



ANDRE DICKENS
MAYOR

CITY OF ATLANTA
DEPARTMENT OF CITY PLANNING
55 TRINITY AVENUE, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308
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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-23-207 for 1425 Piedmont Avenue NE, 1433 Piedmont Avenue NE, 1439 Piedmont Avenue NE, 1447 Piedmont Avenue NE, 1451 Piedmont Avenue NE, 1461 Piedmont Avenue NE, 1475 Piedmont Avenue NE, 240 Westminster Drive NE, 244 Westminster Drive NE, 250 Westminster Drive NE, and 268 Westminster Drive NE

DATE: August 8, 2024

Applicant seeks a variance to reduce the front yard setback from 35 feet to 16 feet 11 inches (pending lot consolidation) for the expansion of the Atlanta Botanical Garden.

The applicant is requesting a deferral to meet with the neighborhood association regarding their proposal. Staff is supportive of the request.

STAFF RECOMMENDATION: DEFERRAL - OCTOBER 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-24-113 for 1030 Los Angeles Avenue NE

DATE: August 8, 2024

Applicant seeks a variance to reduce the east side yard setback from 7 feet to 5 feet for the construction of a two-story addition.

The applicant is requesting a deferral to have time for the NPU to review the applicant's request. Staff is supportive of the request.

STAFF RECOMMENDATION: DEFERRAL – OCTOBER 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-24-118 for 3491 Pinestream Road NW

DATE: August 8, 2024

Applicant seeks a special exception to increase the height of a retaining wall in the front yard from 3 feet to 6 feet, increase the height of a fence in the front yard half-depth from 4 feet to 5 feet, and a variance to reduce the front yard setback from 60 feet 30 feet for the construction of an accessory structure (pool house) and pool.

This case must be readvertised in order to add additional components to the variance request to fully capture the scope of work of the proposal. Staff recommends a deferral to the next available agenda and the applicant is supportive.

RECOMMENDATION: DEFERRAL – SEPTEMBER 12, 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-24-119 for 1001 Ponce de Leon Avenue NE

DATE: August 8, 2024

Applicant seeks a special exception to reduce the required off-street parking from 189 to 184 spaces.

Staff determined that the special exception was no longer needed for the proposed request. The applicant formally withdrew their 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-23-185 for 37 28th Street NW

DATE: August 8, 2024 (*deferred February 1, 2024, March 7, 2024, and April 4, 2024*)

Applicant seeks a variance to exceed the allowable amount for paved areas in driveways from 1/3 to 56.2% of the total lot area in the rear yard and a special exception to allow a parking bay in the required rear yard adjacent to the street and to allow for an expansion (construction of a rear addition and an attached garage) to an existing legal nonconforming duplex.

FINDINGS OF FACT:

Property Location: The subject property fronts 72 feet on the north side of 28th Street and beginning at the northwest intersection of 28th Street and Wycliff Road. The property is located in Land Lot 110 of the 17th District, Fulton County, Georgia. It is located in the Ardmore Neighborhood of NPU-E, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-4/BL (Single Family Residential/Beltline Overlay).
- Minimum lot dimensions: Frontage: 70 feet; Minimum lot area: 9,000 square feet.
- Minimum yard setbacks: Front yard: 35 feet; Side yard: 7 feet; Rear yard: 15 feet.
- Maximum lot coverage: Maximum lot coverage within this district shall not exceed 50% percent of the total lot area.
- Limitations on required off-street parking in required yards adjacent to streets in residential districts; limitations on paving such yards: Required off-street parking for uses in residential districts shall be permitted in required yards adjacent to streets only to the extent allowable under the following limitations: (a) Such parking shall be permitted only in driveways within such yards, and no parking bays or parking outside such driveways shall be permitted. (b) Maximum width of driveways for one- and two-family uses shall be limited to 20 feet (exclusive of flares at the throat); for multi-family uses, to 24 feet. (c) Paved area in such driveways shall not exceed one-third of the total area of the required yard. There may be additional paved walkways not exceeding 10 percent of the required yard.
- Special exception for the expansion of nonconforming residential uses in the R-4 and R-5 residential districts. The board of zoning adjustment may, by special exception, permit the

enlargement, extension or moving on the same lot of a structure containing a nonconforming multi-family use in an R-4 or R-5 residential district or the enlargement, extension or moving on the same lot of a structure containing a nonconforming two-family use in an R-4 residential district, upon making all of the findings set forth in this subsection (7)(a), (i) through (v) below, each of which shall specifically be made a part of the record of such special exception proceedings.

Property Characteristics: The property in question is an irregularly shaped corner lot with approximately 14,051 square feet (0.323 acres) of area and 72 feet of frontage. Currently, it features a nonconforming, two-story brick duplex with a basement and crawl space. The property has a concrete wall, concrete walk, brick walls, and two sets of steps in the front. One set leads to the front door, while the other set is located next to Wycliff Road. Additionally, there is a porch cover, mail area, and concrete walls next to Wycliff Road, as well as a section of steps leading to the rear of the property. On the west side of the property, there is a chimney, concrete walk, 2 air conditioning units, and stone plates. Towards the rear, there are three concrete walls, an asphalt driveway, and a concrete driveway. The topography slopes from the front property line on 28th Street towards the rear of the lot, with an 8-foot grade change. The property also features several large and mature trees.

