

Board of Zoning Adjustment Staff Report

March 27, 2023



Case No:	23-VARIANCE-0019
Project Name:	Riverside Drive Variance
Location:	914 W Riverside Drive
Owner:	Ernestina Toledo Martin
Applicant:	Ernestina Toledo Martin
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Molly Clark, Planner II

REQUESTS

- **Variance** from Land Development Code Table 5.3.1 allow a proposed single-family house to exceed the max height of 35 ft.

Location	Requirement	Request	Variance
Height	35 feet maximum	49.9 feet	14.9 feet

CASE SUMMARY/BACKGROUND

The subject site is .127 acres and is zoned R-5 single-family in the Neighborhood Form District.

The subject site is currently vacant. The applicant is proposing to construct a 2,000 square foot single family home that is elevated from the ground. The subject site is in close proximity of the Ohio River and is located in the floodplain. The applicant is required to elevate the proposed home to meet the floodplain regulations for new structures.

STAFF FINDING

Staff finds that the requested height variance is adequately justified and meet all the standards 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 a variance established in the Land Development Code.

TECHNICAL REVIEW

There are no outstanding technical issues with this request.

INTERESTED PARTY COMMENTS

None.

RELATED CASES

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.3.1 to allow a second story to exceed the max height of 35 ft:

- (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 Land Development Code, except where relief is requested.

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

STAFF: Throughout the existing subdivision the subject site is located in, a majority of the homes are elevated and built taller than the maximum height due to the floodplain and close proximity to the Ohio River.

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

STAFF: The addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The height variance will not be an unreasonable circumvention of the zoning regulations since there are other structures in the neighborhood that exceed the maximum height of the form district due to location within the floodplain and being in close proximity to the Ohio River.

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 generally apply to land in the general vicinity or the same zone because this property is located in a subdivision that was created and built before zoning regulations. The lot is the same size and shape in comparison to the surrounding properties. The subject site is also located in the floodplain and within close proximity to the Ohio River.

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 since the subject site is located in the floodplain and within close proximity of the Ohio River. If the variance is not granted the applicant cannot alter the plan to build in the floodplain. The applicant must build to the proposed height according to the floodplain ordinance.

3. 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.

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 begun construction.

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.

REQUIRED ACTION

APPROVE or **DENY** the **VARIANCE** from Land Development Code able 5.3.1 to allow a proposed single family house to exceed the max height of 35 ft.

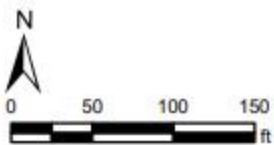
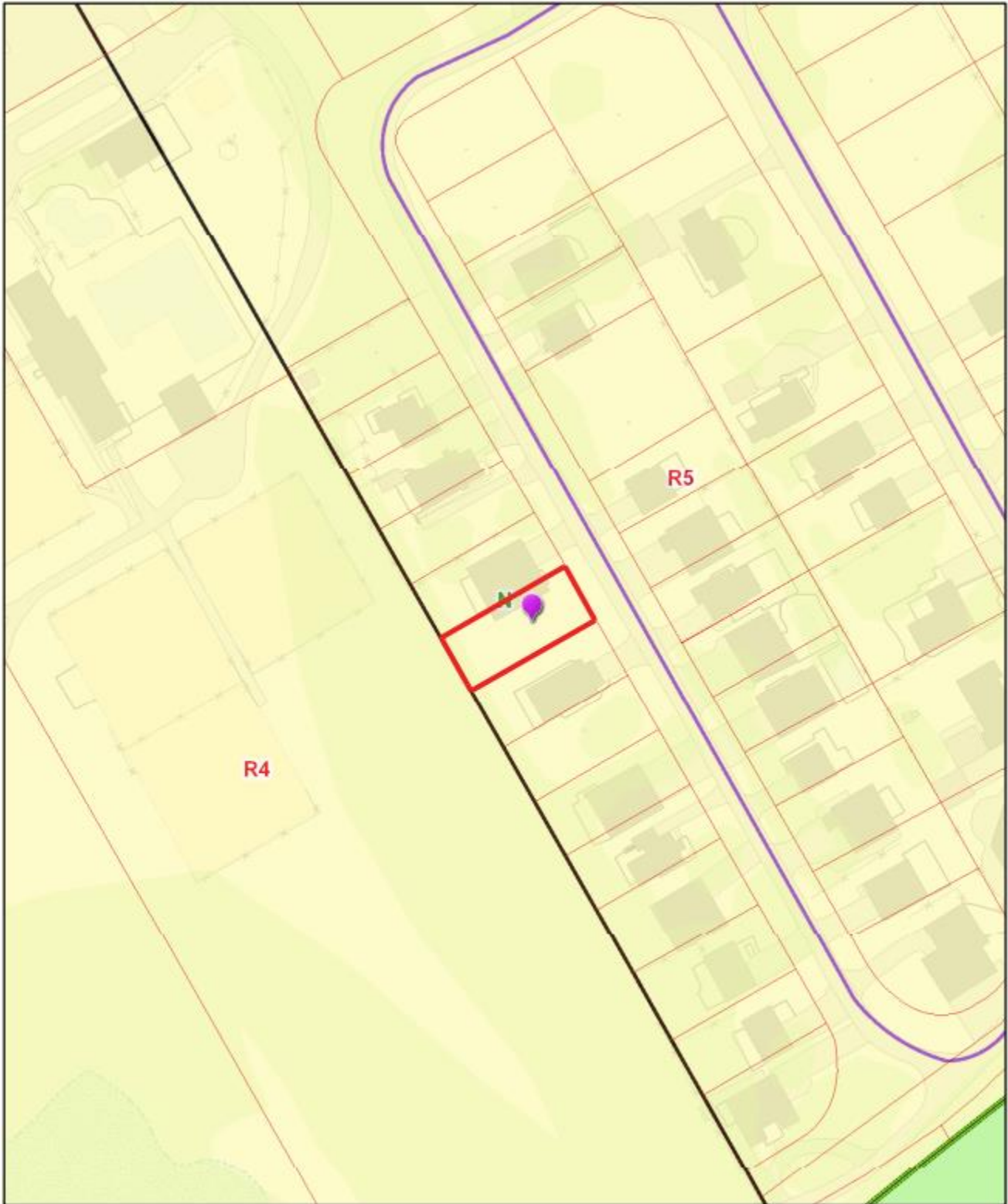
NOTIFICATION

