

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of Section 5.2.3.D.3.e to allow the building height to exceed the maximum allowed.

1. The variance will not adversely affect the public health, safety or welfare because the height of the structure is an aesthetic issue only. The height of the building is not a public health, safety or welfare issue at all, all of which are unaffected by added building height.
2. The variance will not alter the essential character of the general vicinity. The height variance is for a new, mixed use apartment building in keeping with the area. The structure immediately across the street (Main & Clay) is effectively the same height at seven stories, so the height will be entirely consistent with the character and general vicinity of the immediate area. In fact, if this proposed structure was across the street, no variance request would be necessary because the boundary line between the Downtown Form District (which has no height restriction) and the Traditional Marketplace Corridor Form District is Clay Street on which this structure sits. The structure and development will also utilize art on the building and adjacent to the building to further blend with the unique and trendy NULU area which contains many restaurants, bars, and art galleries. Moreover, the building itself will help blend and buffer the two connecting Form Districts because the added height will be on the corner of Main and Clay Street where the Downtown Form District meets the Traditional Marketplace Corridor Form District at Clay Street. However, the building will then reduce in height going east on Main towards the Shelby Street corner, effectively blending the two areas appropriately.
3. The variance will not cause a hazard or a nuisance to the public because again the height variance is merely an aesthetic issue, not a public health, safety or welfare matter. The structure with the granting of the variance will not be a nuisance at all but will add to the trendy, eclectic character of the NULU area with its unique, and area appropriate design, as well as bringing the needed residential density to support the area.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because what is proposed is an extremely attractive and site sensitive building that takes an old, out of place industrial building and site, which has been empty for years, and transforms it into a building which will add residents to the area, further supporting the many area businesses while also adding significant vitality to the area.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because there is not a site as large as this one proximate hereto, especially that is vacant, in dire need of more productive uses benefitting nearby NULU and Butchertown

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neighborhoods and community. It should be noted that the prior approved development plan obtained needed density by demolishing a historic building at 121 Clay Street. The same building, however, is being preserved in this plan which is a significant reason height is needed to gain the necessary density for the financial feasibility of the plan.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would have to decrease floor heights in the building or eliminate a floor or more from the building, making the project impractical and financially infeasible.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the cost of purchasing urban in-fill sites like this site and preserving the historic and interesting building at 121 Clay Street.

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