Characteristics of Adjoining Properties, Neighborhood: The lots in the immediate area come in various sizes and shapes and are consistently developed with residential dwellings, duplexes, and multifamily dwellings. Parcels to the north and west are zoned R-4/BL (Single Family Residential/BeltLine Overlay). To the east, parcels are zoned RG-3/BL (Residential General/BeltLine Overlay), and to the south, the parcels are zoned RG-2-C/BL (Residential General Conditional/BeltLine Overlay).

PROPOSAL: Applicant seeks a variance to exceed the allowable amount for paved areas in driveways from 1/3 to 56.2% of the total lot area in the rear yard and a special exception to allow a parking bay in the required rear yard adjacent to the street and to allow for an expansion (construction of a rear addition and an attached garage) to an existing legal nonconforming duplex.

PART I

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 property is an irregularly shaped rectangular-shaped corner lot with 72 feet of width and 14,051.73 square feet of area. While the topography rises from the front property line towards the house and then declines towards the rear, with an 8-foot grade change, the lot maintains a relatively flat surface overall. Despite its irregular shape and slight variation in topography, the property exceeds the minimum requirements set forth by the R-4 zoning regulations. Staff finds that the property's characteristics do not warrant any extraordinary and exceptional 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 request for a variance to allow a parking bay in the required rear yard adjacent to the street is carefully considered within the context of safety, neighborhood character, and zoning regulations. The proposed parking bay is essential for safe ingress and egress from the property, particularly given its corner lot configuration. Placing the parking bay in the required rear yard adjacent to the street ensures practical access while minimizing disruption to neighboring properties. Thus, the request to increase paved areas in the rear yard is reasonable, considering the lot's constraints. Furthermore, the design of the parking bay aligns with the architectural character of the neighborhood. Similar properties in the vicinity have utilized similar configurations, demonstrating compatibility with the built environment. While the proposal deviates from strict zoning regulations, it addresses the unique circumstances of the property and promotes safety and functionality. Granting the variance would allow the property owner to utilize the space effectively while maintaining the integrity of the neighborhood. In conclusion, the request for a variance to allow a parking bay in the required rear yard adjacent to the street balances safety, neighborhood character, and zoning regulations, making it a reasonable and necessary accommodation for the property owner.
- c. Such conditions are peculiar to the particular piece of property involved.** The lot in question is a rectangular corner lot with a curve along Wycliff Road. This distinctive feature sets it apart from other corner lots in the neighborhood. Therefore, the staff considers the lot shape to be a unique condition that qualifies as peculiar for the subject property.
- 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. Furthermore, the request would not pose a potential impediment to emergency access or threats to health and fire safety because the property has adequate room for the requested improvements. However, this request may go against the purposes and intent of the Zoning Ordinance to beautify the neighborhoods, and the limitations in off-street parking (i.e., size of driveway & paved areas) were created to minimize the number of vehicles on a lot. The proposed parking pad blends into the property and is consistent with the character of the neighborhood. This variance request for a parking pad in the required rear yard adjacent to the street is to allow for easy access to the proposed garage. Overall, the request aims to enhance the quality of life and stability of the surrounding neighborhood. Staff find the variance reasonable for construction.

PART II

The board of zoning adjustment may, by special exception, permit the enlargement, extension or moving on the same lot of a structure containing a nonconforming multifamily use in an R-4 or R-5 Residential District or the enlargement, extension or moving on the same lot of a structure containing a nonconforming two-family use in an R-4 Residential District, upon making all of the findings set forth in this subsection (7)(a), (i) through (v) below, each of which shall specifically be made a part of the record of such special exception proceedings. With respect to each such required finding, the burden of proof shall be on the person asserting an entitlement to the nonconforming use to show, by clear and convincing evidence, his or her entitlement to a nonconforming use, the continuous maintenance of such

use, and the substantial likelihood that such use will continue indefinitely. In order to grant any such special exception, the board must find that:

- (i) The total number of residential units and bedrooms on the subject property remains the same or is decreased.** The proposed alterations and additions ensure that the total number of residential units and bedrooms on the subject property remains unchanged or increased. Currently, the property consists of two residential units with a total of four bedrooms. The proposed changes, which include relocating a lower unit's primary bedroom and kitchen, reconfiguring ground floor bedrooms to create larger bathrooms and a powder room, and adding a new attached garage with a gym above, are all aimed at enhancing the existing structure without increasing its residential capacity. Additionally, the plan involves replacing first-floor windows and repairing/replacing the existing deck above the sunroom. These modifications will result in an increase of 1,918 square feet of living space and an additional 774 square feet for the attached garage, bringing the total livable floor area of the existing 3,517 square feet of the existing duplex to 5,435 square feet and 774 square feet of non-livable square feet. It's important to note that these expansions are modest and focused solely on improving the quality and functionality of the existing structure. The proposed alterations/additions are designed to maintain the integrity of the property while modestly enhancing its amenities. Therefore, Staff is of the opinion that the number of residential units and bedrooms will remain unchanged.
- (ii) Any proposed floor area increase shall not intensify the nonconforming use by increasing traffic, use of on-street or off-street parking, number of residents or by other means.** The proposed additions, totaling 1918 square feet, along with the 774 square feet of garage space, are explicitly designed without the inclusion of more units or bedrooms. Currently, the existing parking area accommodates 3 cars, and the proposed garage will accommodate 3 cars. Instead, these expansions are focused on enhancing existing amenities and addressing specific needs of our current tenants. The addition of an attached garage is a key component of this plan, aimed at improving off-street parking facilities while also providing additional storage space and gym. The incorporation of garage space ensures that the visual impact of parked vehicles from the street is minimized, in line with neighborhood aesthetics. It is important to note that these expansions are not intended to increase the number of residents or intensify traffic or parking issues. Rather, the primary goal is to enhance the quality of life for the current tenants. Similar properties in the area already offer such amenities, and the proposed additions are carefully planned to improve the property without impacting the neighborhood negatively.
- (iii) The height and scale of the buildings resulting from the proposed expansion is in character with adjoining buildings in the neighborhood.** The proposed expansion aligns with the height and scale of adjoining buildings in the neighborhood, ensuring harmony within the local architectural context. Firstly, the heights of both the existing principal structure and the proposed expansion remain consistent at 28 feet 3 inches, preserving the existing scale of the property. Additionally, the height of the proposed accessory structure, the garage, at 16 feet, further complements the surrounding buildings without imposing on their character. Moreover, the design approach maintains the prevailing pattern of development in the neighborhood, particularly with regard to the placement of accessory structures in rear yards. This is evidenced by a comprehensive survey of nearby properties, including examples from Wycliff Road, 28th Street, and Anjaco Road, where rear yard structures are commonplace. Notably, corner lots such as those at 51, 62, and 63 28th Street exemplify this pattern,

