



CITY OF ATLANTA

ANDRE DICKENS
MAYOR

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-24-032 for 1184 McDaniel Street SW

DATE: October 24, 2024

Applicant seeks a special exception to expand a non-conforming duplex structure for conversion of an existing deck into heated floor area.

The NPU has recommended several deferrals due to the applicant's lack of attendance at the general meeting. After several months of non-responsiveness from the applicant, Staff request a denial without prejudice to close the application.

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-24-107 for 2820 Shady Valley Drive NE

DATE: October 24, 2024

The applicant seeks a special exception to allow active recreation (pool) in yards adjacent to a street.

The applicant has requested to withdraw this application. Staff is supportive of 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 to the Board *AMB*

SUBJECT: V-24-128 for 1005 Howell Mill Road NW, 1021 Howell Mill Road NW, 1025 Howell Mill Road NW, 701 Edgehill Avenue NW, 707 Edgehill Avenue NW, 711 Edgehill Avenue NW, 717 Edgehill Avenue NW, 690 11th Street NW, 712 11th Street NW, and 724 11th Street NW

DATE: October 24, 2024

Applicant seeks a special exception to increase the maximum height of a building from 225 feet to 435 feet for the construction of a new mixed-use development.

The applicant has requested a deferral to the next available agenda. Staff is supportive of the request.

RECOMMENDATION: DEFERRAL – DECEMBER 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-24-137 for 2103 McKinley Road NW

DATE: October 24, 2024

The applicant seeks a variance to reduce the side yard setback from 7 feet to 3.10 feet for the construction of a new single-family residence.

The applicant has requested to withdraw this application. Staff is supportive of 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 to the Board *AMB*

SUBJECT: V-24-140 for 1362 Athens Avenue SW

DATE: October 24, 2024

Applicant seeks a variance to reduce the front yard setback from 35 feet to 24.6 feet and reduce the south side yard setback from 7 feet to 0.8 feet for the construction of a single-family dwelling.

The applicant has requested a denial without prejudice. Staff is supportive.

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-24-144 for 3187 Andrews Court NW

DATE: October 24, 2024

Applicant seeks a variance to increase the lot coverage from 40% to 50% for the removal of stone patios and renovation of an existing deck.

The NPU has requested a deferral to allow the applicant time to meet with the neighborhood. Staff is supportive of the request.

STAFF RECOMMENDATION: DEFERRAL – DECEMBER 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-24-146 for 395 10th Street NE

DATE: October 24, 2024

The applicant seeks variances to increase lot coverage from 55% to 57.6%, reduce the half-depth setback from 15 feet to 14 feet, special exceptions to allow active recreation in yards adjacent to a street, and increase the height of the retaining wall from 4 feet to 6 feet within the half-depth front setback.

The applicant has requested deferral to allow the applicant to amend his variance request. Staff is supportive of this request.

RECOMMENDATION: DEFERRAL - NOVEMBER 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-24-148 for 1401 Woodbine Avenue SE

DATE: October 24, 2024

Applicant seeks variance to reduce the front yard setback for 30 feet to 8 feet for the construction of a new single-family dwelling.

The applicant has requested a deferral to meet with neighborhood associations and amend their site plan. Staff is supportive of this request.

RECOMMENDATION: DEFERRAL – NOVEMBER 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-24-058 for 545 Seals Place NE

DATE: October 24, 2024

The applicant seeks variances to reduce the front yard setback from 30 feet to 21.7 feet, reduce the east side yard setback from 7 feet to 3 feet, and reduce the west side yard setback from 7 feet to 4.3 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 46.47 feet on the south side of Seal Place and begins approximately 197 feet from the southeast intersection of Monroe Drive and Seal Place. This property is in Land Lot 48 of the 14th District, Fulton County Georgia, It is in the Midtown Neighborhood in NPU E, Council District 6.

Relevant Zoning Requirements:

- The subject property is zoned R-5 (Two-Family Residential District)
- Minimum lot dimensions: Frontage: 50 feet; Minimum lot area: 7,500 Square Feet.
- Minimum yard setbacks: Front yard: 30 feet; Side yard setback: 7 feet; Rear yard setback: 7 feet.

Property Characteristics: The subject property is a regular shaped lot with a total lot area of 0.155 acres (6,735 square feet) and frontage of 46.47 feet along Seal Place. The property is currently developed with a one-story single-family dwelling, front porch, and front steps.

Characteristics of Adjoining Properties, Neighborhood: Adjoining lots have similar width, area, and shape. All adjoining lots are developed with single-family dwellings and are zoned R-5 (Two-Family Residential District).

PROPOSAL: The applicant seeks to reduce the front yard setback from 30 feet to 21.7 feet, reduce the east side yard setback from 7 feet to 3 feet, and reduce the west side yard setback from 7 feet to 4.3 feet for construction of a second-story addition.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-07.008 (1) & (2).

- 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 area by 765 square feet and in lot width by 3.5 feet. Regarding the shape, the lot is narrow on the front and wider in the back. The existing house is placed at an angle in relation to the buildable area. Therefore, parts of the building structure encroach into the front and side yard setbacks. Given the existing encroachments of the structure and lot configuration, Staff is of the opinion that the site has extraordinary conditions that warrant the front and side yard setback reductions.
- b) **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The strict enforcement of the Zoning Ordinance would create an unnecessary hardship, as it will result in an improvement that does not align with the existing building line footprint and would deviate from the existing building design and aesthetic.
- c) **Such conditions are peculiar to the particular piece of property involved.** Staff is of the opinion that the conditions of the property are peculiar to this particular piece of property. The existing location of the house footprint and the lot shape are not the result of actions by the property owner but are preexisting conditions of the site.
- 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 will not have a negative impact on the public good and does not impact the intent of the Zoning Ordinance.

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-24-084 for 2236 Melante Drive NE

DATE: October 24, 2024 (*Previously deferred July 11, 2024*)

Applicant seeks a variance to reduce the southern side yard setback from 7 feet to 3 feet for the construction of carport.

FINDINGS OF FACT:

Property Location: The subject property fronts 100 feet on the west side of Melante Drive and beginning at the southwest intersection of Cardova Drive and Melante Drive. Zoned R-4 (Single Family Residential). Land Lot 5 of the 17th District, Fulton County, Georgia It is located in the Lindridge/Martin Manor of NPU-F, Council District 6.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential).
- Minimum yard setbacks: Front yard: 35 feet; side yard: 7 feet; rear yard: 15 feet.
- Minimum lot requirements for single-family detached dwellings and all other uses: Lot Area: 9,000 square feet; frontage: 70 feet

Property Characteristics: The subject property is an irregularly diamond-shaped, corner lot with approximately 110 feet of street frontage and 12,763 square feet (0.293 acres) of area. The property is currently developed with a single-story residential structure. The topography is consistent across the lot. There are mature trees onsite.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area vary in size, shape, and area. 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 the southern side yard setback from 7 feet to 3 feet for the construction of a carport.

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 irregularly shaped like a diamond due to setback requirements for front and half-depth yards and the irregular trumpet-shaped lot to the rear of the property. Both greatly limit the buildable area for this lot and the new structure will replace a previously existing parking structure. Therefore, Staff finds the shape 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 applicant from being able to protect their vehicle from outside forces. The combination of the lot tapering to the rear and the existing home doesn't allow for the construction of the proposed structure to be built within the buildable area for this lot. 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 the shape of the lot and the preexisting structure in the proposed area appear to be the conditions peculiar to this site; staff has not identified similar shapes and conditions to any other lots in the immediate 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 new carport will replace an existing structure and was designed to match the home, 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



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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: October 24, 2024

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

FINDINGS OF FACT:

Property Location: The subject property fronts 55.20 feet on the north side of Los Angeles Avenue and beginning approximately 250 feet from the northeast intersection of North Highland Avenue and Los Angeles Avenue. Zoned R-4 (Single-Family Residential District). Land Lot 1 of the 17th District, Council District 6, NPU-F.

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: 30 feet; Half Depth Front yard: 17.5 feet, Side yard: 7 feet; Rear yard: 15 feet.
- Maximum lot coverage: 50%

Property Characteristics: The subject property is a regular shaped lot measuring approximately 8,148 square feet (0.187 acres) of area, approximately 50 feet of frontage on Los Angeles Avenue. The lot widens approximately 10 feet from the front to the rear. The subject property is developed as a single-family home. The topography decreases from the front property line to the rear property line with a 5-foot grade change. The lot has some vegetation and manicured grass.

Characteristics of Adjoining Properties, Neighborhood: The surrounding lots vary in different sizes and shapes but follow a common dendritic pattern. All properties adjacent to the subject parcel are developed as single-family homes, and all are zoned R-4 (Single Family Residential).

PROPOSAL: Applicant seeks a variance to reduce the east side yard setback from 7 feet to 5 feet for the expansion of the main floor and construction of a second story addition.

