

Board of Zoning Adjustment

Staff Report

July 10, 2023



Case No:	23-VARIANCE-0073
Project Name:	LaGrange Road Fence Variance
Location:	8407 LaGrange Road
Owner:	Bart Nuss
Applicant:	Bart Nuss
Jurisdiction:	City of Lyndon
Council District:	7- Paula McCraney
Case Manager:	Jeremy Chesler, Planner I

REQUESTS:

Variance from the City of Lyndon’s Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed a height of 48 inches in the front yard setback.

Location	Requirement	Request	Variance
Front Yard Setback	48 in.	72 in.	24 in.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4, Single-Family Residential within the Neighborhood Form District. The property is located along the North side of LaGrange Road between Blue Vale Way and Autumn Ridge Road in the City of Lyndon. The site is currently developed with a single-family home and several accessory structures. The applicant has constructed a wooden privacy fence along the Western property line that is approximately 72 inches tall. The fence exceeds the allowed maximum height in the required front yard setback by 24 inches.

This case is related to an ongoing enforcement case due to the fence exceeding the maximum height allowed.

STAFF FINDINGS

Staff finds that the requested variance is adequately justified as determined by staff’s analysis in 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 variances established in Land Development Code.

TECHNICAL REVIEW

No outstanding technical review comments.

INTERESTED PARTY COMMENTS:

No comments were received by staff.

RELATED CASES:

ENF-ZON-22-001117

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 applicable building codes and the City of Lyndon's Land Development Code, except where relief is requested. The fence will not adversely affect the ability or safety of any road users along the La Grange Road corridor.

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

STAFF: The structure will not alter the essential character of the general vicinity as there is a significant amount of vegetative screening along the fence line that visually breaks up the extensive length of the fence.

- (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. Additionally, there are other fences along La Grange Road that are seemingly not in compliance with the maximum fence height in the zoning and form districts, such as 1204 Blue Vale Way.

- (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 because the fence could potentially be modified to be in compliance with the height requirements for fences in the zoning and form districts.

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.

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 proposed fence could be reduced to conform with the existing regulations or the sections of fence within the required front yard setback could be removed.

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 applicant has already constructed the fence. The property has an open zoning enforcement case which has led the applicant to apply for 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.

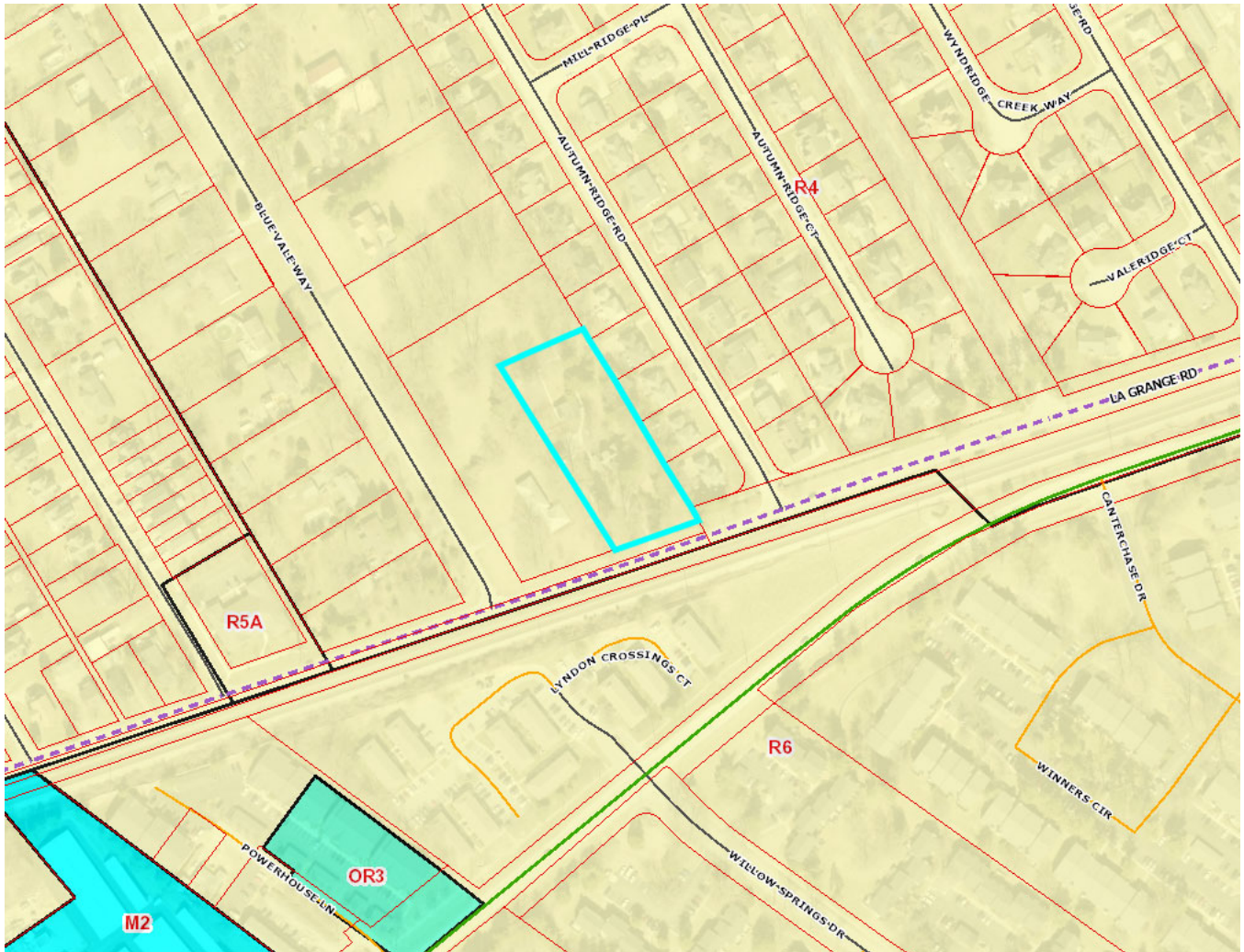
NOTIFICATION

Date	Purpose of Notice	Recipients
6/23/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 7
6/28/2023	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



Site Plan 1203 Blue Vale Way / 8407 LaGrange Road

4. Site Photos



Front of subject property and fence in front yard setback



To the right of the subject site.

Network: Jun 28, 2023 at 11:12:37 AM EDT
Local: Jun 28, 2023 at 11:12:37 AM EDT



Property to the left.



Across the street from the subject site.



View of fence facing

Network: Jun 28, 2023 at 11:09:20 AM EDT
Local: Jun 28, 2023 at 11:09:20 AM EDT



Fence in the side yard.



Neighborhood Example: 1204 Blue Vale Way, along La Grange Road