underscoring the consistency of our proposal with neighborhood norms. Furthermore, the attention to detail extends to the orientation of the garage doors. By aligning with the established practice in the area, wherein garage doors face away from the street, we ensure that the proposed expansion maintains visual harmony and minimizes any disruption to the streetscape. In essence, the proposed expansion respects the existing fabric of the neighborhood while enhancing the property's functionality and appeal. By carefully integrating with the surrounding built environment, the height and scale of the buildings remain in harmony with adjoining structures, contributing positively to the neighborhood's architectural character. Thus, it should not have an impact on the neighborhood.

- (iv) **The total coverage of the lot resulting from the proposed expansion is consistent with the character of other homes in the neighborhood.** The current lot coverage is 37.59% and will increase by 11.41% as a result of the additions.

- (v) **The nonconforming use has continued and is likely to continue indefinitely, and the actions proposed in the application as submitted, and with the conditions and safeguards attached and accepted by the applicant, would not adversely affect surrounding properties.** The nonconforming has been continuous and is likely to continue indefinitely. The proposed addition would enhance living conditions and would not negatively impact surrounding properties.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: **V-24-057 for 4075 Paces Ferry Road NW, 4095 Paces Ferry Road NW Rear, 4400 Northside Parkway NW Rear, and 4496 Northside Parkway NE Rear**

DATE: August 8, 2024

Applicant seeks a variance to increase the lot coverage from 25% to 27.6% and increase the building height from 35 feet to 60 feet for the construction of new buildings.

FINDINGS OF FACT:

Property Location: The subject property fronts approximately 2,400 feet on the north side of Paces Ferry Road and beginning at the northeast corner of Paces Ferry Road and the Chattahoochee River. The property is located in Land Lot 235 of the 17th District, Fulton County, Georgia. It is located in the Paces Neighborhood of NPU-A, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-1 (Single Family Residential District).
- *Maximum lot coverage:* Maximum lot coverage within this district shall not exceed 25 percent of total lot area.
- *Maximum height:* No building shall exceed 35 feet in height.

Property Characteristics: The subject property is an irregularly shaped collection of parcels with approximately 2,400 feet of street frontage and approximately 4,489,294 square feet (103.06 acres) of area. The lot is developed with a private school consisting of several administrative buildings, recreational facilities/fields as well as both parking garages and surface parking areas. Vehicular access to the property is provided from the south side of Northside Parkway and the north side of Paces Ferry Road. The topography is rolling and varied, sloping about 150 feet from east to west. The site is heavily planted with landscaping and natural woodlands and buffers.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate area vary significantly in size and shape due to the irregular street pattern and rolling topography of the neighborhood as well as the sheer number of parcels that abut the large institution. The parcels to the north are zoned RG-2 (Residential General District) and O-I-C (Office-Institutional)

District/Conditional). Parcels to the east and south are zoned R-1 (Single Family Residential District). To the west parcels lie outside of City of Atlanta limits, across the Chattahoochee River which abuts the site.

PROPOSAL: The applicant seeks a variance to increase the lot coverage from 25% to 27.6% and increase the building height from 35 feet to 60 feet for the construction of new buildings. This site was granted a variance previously via V-07-284 to establish 55 feet as the new maximum height on this site. This variance is also associated with Special Use permit U-24-10 for the same site, which was recommended for Approval with Conditions by the Zoning Review Board at their June 6, 2024 meeting. The scope of work proposes construction of the Riverbank Building, which will be a gathering space and community center for the campus. The new building will replace the existing community center facility. The proposed Riverbank Building is broken into two main buildings connected by an open canopy. The main building is three stories of approximately 138,000 square feet and will house the dining commons, learning commons, academic resource center, classrooms, and chapel. The nearby existing two-story Hendrixx-Chenault theater will remain; an addition will wrap the existing structure to include a new Black Box theater and the associated spaces for the performing arts program, which will encompass approximately 54,000 square feet. The total new square feet being constructed is 174,950 square feet and 169,339 square feet is to be demolished and removed.