Date	Purpose of Notice	Recipients
03/09/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District
03/13/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Renderings/Elevations
5. Site Photos

1. **Zoning Map**



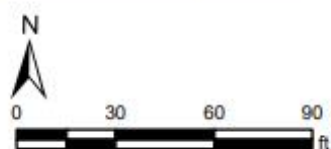
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2. Aerial Photograph



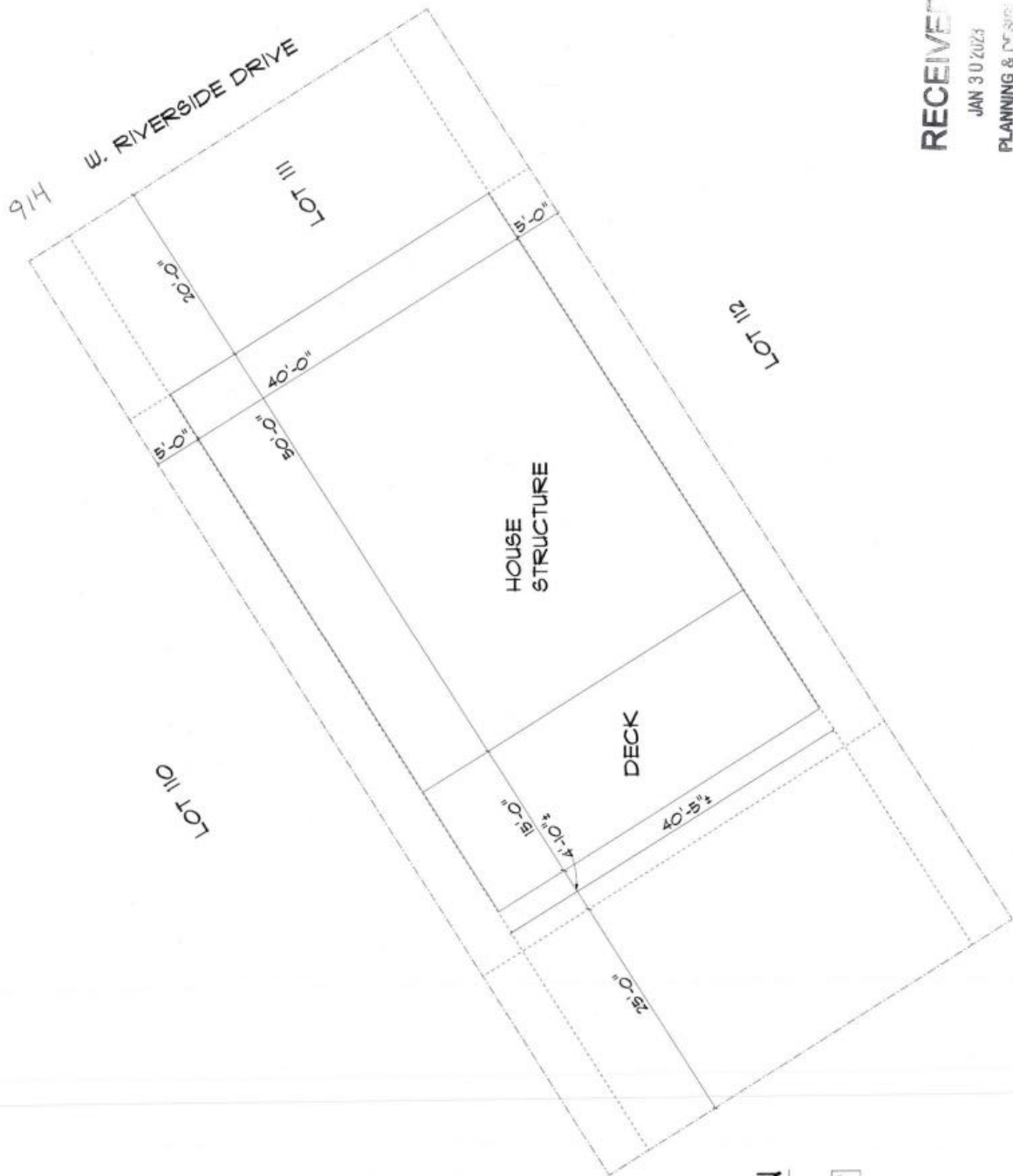
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3. Site Plan



