

# Board of Zoning Adjustment

## Staff Report

June 21, 2021



<b>Case No:</b>	21-VARIANCE-0047
<b>Project Name:</b>	Cooper Chapel Road Variance
<b>Location:</b>	6118 Cooper Chapel Road
<b>Owner/Applicant:</b>	Uziel Aguilar & Yudelquis Ramirez
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	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 Neighborhood Form District to exceed 48 inches in height.

Location	Requirement	Request	Variance
Street Side Yard	48 in.	72 in.	24 in.

### **CASE SUMMARY/BACKGROUND**

The subject property is in the Maple Grove subdivision at the intersection of Cooper Chapel Road and Yellow Pine Drive. The applicant has constructed a six-foot privacy fence in the street side yard setback along a portion of Yellow Pine Drive.

### **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 Neighborhood Form District to exceed 48 inches in height.

### **TECHNICAL REVIEW**

Transportation Planning has reviewed preliminarily approved the fence.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

### **RELATED CASES**

ENF-ZON-20-001473-2 – Zoning Enforcement case 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 fence does not obstruct vision clearance along Yellow Pine Drive and the driveway as it is setback 13 ft. from the edge of pavement.

- (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 other privacy fences that exceed the maximum height in street side yard setbacks in the subdivision.

- (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 does not obstruct vision clearance for motorists or pedestrians along Yellow Pine Drive and the driveway as it is setback 13 ft. from the edge of pavement.

- (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 there are other fences in the subdivision that exceed the maximum height in street side yard setbacks.

#### **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 not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other 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 create an unnecessary hardship on the applicant as the height of the fence could be reduced to meet the requirement along Yellow Pine Drive and the driveway.

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 after the fact.

## **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.

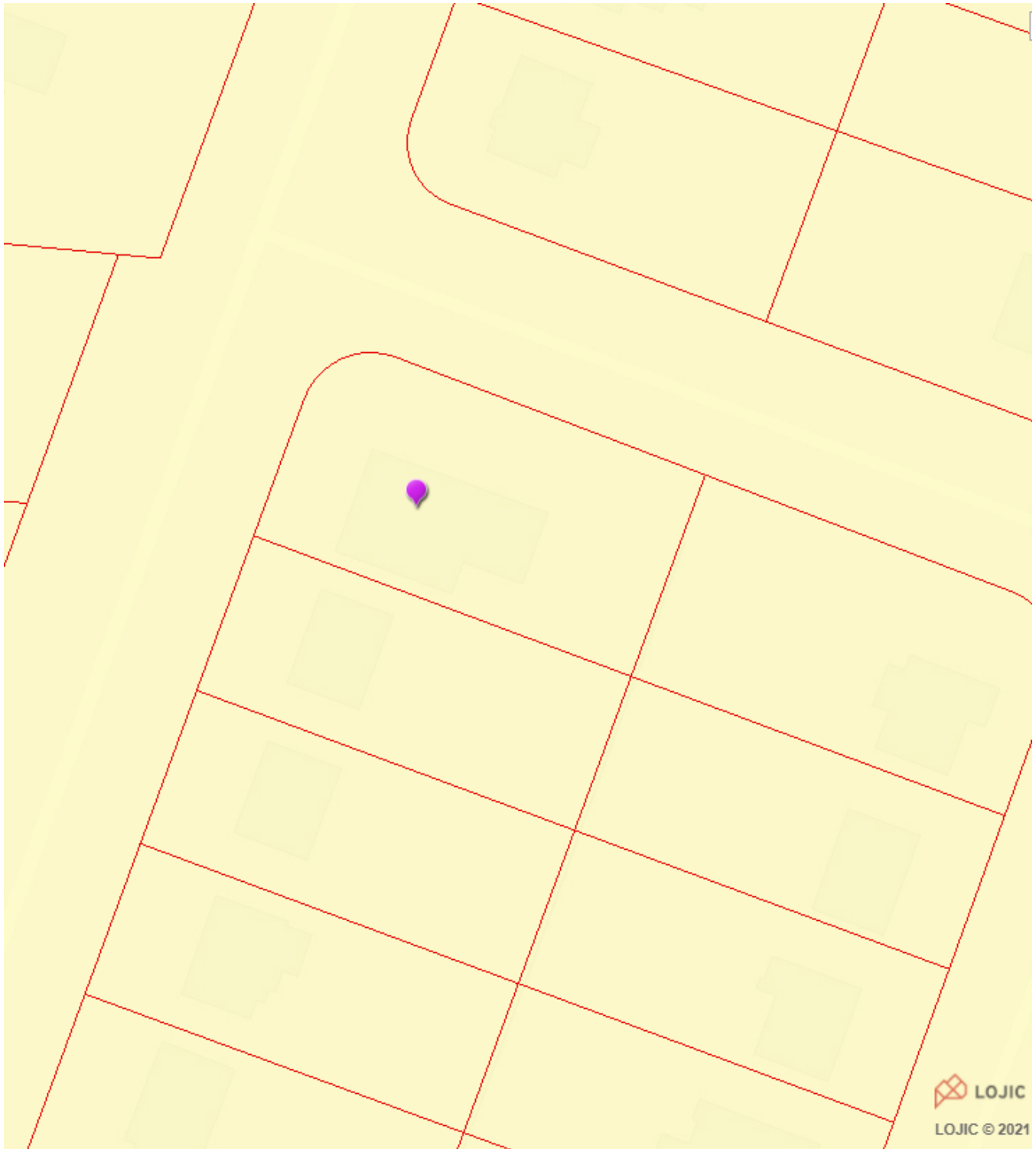
## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>6/4/2021</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
<b>6/8/2021</b>	Hearing before BOZA	Notice posted on property

