

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 from Section 4.8.3.C to encroach into the outer and middle zones of the stream buffer.

1. The variance will not adversely affect the public health, safety or welfare because, as stated this is not a natural water feature, but a man-made ditch, and encroaching into the outer and middle zones of the LDC required stream bank setback does not affect the public health, safety or welfare of any demonstrated ways.

2. The variance will not alter the essential character of the general vicinity because probably all, or certainly most, of these man-made ditches, like Southern Ditch, which bear no resemblance to truly natural blue line streams, are encroached upon in similar manners elsewhere in Jefferson County where these man-made ditches exist.

3. The variance will not cause a hazard or a nuisance to the public because of the reasons set forth above, given that this is a man-made, not natural, stream channel, and the proposed encroachment is nothing particularly new, with no known negative impacts, to this ditch at this location or elsewhere where development has historically occurred within closer proximity than this new LDC set back provision now technically requires.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because Southern Ditch and other man-made ditches like it, as opposed to truly natural, viable streams, have been encroached upon in all sorts of circumstances all over Jefferson County where these ditches were created.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the fact that Southern Ditch and other ditches like it, as opposed to truly natural, viable streams have been encroached upon all over Jefferson County where these ditches were created. Had the original, natural streams in this area and/or on this property been left intact, instead of been eliminated in favor of large man-made ditches, such as this one, these special circumstances may not exist because we would be dealing with a stream containing

natural vegetation and features worthy of the protection that this regulation was designed to ensure.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship because it would be forced to eliminate a valuable development opportunity on a site that will increase employment opportunities, tax base, and provide additional goods and services to citizens of Louisville in a growing area of Louisville.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather is a consequence of this being a big, man-made ditch, not a truly natural stream with features worthy of protection.