RECEIVED
JAN 30 2023
PLANNING & DESIGN
SERVICES

SITE PLAN

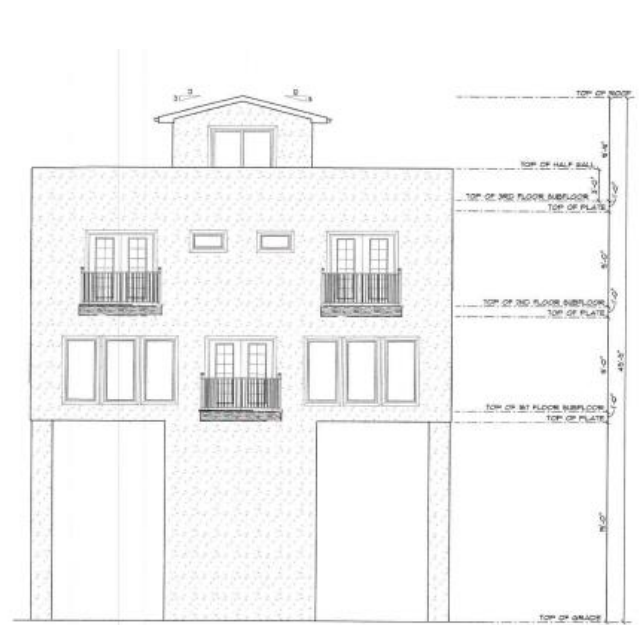
SCALE: 3/16" = 1'-0"

NOTES:
20x6/24 x 8"

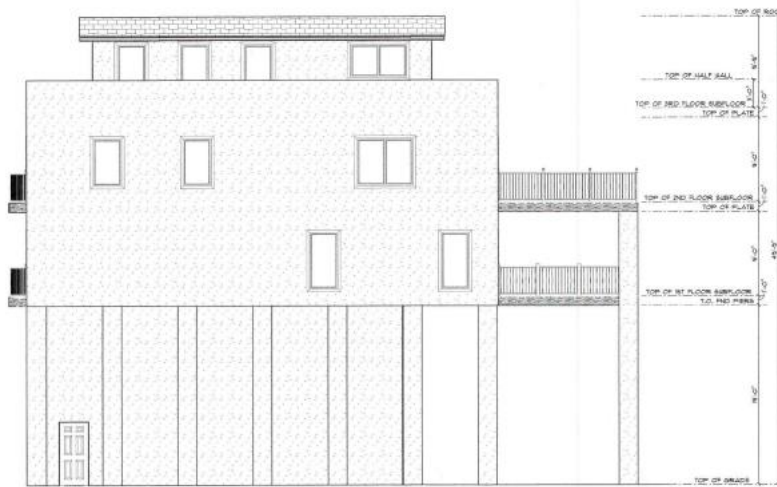
4. Renderings



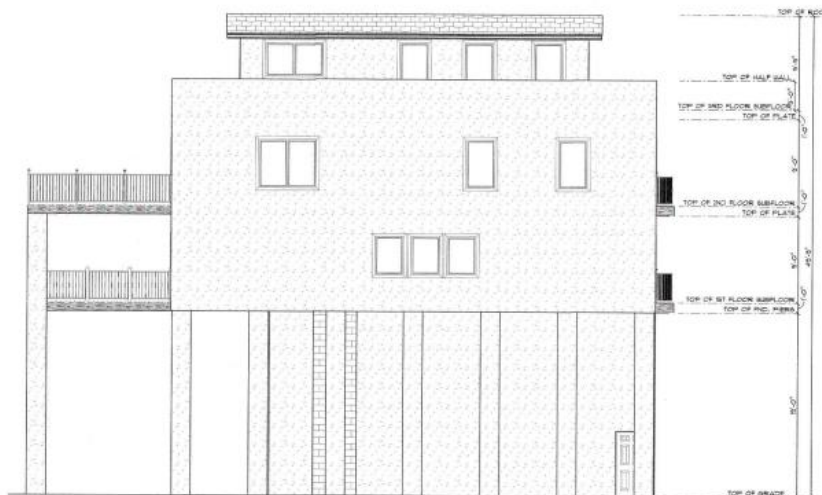
REAR ELEVATION



FRONT ELEVATION



RIGHT ELEVATION



LEFT ELEVATION

5. Site Photos

Front of Property:



House to the right of subject site:



House to the left of subject site:



Across the street:

