



ANDRE DICKENS
MAYOR

CITY OF ATLANTA

DEPARTMENT OF CITY PLANNING
55 TRINITY AVENUE, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308
404-330-6145 – FAX: 404-658-7491
www.atlantaga.gov

JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-37 for 815 West Paces Ferry Road NW

DATE: February 8, 2024

The applicant seeks a special exception to increase the height of a fence from 4 feet to 8 feet with 10 feet 5 inch columns in the front yard, increase the height of a fence from 4 feet to 8 feet with 10 feet 5 inch columns in the half depth front yard, and increase the height of a fence from 6 feet to 8 feet with 10 feet 5 inches in the west side yard.

The applicant requested deferral of this application. However, given the age of this application, submitted in March 2023, Staff recommends that this application be withdrawn without prejudice. The applicant is amenable to this request.

RECOMMENDATION: DENIAL WITHOUT PREJUDICE

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-170 for 350 Peachtree Avenue NE

DATE: February 8, 2024

Applicant seeks a variance to reduce the half-depth front yard from 17.5 feet to 8 feet 8 inches, a special exception to increase the maximum fence height in the front yard setback from 4 feet to 8 feet and increase the opacity of a fence located in the front yard setback from 50% to 100%.

The applicant has requested to withdraw this variance request. Staff is supportive of this request.

RECOMMENDATION: DENIAL WITHOUT PREDJUDICE

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-172 for 187 Graves Street NW

DATE: February 8, 2024

Applicant seeks a variance to reduce the north and south side yard setbacks from 5 feet to 1 foot for construction of a new single-family dwelling.

This case was deferred by the NPU on January 9, 2024. Staff recommends deferral to allow the applicant time to obtain a recommendation from the NPU.

RECOMMENDATION: DEFERRAL – MARCH 14, 2024

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-174 for 637 Dorothy Bolden Way NW

DATE: February 8, 2024

Applicant seeks a variance to reduce the east and west side yard setbacks from 5 feet to 2 feet for construction of a new single-family dwelling.

This case was deferred by the NPU on January 9, 2024. Staff recommends deferral to allow the applicant time to obtain a recommendation from the NPU.

RECOMMENDATION: DEFERRAL – MARCH 14, 2024

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-199 for 838 Charles Allen Drive NE

DATE: February 8, 2024

Applicant seeks a variance from the zoning regulation to increase lot coverage from 65.79% to 71.22%.

The applicant amended their request after the advertisement and no longer requires the variance as shown on the agenda. Therefore, staff has not analyzed the request.

RECOMMENDATION: DENIAL WITHOUT PREJUDICE

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary of Board *AMB*

SUBJECT: V-23-201 for 4530 Jett Road NW

DATE: February 8, 2024

Applicant seeks a special exception to allow active recreation in the rear yard of property adjacent to the street for construction of a swimming pool.

The applicant has requested a deferral to continue meeting with the NPU. Staff is supportive of this request.

STAFF RECOMMENDATION: 60 DAY DEFERRAL – APRIL 2024

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-204 for 995 Battle Creek Way NW

DATE: February 8, 2024

The applicant seeks a special exception to allow active recreation in the rear yard of the property adjacent to a street to construct a swimming pool and a variance to reduce the rear yard setback from 20 feet to 10 feet.

The case was deferred by the NPU during the February to their meeting in March. Staff recommends deferral to allow the applicant to continue working with the NPU.

RECOMMENDATION: DEFERRAL TO APRIL 2024

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-205 for 1055 Lanier Boulevard NE

DATE: February 8, 2024

Applicant seeks a variance to reduce the half-depth front yard from 17.5 feet to 12 feet for construction of a new single family dwelling.

The applicant is requesting a deferral to have time to reach out to the most impacted neighbor and their representative regarding their proposal. Staff is supportive of the request.

STAFF RECOMMENDATION: DEFERRAL – MARCH 14, 2024



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-112 for 1258 Willis Mill Road SW

DATE: February 8, 2024

Applicant seeks a variance to reduce the north side yard setback from 10 feet to 7 feet for a second-story addition to an existing single-family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 100 feet on the east side of Willis Mill Road and beginning 350 feet from the northeast intersection of Willis Mill Road and Cascade Road. The property is located in Land Lot 201 of the 14th District, Fulton County, Georgia. It is located in the Cascade Heights Neighborhood of NPU-I, Council District 10.

Relevant Zoning Requirements:

- The subject property is zoned R-3 (Single Family Residential).
- Minimum yard setbacks: Front yard: 50 feet; side yard: 10 feet; rear yard: 20 feet.
- Minimum lot requirements for single-family detached dwellings and all other uses: Lot Area: 18,000 square feet; frontage: 100 feet

Property Characteristics: The subject property is an irregular shaped lot with approximately 100 feet of street frontage and 17,802 square feet (0.40 acres) of area. The property is currently developed with a one-story residential structure.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area are vary in their size, shape, and area. All adjacent parcels to the north, south, east, and west are also zoned R-3 (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the north side yard setback from 10 feet to 7 feet for a second-story addition to an existing single-family dwelling.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot is deficient in frontage and size for its zoning designation. Presently, the footprint of the existing home encroaches into the north side yard setback. The lot is irregularly sized and narrow, limiting the buildable area. Therefore, Staff finds shape and size as the extraordinary and exceptional condition regarding this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** An application of the zoning regulations would cause a hardship by preventing the proposed improvement from being constructed as requested. The footprint of the existing home limits the ability to build towards the front without the need for a variance. Furthermore, the lot is undersized, unusual in shape, and deficient in width, limiting the overall buildable area. Therefore, Staff is of the opinion that the proposed request is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The footprint of the existing home encroaches into the required side yard setback for the R-3 zoning district. This condition is peculiar to the piece of property involved, as Staff is unaware of similar encroachment conditions on neighboring properties.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. The construction includes new landscaping along the front façade, improving the aesthetic of the subject property. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-153 for 1631 Burton Street SE

DATE: February 8, 2024

The applicant seeks a variance to reduce the front yard setback from 35 feet to 15 feet and reduce the rear yard setback from 15 feet to 8 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 49.50 feet on the east side of Burton Street Rocky Ford Road and Jones Avenue and begins beginning 131 feet from the northwest intersection of Bowen Avenue and Burton. This property is in Land Lot 57 of the 14th District, Fulton County Georgia. It is in the Kirkwood Neighborhood of NPU-O, Council District 5.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential)
- Minimum lot dimensions: Frontage: 70 feet; Minimum lot area: 9,000 square feet
- Minimum yard setbacks: Front yard: 35 feet; Side yard setback: 7 feet; Rear yard setback: 15 feet.
- Maximum lot coverage: Not to exceed 50% of the total lot area.