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 substantial changes in topography throughout the site, is not regularly shaped, and is much larger than any nearby parcel or any typical parcel of a similar zoning designation. Therefore, Staff finds size, shape, and topography 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 applicant from constructing new facilities on their site that intend to replace outdated facilities with those that are more modernized. This site's substantial shifts in topography limit alternatives for where such a building could be located, especially when considering the existing conditions and layout of the campus. The location of the proposed building is central to the site, nearest to its west property line abutting the Chattahoochee River; there is no expected impact to any nearby property due to the size of the subject property and the substantial natural vegetation that buffers most of the site from its neighbors. The development controls of R-1 are typically associated with single family homes on properties that have an area of 2 acres, which is roughly 2% of the size of the subject property, so a strict application of the zoning criteria in a case of this nature unnecessarily limits the development options of a school. It can be argued that both the increase in height of 5 more feet than what was previously granted as well as the 2.6% increase in impervious surfaces on the lot are effectively negligible relative to the size of the site. Finally, because the site is located so close to the

Chattahoochee River there will be a technical review conducted by the Atlanta Regional Commission (ARC) subject to the requirements of the Metropolitan River Protection Act (MRPA) prior to construction. Therefore, Staff is of the opinion that the proposed requests are reasonable.

- c. **Such conditions are peculiar to the particular piece of property involved.** The conditions appear to be peculiar to the particular piece of property; 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. Furthermore, the request would not pose a potential impediment to emergency access or threats to health and fire safety because the property has room for the requested improvements. 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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Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-076 for 71 Huntington Road NE (*Deferred June 13, 2024*)

DATE: August 8, 2024

The applicant seeks a variance to reduce the east side yard setback from 7 feet to 3 feet, reduce the rear yard setback from 15 feet to 7 feet 6 inches, and increase lot coverage from 50% to 55%.

FINDINGS OF FACT:

Property Location: The subject property fronts 55 feet on Huntington Road and begins approximately 855.5 feet from the southeast intersection of Peachtree Street and Huntington Road. This property is in Land Lot 109 of the 17th District, Fulton County Georgia. It is in the Brookwood Hills Neighborhood in NPU E, Council District 6.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single-Family Residential District)
- 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: Maximum lot coverage within this district shall not exceed 50 percent of total lot area.

Property Characteristics: The subject property has a rectangular shape lot with a lot area of 0.263 acres (11,469 square feet) and frontage of 55 feet along Huntington Road. The property is currently developed with a two-story single-family house on a basement, rear patio, detached garage, walkways, and driveway.

Characteristics of Adjoining Properties, Neighborhood: Adjoining lots have similar shapes and lot sizes to the subject property. All lots are developed with single-family dwellings and rear accessory structures zoned R-4.

PROPOSAL: The applicant seeks a variance to reduce the east side yard setback from 7 feet to 3 feet, reduce the rear yard setback from 7 feet 6 inches, and increase lot coverage from 50% to 55% for the construction of a 2-story accessory structure in the backyard to be used as a 2-car garage on the 1st floor and guest house on the second story.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-05.008 (2)(3) & (6).

- 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 deficient in lot width by 15 feet. The site exceeds the minimum lot area by 2,469 square feet. The lot has a rectangular shape, as it is narrow (55-foot wide) and deep (210 feet deep). The site slopes down 15 feet from the rear property line to the front property line. The site has a 26" pine tree located behind the house in the middle of the backyard. Due to the narrow width of the lot, the lot shape, and the tree location, there is no other reasonable area to locate the proposed accessory structure on the site, therefore, requiring the increase the impervious area for the driveway to have access to the garage and to provide additional turnaround area for vehicles given the topography of the site. Therefore, staff is of the opinion that site has extraordinary conditions.
- b) **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The property does not meet the 70-foot minimum required lot width, and the existing primary house structure is already set back 3 feet from the east property line. Enforcing the required 7-foot side and 15-foot rear setback will require the removal of the 26" pine tree, which is desired to be protected. Enforcing the 50% maximum lot coverage requirement as well will prevent the applicant from having sufficient driveway area for vehicles to safely turnaround out of the side-entry garage. The applicant submitted an alternative design for a front facing garage, which will require a west side setback reduction variance resulting in even greater lot coverage for vehicle turnaround, which will require the tree to still be removed. Therefore, the proposed configuration for the improvements has the less impact on the tree and lot coverage. Enforcing the required setbacks and lot coverage will prevent site improvement proposed by the applicant.
- c) **Such conditions are peculiar to the particular piece of property involved.** Staff is of the opinion that the lot width, shape, tree location, and existing improvements are peculiar to this specific piece of property and are not conditions imposed by the property owner.
- 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.** It is the intent of the zoning ordinance to reduce additional stormwater runoff and protect trees. The applicant seeks to install a rain garden and an area drain to collect additional water from the proposed garage and directed toward the yard and not to the street as well as protect the tree. Therefore, staff is of the opinion that the applicant is mitigating for the additional impervious proposed and save the tree from having it to be removed, therefore, meeting the intent of the zoning ordinance.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-087 for 540 John Wesley Dobbs Avenue NE and
540 John Wesley Dobbs Avenue NE, Rear

DATE: August 8, 2024

Applicant seeks a variance to reduce the west side yard setback from 7 feet to 3 feet and increase the lot coverage from 55% up to 73.1% for an accessory structure.

