

Board of Zoning Adjustment
Staff Report
March 15th, 2021



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|--------------------------|---------------------------|
| Case No: | 21-VARIANCE-0014 |
| Project Name: | Gageland Road |
| Location: | 7004 Gageland Road |
| Owner(s): | Terry Justice |
| Applicant: | Terry Justice |
| Jurisdiction: | Louisville Metro |
| Council District: | 12 – Rick Blackwell |
| Case Manager: | Rachel Mandell, Planner I |

REQUEST:

Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the front yard setback in the Neighborhood form district to exceed 48 inches in height.

| Location | Requirement | Request | Variance |
|------------|-------------|-----------|-----------|
| Front Yard | 48 inches | 72 inches | 24 inches |

CASE SUMMARY/BACKGROUND

The subject site is zoned R-4 Single-family Residential in the Neighborhood Form District. The site is in the Gageland subdivision. The applicant constructed a 6-foot fence in the front yard of the property to enclose an above ground pool which was also located in the front yard setback. The lot is diamond shaped and acts similarly to a corner lot. The location of the fence is set back from the front façade of the home and the unique shape of the lot and orientation of the home creates a very small useable quantity of rear yard.

Following an enforcement case, the applicant has agreed to move the above ground pool but would like to maintain the location of the 6-foot fence.

STAFF FINDINGS

Staff finds that the requested variance meets the standard of review for a, c and d, but may not meet standard b. The height of the fence does not conform with the immediate adjoining properties, but there are other fences within the subdivision that exceed the maximum permitted fence height in the front yard setback.

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 from Section 4.4.3.A.1.a.i to allow a fence in the front yard setback in the Neighborhood form district to exceed 48 inches in height.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

None.

RELATED CASES

ENF-ZON-20-001006

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 would not obstruct vision clearance for motorists or pedestrians.

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

STAFF: The requested variance may alter the essential character of the general vicinity since there are no other fences or structures located within the front yard setback on properties in the same block face. However, a site inspection through the subdivision has indicated that there are several similar fences within the general vicinity.

- (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 primary purpose of the fence was to enclose an above ground pool as a safety measure.

- (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 subject property is irregular in shape with a restricted backyard area, leaving the front and side yards as the primary open spaces on the lot.

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 the land in the general vicinity or the same zone since the lot is irregular in shape compared to surrounding properties in the subdivision.

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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the height of the fence could be reduced to meet the minimum requirement.

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 circumstances may be the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the fence was constructed prior to requesting the variance.