Property Characteristics: The subject property is a regular-shaped lot with an area of 2,633 sq. ft. (0.060 acres) and a frontage of 49.50 feet along Burton Street. The property is currently undeveloped with trees and vegetation. The lot does not have an existing curb cut access on Burton Street.

Characteristics of Adjoining Properties, Neighborhood: Adjoining lots vary in width, lot area, and shape. All adjoining lots are developed with single-family dwellings and are zoned R-4 (Single Family Residential).

PROPOSAL: The applicant seeks to reduce the front yard setback from 35 feet to 15 feet and the rear yard setback from 15 feet to 8 feet.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-06.008(1) & (3) of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The subject property is severely deficient in lot size and lot width. The lot area of the site is 2,633 sq. ft., whereas the minimum lot area required for the R-4 zoning district is 9,000 sq. ft. The lot width of the subject property is 49.50 feet compared to the R-4 requirement of 70 feet. The site is a regular shaped lot and does not appear to have topography challenges.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Strict application of the zoning regulations would create an unnecessary hardship as it will substantially decrease the buildable area, rendering the lot unbuildable, as there will not be any space available to build the primary structure.
- c. **Such conditions are peculiar to the particular piece of property involved.** The existing size, width, and shape conditions are peculiar to this property. Enforcing the required R-4 development controls would make the lot unbuildable, as setback variances would be inherently needed. Staff is unaware of the existence of similar conditions on adjoining neighborhood properties.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The variance request would not impose upon adequate light and/or air on the adjacent properties, or provides any potential impediment to emergency access or threats to health and fire safety. There appears to be sufficient distance between the proposed house location to the existing house structures located on the abutting properties. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requests to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-162 for 640 Boulevard NE, 627 Parkway Drive NE, 623 Parkway Drive NE, 617 Parkway Drive NE, 628 Boulevard NE

DATE: February 8, 2024

Applicant seeks a variance reduce the required useable open space from 57,347 square feet to 44,078 feet and a variance to reduce the minimum total open space from 86,657 square feet to 85,438 square feet for the construction of a multifamily development property.

FINDINGS OF FACT:

Property Location: 640 Boulevard N.E. fronts approximately 311 feet on the west side of Boulevard and beginning 126 feet from the northeast intersection of North Avenue and Boulevard, 627 Parkway Drive, N.E., fronts 0.5 feet on the east side of Parkway Drive and beginning 130.2 feet from the northeast intersection of North Avenue and Parkway Drive, 623 Parkway Drive, N.E., fronts 61.5 feet on the east side of Parkway Drive and beginning 68.7 feet from the northeast intersection of North Avenue and Parkway Drive, 617 Parkway Drive, N.E., fronts 52 feet on the east side of Parkway Drive and beginning 16.7 feet from the intersection of North Avenue and Parkway Drive, 628 Boulevard, N.E., fronts 60 feet on the west side of Boulevard and beginning 126.7 feet from the intersection of North Avenue and Boulevard. The properties are located in Land Lot 48 of the 14th District, Fulton County, Georgia. It is located in the Old Fourth Ward Neighborhood of NPU-M, Council District 2.

Relevant Zoning Requirements:

- The subject property is zoned RG-4/BL (Residential General Sector 4/BeltLine Overlay).
- Minimum usable open space required: 40,944 or 0.43 Ratio

Property Characteristics: The subject properties are rectangular-shaped lots with approximately 485 feet of total street frontage and a total of 110,549 square feet (2.538 acres) of area. The properties are currently either vacant or developed with existing multi-family buildings. The proposed construction is a 187-unit affordable housing development.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area are relatively consistent in their size, shape, and area. All adjacent parcels to the north, south, east, and west are also zoned R-3(Single Family Residential).

PROPOSAL: The applicant seeks a variance reduce the required useable open space from 57,347 square feet to 44,078 feet and a variance to reduce the minimum total open space from 86,657 square feet to 85,438 square feet for the construction of a multifamily development property.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The contiguous lots have three street frontages, Boulevard NE, North Avenue, and Parkway Drive, which requires open space to be install on all three street frontages, therefore, limiting the buildable area. Staff finds this as the extraordinary and exceptional condition regarding this proposed development.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** An application of the zoning regulations would cause a hardship and limit the buildable area for the housing units. Therefore, Staff is of the opinion that the proposed request is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The conditions identified above are peculiar to the piece of property involved, as surrounding lots only have one or two street frontages.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. The proposed construction replaces vacant or dilapidated multi-family buildings, which would improve the neighborhood's housing supply and increase the neighborhood's affordable housing supply. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-168 for 827 Flamingo Drive SW

DATE: January 18, 2024

Applicant seeks a variance to reduce both side yard setbacks from 15 feet to 12 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 170 feet on the west side of Flaming Drive and beginning 570 feet from the southeast intersection of Willis Mill Road and Flamingo Drive. Zoned R2-A (Single Family Residential). Land Lot 203 of the 14th District, Fulton County, Georgia. It is located in the Audobon Forest Neighborhood of NPU -I in Council District 10.