FINDINGS OF FACT:

Property Location: The subject property fronting 48.54 feet on the south side of John Wesley Dobbs Avenue and beginning at the northeast intersection of Howell Street and John Wesley Dobbs Avenue. The property is located in Land Lot 46 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 R-4 (Single Family Residential).
- Minimum yard setbacks: Front yard: 30 feet; side yard: 7 feet; rear yard: 7 feet
- Minimum lot requirements for single-family detached dwellings and all other uses: Lot Area: 7,500 square feet; frontage: 50 feet

Property Characteristics: The subject property is an irregular shaped lot with approximately 48 feet of street frontage and 6,742 square feet (0.154 acres) of area. The property has a single-family dwelling.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area vary in their size, shape, and area. Parcels to the north are zoned MR-3-C/BL (Multi-Family Residential District-Conditional/Beltline Overlay). Parcels to the east are zoned R-5/BL (Two-Family Residential District/Beltline Overlay). The parcel to the south is zoned HC-20C SA3/Beltline Overlay (Martin Luther King Jr. Landmark District/Beltline Overlay). The parcel to the west is zoned PD-MU/BL (Planned Development-Mixed Use/Beltline Overlay).

PROPOSAL: The applicant seeks a variance to reduce the west side yard setback from 7 feet to 3 feet and increase the lot coverage from 55% up to 73.1% for an accessory structure.

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 rear lot is deficient in size and does not have frontage. The structures, a gazebo and cement pavers, are currently encroaching on the setbacks and exceeding the lot coverage. Therefore, Staff finds size and existing conditions 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 rear lot to be consolidated with the primary lot and maintaining the current structure. The primary structure and accessory structures were built prior to the platting discrepancy. The rear lot is recognized as a separate parcel by the City of Atlanta, and the variance was requested so the lots can be consolidated and be brought to compliance. 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. The rear lot was not properly recorded with the City, creating a deficient and landlocked lot.
- 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 and the lot be brought to full compliance. 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

CITY OF ATLANTA

JAHNEE R. PRINCE, AICP
Commissioner

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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-24-090 for 1937 Felker Ward Street NW

DATE: August 8, 2024 (*Deferred July 11, 2024*)

Applicant seeks a variance to reduce the rear yard setback from 15 feet to 3 feet and reduce the west side yard setback from 7 feet to 4 feet for the installation of a swimming pool and gazebo.

FINDINGS OF FACT:

Property Location: The subject property fronts 104.13 feet on the east side of Felker Ward Street beginning approximately 471.7 feet from the southeast intersection of Hollywood Road and Felker Ward Street. The subject property is zoned R-4A (Single Family Residential). The property is located in Land Lot 252 of the 17th District, Fulton County, Georgia. It is located in the Riverside neighborhood of NPU-D, Council District 9.

Relevant Zoning Requirements:

- The subject property is zoned R-4A (Single Family Residential).
- Minimum lot dimensions: Frontage: 50 feet; Minimum lot area: 7,500 square feet.
- Minimum yard setbacks: Front yard: 30 feet; Side yards: 7 feet; Rear yard: 15 feet.

Property Characteristics: The subject property is a rectangular lot of approximately 14,865 square feet (0.338 acres) and approximately 104 feet of frontage. It is currently developed with a single-family residential structure. The topography declines by approximately 12 feet from its highest point to the lowest point. There is a 25-foot state waters buffer and a 75-foot tributary buffer on the property. There are mature trees located on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size and shape and are consistently developed with residential structures. The parcels to the north, east, south, and west are zoned R-4A (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the rear yard setback from 15 feet to 3 feet and reduce the west side yard setback from 7 feet to 4 feet for the installation of a swimming pool and gazebo.

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 subject property contains a 25-foot stream buffer, a 75-foot tributary buffer, and topography that declines by approximately 12 feet. Therefore, Staff finds topography and the water buffers 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.** An application of the zoning regulations would cause a hardship by preventing the proposed improvements from being constructed. State waters and tributary buffers limit the buildable area, forcing the existing single-family home to be built farther from the right of way and closer to the rear property line. Therefore, the home's placement limits the buildable area in the rear yard. The proposed swimming pool and gazebo can only be placed into the encroachments in the rear and west side yard setbacks. Therefore, Staff is of the opinion that this proposal is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The lot topography and stream buffers are peculiar to the subject property. Staff is unaware of similar conditions on adjacent parcels.
- 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 requested variance would not impose upon adequate light and/or air on the adjacent properties. There is no potential impediment on emergency access or threats to health and fire safety because the property has adequate room for the requested improvements. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Staff finds the proposed variances to be 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 Adjustment

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

SUBJECT: V-24-114 for 3651 Randall Mill Road NW

DATE: August 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 230.81 feet on the east side of Randall Mill Road NW and begins approximately 311.6 feet from the southeast intersection of Randall Hall and Randall Mill Road. The property is located in Land Lot 180 of the 17th District, Fulton County, Georgia. It is located in the Randall Mill Neighborhood of NPU-A, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-2 (Single-Family Residential District).
- Active recreation in yards adjacent to streets: Swimming pools, tennis courts and other active recreation facilities shall not be permitted in connection with residential uses in residential districts in any yard, required or other, adjacent to a street, other than by special exception granted by the Board of Zoning Adjustment.