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 does not meet all of the lot requirements for an R-4; including lot frontage, which is deficient by 20 feet; minimum lot area, where the lot is deficient by approximately 852 square feet. In addition, city ordinances and departmental requirements for tree protection restrict the options for the applicant to meet their growing family needs to their proposed designs. It is important to note that the applicant's designs do not seek to increase the primary structure's encroachments into existing setback requirements or increase nonconformities. Furthermore, the property's topography slopes upwards from the front property line to the rear property line, with a total grade change of 8 feet. As a result, Staff finds the site contains extraordinary conditions that warrant the proposed reduction in front yard setback.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The strict enforcement of the Zoning Ordinance would create an unnecessary hardship, as it will result in an improvement that does not align with the existing building line footprint unmatching the existing building design and aesthetic. Accommodating this request is deemed not to result in a change in neighborhood character.
- c. **Such conditions are peculiar to the particular piece of property involved.** While the shape of the lot is fairly standard, it possesses a narrow depth. The condition of the lot is similar to that of neighboring properties and is not unique to this particular lot. The topography and depth, while not significantly different, is unique to this lot. However, the existence of similar conditions does not reduce the desirability of the request.
- 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 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. 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-24-123 for 64 Muscogee Avenue NW

DATE: October 24, 2024

Applicant seeks a variance to reduce the south side yard setback from 15 feet to 9 feet 3 inches and a special exception to allow for active recreation (pool) in yards adjacent to a street.

FINDINGS OF FACT:

Property Location: The subject property fronts 253.76 feet on the west side of Muscogee Avenue and beginning at the northwest intersection of West Muscogee Avenue and North Muscogee Avenue. The property is located in Land Lot 112 of the 17th District, Fulton County, Georgia. It is located in the Peachtree Heights West Neighborhood of NPU-B, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-2A (Single Family Residential).
- Minimum lot dimensions: Frontage: 100 feet; Minimum lot area: 30,000 square feet.
- Minimum yard setbacks: Front yard: 60 feet; Half-depth Front yard: 30 feet; Side yard: 15 feet; Rear yard: 30 feet.
- Maximum lot coverage: Maximum lot coverage within this district shall not exceed 35% percent of the total lot area.
- 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 property being described is an irregularly shaped corner lot. The curve of the right of way of West Muscogee Avenue and Muscogee Avenue splits the corner lot into two lots: lot 11 and lot 10. Lot 10, located at 64 Muscogee Avenue NW, covers approximately 42,442 square feet (0.972 acres) and has 253.76 feet of frontage. On the lot, there is a two-story residence with a basement and a front covered porch. In the front, there is a brick walkway, and on the side, there is a concrete driveway. In the rear, there is a planter, a greenhouse, a nonconforming pool, and nonconforming garage, and concrete. Vehicle access to the property is available through one curb cut via a driveway that connects to the front yard and meets Muscogee

Avenue. The property has an upward slope from the front to the rear with a 49-foot grade change and is adorned with mature trees and well-maintained grass.

Characteristics of Adjoining Properties, Neighborhood: The lots in the immediate area come in various sizes and shapes and are consistently developed with residential dwellings. The parcels to the north, east, west, and south are zoned R-2A (Single Family Residential).

PROPOSAL: Applicant seeks a variance to reduce the south side yard setback from 15 feet to 9 feet 3 inches and a special exception to allow for active recreation (pool) in yards adjacent to a street for the property.

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 irregularly shaped. It is a triangular corner lot with a width of 253.76 feet and an area of 42,442 square feet. The lot exceeds the minimum lot size requirement by 12,442 square feet and the width requirement by 153.76 feet. The topography of the lot slopes upward from the front to the rear with a 49-foot grade change. Although the lot meets and exceeds the lot size and width requirements for R-2A, its irregular triangular shape, the fact that it is a corner lot, and its steep topography have led staff to determine that the property's shape and topography are extraordinary and exceptional conditions specific 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 property owner is requesting a variance to reduce the southside yard setback from 15 feet to 9 feet 3 inches. The existing structure already encroaches into the required south yard setback, and the pool in question is one that already exists. The applicant noted that prior to the current ownership, the subject property was issued a building permit in 2013 to construct a swimming pool. The pool was inadvertently constructed in the side yard setback. The current property owner had no knowledge of this situation and purchased the property under the authority of a certified title search. During the process of seeking a building permit for renovations to the house, it was determined that a variance would be required to correct the mistake of the previous owner. There will be no further encroachment into the setback. Due to the irregular shape of the corner lot and the placement of the existing house further back on the lot, as well as the topography, Staff considers the reduction in setback to be reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The property in question is an irregularly shaped triangular corner lot. What makes this property unique are the encroachments in the required yards, the existing topography, the placement of the residents on the lot, and how far it is set back from the street, setting it apart from other corner lots in the neighborhood. As a result, the staff is not aware of any similar 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

will not block the adequate light and air for adjacent properties. Additionally, it will not hinder emergency access or pose threats to health and fire safety, as there is enough space for the requested improvements. The request for the reduction in south yard setback aims to increase the quality of life and reinforce the stability of the surrounding neighborhood. Overall, the request aims to improve the quality of life and stability of the surrounding neighborhood. Staff find the variance request reasonable.

PART II

The following conclusions in relation to the request for a special exception are in accordance with Section 16-28.008 (6) (7) 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 swimming pool will be positioned to minimize visibility from neighboring properties. It will be shielded by a two-story single-family residence and trees lining the side yard of the property. Additionally, increased topography will help minimize the impact on neighboring properties.
- b. **The area for such activity could not reasonably be located elsewhere on the lot.** The swimming pool is planned to be situated in the backyard near the rear of the home, due to the irregular shape of the property and the existing development on the lot, including the pool in question. The placement of the pool is influenced by the layout of the existing house. However, the options for placing the pool are limited due to mature trees and the orientation of the house. Consequently, Staff believes that the proposed pool location is reasonable, given that there are no other practical options 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-24-133 for 2533 Birchwood Drive NE

DATE: October 24, 2024

Applicant seeks a variance to reduce the north yard setback from 7 feet to 5.5 feet to expand the existing patio.

FINDINGS OF FACT:

Property Location: The subject property fronts 85.02 feet on the east side of Birchwood Drive and beginning approximately 310 feet from the northeast intersection of Sharondale Drive and Birchwood Drive. Zoned R-4/BL/SPI-24 (Single Family Residential/BeltLine Overlay/Garden Hills Overlay). Land Lot 59 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 (Single Family Residential).
- Minimum yard setbacks: Front yard: 35 feet; side yard: 7 feet; rear yard: 15 feet.
- Minimum lot requirements for single-family detached dwellings and all other uses: Lot Area: 9,000 square feet; frontage: 70 feet

Property Characteristics: The subject property is a regularly shaped lot with approximately 85 feet of street frontage and 13,467 square feet (0.31 acres) of area. The property is currently developed with a single-family residence. The topography is consistent across the lot and there are mature trees onsite.

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-4 (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the side yard setback from 7 feet to 5.5 feet for the expansion of the existing patio.

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 irregularly shaped due to the curved nature of Birchwood Drive. The home has a rear yard setback less than its frontage, resulting in a tapered lot. The house is also oriented to the street and not the lot lines, causing smaller side yard setbacks. The existing patio also currently encroaches into the side yard. Therefore, staff finds the shape 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 depriving the applicant of the right to expand and enclose the existing patio for the enjoyment of this outdoor space. Additionally, there is an “open channel creek” and a pipe present in the rear yard further limiting the buildable area. Furthermore, the odd shape further limits the 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 combination of the existing patio structure encroachment and the tapered shape of the lot are the conditions peculiar to this site; staff has not identified similar conditions on surrounding lots.
- 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 reduction will only allow the encroachment of 9 sq/ft into the setback. 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

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-24-134 for 2656 Forrest Avenue NW

DATE: October 24, 2024

The applicant seeks a variance to exceed the size of an accessory structure from 30% to 56% of the principal structure.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on the south side of Forrest Avenue and begins approximately 481.4 feet from the southwest intersection of Main Street and Forrest Avenue. This property is in the Land Lot 252 of the 17th District, Fulton County, Georgia. It is in the in the Riverside Neighborhood in NPU D, Council District 9.

Relevant Zoning Requirements:

- Except as otherwise specifically provided in this part, use of accessory buildings as dwellings or lodgings is prohibited.
- Accessory buildings shall be constructed concurrent with or after construction of principal buildings.
- Accessory buildings in R-1 through R-5 districts shall not exceed 20 feet in height, shall not cover more than 25 percent of the area of the rear yard, and shall not contain a total floor area greater than 30 percent of the main structure. For purposes of calculating the total floor area of the main structure, the definition of residential floor area set forth in the first sentence of section 16-29.001(13)(a) shall apply, except where modified by the provisions of 16-24.008. For purposes of calculating the total floor area of the accessory building, all gross floor area of the accessory building shall be included whether or not it is conditioned or habitable.