Relevant Zoning Requirements:

- The subject property is zoned R-2A (Single Family Residential).
- Minimum yard setbacks: Front yard: 60 feet; side yard: 15 feet; rear yard: 30 feet.
- Minimum lot requirements for single-family detached dwellings and all other uses: Lot Area: 30,000 square feet; frontage: 100 feet

Property Characteristics: The subject property is an irregular shaped lot with approximately 94 feet of street frontage and 28,924 square feet (0.664 acres) of area. The property is currently undeveloped. The topography dramatically varies with a 60-foot difference in elevation between the highest point at the rear of the lot to the lowest point at the front. There are mature trees throughout the site.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area vary in their size, shape, and area in comparison to the subject property. All adjacent parcels to the north, south, east, and west are also zoned R-4 (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce both side yard setbacks from 15 feet to 12 feet for the construction of a new single-family dwelling.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot is deficient in size for its zoning designation, with only 28,924 square feet of the required 30,000 square feet. The lot is also irregularly pie-shaped, limiting the ability to build towards the rear. Additionally, the site's dramatic topography makes development in the rear of the property difficult. Therefore, Staff finds shape, size, and topography as extraordinary and exceptional conditions regarding this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** An application of the zoning regulations would cause a hardship due to the subject property's substandard size, shape, and topography as it relates to R-2A zoning. The lot is irregularly shaped, limiting the ability to build towards the rear. Furthermore, the lot's overall buildable area is limited because of the width deficiency. Therefore, Staff is of the opinion that the proposed request is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The size, shape, and width of the lot appear to be conditions that are peculiar to this site; staff has not identified similar conditions on adjoining neighborhood lots. However, the existence of similar conditions on adjoining neighborhood properties does not negate the desirability of this proposal.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. The construction includes new landscaping along the front façade, improving the aesthetic of the subject property. Allowance would also require less grading of the land for the construction which will facilitate better drainage and erosion control; positioning the proposed home further back on the lot and the location of the driveway will save trees. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-177 for 3566 Cantrell Road NE

DATE: February 8, 2024

Applicant seeks a special exception to allow active recreation (swimming pool) in a yard adjacent to a street.

FINDINGS OF FACT:

Property Location: The subject property fronts 107 feet on the west side of Cantrell Road and beginning at the northwest intersection of Kingsboro Road and Cantrell Road. The property is located in Land Lot 9 of the 17th District, Fulton County, Georgia. It is located in the Ridgedale Park Neighborhood of NPU-B, Council District 7.

Relevant Zoning Requirements:

- The subject property is zoned R-3 (Single Family Residential).
- Minimum lot dimensions: Frontage: 100 feet; Minimum lot area: 18,000 square feet
- Minimum yard setbacks: Front yard: 50 feet; Rear yard: 20 feet; side yard: 10 feet

Property Characteristics: The subject property is an irregular-shaped lot with approximately 107 feet of street frontage and 21,552 square feet (0.49 acres) of area. A new two-story single-family home and garage is currently being developed on the property. Vehicular access is provided via curb cuts on Cantrell Road NE. The topography rises from the street slightly across the lot, with approximately a 6-foot difference between its highest and lowest points. There are several mature trees throughout the subject property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size and shape and are consistently developed with single-family dwellings with R-3 (Single Family Residential) zoning.

PROPOSAL: Applicant seeks a special exception to allow active recreation (swimming pool) in a yard adjacent to a street.

CONCLUSIONS: The following conclusions pertinent to this request for a Special Exception from the zoning regulations are in accordance with Section 16-28.008(6) of the City of Atlanta Zoning Code.

- a. **The location will not be objectionable to occupants of neighboring property or the neighborhood in general by reason of noise, lights or concentrations of persons or vehicular traffic.** The topography varies throughout the property beginning with an incline from the property line along Cantrell Road. The proposed swimming pool will be placed behind the two-story residential structure currently being developed. The location of the proposed swimming pool will be minimally visible to neighboring properties and be screened from view by a proposed fence. Additionally, there is current vegetation along Kingsboro Road. Therefore, the impact on neighboring properties will be minimized.
- b. **The area for such activity could not reasonably be located elsewhere on the lot.** The subject property is a large, irregularly shaped corner lot. The topography on the lot varies. Due to the orientation of the residential structure and garage currently being developed on the lot, the most reasonable location for the proposed pool is behind the house near the rear yard setback. Therefore, the Staff is of the opinion that the proposed pool location is reasonable as it cannot be located elsewhere on the lot.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-198 for 877 Berkshire Road NE

DATE: February 8, 2024

Applicant seeks a variance to reduce the western side yard setback from 10 feet to 5 feet, the rear yard setback from 20 ft to 8 ft and the front yard setback from 50 feet to 29 feet for construction of a detached garage with living space about as well as a front porch.

FINDINGS OF FACT:

Property Location: The subject property fronts 95 feet on the south side of Berkshire Drive and beginning approximately 147.2 feet from the northwest intersection of Miffin Place and Berkshire Drive. Zoned R-3 (Single Family Residential). Land Lot 3 of the 17th District, Fulton County, Georgia.

Relevant Zoning Requirements:

- The subject property is zoned R-3 (Single Family Residential).
- Minimum yard setbacks: Front yard: 50 feet; side yard: 10 feet; rear yard: 20 feet.
- Minimum lot requirements for single-family detached dwellings and all other uses: Lot Area: 18,000 square feet; frontage: 100 feet

Property Characteristics: The subject property is an irregularly shaped lot with approximately 95 feet of street frontage and 13,862 square feet (0.318 acres) of area. The property is currently developed with a 2-story residential structure, and an attached garage in the rear. The topography varies across the lot, approximately a 20-foot difference in elevation between the highest point at the back of the house to the lowest point in the front. There are mature trees onsite.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area vary in their size, shape, and area. All adjacent parcels to the north and east are also zoned R-3 while lots to the south and west are also zoned R-4 (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the western side yard setback from 10 feet to 5 feet, reduce rear yard setback from 20 feet to 8 feet, as well as reduce front yard setback from 50 feet to 29 feet for the construction of a front porch and detached garage with living above.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot is deficient in frontage width as well as lot size for its zoning designation. The lot has only 95 of the required 100 ft of frontage and on 13,862 sf of the required 18,000 sf for the R-3 zone. Therefore, Staff finds the width and lot size as the extraordinary and exceptional conditions regarding this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** An application of the zoning regulations would cause a hardship by preventing the proposed improvement from being constructed as requested. The lot is currently deficient which limits the allowable development of this lot in its current zoning classification. Furthermore, the lot is undersized and deficient in width, limiting the overall building area. Therefore, Staff is of the opinion that the proposed request is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The combination of deficiencies in width and size of the lot appears to be the condition peculiar to this site, in addition to its proximity to another zoning classification that would allow for the proposed improvements. Staff has not identified the same conditions with any other adjacent properties
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. The property is against a hill so the new garage will not be visible to neighbors, which will not affect the aesthetic of the subject property. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Review

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-203 for 2674 Hosea L. Williams Drive NE

DATE: February 8, 2024

Applicant seeks a variance to reduce the west side yard setback from 7 feet to 6.5 feet for construction of a new single-family home.