Property Characteristics: The subject property is an irregular shaped lot with approximately 230 feet of street frontage and 76,480 square feet of area. The property is currently developed with an existing one-story home. Vehicular access is currently provided via a curb cut on Randall Mill Road. The topography declines by approximately 26 feet from its highest point to the lowest point. There are mature trees located on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in shape, size, and area. All of the parcels to the north, south, east, and west are zoned R-2 (Single-Family Residential District).

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

CONCLUSIONS: The following conclusions in relation to the request for a special exception are in accordance with Section 16-28.008 (6) of the City of Atlanta Zoning Ordinance.

- 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 location of the proposed swimming pool will most likely not be visible as it will be obstructed by a proposed retaining wall, and the inclining topography and existing mature trees located throughout the rear yard of the property. Therefore, staff believes the request is reasonable and the impact to any others will be minimal.
- b. **The area for such activity could not be reasonably located elsewhere on the lot.** Due to the irregular shape of the lot and the placement of the existing structure, Staff believes that the proposed pool's location is appropriate, as it could not be located elsewhere on the lot. The proposed location minimizes impact on existing structures, hardscape, and trees.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
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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-23-115 for 268 Chappell Road NW

DATE: August 8, 2024

Applicant seeks a variance to reduce the north side yard setback from 7 feet to 0 feet for the construction of new single-family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on the west side of Chappell Road and beginning approximately 100 feet from the northwest intersection of Hawkins Street and Chappell Road. The property is located in Land Lot 142 of the 14th District, Fulton County, Georgia. It is located in the Hunter Hills Neighborhood of NPU-K, Council District 3.

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: 7 feet; Rear yard: 15 feet.
- Maximum lot coverage: Maximum lot coverage within this district shall not exceed 50% percent of the total lot area.

Property Characteristics: The subject property is a regular shape interior lot with approximately 6,552 square feet (0.150 acres) of area and 50 feet of frontage. The lot narrows approximately 131.85 feet from the front to the rear. The property is currently developed with a one story frame single family home with a cover porch in the front. Access is provided via a driveway on Chappell Road and terminates on the east side of the house. The property's topography slopes upwards from the front to the rear, with a 10-foot grade change. There are scattered grass, bushes, and trees on the property, with the remainder covered in scattered grass.

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.

PROPOSAL: Applicant seeks a variance to reduce the front yard setback from 35 feet to 15 feet for the construction of a 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 property being discussed has a total area of 6,552 square feet and a width of 50 feet. However, the lot area falls short by 2,448 square feet and the width is deficient by 20 feet, which doesn't comply with the zoning regulation on the lot. The topography gradual slopes upwards from the front to the rear with a 10-foot grade change. Therefore, Staff finds that lot size and width are the extraordinary and exceptional conditions for 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 subject property measures 6,552 square feet with a width of 50 feet and a topography that includes an upward slope with a 10-foot grade change. Due to the lot's narrow width, small area, and irregularities, adhering to zoning regulations would be difficult. This creates challenges for development and limits the buildable area for the applicant. The applicant intends to construct a two-story house within the existing building footprint. The current foundation of the house encroaches on the north side yard setback and is located near the neighboring property line. According to the Fulton County Tax accessor, the current house dates back to 1948, and its orientation has always been where it is currently placed. The applicant's proposal is to rebuild a two-story single-family residence in the same location as the existing building foundation. Considering all factors, staff believes that the proposal is reasonable given the use of the existing building foundation.
- c. **Such conditions are peculiar to the particular piece of property involved.** The single-story dwelling exceeds the north side yard setback. The lot topography and its orientation on the lot are unique. Therefore, the orientation of the house on the lot and the existing encroachment are unique to this property. 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 proposal would not impose upon the adequate light and/or air on the adjacent properties. Furthermore, the request would not 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 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 requests to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



CITY OF ATLANTA

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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-24-116 for 800 Fowler Steet NW

DATE: August 8, 2024

The applicant seeks a variance to reduce the front yard setback from 50 feet to 16 feet for the construction of a portico extension to the GA Tech Fraternity house.

FINDINGS OF FACT:

Property Location: The subject property fronts 124.01 feet on the west side of Fowler Street and begins at the southwest intersection of Ferst Drive and Fowler Street. This property is in the Land Lot 80 of the 14th District, Fulton County, Georgia. It is in the Georgia Tech Neighborhood in NPU E, Council District 3.

Relevant Zoning Requirements:

- No fixed minimum lot widths or areas established.
- Minimum yard setbacks: Front yard: 50 feet; Half-depth Front Yard: 25 feet; Side yard setback: 15 feet; Rear yard setback: 25 feet.

Property Characteristics: The subject site is a corner lot that has a regular shape with a lot area of 0.346 acres (15,062 square feet) and frontage of 111.90 feet along Fowler Street. The property is improved with a 2-story brick Pi Kappa Theta fraternity house.

Characteristics of Adjoining Properties, Neighborhood: Adjoining lots vary in size and shape and are also part of the GA Tech Campus and use for student housing. The location of the subject property is in a pedestrian-friendly area for students. Buildings in proximity to the site have varying design with front porticos similar to the request.

PROPOSAL: The applicant seeks a variance to reduce the front yard setback from 50 feet to 16 feet for the construction of a portico extension to the fraternity house.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Sec. 16-10.007 (3)(a).