Property Characteristics: The subject site is a regular shape with a lot area of 0.221 acres (9,648 square feet) and frontage of 50 feet along Forrest Avenue. The property is developed with 1-story residence of 1,277 square feet, driveway, and two sheds.

Characteristics of Adjoining Properties, Neighborhood: The adjoining lots have similar shape to the subject property but varying lot size. The adjoining lot to the north has more lot area than the abutting lot to the south of the subject property. The properties fronting Forrest Avenue NW are zoned R-4A and are used for single-family uses.

PROPOSAL: The applicant seeks a variance to exceed the size of an accessory structure from 30% to 56% of the principal structure.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Sec. 16-28.004(3).

- 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 9,648 square-foot regular lot and it is not deficient in lot area, as it exceeds the minimum lot area of 7,500 square feet by 2,148 square feet. The lot meets the minimum lot width of 50 feet and does not have steep topography. The site, however, is improved with a 1-story house of 1,277 square feet and does not currently have a garage. Therefore, the applicant is only able to construct 383 square-foot accessory structure.
- b) **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Given that the site does not currently have any garage space, enforcing the 30% requirement for the accessory structure will limit the size of the accessory structure to have a 383 square-foot garage, which will not be sufficient space to fit two vehicles, as the size of the home is only 1,277 square feet. The applicant wouldn't need a variance if the primary home was bigger in size. The maximum FAR (Floor Area Ratio) for the site is 50% (4,824 square feet) of the net lot area, which would allow a 1,447 square-foot accessory structure. The proposed 720 square-foot garage, along with the existing 1,277 square-foot primary house are below these maximum FAR.
- c) **Such conditions are peculiar to the particular piece of property involved.** Staff is of the opinion that the size of the existing lot improvements are not fault of the property owner. The request to have a two-car garage of 720 square feet is a reasonable size given the lack of a car garage on the 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 request will not cause a substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

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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-24-139 for 1479 Hartford Avenue SW

DATE: October 24, 2024

Applicant seeks a variance to reduce the half-depth setback from 17 feet to 10.7 feet and reduce the front yard setback from 35 feet to 28.9 feet for a second-story addition to an existing single-family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on the west side of Hartford Avenue SW and begins at the northwest intersection of Deckner Avenue SW and Hartford Avenue SW. Zoned R-4/BL (Single Family Residential/BeltLine Overlay). The property is located in Land Lot 105 of the 14th District, Fulton County, Georgia. It is located in the Capital View Neighborhood of NPU-X, Council District 12.

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; Half Depth Front yard: 17.5 feet, Side yard: 7 feet; Rear yard: 15 feet.
- Maximum lot coverage: 50%

Property Characteristics: The subject property is a regular shaped, half-depth lot measuring approximately 6,250 square feet (0.143 acres) of area, approximately 50 feet of frontage on Hartford Avenue SW. The lot width remains consistent from the front to the rear. The subject property is developed with a single-family home. The topography increases from the front property line to the rear property line with an approximately 8-foot grade change.

Characteristics of Adjoining Properties, Neighborhood: The surrounding lots vary slightly in size and shape but follow a common grid pattern. All properties adjacent to the subject property are developed with single-family homes, and all are zoned R-4/BL (Single Family Residential/BeltLine Overlay).

PROPOSAL: Applicant seeks a variance to reduce the half-depth setback from 17 feet to 10.7 feet and reduce the front yard setback from 35 feet to 28.9 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 subject property meets or exceeds the minimum area requirements for an R-4 lot. Furthermore, the property's topography slopes upwards from the front property line to the rear property line, with a total grade change of 8 feet. While the lot is sized and shaped similarly to others on the block face, its categorization as a half-depth lot severely limits the buildable area within its setbacks. As a result, Staff finds the site contains extraordinary conditions that warrant the proposed reduction of the side yard setback.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The strict enforcement of the Zoning Ordinance would create an unnecessary hardship, as it will result in an improvement that does not align with the existing building line footprint, diverting from the existing building design and aesthetic. Staff finds that accommodating this request would not result in a change in neighborhood character.
- c. **Such conditions are peculiar to the particular piece of property involved.** While the lot is sized and shaped similarly to others on the block face, its categorization as a half-depth lot severely limits the buildable area within its setbacks. The condition of the lot is similar to that of neighboring properties and is not unique to this particular lot. However, its categorization as a half-depth lot is unique to this lot. Although, any existence of similar conditions does not reduce the desirability of the request.
- 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 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. 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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Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-142 for 581 Oliver Street NW

DATE: October 24, 2024

Applicant seeks a variance to increase the maximum building height from 40 feet to 46 feet 1 inch for construction of a new multifamily housing development.

FINDINGS OF FACT:

Property Location: The subject property fronts approximately 125 feet on the east side of Oliver Street and beginning approximately 110 feet from the northeast intersection of North Avenue and Oliver Street. The property is located in Land Lot 111 of the 14th District, Fulton County, Georgia. It is located in the English Avenue Neighborhood of NPU-L, Council District 3.

Relevant Zoning Requirements:

- The subject property is zoned SPI-3- SA3/BL/Westside IZ (English Avenue Special Public Interest Subarea 3/BeltLine Overlay/Westside Affordable Workforce Housing Overlay)
- Minimum yard setbacks: Front yard: 35 feet; side yard: 7 feet; rear yard: 15 feet
- Minimum lot requirements: Lot Area: 2,000 square feet; frontage: 35 feet

Property Characteristics: The subject property is an irregular shaped lot with approximately 125 feet of street frontage and 27,573 square feet (1.633 acres) of area. The property has vacant multi-family buildings.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area vary in their size, shape, and area. Properties to the north, west, and south are zoned SPI-3- SA3/BL/Westside IZ (English Avenue Special Public Interest Subarea 3/BeltLine Overlay/Westside Affordable Workforce Housing Overlay). Property to the east is zoned SPI-3- SA1/BL/Westside IZ (English Avenue Special Public Interest Subarea 1/BeltLine Overlay/Westside Affordable Workforce Housing Overlay).

PROPOSAL: The applicant seeks a variance to increase the maximum building height from 40 feet to 46 feet 1 inch for construction of a new multifamily housing development.

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 an irregular shape, affecting buildable area. Therefore, Staff finds shape 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 development from being constructed as requested. The proposed development is required to have two ingress and egress points, affecting buildable area. Adhering to the code regulations will impact the building mass and decrease the number of affordable 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 appear peculiar to the piece of property involved as Staff has not identified identical 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 request allows an increase in the quality of life and affordable housing choices for the English Avenue neighborhood. The height variance will not cause negative visual impact. Due to the upward slope of the adjacent lot where the remaining buildings will be placed, the buildings will appear to be at the same height on both sides of Oliver Street. 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
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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-24-143 for 960 North Highland Avenue NE

DATE: October 24, 2024

Applicant seeks a variance to reduce the rear yard setback from 15 feet to 2 feet, reduce the south side yard setback from 7 feet to 5.5 feet, increase the lot coverage from 50% to 56%, and a special exception to allow for parking bays within required yards for construction of an addition, porch, carport and retaining walls.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on the west side of North Highland Avenue and beginning approximately 150 feet from the northwest intersection of Adair Avenue and North Highland Avenue. The property is located in Land Lot 1 of the 17th District, Fulton County, Georgia. It is located in the Virginia Highland Neighborhood of NPU-F, Council District 6.

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.
- 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.

Property Characteristics: The subject property, situated on an irregularly shaped interior lot along North Highland Avenue, spans approximately 6,098 square feet (0.14 acres) with a frontage of roughly 50 feet facing North Highland Avenue. Notably, the lot gradually narrows over its length, spanning approximately 135 feet from front to rear. There exists a one and a half story brick and frame single family house featuring a basement, an attached covered porch at the front,

and an attached deck at the rear. In the rear of the property, there exists a rock pad, and concrete pad. Access to the property is facilitated by a curb cut leading to a driveway terminating in the front yard. The topography of the applicant's land is relatively leveled.

Characteristics of Adjoining Properties, Neighborhood: The neighboring lots exhibit diverse sizes and shapes. Adjacent to the subject parcel are single-family homes. To the north, east, and south, and west single-family homes occupy parcels zoned R-4 (Single Family Residential).

PROPOSAL: Applicant seeks a variance to reduce the rear yard setback from 15 feet to 2 feet, reduce the south side yard setback from 7 feet to 5.5 feet, increase the lot coverage from 50% to 56%, and a special exception to allow for parking bays within required yards for construction of an addition, porch, carport and retaining walls.