FINDINGS OF FACT:

Property Location: The subject property fronts 56 feet on the north side of Hosea L. Williams Drive and beginning approximately 229.3 feet from the northwest intersection of Daniel Avenue and Hosea L. Williams Drive. The property is located in Land Lot 203 of the 15th District, Dekalb County, Georgia. It is located in the East Lake Neighborhood of NPU-O, Council District 5.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential).
- Minimum lot dimensions: Width: 70 feet; Minimum lot area: 9,000 square feet.
- Minimum yard setbacks: Front yard: 35 feet; side yard: 7 feet; rear yard: 15 feet

Property Characteristics: The subject property is a rectangular-shaped lot and has approximately 9,584 square feet (0.22 acres) with 56 feet of frontage. It is currently developed with a two-story single-family structure and Curb cuts along Hosea L. Williams Drive provides vehicular access to the property. The topography inclines approximately 18 feet from the property line towards the rear.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate vicinity are relatively consistent in size and shape. All parcels to the north, south, east, and west in the immediate area are zoned R-4 (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the west side yard setback from 7 feet to 6.5 feet for construction of a new single-family home.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The minimum lot frontage for R-4 (Single Family Residential) is 100 feet. The subject property has a lot frontage of 56 feet; thus, deficient in frontage by 44 feet. The property's topography inclines 18 feet across the site towards the rear property line. Therefore, Staff finds size and lot topography as the extraordinary conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship due to the lot size. Although the subject property meets the minimum lot area, the lot frontage deficiency minimalizes the buildable area. The half-foot side yard encroachment is minimal and would most likely not be necessary if the lot width met the minimum requirement for the zoning district.
- c. **Such conditions are peculiar to the particular piece of property involved.** The conditions identified above are peculiar to the piece of property involved. Staff is unaware of similar conditions being imposed on other properties in the area.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



CITY OF ATLANTA

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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-202 for 969 Parsons Street SW

DATE: February 8, 2024

The applicant seeks a special exception to increase the height of the fence in the required supplemental zone from 3.5 feet to 6 feet in the front and half-depth front yard.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on the north side of Parsons Street and beginning at the northwest intersection of Abbott Street and Parsons Street. This property is in Land Lot 116 of the 14th District, Fulton County, Georgia. It is in the Ashview Heights Neighborhood of NPU-T, Council District 4.

Relevant Zoning Requirements:

- The subject property is zoned SPI-4 SA1/BL/IZ (Ashview Heights and Atlanta University Center/BeltLine Overlay/Westside Affordable Workforce Housing Overlay).
- Sec. 16-18D.012 (3)(a)- For residential uses adjacent to the sidewalk, fences shall not exceed 42 inches in height and walls shall not exceed 36 inches in height when located between the primary building and the street, or between any supplemental zone and the adjacent street

Property Characteristics: The subject property is a rectangular corner lot measuring 5,000 square feet (0.11 acres) with a frontage of 50 feet along Parsons Street SW and 100 feet along Abbott Street. The property is developed with a two-story single family home and driveway. The proposed fence has already been constructed without a Special Exception or permit. Vehicular access is provided via a curb cut on Abbott Street. The topography of the parcel is relatively flat, with a grade change of approximately 3 feet, very slightly sloping toward the northwest.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area are generally consistent in size, shape, and lot area. Abutting properties to the north, south, and west are developed with single-family dwellings and are zoned SPI-4 SA1/BL/IZ (Ashview Heights and Atlanta University Center/BeltLine Overlay/Westside Affordable Workforce Housing Overlay).

PROPOSAL: The applicant seeks a special exception to increase the height of the fence in the required supplemental zone from 3.5 feet to 6 feet in the front and half-depth front yard.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-28.008 (5)(a)(1)(i) of the City of Atlanta Zoning Code.

The Board of Zoning Adjustment may grant special exceptions in any district for greater heights of walls or fences in required yards only upon finding that such greater height is justified by requirements for security or privacy of persons and/or property and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood:

The applicant seeks a special exemption for an extant 6' metal fence in the front and half-depth front yards as well as a gate across the existing driveway. The applicant requests this special exception in response to safety and privacy concerns detailed in the application and supported by photo and video documentation. In a narrative provided, the applicant explains that there were multiple occurrences of trespassing and theft on their property in 2023. The applicant has provided photo and video evidence of an individual trespassing inside the existing 4' fence and stealing objects from the front porch. The applicant also expressed concerns regarding a large, unleashed dog repeatedly wandering onto their property. The applicant has also provided video surveillance footage to substantiate this claim.

To illustrate compatibility with the established character of the neighborhood, the applicant provided evidence of four properties that have fences of similar height and/or design located within the area. Therefore, staff is of the opinion that the Special Exception request for extended fence height is compatible with surrounding properties.

Staff is of the opinion that the applicant has justified the need for a higher fence by providing photographic evidence to support their claims. Additionally, the applicant provided photographs of 3 nearby properties with fences of similar height and/or design, satisfying the compatibility criteria. Staff is supportive of the request upon the condition that the existing 6' metal fence location is altered to be consistent with the updated site plan received January 10, 2024 which reflects visibility requirements set forth in City of Atlanta Code of Ordinances Section 16-28.008(9) *Visibility at intersections*.

RECOMMENDATION: APPROVAL WITH CONDITIONS

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-208 for 837 Kings Court NE

DATE: February 8, 2024

The applicant seeks a special exception to increase the height of a gate from 6 feet to 7 feet in the side yard with greater than 50% opacity and increase the height of a fence from 6 feet to 8 feet with greater than 50% opacity in the west side, east side and rear yards for a privacy fence.