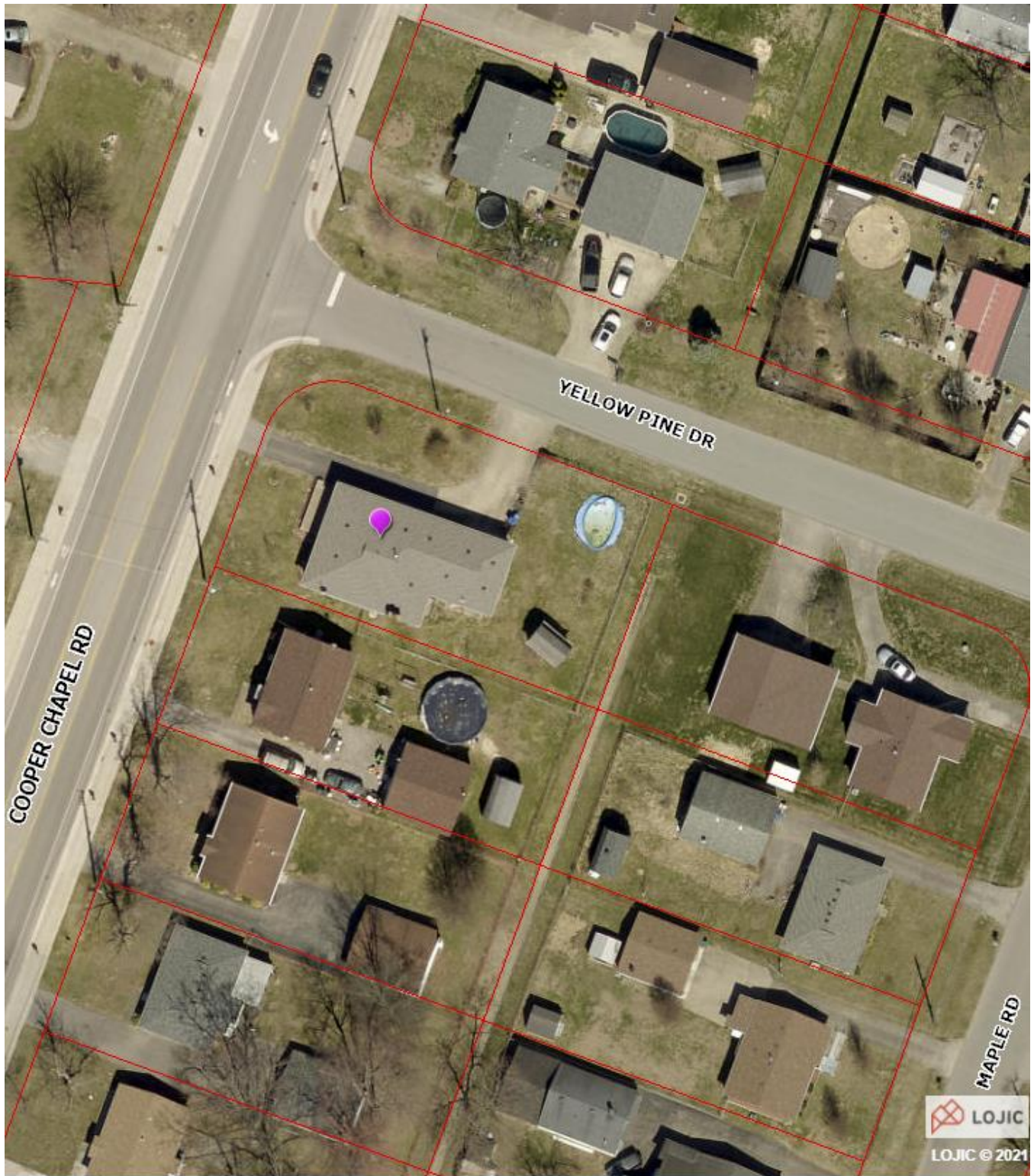
## **ATTACHMENTS**

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

1. **Zoning Map**

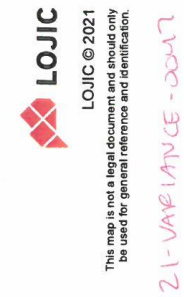


2. Aerial Photograph





### 3.



# 6118 Cooper Chapel

Tuesday, April 20, 2021 | 4:51:25 PM



4. **Site Photos**



Front of subject property.





Property across Yellow Pine Drive.





Property to the right.



Property across Cooper Chapel Road.





Fence looking toward Cooper Chapel Road.