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 does not meet the minimum width and area requirements for an R-4 lot. The lot is deficient in the lot width by 20 feet and area by 2,902 square feet. Furthermore, the property's topography is relatively leveled. As a result, Staff finds the width and area of the lot to be the exceptional condition 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 proposed project involves constructing a new addition to an existing single-story family dwelling, including a new screened porch, new den, new stair to the basement, new wood deck and stairs, new two feet high retaining wall, and 14 feet by 14 feet carport over an existing concrete parking pad. Several setback reduction requests are included in the proposal. The reduction of the south side setback from 7 feet to 4.5 feet is to accommodate exterior stairs to access the proposed basement expansion. The rear setback reduction from 15 feet to 2 feet is desired to build a carport over an existing parking pad. Even though the property borders a rear alley and effectively gains an additional 5 feet, the rear setback requirement is not met, therefore, the setback reduction is from 15 feet to 7 feet. Due to the property's width deficiency, the current driveway width is insufficient for convenient access, considering its proximity to neighboring properties and the busy North Highland corridor. An extension of the existing parking pad in the side yard setback and an increase in paved areas on the south side yard are reasonable considering the lot's constraints. The request to expand lot coverage from 50% to 56% is justified by the irregular shape of the lot and its failure to meet minimum requirements. The necessity for additional asphalt for an improved quality of life is due to these irregularities aligning with staff's assessment, making the request reasonable. The applicant proposes adding a rear deck, porch, and carport for an improved quality of life. However, due to the irregularities, alternative locations for the carport are limited, and relocating it would exacerbate accessibility challenges. Consequently, the proposed reduction in setback to accommodate the carport is deemed reasonable. In conclusion, staff finds the applicant's requests reasonable in light of the hardships posed by the lot's narrow width, irregular shape, and size.

- c. **Such conditions are peculiar to the particular piece of property involved.** The lot has an irregular and relatively narrow shape. Deficiencies in the lot's width and area in consort with existing encroachments in the required yards, sets it apart from other lots in the neighborhood. However, the existence of similar conditions does not reduce the desirability of the request.
- 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 construction will take place at the rear of the property and will not be visible from the street. The proposed addition will not exceed the height of the existing house and will have minimal impact on the neighbors' visibility and sunlight access. Therefore, it will not detract from the use and enjoyment of adjoining and surrounding properties. The proposal will not affect the light and air for adjacent properties and will not hinder emergency access or threaten health and fire safety. Approving this request will improve the quality of life and reinforce the stability of the surrounding neighborhood. Granting the relief will not cause substantial harm to the public good or impair the purpose of the Zoning Ordinance. Therefore, the staff considers the requests to be reasonable.

PART II:

CONCLUSIONS: The following conclusions pertinent to this request for special exception from zoning regulations are in accordance with Section 16-28.008(7)(a). **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.** The property currently has two concrete parking pads in both the front and rear setbacks. Since the property is located on a major road, there is no street parking available in front of the residence. Homeowners and visitors would be required to walk from Adair Avenue or across busy North Highland Avenue to Lanier Boulevard. The front driveway is limited in length due to the narrow width of the property and the location of the house. The existing mature hardwood trees on the property make it difficult to place parking elsewhere. The request for a special exception is carefully considered with regard to safety, neighborhood character, and zoning regulations. The proposed parking bay is essential for safe entry and exit from the property, especially given the narrow and irregular shape of the lot. The lot tapers from the front to the rear, leaving less space in the rear yard and a side yard for car access on a busy corridor. Placing the parking bay in the required side yard adjacent to the street would ensure practical access while minimizing disruption to neighboring properties. This parking pad is necessary for a safe exit and entry out of the proposed carport. Although the proposal deviates from strict zoning regulations, it addresses the unique circumstances of the property and promotes safety and functionality. Granting this special exception would allow the property owner to utilize the space. In conclusion, the request for a special exception to allow a parking bay in the required side yard adjacent to the street balances safety and zoning regulations, making it a reasonable and necessary accommodation for the property owner.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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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-24-145 for 2163 Mauldin Street NW

DATE: October 24, 2024

Applicant seeks a variance to reduce the front yard setback from 35 feet to 23.4 feet, eliminate the requirement that the front facing garage door be recessed and located a minimum of 10 feet behind the front façade of the principal structure, reduce the front porch dimensions from 12 feet wide 8 feet deep to 30 feet 3 inches wide 5 feet deep, and a special exception to remove the minimum six-inch wide front porch roof supports requirement for construction of an addition.

FINDINGS OF FACT:

Property Location: The subject property fronts 75 feet on the east side of Mauldin Street and begins approximately 325 feet from the southeast intersection of the La Dawn Lane and Mauldin Street. The property is located in Land Lot 230 of the 17th District, Fulton County, Georgia. It is located in the Bolton Neighborhood of NPU-D, Council District 9.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential District).
- Minimum yard setbacks: Front yard: 35 feet; side yard: 7 feet; rear yard: 15 feet.
- *Front porches:* Front porches, when required, shall:
 - Be a minimum of 12 feet wide or one-third the width of the front façade, whichever is greater, and a minimum of eight feet deep; and
 - Contain roofs, a minimum of six-inch wide porch roof supports, and steps.
- *Relationship of building to street, Garages:* Garages with front-facing garage doors shall be recessed and located a minimum distance of ten linear feet behind the front façade of the principal structure.

Property Characteristics: The subject property is a rectangular lot with approximately 75 feet of street frontage and 14,962 square feet (0.343 acres) of area. The property is currently occupied

by an existing one-story brick house. Vehicular access is provided via a curb cut on Mauldin Street NW. The topography is relatively level. The site appears to be mostly cleared of trees and landscaping.

Characteristics of Adjoining Properties, Neighborhood: Other lots nearby vary a great deal in their size and shape; the neighborhood's street network and lot pattern are winding and irregular. The parcels to the north, and east are also zoned R-4 (Single Family Residential District). The parcels to the south and west are zoned PD-H (Planned Development – Housing).

PROPOSAL: The applicant seeks to reduce the front yard setback from 35 feet to 23.4 feet, eliminate the requirement that the front facing garage door be recessed and located a minimum of 10 feet behind the front façade of the principal structure, reduce the front porch dimensions from 12 feet wide 8 feet deep to 30 feet 3 inches wide 5 feet deep, and a special exception to remove the minimum six-inch wide front porch roof supports requirement for construction of an addition. The applicant's goal is to expand their single-family residence and enclose an existing carport, however the existence of a septic system field in the rear yard limits the ability to expand into the rear yard so the proposed garage will project forward from the existing structure's facade.

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.** While the lot is not deficient in its size or width, the existence of a septic leach field in the rear yard substantially limits the usability of the buildable area. Therefore, Staff finds the existing septic improvements to be the extraordinary and exceptional topographic 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 requiring the applicant to make substantial modifications to site to make alternative improvements possible. Due to the width of the site and existing improvements, the only feasible locations to construct new improvements are the front and rear yards. However, the rear yard is not easily accessible by vehicle unless substantial changes are made to the location of the principal structure. Furthermore, even if the rear yard were accessible, there are significant challenges to making improvements in that area. It may require either relocation of the existing septic field or other permanent utilities upgrades which would far exceed the scope of what has been proposed. The design of the porch is also impacted by the limitations of the site and existing improvements; in order to comply with the minimum porch dimensions, the applicant would need to either encroach further within the required setback or lose some of the space inside the primary structure. A similar enclosed garage that projects forward also exist on the neighboring property to the north, so there would be consistency among these sites with the same zoning designation. The subject property abuts a PD-H (Planned Development – Housing) neighborhood to the south which already has a substantially different architectural style than the other sites to the north; the existing structure is

already much different than its neighbors to the south, so there is no uniform character that might be preserved by the denial of this request. 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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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-24-149 for 3330 Northside Parkway NW

DATE: October 24, 2024

The applicant seeks a special exception to reduce the required off-street parking spaces from 18 spaces to 14 spaces for the construction of a drive-thru restaurant.

FINDINGS OF FACT:

Property Location: The subject property fronts 135.65 feet on the east side of Northside Parkway and beginning approximately 457.57 feet from the southwest intersection of West Paces Ferry Road and Northside Parkway. The property is located in Land Lot 198 of the 17th District, Fulton County, Georgia. It is in the West Paces Ferry/Northside Neighborhood of NPU-A in Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned C-1 (Commercial Business).
- Off-site parking requirement:
 - *Eating and drinking establishments:* One space for each 100 square feet of floor area. Where an eating and drinking establishment derives more than 60 percent of its gross income from the sale of malt beverages, wine and/or distilled spirits, it shall be required to have one space for each 75 square feet of floor area. Floor area shall include, in addition to those areas defined in section 16-29.001(13)(b), areas within the existing building footprint where walls have been removed and a permanent roof remains.

Property Characteristics: The property in question is situated on Northside Parkway NW and has an irregular shape. It spans an area of approximately 20,623 square feet (0.473 acres) with a frontage of 135.65 feet on Northside Parkway NW. The lot is mostly vacant, with the exception of

a previous SunTrust/Truist bank structure with bays that used to stand on the lot. Upon staff site visit, it was observed that there is no current structure on the lot, only a large lot of asphalt/concrt. The topography of the lot is relatively flat, with a downward slope from the front property line to the rear property line, featuring a 3-foot grade change. The property is surrounded by a few trees.

Characteristics of Adjoining Properties, Neighborhood: The property is surrounded by various shapes and sizes. The parcels to the north, south, and east of the subject property are zoned C-1 (Commercial Business). The area west of the property is C-1-C (Commercial Business Conditional), and the rear of the property abuts the entrance ramp to the Horace East Tate Flyway of Interstate 75.

PROPOSAL: The applicant seeks a special exception to reduce the required off-street parking spaces from 18 spaces to 14 spaces for the construction of a drive-thru restaurant.

CONCLUSIONS: The following conclusions pertinent to this request for a special exception from the zoning regulations are in accordance with Section 16-26.006 of the City of Atlanta Zoning Code.

The Board of Zoning Adjustment may waive or reduce the parking and loading requirements in any of the districts when the character or use of the building is such as to make unnecessary the full provisions of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot.

According to the City's Zoning Ordinance, if the subject property is used for Eating and Drinking establishments purposes, 18 on-site parking spaces are required. The proposed facility will be 1,747 square feet. According to C-1 district regulations of the City's zoning ordinance, a minimum of one space for each 100 square feet of floor area is required for Eating and drinking establishments that have less than 60 percent of its gross income from the sale of malt beverages, wine, and/or distilled spirits. This use is a Dunkin, which is a leading baked goods and coffee chain and doesn't sell alcohol. This special exception request is due in large part to the size, the tapering of the lot from the front to the rear, and the irregular shape of the lot creating a hardship for the parking layout. Staff believes the required number of parking spaces for the proposed building's use is much larger than anticipated use for customers and employees. The proposed use of the building is mainly to serve as a drive-thru restaurant rather than a sit-down restaurant. The proposed customer area is under 400 square feet and only has 8 seats for customers inside as noted by the applicant. The proposed parking reduction will not cause any harm or detriment to the public good since the proposed number of parking spaces will satisfy the customer and employee use of the building. The hours of operation will be 5 am through 8 pm. The maximum number of employees in one shift will be 5, and the maximum number of customers expected inside the building will be 8.

Staff conducted a site visit and found that other eating and drinking establishments and drive-in establishments, whether combined uses or separate, have similar constraints such as irregular shapes, narrow lots, or the uses didn't require much parking due to limited room for indoor seating, such as the McDonald's which abuts the parcel to the south, the Starbucks which abuts the parcel

to the north, and Chase bank that is two parcels north of the subject site. It is important to note that these establishments, including the subject parcel, are along the Northside Parkway corridor.

Staff reached out to the Atlanta Department of Transportation (ATLDOT) to provide review and comments for the site since it is a drive-thru establishment as well. Per ATLDOT review, the comments were that the business will be operating more, utilizing the proposed drive-thru, so the reduction in parking does not represent any potential impact or delay to public roads and sidewalks. Any suggested improvements to Northside Parkway must be permitted by the Georgia Department of Transportation (GDOT). The proposed development will comply with all other zoning requirements found in the City of Atlanta Office of Zoning and Development regulations. Taking all these factors into account, staff finds that reducing the parking from 18 spaces to 14 spaces is 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-24-150 for 2268 Marietta Road NW

DATE: October 24, 2024

Applicant seeks a variance to increase the height of an accessory structure from 20 feet to 22.9 feet and a special exception to increase the height of a privacy fence on the west side yard from 6 feet to 8 feet for the construction of a guest house.

FINDINGS OF FACT:

Property Location: The subject property fronts 217.80 feet on the west side of Marietta Road and begins approximately 429 feet from the southwest intersection of Moore Street and Marietta Road. The property is located in Land Lot 244 of the 17th District, Fulton County, Georgia. It is located in the Bolton neighborhood of NPU-D, Council District 9.

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 yards: 7 feet; Rear yard: 15 feet.
- Maximum height: Accessory buildings in R-1 through R-5 districts shall not exceed 20 feet in height.
- *Walls or fences in required yards; height limits:* Fences, walls or hedges may occupy required yards as follows:
 - In the R-1 through R-5 districts, the following retaining walls and fences are permitted:
 - Within the required side and rear yards: Where no retaining wall is constructed, fences or walls not exceeding six feet in height may be erected or maintained.

Property Characteristics: The subject property is a rectangular lot of approximately 57,227 square feet (0.445 acres) and approximately 217 feet of frontage. The topography declines by approximately 21 feet from its highest point to the lowest point. Vehicular access to the site is provided by a curb cut on Marietta Road. It is currently developed with a single-family residential structure. There are mature trees located on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size, shape, and use. The parcels to the north are zoned I-1-C (Light Industrial District/Conditional) and RG-4 (Residential General District). The parcels to the east are zoned MR-2-C (Multi-Family Residential District/Conditional). The parcels to the south are zoned R-4 (Single Family Residential). The parcels to the west are zoned I-2 (Heavy Industrial District).

PROPOSAL: The applicant seeks a variance to increase the height of an accessory structure from 20 feet to 22.9 feet and a special exception to increase the height of a privacy fence on the west side yard from 6 feet to 8 feet for the construction of a guest house.

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 lot has substantial shifts in topography throughout. The topography declines by approximately 21 feet from the northern to the southern portion of the property. Additionally, there is a septic tank and leach field area on the property. Therefore, Staff finds the topography and septic field 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 by preventing the proposed improvement from being constructed. The lot topography and the configuration of existing structures throughout the property limit the buildable area. The increase in height that is requested is a minor increase that should not impact neighbors of the surrounding area in any way. The accessory structure will fit the character of main home and the neighborhood. 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 septic leach field area 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

PART II

PROPOSAL: The applicant seeks a special exception to increase the height of a privacy fence on the west side yard from 6 feet to 8 feet. The proposed fence has already been installed and is not currently in compliance with existing zoning regulations.

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 (1) Such wall or fence is justified by reason of security or privacy and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood; (2) Such greater height is justified by requirements for security of persons or property in the area; (3) Such greater height is justified for topographic reasons; or (4) Such greater height, in the yard or yards involved, is not incompatible with the character of the surrounding neighborhood.

The applicant is seeking a special exception to increase the height of a privacy fence on the west side yard from 6 feet to 8 feet for reasons of security. The fence indicated by this proposal has already been built. The applicant has expressed concern regarding the safety of their children and the pets that reside in their home. The applicant has provided proof of wild animal sightings and attacks on the property, which indicates that security and privacy are an active concern. The increase in height will provide added protection for occupants of the home. Given the circumstances, staff believes this proposal is currently compatible with the character of the neighborhood and justified by requirements of security and privacy and will not duly prevent passage of light and air to adjoining properties. Therefore, Staff is of the opinion that the request is 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-24-151 for 567 Highland Avenue NE

DATE: October 24, 2024

Applicant is seeking variance to reduce the front yard setback from 30 feet to 20 feet, reduce the side yards setbacks from 7 feet to 4 feet, reduce the rear yard setback from 7 feet to 4 feet, reduce the front facing garage recess from 10 feet to 7 feet, reduce the front porch dimensions from 12 feet wide 8 feet deep to 12 feet wide 5 feet deep, increase lot coverage from 55% to 72.8%, and allow steps from landing to porch to be more than 30 inches high for the construction of a new single family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 41 feet on the south side of Highland Avenue NE beginning approximately 335.67 feet from the southeast intersection of Howell Street and Highland Avenue. The property is located in Land Lot 46 of the 14th District, Fulton County, Georgia. It is in the Old Fourth Ward Neighborhood of NPU-M, Council District 2.

Relevant Zoning Requirements:

- The subject property is zoned R-5/BL (Two Family Residential/ Beltline Overlay).
- Minimum lot dimensions: Frontage: 50 feet; Minimum lot area: 7,500 square feet.
- Minimum yard setbacks: Front yard: 30 feet; Side yard: 7 feet; Rear yard: 7 feet.
- Maximum lot coverage: 55% of net lot area

Property Characteristics: The subject property is developed with a single family home constructed circa 1940 on a slightly irregularly shaped parcel fronting Highland Avenue NE and bound by Freedom Parkway in the rear. The square footage of the parcel is 3,238.87 square feet (0.07 acres) with 41 feet of frontage on Highland Avenue NE. The existing single family home is currently encroaching upon the front, rear, and east side yard setbacks. The parcel relatively flat topography with an overall elevation change of approximately 7 feet across the site, located primarily in the front yard.

Characteristics of Adjoining Properties, Neighborhood: The surrounding neighborhood is developed primarily with single-family homes and features a variety of zoning designations including R-5/BL (Two Family Residential/Beltline Overlay), MRC-3/BL (Mixed Residential

Commercial/Beltline Overlay). The neighboring parcels to the east and west are developed with single family homes. The parcel is bound by Freedom Parkway to the south.

PROPOSAL: The applicant is seeking a variance from the zoning ordinance to reduce the front yard setback from 30 feet to 20 feet, reduce the side yards setbacks from 7 feet to 4 feet, reduce the rear yard setback from 7 feet to 4 feet, reduce the front facing garage recess from 10 feet to 7 feet, reduce the front porch dimensions from 12 feet wide 8 feet deep to 12 feet wide 5 feet deep, increase lot coverage from 55% to 72.8%, and allow steps from landing to porch to be more than 30 inches high 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.** There are a number of conditions present on the subject parcel which restrict the buildable area of the lot. The subject property has a somewhat irregular quadrilateral shape, is deficient in lot size by approximately 4,261.13 square feet, is deficient in frontage by 9 feet, and is bound by Freedom Parkway to the south (rear) of the parcel. These factors, shape, size, limited frontage, and the location of Freedom Parkway, severely limit suitable building sites on the parcel. Therefore, Staff finds deficient lot size, shape, and deficient frontage as 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 strict application of the regulations would severely restrict the buildable area of the property, limiting the size of potential residential redevelopment beyond reasonable expectations. Given that the parcel is more than 50% smaller than the standard parcel in the R-5 (Two Family Residential) zoning district, strict interpretation of the code would result in constraints which would likely make improvement of the parcel financially unviable. Therefore, Staff is of the opinion that the applicant's requests are reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The parcel's deficient lot size, deficient frontage, irregular shape, and location along Freedom Parkway are peculiar to the subject property and inconsistent with the typical parcel in the zoning district.
- 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 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 variances are reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, 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 M. Blatch, Secretary to the Board *AMB*

SUBJECT: V-24-152 for 175 Douglas Street SE

DATE: October 24, 2024

Applicant seeks a special exception to increase the height of a privacy fence (more than 50% opacity) in the front yard from 4 feet to 6 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on the west side of Douglas Street and beginning approximately 235 feet from the northwest intersection of Memorial Drive and Douglas Street. The property is located in Land Lot 205 of the 15th District, Dekalb County, Georgia 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 frontage: 70 feet
- Minimum lot area: 9,000 square feet
- Section 16-28.008(5)(a) restricts the height of fences in the front yard and half-depth front yard to four (4) feet and six (6) feet where no retaining wall is constructed

Property Characteristics: The subject property is a rectangular shaped lot of approximately 9,353 square feet (0.212 acres) with 50 feet of frontage along the west side of Douglas Street. The property is currently developed with a single-family residential dwelling. Vehicular access to the property is provided from Douglas Street. Topography of the property varies moderately. The property is well vegetated with large trees and shrubs throughout.

Characteristics of Adjoining Properties, Neighborhood: The surrounding properties are zoned R-4 (Residential Single Family) and are developed with single family residential uses.

PROPOSAL: The applicant seeks a special exception from the zoning regulations to increase the maximum fence height from 4 feet to 6 feet for installation of a privacy fence.

CONCLUSIONS:

The following conclusions pertinent to this special exception request 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 6-foot privacy fence to provide for privacy of property and possessions. The approval of a special exception would not cause substantial detriment to the public good or unduly prevent passage of light and air to adjoining properties. The applicant has provided sufficient evidence based on the criteria verifying the need for a fence exceeding the 4-foot height requirements including site improvements by a previous owner that restricts vehicular access. Therefore, Staff is of the opinion the 6-foot privacy fence meets the criteria of a special exception.

The applicant has presented evidence that numerous properties in the area have gates and or fences that are taller than 4 feet in height in the front yard. The material used to construct these fences/gates is also similar to what is proposed by the applicant. Based on compatibility, Staff is of the opinion that the proposal meets one of the criteria set forth in Section 16-28.008(5)(e) of the Zoning Ordinance which only requires one of the criteria to be met and recommends approval.

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-24-104 for 373 5th Street NE

DATE: October 24, 2024

Applicant seeks a variance to reduce the front yard setback from 30 feet to 22.5 feet and reduce the minimum required front porch depth from 8 feet to 5 feet for the construction of a second-story addition.

FINDINGS OF FACT:

Property Location: The subject property fronts 48.63 feet on the south side of 5th Street and beginning approximately 250 feet from the southeast intersection of Durant Place and 5th Street. The property is located in Land Lot 48 of the 14th District, Fulton County, Georgia. It is located in the Midtown Neighborhood of NPU-E, Council District 2.

Relevant Zoning Requirements:

- The subject property is zoned R-5 (Two-Family Residential District).
- Minimum yard setbacks: Front yard: 30 feet; side yard: 7 feet; rear yard: 7 feet.
- *Front porches:* Front porches, when required, shall:
 - Be a minimum of 12 feet wide or one-third the width of the front façade, whichever is greater, and a minimum of eight feet deep; and
 - Contain roofs, a minimum of six-inch wide porch roof supports, and steps.

Property Characteristics: The subject property is a rectangular lot with approximately 48.63 feet of street frontage and 5,782 square feet (0.133 acres) of area. The property is currently occupied by the existing two-story duplex with a basement. Vehicular access is provided via a curb cut on 5th Street. The topography of the site is very steep, with a steady 20-foot drop between the front and rear of the site. There are a few mature trees on site.

Characteristics of Adjoining Properties, Neighborhood: Other lots nearby are consistent in their size and shape. All surrounding parcels to the north, south, east, and west are also zoned R-5 (Two-Family Residential District).

PROPOSAL: The applicant seeks a variance to reduce the front yard setback from 30 feet to 22.5 feet and reduce the minimum required front porch depth from 8 feet to 5 feet for the construction of a second-story addition. The scope of work proposed by this request has already been constructed and the applicant seeks to bring the structure into compliance. The improvements were constructed beyond the scope of what was shown on the approved by building permits at the time; the work was done by the previous owner and then the property was sold to the applicant with the unpermitted improvements. The applicant seeks to bring the structure into compliance and resolve the permitting process.

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 both width and size for its zoning designation, and it also has a very steep topographical change across its length. Therefore, Staff finds size 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 requiring the applicant to make substantial modifications to the existing structure to bring it back into compliance. Firstly, the site is deficient in both size and width, and therefore qualifies for a variance of this nature. Secondly, the proposed improvements have been constructed over an existing foundation and do not appear to increase the degree of encroachment into the setback beyond the previous form of the structure. It would require either substantial changes to the front façade of the structure or an increase in the front yard encroachment to create a front porch that met the minimum requirements of the ordinance. There are also many diverse styles of porch that can be found on this block face, so the non-conformity of this structure does not create any inconsistency with the character of the area. Third, the setbacks proposed by the applicant and the overall size of this structure are in kind with those surrounding it. 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



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-24-136 for 1062 Shelby Place SE

DATE: October 24, 2024

Applicant is seeking a variance from the zoning ordinance to reduce the required east side yard setback from 7 feet to 4 inches for the construction of an attached carport.

FINDINGS OF FACT:

Property Location: The subject property fronts 49.96 feet on the north side of Shelby Place SE beginning approximately 230.5 feet from the northeast intersection of Woodland Avenue and Shelby Place. The property is located in Land Lot 10 of the 14th District, Fulton County, Georgia. It is in the Woodland Hills Neighborhood of NPU-W, Council District 1.

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.

Property Characteristics: The subject property is currently developed with a single family home situated on a regularly shaped rectangular lot planted with trees and shrubs. The square footage of the parcel is 5994 square feet (0.13 acres) in area with 49.96 feet of frontage on Shelby Place SE. The topography of the parcel is relatively flat, with an overall elevation change of approximately 4 feet throughout the site.

Characteristics of Adjoining Properties, Neighborhood: The surrounding neighborhood is developed primarily with single-family homes and is zoned R-4 (Single Family Residential) with some parcels designated as R-4A (Single Family Residential) and RG-3-C (Residential General Conditional). The neighboring parcels to the east and west are developed with single family homes.

PROPOSAL: Applicant is seeking a variance from the zoning ordinance to reduce the required east side yard setback from 7 feet to 4 inches for the construction of an attached carport.

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.** There are two conditions present on the subject parcel which restrict the buildable area of the lot. The parcel is deficient in area by approximately 3,006 square feet and is deficient in frontage by approximately 20.4 feet. These factors significantly limit the buildable area of the site compared with a typical conforming R-4 parcel. Therefore, Staff finds deficient lot size and deficient frontage as 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.** Strict interpretation of the code in this instance would create an unnecessary hardship due to insufficient lot size and frontage. The strict application of the regulations would restrict the buildable area of the property. Relocation of the proposed carport would also present a hardship due to the location of the existing driveway and could also potentially exceed the maximum lot coverage of 50%. Therefore, Staff is of the opinion that the proposed setback reduction is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The deficient lot size, frontage, and arrangement of existing structures/impervious surface on the site are peculiar to the subject property and inconsistent with the typical parcel in the zoning district.
- 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 site of the proposed carport appears to be partially screened on the east side by an existing privacy fence belonging to the applicant and vegetative buffering. The applicant has provided evidence of similar carports within the neighborhood. Two similar carports can be observed on the same block face (1090 and 1096 Shelby Place). Furthermore, the request would not pose a potential impediment on 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 variances are reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

CITY OF ATLANTA

JAHNEE R. PRINCE, AICP
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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-24-086 for 246 Bolling Road NE

DATE: October 24, 2024

Applicant seeks a variance from the zoning ordinance to allow the floor area of an accessory unit to exceed the maximum 30 percent to 36 percent of the floor area of the primary structure.