FINDINGS OF FACT:

Property Location: The subject property fronts 51 feet on the east side of Lanier Boulevard and beginning at the northeast intersection of Los Angeles Avenue and Lanier Boulevard. The property is located in Land Lot 52 of the 17th District, Fulton County, Georgia. It is in the Morningside/Lenox Park Neighborhood of NPU-F, Council District 6.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential).
- 16-28.008 (5)(a)(2)(i): Within the required side and rear yards: Where no retaining wall is constructed, fences not exceeding six feet in height may be erected or maintained.
- 16-29.001(25)(a) & (b): Walls and fences:
 - Wall: Any structure forming a physical barrier or enclosure which is so constructed that 50 percent or more of the gross vertical surface is closed and prevents the passage of light, air and vision through said surface in a horizontal plane.
 - Fence: Any structure forming a physical barrier or enclosure which is so constructed that at least 50 percent of the vertical surface is open to permit the transmission of light, air and vision through said surface in a horizontal plane.

Property Characteristics: The subject property is a regularly shaped interior shaped lot that abuts Kings Court. The subject property has approximately 7,713 square feet (0.177 acres) of area with approximately 52 feet of frontage on Kings Court. The property is a two-story single-family home that boasts a front porch, a rear porch, a concrete sidewalk, a pool, a spa, natural turf, and a gazebo

at the back. It can be accessed by vehicles through the driveway on Kings Court, which ends at the east side of the house's front. The lot has a 16-foot difference in elevation, with a slope that rises from King's Court to the rear property line. However, there's a big sewer and storm combo trunk line that runs through the northeastern corner of the lot. Trees are also present on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size and shape. Property that is immediately adjacent to the property is developed with single-family dwellings with R-4 (Single Family Residential) zoning to the north, east, south and west.

PROPOSAL: The applicant seeks a special exception to increase the height of a gate from 6 feet to 7 feet in the side yard with greater than 50% opacity and increase the height of a fence from 6 feet to 8 feet with greater than 50% opacity in the west side, east side and rear yards for a privacy fence.

CONCLUSIONS: The following conclusions in relation to the request for a special exception are in accordance with Section 16-28.008(5)(e) of the City of Atlanta Zoning Ordinance.

The Board of Zoning Adjustment may grant special exceptions in any district for greater heights of walls or fences in required yards only upon finding that such greater height is justified by requirements for security or privacy of persons and/or property and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood:

The applicant is requesting a special exception to build a 7 foot gate in the side yard and an 8 foot privacy fence in the backyard. The fence would be more than 50% opaque in the side and rear yard. The property is located in the Morningside/Lenox Park neighborhood and is a regular interior-shaped lot that borders Kings Court. The site slopes upward from the front of Kings Court to the rear of the lot, with a 16 foot grade change.

The applicant has cited security, privacy, and topography as reasons for requesting an 8 foot tall privacy fence in the side and rear yard setback. According to the zoning ordinance, the maximum height for fences in the side and rear yards is limited to 6 feet unless a retaining wall is constructed. However, a fence not exceeding six feet is allowed at the top of one of the retaining walls.

A site visit was conducted for this property, and it appears that a fence has already been built in the side yards. Additionally, when visiting the neighborhood, it was not evident why an 8 foot wall was necessary. Although staff did not tour the property, the existing fence in the side yards seems to provide enough privacy from the neighboring properties. Furthermore, staff noticed that there were no other homes along the blockface or the neighborhood that had an 8-foot fence in the side yards.

The owner of a property is concerned about the security and privacy of their property due to the neighboring properties being rental units and Airbnb. They have a swimming pool and young children, which makes them anxious about the different types of people who may or may not be living in or visiting the neighboring units. They want to install a fence to increase privacy, but the

slope of the property helps them achieve increased height with a 6 foot height fence without increasing the height of the fence two feet as proposed. The staff understands the concerns of the owner and believes it is reasonable. However, the proposed fence exceeds the 6 foot requirement set by the Zoning Ordinance for single-family residential areas.

The owner is seeking ways to improve safety for themselves, citing security concerns as the reason for the need for an additional two feet in fence height. Although there is some topography on the lot, it helps provide a natural increase in height that, when added to a 6 foot fence on the side, can improve safety for security. However, the owner has not provided any substantial evidence, such as police reports, security footage, or video surveillance, to support their claims. Staff believes that the combination of natural topography coupled with the height by right per the zoning ordinance could achieve privacy concerns. While there is some topography on the lot, it is not decreasing in the rear where staff can see that it would be appropriate to approve this request, and there are also no lot constraints that help justify this claim.

The applicant's request for a higher fence has not been supported by sufficient evidence. Although they have mentioned that an 8 foot fence would enhance privacy and security for the residents, there is no proof that a 6 foot fence cannot achieve the same purpose while addressing the applicant's concerns. The applicant's concerns are valid, but there is no documentation or evidence supporting the need for the additional 2 feet in height. Thus, Staff is of the belief that a 6 foot wooden fence and gate with greater than 50% opacity would suffice. It would provide convenience without compromising the applicant's concerns.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director



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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-106 for 330 Hillside Drive NW

DATE: February 8, 2024

Applicant seeks a variance to reduce the east side yard setback from 10 feet to 4 feet for the construction of an accessory structure.

FINDINGS OF FACT:

Property Location: The subject property fronts 100 feet on the south side of Hillside Drive and begins approximately 649 feet from the southwest intersection of Hillside Drive and Broadland Road. The property is located in Land Lot 139 of the 17th District, Fulton County, Georgia. It is located in the Chastain Park Neighborhood of NPU-A, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-2B (Single Family Residential District).
- Minimum yard setbacks: Front yard: 50 feet; side yard: 10 feet; rear yard: 20 feet.

Property Characteristics: The subject property is a rectangular lot with approximately 100 feet of street frontage and 30,106 square feet (0.691 acres) of area. The property is currently occupied by a one-story single-family home. Vehicular access is provided via a curb cut along Hillside Drive. The topography declines significantly across the site, with an approximately 28-foot difference between the front and rear of the property, although most of the change occurs across the front yard. There are mature trees on site.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate area relatively consistent in their size, shape, and zoning designation. All parcels to the north, south, east, and west in the immediate area are zoned R-2B (Single Family Residential District).

