

Board of Zoning Adjustment Staff Report

June 5, 2022



Case No:	22-VARIANCE-0090
Project Name:	7708 Whitfield Drive
Location:	7708 Whitfield Drive
Owner:	Lianet Reinoso
Applicant:	Lianet Reinoso
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Joel Dock, AICP, Planning Coordinator

REQUEST:

- **Variance** from Land Development Code, Section 4.4.3 to allow a fence to exceed the maximum height of 4' in the street side yards and be 6' in height

CASE SUMMARY

The subject property has 3 road frontages, including Whitfield Drive (front yard), Roswell Way (street side yard), and Wenwood Drive (street side yard). The applicant proposes a 6' privacy-style fence within the required street side yard along Wenwood Drive and Roswell Way. The fence will be situated along the property lines and be no closer than 18' from the edge of pavement of the roadway, except along the corner where additional spacing is provided to maintain sight lines for vehicles. No sidewalks are present.

STAFF FINDINGS

The requested variance has been adequately justified for approval based on staff's analysis contained in the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 height and location of the proposed fence does not impact the safe movement of pedestrians or vehicles.

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

STAFF: The proposed variance will not alter the essential character of the general vicinity as privacy fences on corner lots are common in suburban areas to provide safety, security, and privacy in areas where vehicles are the predominate form of transportation and no other barrier is provided. Additionally, this lot maintains 3 road frontages and corner lots typically only possess 2. Sight lines will also be maintained for the safe movement of vehicles and the fence will share the property line with the Jackson Property along Wenwood Drive where dense vegetation and tree canopy is present that currently screens the Jackson property.

- (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 height and location of the proposed fence does not impede the safe movement of pedestrians or vehicles.

- (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 request does not affect the public health, safety, or welfare, alter the essential character of the area, or create a hazard or nuisance to the public.

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 arise from special circumstances which do not generally apply to the land in the generally vicinity or the same zone as this lot maintains 3 road frontages and corner lots typically only possess 2.

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 create an unnecessary hardship on the applicant as it would reduce the usable space of the yard area by an additional 15' at each side and all other standards of review have been met.

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 not 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 not been built.

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
5/19/23	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 26
5/22/23	Hearing before BOZA	Notice posted on property

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Variance** from Land Development Code, Section 4.4.3 to allow a fence to exceed the maximum height of 4' in the street side yards and be 6' in height located as shown on the plan.

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

