

Board of Zoning Adjustment
Staff Report
August 30, 2021



Case No:	21-VARIANCE-0094
Project Name:	Buechel Bank Road Variance
Location:	1924 Buechel Bank Road
Owner/Applicant:	Christopher J. Zimmerer
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Zach Schwager, Planner I

REQUESTS:

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setback.

Location	Requirement	Request	Variance
Street Side Fence Height	48 in.	72 in.	24 in.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Residential Single Family and is in the Neighborhood Form District. It is on the southeastern corner of Buechel Bank Road and Handley Avenue in the Emerald Manor subdivision. The site currently has a 1 ½ story single-family residential structure and the applicant has constructed a six-foot wooden privacy fence within the street side yard setback.

STAFF FINDINGS

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 to exceed 48 inches in height in the street side yard setback.

TECHNICAL REVIEW

Transportation Planning has reviewed and approved the fence.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

ENF-ZON-21-000451-2 – Zoning enforcement case for the fence height.

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 Handley Avenue or the driveway and it is setback 18 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 fences in the area that exceed 48 inches in height in street side yards.

- (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 because the fence does not obstruct vision clearance along Handley Avenue or the driveway and it is setback 18 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 the fence is standard height for a privacy fence.

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 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 Handley Avenue.

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 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.

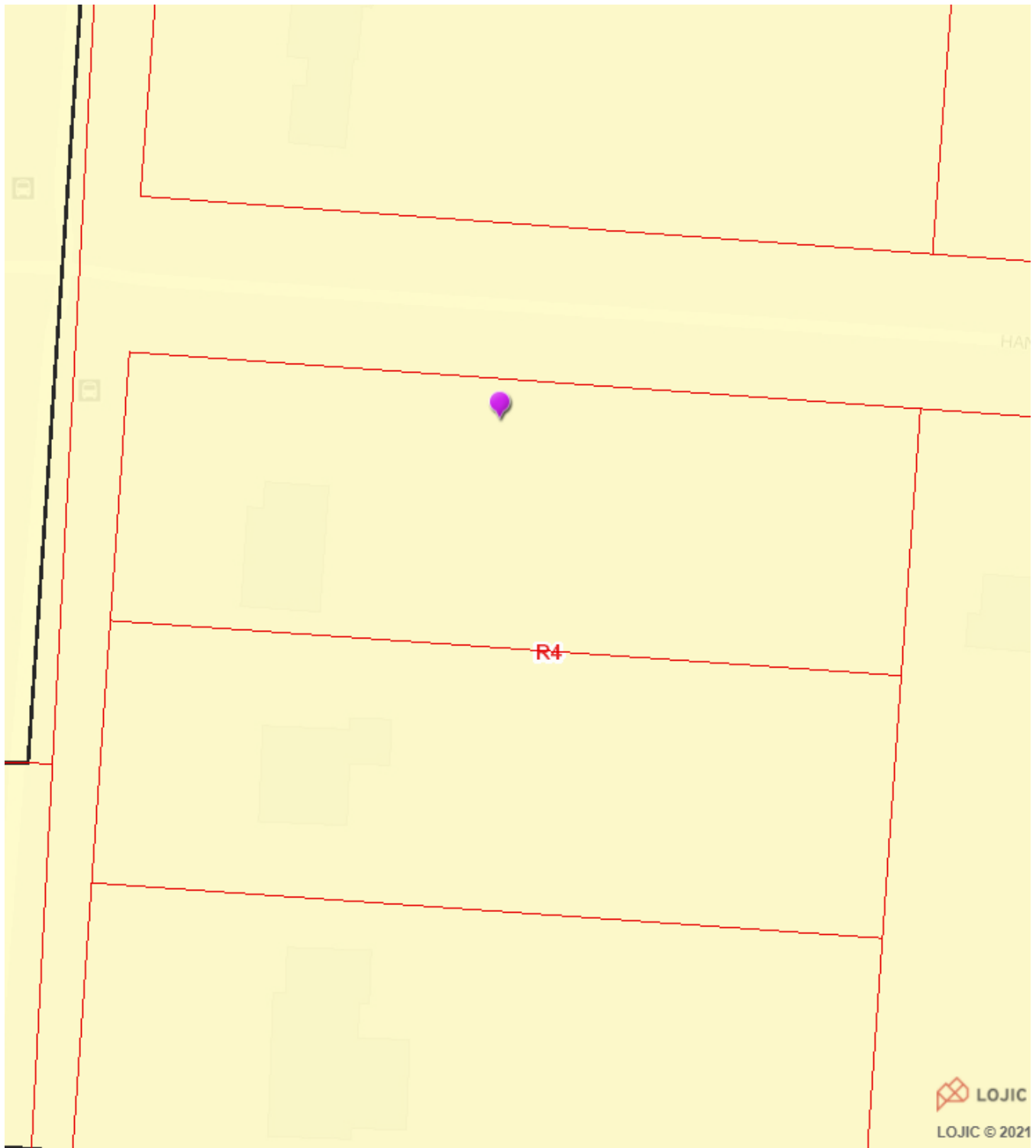
NOTIFICATION

Date	Purpose of Notice	Recipients
8/11/2021	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 2
8/16/2021	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