PROPOSAL: The applicant requests a variance to reduce the east side yard setback from 10 feet to 4 feet for the construction of an accessory structure. The proposed structure is a 424 square foot covered pavilion with 55% open walls and an open foundation.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot is not deficient in size or width, it is a regular rectangle shape, and the topography across the rear yard is relatively level. Therefore, Staff finds no extraordinary and exceptional conditions regarding this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** An application of the zoning regulations would not cause an unnecessary hardship. As mentioned, the lot is not deficient in size, shape, width, or topography in such a way that limits the location of structures in the rear yard. The applicant has cited three primary reasons for placing the structure in such a way that encroaches the setback: first, the existence of a septic tank and septic lines in the rear yard; second, mature trees along the rear property line that should be preserved; and third, to establish consistency with their east-side neighbor's rear yard structure, which is similarly close to the property line on the other side of the fence. While these concerns are reasonable, staff cannot confirm that these conditions *require* the structure to be located where it encroaches the setback. The septic lines appear to be closer to the primary structure, and the mature trees are nearer to the rear of the yard. It is certainly true that these conditions do seem to constrain how far north or south the structure can be positioned, but the current request is for a side yard setback along the east side. Given these conclusions and the lack of deficiencies on the lot, staff cannot support the proposed request.
- c. **Such conditions are peculiar to the particular piece of property involved.** The conditions do not appear to be peculiar to the particular piece of property; nearby lots are similar size and shape, and have similar topography. The existence of similar septic lines on adjacent properties could not be confirmed or denied with the information provided.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties, nor would the request pose a potential impediment on emergency access or threats to health and fire safety. The request allows an increase in the quality of life, which does improve and reinforce the sustaining stability of the surrounding neighborhood. It should be noted that the structure is located in a flood hazard area that covers almost the entire rear yard. The Office of Zoning and Development and the Board of Zoning Adjustment cannot provide relief from the restrictions and regulations that apply to the flood hazard areas; relief from flood hazard area regulations must come from the Department of Watershed Management. The applicant has spent substantial time engaged with the Department of Watershed Management to bring the structure into compliance with those regulations, and with final approval pending. Approval of this variance request that is the subject of this report would allow the structure to encroach into the setback, but the permission to construct the actual structure as well as the architectural standards that apply to that structure are both dictated by the Department of Watershed Management. Relief, if granted, may not cause substantial detriment to the public good, however it would impair the purposes and intent of the Zoning

Ordinance by allowing an encroachment without satisfying the conditions typically required for a variance. Thus, Staff cannot support the variance request.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-155 for 2290 Hosea L. Williams Drive NE

DATE: February 8, 2024 (*Deferred December 7, 2023*)

The applicant seeks a special exception to increase the opacity of a fence to more than 50 percent in the front yard and to increase the height of a fence from 4 feet to 6 feet with more than 50 percent opacity in the half-depth front yard for an existing single-family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 150.5 feet on the north side of Hosea L. Williams Drive and beginning at the northwest intersection of Hosea L. Williams Drive and Oakview Road. The property is located in Land Lot 205 of the 15th District, DeKalb County, Georgia. It is in the Kirkwood Neighborhood of NPU-O, Council District 5.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential).
- 16-28.008 (5)(a)(1)(i): Within the required front and half-depth front yards: Where no retaining wall is constructed, fences not exceeding four feet in height may be erected.
- 16-29.001(25)(a) & (b): Walls and fences:
 - Wall: Any structure forming a physical barrier or enclosure which is so constructed that 50 percent or more of the gross vertical surface is closed and prevents the passage of light, air and vision through said surface in a horizontal plane.
 - Fence: Any structure forming a physical barrier or enclosure which is so constructed that at least 50 percent of the vertical surface is open to permit the transmission of light, air and vision through said surface in a horizontal plane.

Property Characteristics: The subject property is an irregular triangular-shaped lot that abuts Hosea L. Williams Drive on the south and Oakview Road on the west side of the property. The subject property has approximately 15,932 square feet (0.366 acres) of area with 150 feet of frontage on Hosea L. Williams Drive and 241.24 feet of frontage on Oakview Road. The property consists of a single-story single-family home with a crawl space. There is a deck located on the

south side of the property, as well as two walls in both the front and rear yard. Additionally, there is a porch located in the rear of the house. Vehicular access is provided via the driveway on Oakview Road which terminates at the front of the house. There is a 10 foot grade change in the topography of the lot, with an increase slopes upwards from the corner of Hosea L Williams Drive and Oakview Road to the rear property line of of the lot where a stone wall exists to protect from the neighbor's property. There are numerous trees and grass around the property's perimeter.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size and shape. Property that is immediately adjacent to the property is developed with single-family dwellings with R-4 (Single Family Residential) zoning to the north, east, south and west.

PROPOSAL: The applicant seeks a special exception to increase the opacity of a fence to more than 50 percent in the front yard and to increase the height of a fence from 4 feet to 6 feet with more than 50 percent opacity in the half – depth front yard for an existing single-family dwelling.

CONCLUSIONS: The following conclusions in relation to the request for a special exception are in accordance with Section 16-28.008(5)(e) of the City of Atlanta Zoning Ordinance.

The Board of Zoning Adjustment may grant special exceptions in any district for greater heights of walls or fences in required yards only upon finding that such greater height is justified by requirements for security or privacy of persons and/or property and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood:

The applicant originally submitted an application for a special exception on October 18, 2023, for the December 7, 2023, Board of Zoning Adjustment hearing date. However, concerns were raised about other issues that were not related to the proposed height of the fence. The previous request was made to increase the height of a privacy fence in the front yard and half-depth front yard of an existing single-family dwelling from 4 feet to 6 feet, with more than 50 percent opacity. As a result, the board decided to defer the application to February 8, 2024, to allow the applicant more time to talk with the neighbor who raised concerns at the Board hearing. Staff communicated with the applicant about the resolution, and the applicant said they had reached out to the neighbor who had concerns and was willing to work towards a resolution, but there was no reciprocation from the neighbor. The applicant also requested a change in the request's language to reflect keeping one of the fences at 4 feet with more than 50 percent opacity, while the other fence would increase from 4 feet to 6 feet with more than 50 percent opacity.