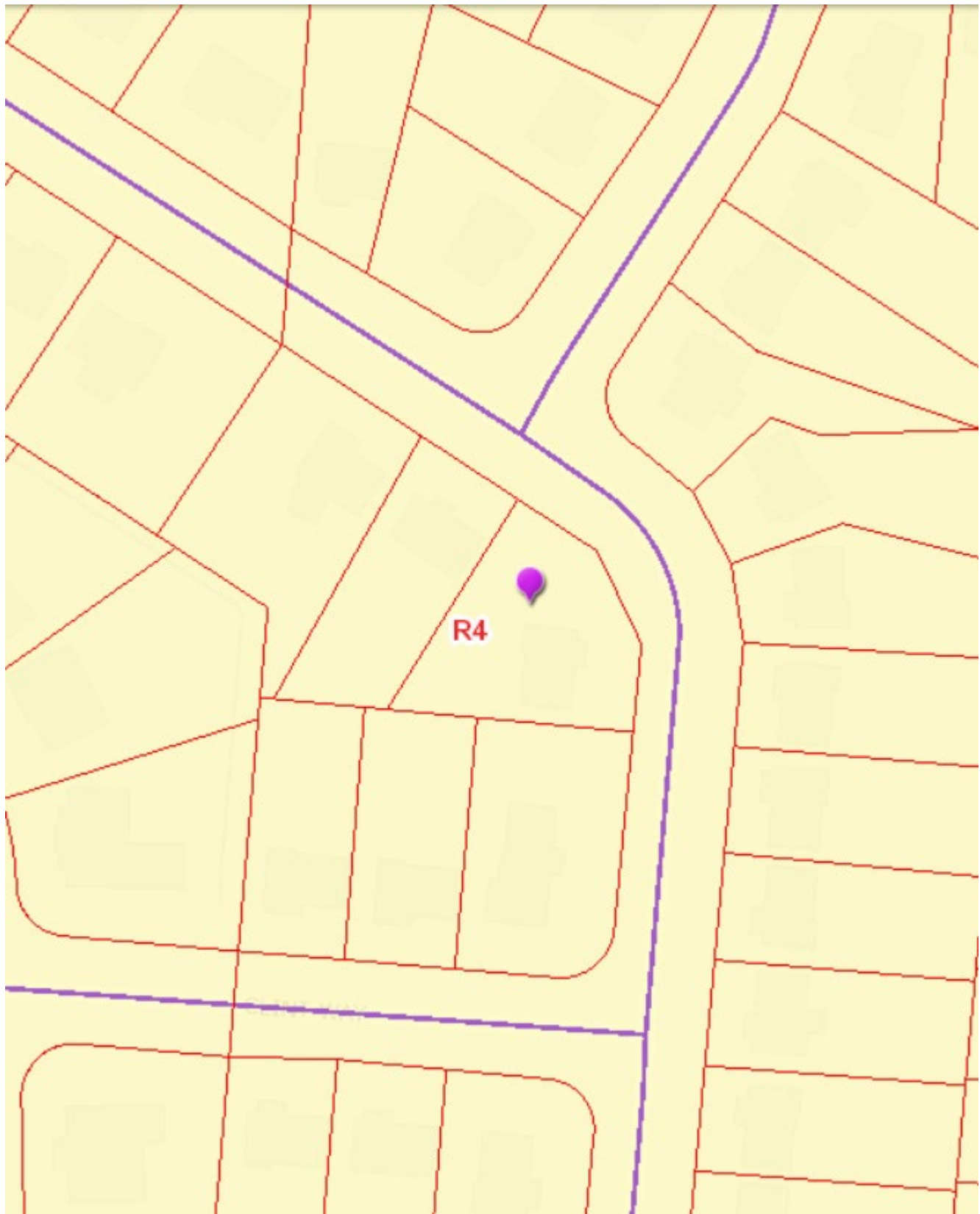
VARIANCE PLAN REQUIREMENT

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.

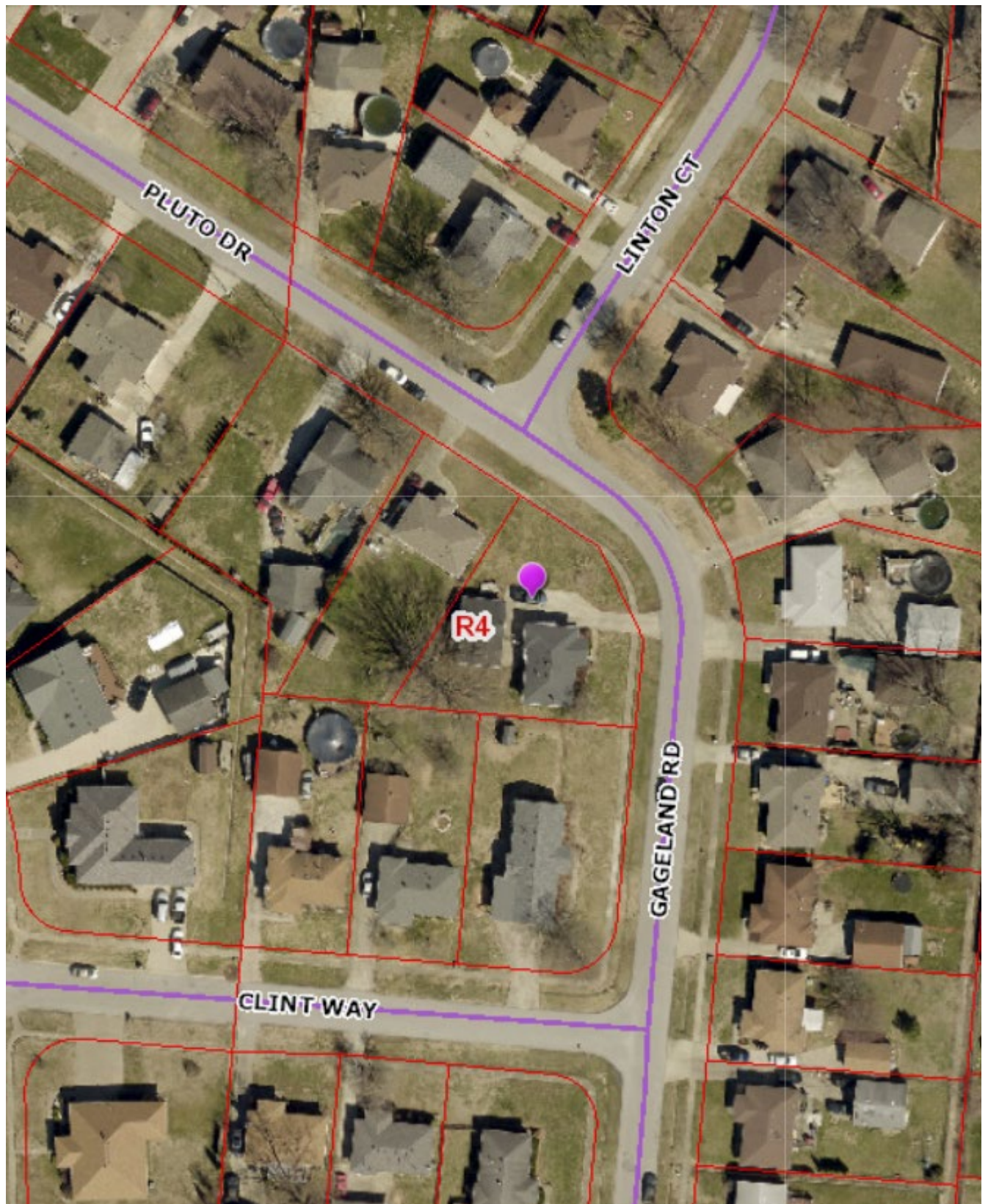
ATTACHMENTS

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

Zoning Map



Aerial Photograph



Site Plan

