

**Board of Zoning Adjustment**  
**Staff Report**  
November 15, 2021



<b>Case No:</b>	21-VARIANCE-0138
<b>Project Name:</b>	Carmil Drive Fence Variance
<b>Location:</b>	8401 Carmil Drive
<b>Owner/Applicant:</b>	Yenny Lamazares
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Heather Pollock, 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 northeast corner of Annalisa Drive and Carmil Drive in the Hillsborough subdivision in Fern Creek. The site currently has a one-story single-family residential structure and a detached garage. The applicant has partially constructed a six-foot 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**

No technical review required.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff. The applicant submitted consent signatures from several of the adjoining property owners.

## **RELATED CASES**

ENF-BLD-21-07734 – Building 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, because the structure must be constructed to comply with all building codes, including fire codes.

- (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 structure must be constructed to comply with all building codes. A survey was provided and the fence is within the property lines

- (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 moved to meet the requirement along Annalisa Drive.

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 partially 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.

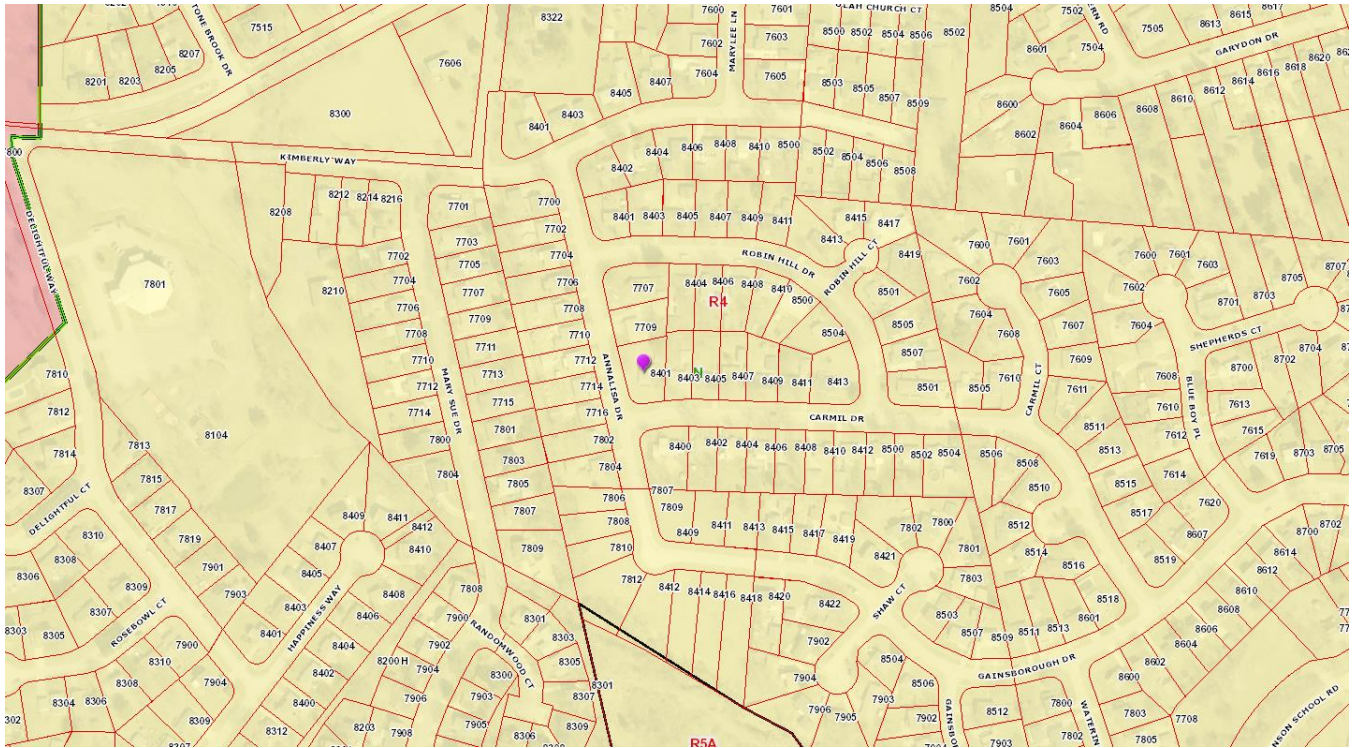
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
11/01/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22
10/29/2021	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







## Site Photos



Front of subject property.





Fence from Annalisa Dr.





Fence from rear of subject property, along Annalisa Dr.



View of intersection from Annalisa Dr.