During the Board of Zoning Adjustment meeting on December 7, 2023, the applicant stated that they had provided evidence to show the need for a higher fence height. However, the evidence was not in the form of police reports, incident reports, security footage, or videos that would justify an increase in height for a fence.

The applicant's initial request was to seek a special exception to construct a 6 foot tall fence that is more than 50 percent opaque in the front and half-depth front yard. The current request is to increase a fence's opacity in the front yard and the height of the fence from 4 feet to 6 feet with

more than 50 percent opacity in the half-depth front yard for an existing single family dwelling. The property is triangular in shape and abuts two roads, Hosea L. Williams Drive and Oakview Road. The site slopes upwards from the corner of Hosea L Williams Drive and Oakview Road to the rear of the lot, where a stone wall exists to protect from the neighbor's property, with a 10-foot grade change.

The applicant wants the front yard fence to stay at 4 feet, with more than 50 percent opacity, to create a privacy wall. By utilizing the privacy wall and natural topography along Hosea L. Williams Drive, the proposed fence would provide increased privacy for the applicant. Staff finds this request reasonable. The applicant's request for the half-depth front yard fence to be 6 feet in height, as in if the lot were an interior lot, this half-depth front yard would be the side yard, and the side yard would be required by the right to have 6 feet as well as the rear. According to the zoning ordinance, the maximum height for fences in the front and half-depth front yards is restricted to 4 feet unless a retaining wall is constructed. However, a fence not exceeding 4 feet is allowed at the top of one of the retaining walls. Therefore, if the applicant plans to add two more feet of fence to the existing 4 foot fence in the half-depth front yard, the height of the half-depth front yard fence would exceed the limit proposed for the front and half-depth front yard around the property, which is 4 feet.

The applicant reported multiple issues with people accessing their property without consent, including strangers climbing the fence to look at their yard, individuals crossing their property to get to Oakview Road, a dog getting loose and entering their yard, and neighbors accessing their yard without their knowledge or consent. The applicant's wife has had several altercations with the neighbors, and one incident has been reported to the code enforcement team. The applicant provided more documentation after the previous board hearing to support the need for an increase in the height of the half-depth front yard. However, it was determined that the evidence was not tangible. In order to justify an increase in fence height, there would need to be police reports, incident reports, pictures, and videos to substantiate the need. The height of the fence being proposed exceeds the 4 foot requirement set by the Zoning Ordinance for the front and half-depth front yard for single family residential areas. The owner wants to increase safety for themselves and the surrounding community.

The applicant cites security concerns as the reason for the need for an additional two feet in fence height. However, there are no topography issues or lot constraints that justify this claim. While there is some topography on the Hosea L. Williams right-of-way, it helps provide a natural increase in height that, when added to a 4 foot fence, can improve safety for security. The applicant's claim that someone has climbed their fence and accessed their yard without consent is a reasonable threat to their security. However, they have not provided any substantial evidence, such as police reports, security footage, or video surveillance, to support their claim.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, Director



CITY OF ATLANTA

ANDRE DICKENS
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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-156 for 2959 Andrews Drive NW

DATE: February 8, 2024

The applicant seeks a special exemption to allow 6-foot 11-inch columns and a 6-foot and 1-inch gate in the front yard.

FINDINGS OF FACT:

Property Location: The subject property fronts 219.4 feet on the east side of Andrews Drive and begins approximately 277 feet from the southeast intersection of Slaton Drive and Andrews Drive. This property is in Land Lot 113 of the 17th District, Fulton County, Georgia. It is in the Peachtree Heights West Neighborhood of NPU-B, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-2B (Single Family Residential)
- Sec. 16-28.008 (5)(a)(1)(i) - Where no retaining wall is constructed, fences not exceeding four feet in height may be erected.

Property Characteristics: The subject property is a 1.5-acre (65,340 sq. ft.) irregular-shaped lot with a frontage of 219.43 feet along Andrews Drive. The property is developed with a 1-story brick house on a basement, brick courtyard, pool, and driveway. Vehicular access is provided via a curb cut on Andrews Drive. The house is 133 feet away from the property line and sits on a hill approximately 20 feet from the lowest point on Andrews Drive.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size, shape, and lot area. Abutting properties to the north, south, and west are developed with single-family dwellings and are zoned R-2A (Single Family Residential). The abutting property along the east is zoned RG-5 (Residential General District) developed with a multifamily dwelling.

PROPOSAL: The applicant seeks a special exemption to allow 6-foot 11-inches columns and a 6-foot and 1-inch gate in the front yard.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-28.008 (5)(a)(1)(i) of the City of Atlanta Zoning Code.

The Board of Zoning Adjustment may grant special exceptions in any district for greater heights of walls or fences in required yards only upon finding that such greater height is justified by requirements for security or privacy of persons and/or property and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood:

The applicant seeks a special exemption to erect 6-foot 1-inch wrought iron gate across the expanse of the existing driveway and 6-foot 11-inch brick columns with a limestone base and cap on both sides of the gate. The applicant articulates in the application that the property owners have serious safety and privacy concerns. In a narrative provided, the applicant explains that there were several occasions where an unidentified vehicle was entering or leaving their driveway. According to the narrative, one of the incidents took place mid-September around 7AM when the property owners notice an unidentified vehicle going up the driveway but “quickly backed down the driveway and drove off.” The second incident occurred on October 24th around 10PM, when the property owners were arriving home, they noticed another identified vehicle leaving the premises. The applicant provided additional photographs of other instances where identified vehicles were captured by video surveillance, with photographs from September 18th, which show a vehicle parked on the parking pad of the house with the doors and trunk opened. Another photo from October 10th was provided, although no vehicle is clearly seen, the property owners claim that an unidentified vehicle was leaving the property. Additional photographs from November 1st and October 24th show two unidentified men attempting to enter the house through the back door of the house. The applicant also provided copies of the alarm reports for the months of July, August, September, and October. The reports provided by the applicant state that the burglary alarm went off on July 29th, August 1st and 9th, and in a couple of instances the police were almost dispatched. The applicant also provided data from the City of Atlanta Neighborhood Crime Map, which shows 78 crime victims within an approximate 3-mile radius of the subject property.