- 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 a regular squared corner lot of 15,082 square feet in area with no substantial steep topography. However, the site is improved with a two-story residential student building of 8,206 square feet, and therefore uses 55% of the lot area. Additionally, the existing building footprint is nonconforming as the building is setback 26 feet on Fowler Street and 19 feet on 5th Street, whereas the required front setback is 50-feet on Fowler Street and 25 feet on 5th Street. Therefore, there is no available buildable area on the front of the building along each frontage to add an extension to the building without granting variance reduction. Therefore, staff is of the opinion that there are extraordinary conditions on the site regarding the size of the lot in relation to the existing improvements, which substantially limits the buildable area of the lot.
- b) **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Staff is of the opinion that the strict enforcement of the front setback will create an unnecessary hardship to the applicant, and therefore prevent him from doing the proposed improvement. This area of the GA Tech Campus is where mainly student housing is located, and therefore, is highly pedestrian. The proposed portico will be located 17 feet away from the property line (instead of the existing 26 feet) giving the building a more pedestrian oriented form. Additionally, there are other pedestrian-oriented buildings found in proximity to the site that have similar sized porticos. The proposed portico improvement will also match the architecture found on those buildings that have front porticos facing Fowler and 5th Street.
- c) **Such conditions are peculiar to the particular piece of property involved.** Staff is of the opinion that the lot improvements, size, and shape are unique to this piece of property. And, therefore, are no conditions imposed by actions of the property owner.
- 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 setback reduction will not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance as it will provide cohesiveness with the nearby buildings.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
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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-24-117 for 4425 Harris Trail NW

DATE: August 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 203.50 feet on the east side of Harris Trail and beginning at the southeast intersection of Harris Valley Road and Harris Trail. The property is located in Land Lot 201 of the 17th District, Fulton County, Georgia. It is located in NPU A, Council District 8.

Relevant Zoning Requirements:

- The property is zoned R-1 (Single Family Residential).
- Active recreation in yards adjacent to streets: Swimming pools, tennis courts and other active recreation facilities shall not be permitted in connection with residential uses in residential districts in any yard, required or other, adjacent to a street, other than by special exception granted by the board of zoning adjustment.

Property Characteristics: The subject property is a corner lot that abuts two roads: Harris Valey Road on the north and Harris Trail on the west. The subject property is approximately 86,556 square feet (1.987 acres). It is developed with a one story residential home. The property features a 25-foot grade increase from public ROW to the north portion of the home. There are heavy vegetation and mature trees on the north portion of the lot.

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-1 (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 in relation to the request for a special exception are in accordance with Section 16-28.008 (6) of the City of Atlanta Zoning Ordinance.

- 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 applicant proposes locating the pool and its equipment along the east rear yard line. There is heavy vegetation and mature trees line the north portion of the lot that will offer a visual and sound buffer, and will not be disturbed. Staff finds these visual and sound mitigation measures to be sufficient.
- b) **The area for such activity could not reasonably be located elsewhere on the lot.** Due to the lot being a corner lot, and the position of the existing residential structure, the most reasonable location for the proposed pool is the east rear yard line. Staff is of the opinion that the location of the proposed pool is reasonable as it cannot be located elsewhere on the lot.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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Director
Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment
FROM: Angela M. Blatch, Secretary to the Board *AMB*
SUBJECT: V-24-065 for 3750 Peachtree Road NE
DATE: August 8, 2024

The applicant seeks a special exception to increase the height of a fence from 4 feet to 6 feet in the half-depth front yard.

FINDINGS OF FACT:

Property Location: The subject property fronts approximately 1,379.55 feet on the north side of Peachtree Road and beginning at the northeast intersection of Vermont Road and Peachtree Road. Zoned RG-3-C/B (Residential General Conditional/Buckhead Parking Overlay) & R-3-C (Single-Family Residential Conditional). Land Lot 10 of the 17th District, Fulton County, Georgia. It is located in the Brookhaven Neighborhood of NPU-B, Council District 7.

Relevant Zoning Requirements:

- The subject property is zoned RG-3-C (Residential General Sector 3 Conditional) & R-3-C (Single-Family Residential Conditional).
- 16-28.008 (5)(a)(1)(i): front and half-depth front yard: Where no retaining wall is constructed, fences not exceeding four feet in height may be erected.

Property Characteristics: The subject property is approximately 13.57 acres (591,109.2 square feet) with approximately 1,367 feet of Peachtree Road frontage spanning the block between Vermont Road and Club Drive. The property is currently developed with Canterbury Court, a nine-story assisted living facility with 50 healthcare units and 192 independent living units, and two adjacent two-story multi-family developments. The topography slopes gently from the south to the north across the Canterbury Court property and the two adjacent multi-family developments are on a high point with topography sloping away from the center of the site in all directions. The subject site is landscaped with mature trees and shrubs along Peachtree Road and throughout the subject property. Access to the site on Peachtree Road is currently via two curb cuts on the Canterbury Court site and three curb cuts to the existing residential buildings adjacent to Club

Drive. The subject property is an irregular shaped lot which causes the lot to become narrower along the portion of the property that fronts Vermont Road.

