provided on or before the hearing.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

20-COA-0086 – Certificate of Appropriateness for the fence

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 proposed fence provides enough transparency for motorists and pedestrians. Transportation Planning has not concluded their review yet and their comments will be provided on or before the hearing.

- (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 it was approved by Historic Landmarks and Preservation Commission staff.

- (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 is transparent enough to not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection. Transportation Planning has not concluded their review yet and their comments will be provided on or before the hearing.

- (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 fence is slightly over the requirement.

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.

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 because the fence is slightly over the requirement.

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 fence has not been constructed and the applicant is requesting the variance.

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.

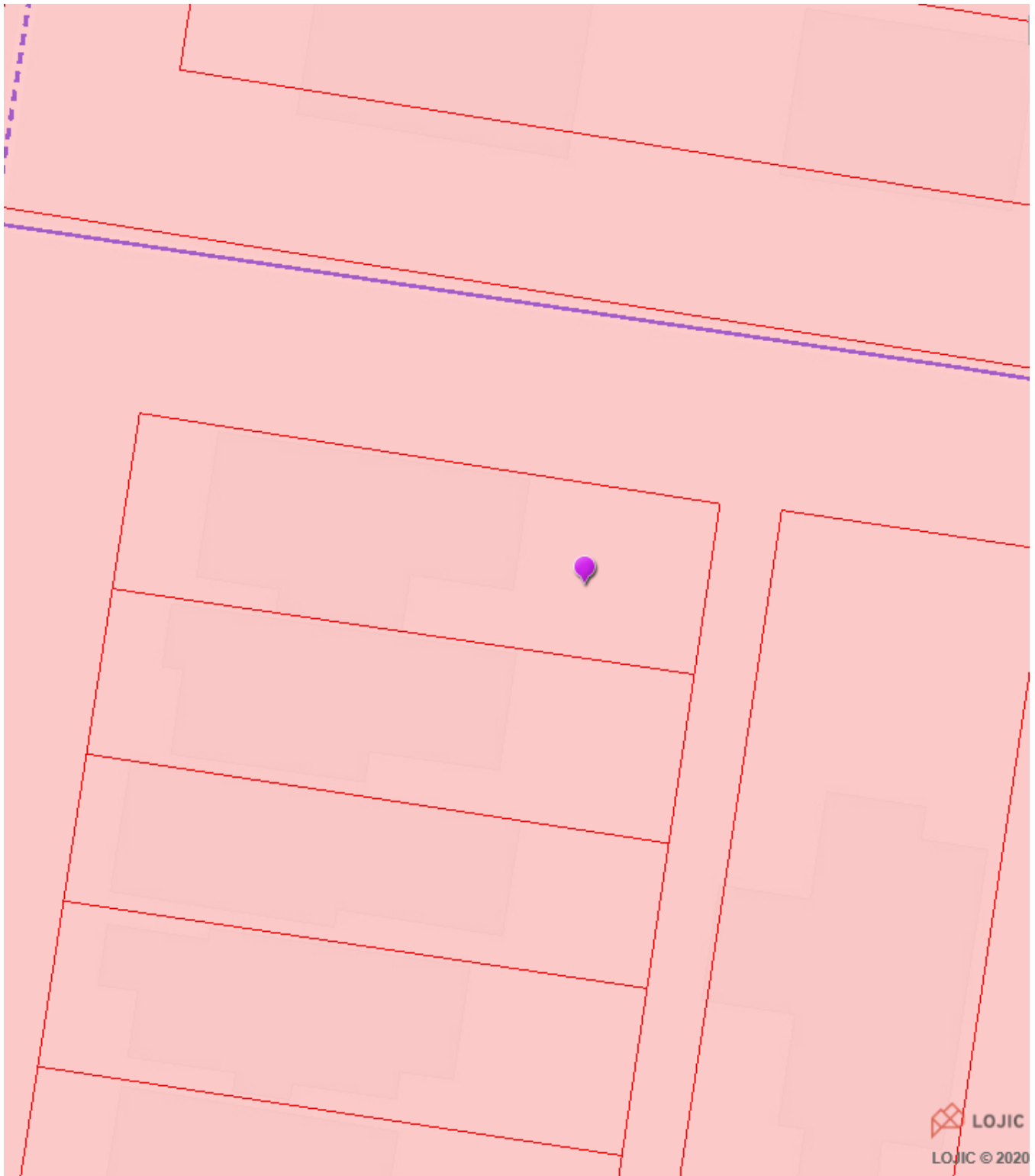
NOTIFICATION

Date	Purpose of Notice	Recipients
10/8/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 6
10/12/2020	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