The house is setback 130 feet away from the right of way and on a hill (about 20 feet from the lowest point of Andrews Drive). The house has no trees or vegetation in the front yard and is very visible from the street.

Regarding compatibility within the neighborhood's character, the applicant provided evidence of three properties with gates of similar height located within 1,000 feet of the subject property at 3015, 3083, and 3100 Andrews Drive. Therefore, it is Staff's opinion that the fence request is compatible with surrounding properties.

Staff is of the opinion that the applicant has justified the need for a higher fence by providing photographic evidence to support the claims. The applicant also provided neighborhood crime data that support the safety concerns. Additionally, the applicant provided photographs of three nearby properties that have similar sized gates, satisfying the compatibility criteria. Staff is supportive of the request based on the evidence provided by property owner.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



CITY OF ATLANTA

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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-157 for 272 Rumson Road NE

DATE: February 8, 2024 (*Deferred December 7, 2023*)

Applicant seeks a special exception to allow a 4.5-foot stone wall in the required front yard for an existing single family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 60 feet on the east side of Rumson Road and begins 261.8 feet from the northwest intersection of Bolling Road and Rumson Road. The property is located in Land Lot 100 of the 17th District, Fulton County, Georgia. It is located in the Garden Hills Neighborhood of NPU-B, Council District 7.

Relevant Zoning Requirements:

- The subject property is zoned R-4/SPI-24 (Single Family Residential District/Garden Hills Neighborhood District).
- Sec. 16-28.008(5)(a)(1)(ii) – Within the required front and half-depth front yards: Not more than two retaining walls with a maximum height of three feet each may be erected, provided however that the face of the upper wall shall be separated from the face of the lower wall by at least a minimum horizontal distance that is landscaped and equal in length to the height of the upper wall.

Property Characteristics: The subject property is an irregular shaped lot with approximately 60.4 feet of street frontage and 12,423 square feet (0.285 acres) of area. The property is currently occupied by an existing 1.5 story brick residential structure and an accessory structure in the rear yard. Vehicular access is provided via a curb cut along Rumson Road. The topography declines across the site, with approximately a 34-foot difference between the highest point at the rear and lowest point along the frontage; there is a steep drop of approximately 16 feet in the front yard. There are mature trees on site.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate area are fairly consistent in their shape but seem to vary in size. The adjacent parcels to the north, south,

east, and west are all zoned R-4/SPI-24 (Single Family Residential District/Garden Hills Neighborhood District).

PROPOSAL: The applicant requests a special exception to allow a 4.5-foot stone wall in the required front yard for an existing single family dwelling. The stone wall has already been constructed and it is located along a retaining wall in the front yard that also functions as a stair case to the front door, due to the steep topography of the site.

CONCLUSIONS: The following conclusions in relation to the request for a special exception are in accordance with Section 16-28.008(5)(e) of the City of Atlanta Zoning Ordinance.

The Board of Zoning Adjustment may grant special exceptions in any district for greater heights of walls or fences in required yards only upon finding that such greater height is justified by requirements for security or privacy of persons and/or property, or topographic reasons, and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood:

The wall is constructed as part of a stone staircase leading from the street level to the front door, providing pedestrian access to the structure. The grade in the front yard is extremely steep. The wall itself improves the safety of the staircase and acts as a retaining wall, and the structural integrity of the site could be negatively impacted if the wall were to be removed. The design of the wall also matches the architectural style of the staircase and primary structure and is consistent with the character of other similar structures in the neighborhood. Furthermore, the significant grade change of the site makes the wall appear shorter than it is as the ground rises significantly just behind it. Therefore, Staff is of the opinion that the proposal does meet the criteria for a special exception and is reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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JAHNEE R. PRINCE, AICP
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Review

FROM: Angela M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-23-160 for 359 Old Ivy Road NE

DATE: February 8, 2024

Applicant seeks a variance to increase the driveway width at the turnaround section only from 20 feet to 33 feet for construction of newly poured concrete turnaround within front yard setback.

FINDINGS OF FACT:

Property Location: The subject property fronts 100 feet on the south side of Old Ivy Road and beginning 324.15 feet from the northeast intersection of Old Ivy Lane and Old Ivy Road. The property is located in Land Lot 63 of the 17th District, Fulton County, Georgia. It is located in the North Buckhead Neighborhood of NPU-B, Council District 7.

Relevant Zoning Requirements:

- The subject property is zoned R-3 (Single Family Residential).
- Minimum lot dimensions: Width: 100 feet; Minimum lot area: 18,000 square feet.
- Minimum yard setbacks: Front yard: 50 feet; side yard: 10 feet; rear yard: 20 feet

Property Characteristics: The subject property is an irregular-shaped lot and has approximately 26,000 square feet (0.60 acres) with 100 feet of frontage. It is currently developed with a two-story single-family structure and curb cuts along Old Ivy Road provides vehicular access to the property. The topography gradually inclines approximately 10 feet from the front property then gradually declines 18 feet to the rear. Mature trees are present on the property.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate vicinity varies in size and shape. All parcels to the north, south, east, and west in the immediate area are zoned R-4 (Single Family Residential) including a public school across the street.

PROPOSAL: The applicant seeks a variance to increase the driveway width at the turnaround section only from 20 feet to 33 feet for construction of newly poured concrete turnaround within front yard setback.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 of the City of Atlanta Zoning Code.

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot has an irregular shape. The topography gradually inclines from the property line to the front of the home and declines behind the house to the rear property line. The subject property is located along a curve of Old Ivy Road. Therefore, Staff finds size and lot topography to be the extraordinary conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The application of the zoning regulations would cause a hardship due to the topography declining roughly 33 feet from the front to the rear of the property. Because the property is located along a curve, vehicular access onto Old Ivy Road may be challenging to inexperienced drivers. In this case the applicant is requesting a turnaround section within the front yard to create a safe entrance onto Old Ivy Road for teenage drivers. Therefore, Staff is of the opinion that the request is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The topography, irregular lot shape, and vehicular access onto Old Ivy Road are peculiar as Staff is not aware of similar conditions on adjacent properties. However, the existence of similar conditions on neighboring properties does not negate the desirability of the proposal.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director