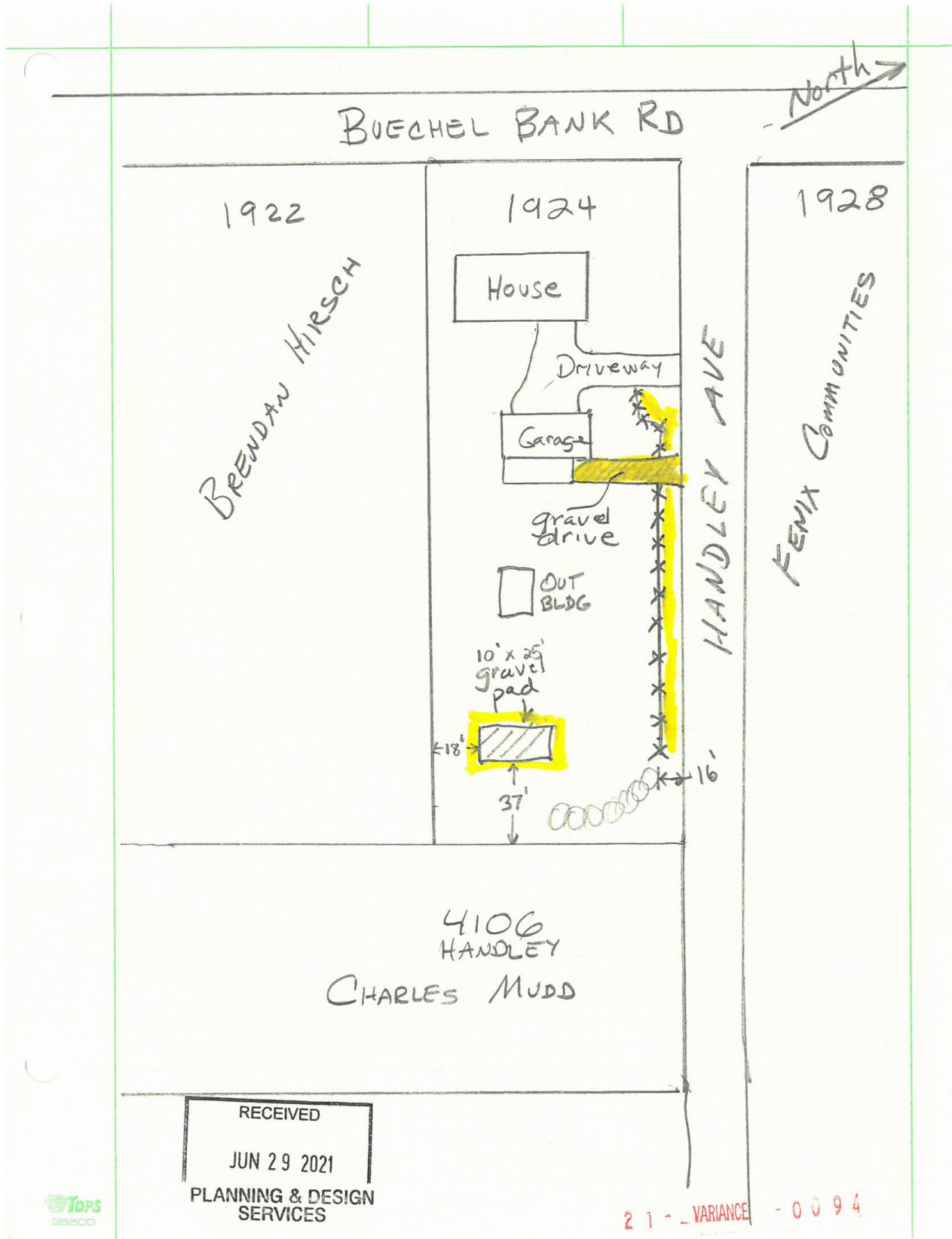
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Property to the left across Handley Avenue.



Property to the right.



Properties across Buechel Bank Road.



Existing privacy fence.



Vision clearance.