FINDINGS OF FACT:

Property Location: The subject property fronts 70 feet on the north side of Bolling Road NE and begins approximately 160.5 feet from the northwest intersection of Rumson Road and Bolling 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/Garden Hills 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.
- Accessory buildings in R-1 through R-5 districts shall not exceed 20 feet in height, shall not cover more than 25 percent of the area of the rear yard, and shall not contain a total floor area greater than 30 percent of the main structure. For purposes of calculating the total floor area of the accessory building, all gross floor area of the accessory building shall be included whether or not it is conditioned or habitable.

Property Characteristics: The subject property is a rectangular lot of approximately 11,127 square feet (0.25 acres) and 70 feet of frontage on Bolling Road NE. It is currently developed with a historic single-family dwelling and an existing accessory structure which is encroaching into the rear and side setbacks. The applicant is proposing demolition of the existing accessory structure prior to the construction of the proposed accessory structure (two-car garage with guest quarters above). The parcel is relatively flat, with a gradual topographical change of approximately 8 feet rising to the northwest. There are mature trees and shrubs on the site

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area are of similar size, are generally rectangular, and are consistently developed with single family residential dwellings with R-4/SPI-24 (Single Family Residential/Garden Hills Overlay) zoning.

PROPOSAL: The applicant seeks a variance from the zoning ordinance to allow the floor area of an accessory unit to exceed the maximum 30 percent to 36 percent of the floor area of the primary 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 subject property exceeds the minimum lot requirements for and area, and meets the R-4 (single family residential) minimum for frontage. Though the parcel is sufficient in size and frontage, the position of the primary structure and driveway does somewhat restrict appropriate locations for an attached garage. However, Staff finds no 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 application of the zoning regulations would not cause an unnecessary hardship, but would limit the size of the proposed accessory structure. Strict interpretation of the code would require the garage/accessory structure to conform to the floor area restrictions found in Section 16-28.004 (3), possibly restricting the suitability of the structure for its intended use as a two-car garage with upstairs guest quarters.
- c. **Such conditions are peculiar to the particular piece of property involved.** The subject property is consistent with other properties typical of the zoning district.
- 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 would not be a detriment to the public good despite not meeting the required variance criteria.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director



CITY OF ATLANTA

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-24-052 for 918 Pulliam Street SW

DATE: October 24, 2024

Applicant seeks a variance to allow a parking bay outside of the driveway for the construction of a new duplex and parking pad.

FINDINGS OF FACT:

Property Location: The subject property fronts 50.18 feet on the east side of Pulliam Street and beginning approximately 181 feet from the southeast intersection of Atlanta Avenue and Pulliam Street. The property is located in Land Lot 74 of the 14th District, Fulton County, Georgia. It is located in the Peoplestown Neighborhood of NPU-V, Council District 1.

Relevant Zoning Requirements:

- The subject property is zoned R-5-C/BL (Two Family Residential Conditional/Beltline Overlay).
- Single-family zero-lot-line development: Combined Lot Area: 7,500 square feet; combined frontage: 50 feet

Property Characteristics: The subject property is an irregular shaped lot with approximately 50 feet of street frontage and 5,675 square feet (0.130 acres) of area.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area are similar in size, shape, and area. All adjacent parcels to the north, south, east, and west are also zoned R-5-C/BL (Two Family Residential Conditional/Beltline Overlay).

PROPOSAL: The applicant seeks a variance to allow a parking bay outside of the driveway for the construction of a new duplex and parking pad.

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, limiting the building area. Therefore, Staff finds 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 duplex and parking pad being constructed as requested. The 2005 Peoplestown Rezoning Conditions require new residential homes to be minimum 25-feet wide, limiting the building area. A rezoning would be required to remove this condition, or to not provide off-street parking for the occupants. 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 appear peculiar to the piece of property involved. Staff has not identified similar conditions on 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 request allows an increase in the quality of life and housing supply for the Peoplestown neighborhood. Staff found a property on the same block with a parking pad located on the front. In addition, the subject property is located on a dead-end street. The proposed construction would not impair the aesthetic of the block face. 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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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-24-059 for 743 North Avenue NW

DATE: October 24, 2024

The applicant is seeking a variance from the zoning ordinance to increase the height of a building from 40 feet to 49 feet for the construction of a new two-family residential building.

FINDINGS OF FACT:

Property Location: The proposed site fronts approximately 57 feet on the north side of North Avenue NW and beginning approximately 110 feet from the northwest intersection of Griffin Street and North Avenue. The property is located in Land Lot 111 of the 14th District, Fulton County, Georgia. It is located in the English Avenue Neighborhood of NPU-L, Council District 3.

Relevant Zoning Requirements:

- The subject property is zoned SPI-3 SA2/Westside IZ Overlay (English Avenue Special Public Interest/Westside Affordable Workforce Housing Overlay)
- Section 16-18C.007: Table 3: SPI-3 Development Controls Table specifies a maximum building height of 40 feet along streets.

Property Characteristics: The subject property is a regularly shaped, rectangular lot with frontage along North Avenue NW. The parcel measures 5,301 square feet (0.121 acres) in area. The parcel is currently undeveloped and covered with vegetation. The topography is the site is relatively flat, with an overall elevation change of approximately 5 feet. However, there is an incline of approximately 10 feet located on the neighboring parcel to the north.

Characteristics of Adjoining Properties, Neighborhood: The adjoining properties are currently zoned SPI-3 SA2/Westside IZ Overlay (English Avenue Special Public Interest/Westside Affordable Workforce Housing Overlay). The property to the south across North Avenue, is currently zoned SPI-3 SA3/Westside IZ Overlay (English Avenue Special Public Interest/Westside Affordable Workforce Housing Overlay). Surrounding Future Land Use designations include Low

Density Residential (LDR) and Single Family Residential (SFR). The structures to the east and west of the site appear to have been vacant for some time and are significantly deteriorated

PROPOSAL: The applicant is seeking a variance from the zoning ordinance to increase the height of a building from 40 feet to 49 feet for the construction of a new two-family residential building.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Sections 16-26.003 and 16-26.006 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 has a regular shape, no notable topographic features, and well exceeds the zoning district's minimums for lot size (3,000 square feet) and frontage (20 feet). The buildable area of the lot is not constrained by any exceptional conditions.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Strict interpretation of the code in this instance would not create an unnecessary hardship nor prohibit the potential redevelopment of the site. The subject property can be developed as a two-family residential structure under the current entitlements. Therefore, Staff is of the opinion that the proposed variance to exceed the maximum height limitation is unreasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** There are no peculiar conditions pertaining to the site. The surrounding developments comply with the maximum height limit, including the three-story construction across North Avenue, directly south of the subject parcel.
- 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 likely 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. Relief, if granted, would not cause substantial detriment to the public good, however, may undermine the existing character and scale of the neighborhood contrary to the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance is not justifiable under the variance criteria, but would not likely be a detriment to the public good.

RECOMMENDATION: DENIAL

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-24-083 for 2213 Ridgedale Road NE

DATE: October 24, 2024

The applicant seeks a variance to reduce the east side yard setback from 7 feet to 0.3 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 52 feet on Ridgedale Road and begins approximately 323.8 feet from the southeast intersection of Ridgedale Road and Rockyford Road. This property is in Land Lot 205 of the 15th District, DeKalb County Georgia. It is in the Kirkwood Neighborhood in NPU O, Council District 5.

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 an irregular shape with a lot area of 10,351 square feet (0.14 acres) and frontage of 52 feet along Ridgedale Road. The property is currently developed with a new two-story single-family house 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 are zoned R-4.

PROPOSAL: The applicant seeks a variance to reduce the east side yard setback from 7 feet to 0.3 feet to allow the existing newly built single-family dwelling in its current location.

BACKGROUND:

- On August 9, 2022, a building permit was issued (BB-202204377) to allow a second-story addition on the previously existing one-story house, which was already encroaching

within the eastern 7-foot side setback (0.7 feet at the closest point to the eastern side property line).