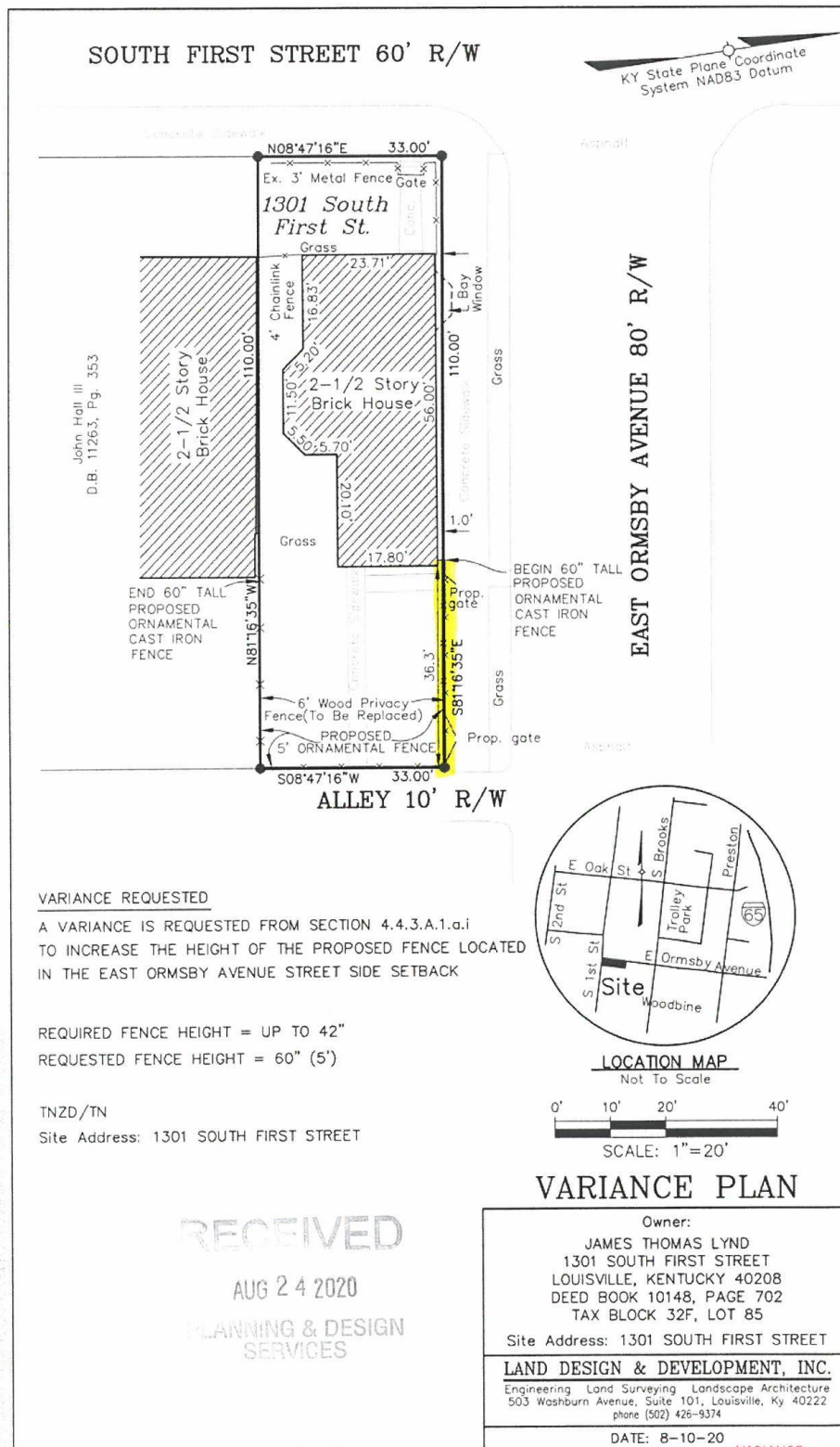
1. **Zoning Map**



2. Aerial Photograph



3. Site Plan



4. **Site Photos**



Front of subject property.



Properties across S. 1st Street.



Existing fence.



Existing fence.



Looking toward S. 1st Street from E. Ormsby Avenue.



Existing fence from alley.