Characteristics of Adjoining Properties, Neighborhood: The lots in the surrounding area vary in size and shape. The surrounding zoning includes a mix of residential zoning including R-3 (Single Family Residential) along the entire northwest rear and northeast side property boundaries, RG-3-C (Residential General Sector 3 Conditional) to the southwest across Vermont Road, and RG-3-C (Residential General Sector 3 Conditional) , PD-H (Planned Development Housing), RG-4-C (Residential General Sector 2 Conditional), and RG-5 (Residential General Sector 5) to the southeast across Peachtree Road. The surrounding uses include single family residential to the northwest rear and northeast side property boundaries, and across Peachtree Road to the south a mix of predominantly high-rise and low-rise multi-family residential uses with a few single-family residential uses.

PROPOSAL: The applicant seeks a special exception to erect a 6-foot wooden privacy fence in half depth front yard along Vermont Road to connect to existing wall. This fence will enclose the recently acquired three lots on Vermont Road for a garden (greenspace) for the residents at Canterbury Court.

CONCLUSIONS: The following conclusions pertinent to this request for a special exception from the zoning regulations are in accordance with Sec. 16-28.008 (5)(e) 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 proposes to erect a 6-foot-high wooden privacy fence in the half-depth front yard setback to enclosed recently acquired 3 lots on Vermont Road (3717, 3727, and 3741) for garden (greenspace) expansion and trails. There is currently a special use (U-24-015) for the garden that was heard by the Board of Zoning Adjustments (ZRB) on August 1st, 2024. The proposed 6-foot-high privacy fence would provide proper buffering and screening for the privacy of the residents of Canterbury Courts who want to enjoy the new addition of the garden and trails. It would also provide the same for the surrounding residential lots along Vermont Road. Additionally, during Staff's site visit, it should be noted that there is an existing 6-foot privacy wall across the street from this property on Vermont Road.

Therefore, Staff is of the opinion that the applicant meets the criteria for a special exception to allow for a 6-foot privacy wooden fence in the half-depth front yard and is not incompatible with the character of the surrounding neighborhood.

RECOMMENDATION: APPROVAL conditioned upon the following:

V-24-065 for 3750 Peachtree Road NE

August 8, 2024

Page 3 of 3

1. The site shall be developed in accordance with the site plan entitled “Vermont Gardens Canterbury Court” prepared by Georgia Civil dated July 11, 2024, and stamped received by the Office of Zoning and Development on July 11, 2024. Minor changes to the approved site plan may be authorized by the Director of the Office of Zoning and Development in accordance with Section 16-02.003(7).

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-24-055 for Cascade Avenue SW

DATE: August 8, 2024

Applicant seeks a variance to reduce the transitional side and rear yard from 20 feet to 0 feet and reduce the rear, north, and south side yard setbacks from 20 feet to 0 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 48.88 feet on the west side of Cascade Avenue and beginning approximately 179 feet from the southwest intersection of Avenida Street and Cascade Avenue. The property is located in Land Lot 150 of the 14th District, Fulton County, Georgia. It is located in the Westview Neighborhood of NPU-T, Council District 10.

Relevant Zoning Requirements:

- The subject property is zoned NC-14/IS/BL (Cascade Avenue-Beecher Street Neighborhood Commercial District/Intown South Commercial Corridor Overlay/BeltLine Overlay).
- Minimum yard setbacks: Side and rear yard: 20 feet (assuming windows are located along the building façade adjacent to the property line)
- Transitional yard requirements: Side and rear yard: 20 feet
- Minimum lot requirements for zero-lot-line subdivision for residential uses: Lot Area: 2,000 square feet; frontage: 20 feet

Property Characteristics: The subject property is an irregular shaped lot with approximately 45 feet of street frontage and 9,469 square feet (0.22 acres) of area. The property is currently vacant.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area vary in their size, shape, and area. The adjacent parcel to the north and west is zoned RG-2 with a multi-family development on the lot. Parcels to the east are zoned R-4 with single-family homes. The adjacent parcel to the south is zoned NC-14 with a single-family home.

PROPOSAL: The applicant seeks a variance transitional side and rear yard from 20 feet to 0 feet and reduce the rear, north, and south side yard setbacks from 20 feet to 0 feet for the construction of 6 new townhomes.

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 for its zoning designation, it is a regular rectangle shape, and the topography is relatively flat. 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 side and rear yard. The applicant has cited the three reasons for placing the structure in such a way that encroaches the setback: first, the typical width of a townhome is between 40 to 50 feet, second, the lot is narrow for a commercial lot, and third, the enforcement of the 20-foot transitional yard buffer is unnecessary because the proposed use is compatible with the surrounding uses. While these concerns are reasonable, staff cannot confirm that these conditions *require* the structure to be located where it encroaches the setback. The width of a townhome is not stated in the Zoning Ordinance, therefore, there is no minimum building width requirement that conflicts with the transitional yard and setback requirements. Also, the 20-foot side and rear yard setback is required for residential uses, regardless of what zoning district and use the property abuts. The request to build six townhome units is not flagrant, however, the request does not meet the variance criteria due to the lack of deficiencies.
- c. **Such conditions are peculiar to the particular piece of property involved.** The conditions identified above are not peculiar to the piece of property involved.
- 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 impair the purposes and intent of the Zoning Ordinance. The variance request to reduce the north transitional side yard and north side yard setback from 20 feet to 0 feet, and the applicant's proposal to install an 8-foot screening wall or fence, would not allow enough room for maintenance and repairs. The subject property meets or exceeds the minimum requirements of the zoning district for the construction of a zero-lot-line subdivision for residential uses and should be able to meet the required setbacks. Thus, Staff finds the requested variance is not reasonable.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director