

# Board of Zoning Adjustment

## Staff Report

September 25, 2023



**Case No:** 23-VARIANCE-0117  
**Project Name:** Juniper Beach Variance  
**Location:** 5455 Juniper Beach Road  
**Applicant:** Timothy & Pamela Brown  
**Owner:** Timothy & Pamela Brown  
**Jurisdiction:** Louisville Metro  
**Council District:** 16 – Scott Reed  
**Case Manager:** Jeremy Chesler, Planner I

### REQUESTS:

- **Variance** from Land Development Code, Section 5.3.1, Table 5.3.1 to allow a structure to exceed the maximum height of 35'.

Location	Requirement	Request	Variance
Maximum Height	35 ft.	44 ft.	9 ft.

### CASE SUMMARY

The subject property is in the Neighborhood Form District. It is located directly adjacent to the Ohio River on Juniper Beach Road. The subject property was previously developed with a single-family home which was demolished. A foundation for the proposed single-family structure has already been built. Due to the subject site's proximity to the Ohio River the applicant is required to elevate the living space to comply with current floodplain regulations which has triggered the need for a dimensional variance.

### STAFF FINDINGS

Staff finds that the requested variances have been adequately justified for approval based on staff's analysis contained in the standard of review.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (a) The requested variances will not adversely affect the public health, safety or welfare.

STAFF: The requested variances will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and will not impede the safe movement of pedestrians or motorists.

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

STAFF: The proposed building addition will not alter the essential, visual character of the general vicinity as the proposed structure will be consistent with other structures built on the street in recent years. Due to the modern floodplain regulations, the three properties to the North have all been built to a similar height.

- (c) The requested variances will not cause a hazard or nuisance to the public.

STAFF: The requested variances will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. There are no homes located across Juniper Beach Road and the property is on the banks of the Ohio River so no properties will have any significant change to their view.

- (d) The requested variances 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 applicant is seeking relief due to the strict floodplain regulations. Nearby properties have been granted the same relief, therefore this particular request is within reason. All other relevant residential site design standards have been satisfied.

#### ADDITIONAL CONSIDERATIONS:

1. The requested variances arise 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 land in the same zone as the property sits within the floodplain and as such the height is partially dictated by the strict floodplain regulations. Several of the properties in the general vicinity that share the special circumstances have approved variances.

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 because the floodplain regulations are more rigid and cannot be altered. Options for designing and building a residential structure to comply with both the floodplain regulations and the relevant standards in the LDC would be limiting.

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 applicant has not yet started construction and is requesting appropriate relief.

## **REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Variance** from Land Development Code, Section 5.3.1, Table 5.3.1 to allow a structure to exceed the maximum height of 35'.

## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
09/06/2023	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 16
09/12/2023	Hearing before BOZA	Notice posted on property

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