- A stop work order was issued September 2022 as it was found that the entire house structure was demolished instead.
- On December 14, 2022, a demolition permit (BB-202206959) was issued to allow the demolition of the entire house structure. The demolition permit application stated that the non-conforming foundation will be left in place, however, the approved stamped demolition site plan dated October 4, 2022 shows the new house footprint in compliance with the setbacks.
- On January 5, 2023, a building permit (BB-202207325) was issued to allow the construction of a two-story single-family dwelling on the existing non-conforming foundation. However, the approved stamped site plan dated November 1, 2022 shows the house footprint in compliance with the setback.
- On March 13, 2024 a complaint was submitted regarding the house been built within the 7-foot eastern side setback. On March 20, 2024 the City Inspector found that the existing nonconforming foundation was fully removed during construction. It appears that the new house was built in the previous general nonconforming location.
- On March 20, 2024, the issuance of the Certificate of Occupancy was placed on hold, as it was discovered that the new house was built over the setback line.
- On March 22, 2024, property was sold to new property owners with escrow agreement to require developer to obtain Certificate of Occupancy.
- On April 29, 2024 variance application was received.
- The applicant now requests relief to allow the reduction of the eastern side setback from 7 feet to 0.3 feet.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-16-008(2).

- 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 18 feet but exceeds the minimum lot area by 1,351 square feet. The lot has a rectangular shape; however, it is wider in the front (52 feet) and narrower in the back (36 feet). The site does not have steep topography. The site has exceptional conditions regarding the width deficiency.
- The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The strict application of the zoning regulation would cause a hardship to the applicant, as the structure is already built. However, Staff is of the opinion that this is a self-imposed hardship, as the applicant removed the old nonconforming foundation, therefore losing the nonconformity status and did not follow the approved building permit drawings, which showed compliance with the building setbacks.
- Such conditions are peculiar to the particular piece of property involved.** The size and shape of the property are peculiar to this piece of property. The old location of the house is a particular aspect of the property as the footprint encroached in the 7-foot setback at an angle with the southeast corner of the building previously located 0.7 feet (8.4 inches) away from the property line and the northeast corner of the building previously located 3 feet (36 inches) away from the property line at the closest point, therefore deeming the previous house structure as a nonconforming structure. The new house footprint per the site plan

provided on the variance application shows the new house footprint 0.3 feet (3.6 inches) away from the property line at the southeast corner of the building and 8.8 feet away at the northeast corner of the building. Section 16-24.004(2)(a) (Nonconforming Structures) of the City of Atlanta Zoning Ordinance says, “[s]hould such nonconforming one- or two-family residential structure or nonconforming portion of structure be destroyed, by any means, in whole or in part, it may be reconstructed in the same location and upon its previous foundation and to its previously existing height, provided said reconstruction does not increase the previously existing degree of nonconformity and further provided that said reconstructed structure is used for a permitted use.” Based on Code Enforcement findings, the previous foundation was fully removed during construction, therefore losing the nonconforming status.

- 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 does not meet the purpose and intent of the Zoning Ordinance to provide for adequate setback distance between single-family structures. The Zoning Ordinance Section 16-24.004(6) allows for vertical additions to single-family structures with non-conforming side yard setbacks “*provided that such additions do not exceed the existing degree of horizontal setback nonconformity.*” However, it requires that “[n]ew structures [must] comply with the side yard setbacks required in the applicable zoning district.” Given that the applicant removed the previous house nonconforming footprint and built a new house on a new foundation, the applicant is required to comply with the R-4 Zoning Setback requirements.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

CITY OF ATLANTA

JAHNEE R. PRINCE, AICP
Commissioner

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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-24-086 for 2394 Main Street NW

DATE: October 24, 2024

Applicant is seeking a variance from the zoning ordinance to reduce the required front yard setback from 30 feet to 10 feet and to reduce the required west side yard setback from 7 feet to 5 feet for the construction of a new single-family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 66 feet on the south side of Main Street NW beginning approximately 134 feet from the southwest intersection of Lookout Avenue and Main Street. The property is located in Land Lot 248 of the 17th District, Fulton County, Georgia. It is in the Almond Park Neighborhood of NPU-G, Council District 9.

Relevant Zoning Requirements:

- The subject property is zoned R-4A/ Westside Park AWH (Single Family Residential/ Westside Park Affordable Workforce Housing Overlay).
- Minimum lot dimensions: Frontage: 50 feet; Minimum lot area: 7,500 square feet.
- Minimum yard setbacks: Front yard: 30 feet; Side yard: 7 feet; Rear yard: 15 feet.

Property Characteristics: The subject property consists of a vacant parcel situated on Main Street NW. The square footage of the parcel is 4789 square feet (0.109 acres) with 66 feet of frontage on Main Street NW. The parcel features a very dramatic change in topography of approximately 22 feet from the northern frontage down to the rear of the site.

Characteristics of Adjoining Properties, Neighborhood: The surrounding neighborhood is developed primarily with single-family homes and is zoned R-4A/ Westside Park AWH (Single Family Residential/ Westside Park Affordable Workforce Housing Overlay). The neighboring parcel to the west is developed with a single family home. The adjacent parcel to the east is undeveloped.

PROPOSAL: The applicant is seeking a variance from the zoning ordinance to reduce the required front yard setback from 30 feet to 10 feet and to reduce the required west side yard setback from 7 feet to 5 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.** There are several conditions present on the subject parcel which restrict the buildable area of the lot. A significant portion of the rear of this property is located within a riparian buffer. The subject property also has a narrow triangular shape, is deficient in lot size by approximately 2,711 square feet, and features dramatic topographical change as the property slopes down to the stream buffer area. There are also numerous mature trees on the site. All of these factors, shape, size, topography, and the location of the riparian buffer, severely limit suitable building sites on the parcel. Therefore, Staff finds deficient lot size, shape, and the presence of a riparian buffer as 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.** Strict interpretation of the code in this instance would create an unnecessary hardship due to the location of the required stream buffer, triangular shape, insufficient lot size, and topography. The strict application of the regulations would greatly restrict the buildable area of the property and potentially preclude the development of a legal lot of record. Therefore, Staff is of the opinion that the proposed setback reduction is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The presence of the riparian buffer, triangular shape, deficient lot size, and topographical slope are peculiar to the subject property and inconsistent with the typical parcel in the zoning district.
- 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 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 variances are 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-24-118 for 3491 Pinestream Road NW

DATE: October 24, 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, a variance to reduce the front yard setback from 60 feet to 30 feet, and allow an accessory structure other than a fence to project beyond the front of the main structure for the construction of a pool house and pool.

FINDINGS OF FACT:

Property Location: The subject property fronts 175.90 feet on the south side of West Paces Ferry Road and begins at the southeast intersection of West Paces Ferry Road and Pinestream Road. The property is located in Land Lot 181 of the 17th District, Fulton County, Georgia. It is located in the West Paces Ferry/Northside Neighborhood of NPU-A, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-2 (Single Family Residential District).
- Minimum yard setbacks: Front yard: 60 feet; side yard: 15 feet; rear yard: 30 feet.
- *Accessory structures:* Accessory structures other than fences, when permitted, shall be placed to the side or rear of the main structure within the buildable area of the lot so as not to project beyond the front of the main structure.
- *Walls or fences in required yards; height limits:* Fences, walls or hedges may occupy required yards as follows:
 - In the R-1 through R-5 districts, the following retaining walls and fences are permitted:
 - Where no retaining wall is constructed, fences not exceeding four feet in height may be erected.
 - 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 a regular corner lot with approximately 175.90 feet of street frontage and 44,431 square feet (1.02 acres) of area. The property is currently occupied by an existing two-story single-family home. Vehicular access is provided via a single curb cut along Pinestream Road NW. The topography steadily slopes downward across the site by about 20 feet between the north and south end of the lot. There are mature trees throughout the site.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate area vary in size and shape due to the irregular street pattern and rolling topography of the neighborhood. All parcels immediately to the north, south, east, and west of the site are also zoned R-2 (Single Family Residential District).

PROPOSAL: The applicant seeks a variance to reduce the front yard setback from 60 feet 30 feet for the construction of an accessory structure (pool house) and pool and to allow accessory structures to project beyond the front of the main structure. This site was granted a variance previously via V-05-246 to allow a 5-foot high wrought-iron fence with 6-foot high columns in the front yard and half-depth front yard setback which now exists, as well as for active recreation adjacent to the street for a new pool. The applicant seeks to expand their proposal and now also include a new pool house and enclosed storage area on site.

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 lot has steadily sloping topography which provides challenges to development. Therefore, Staff finds topography 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 not cause an unnecessary hardship. A smaller recreation area could comply with the zoning controls without the need for additional entitlements. Maintaining consistency with the established pattern has also been identified as an utmost priority for this community and approval of a variance of this sort would erode the established character and pattern of the neighborhood. Therefore, Staff is of the opinion that the proposed requests are not reasonable.
- 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; staff has identified similar conditions on adjoining neighborhood lots.

- 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 may allow for an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood, but grants advantages and entitlements that are not consistent with the established pattern of the neighborhood. Relief, if granted, may cause detriment to the public good and could impair the purposes and intent of the Zoning Ordinance. Thus, Staff finds the requested variance to be not reasonable.

PART II

PROPOSAL: The 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. This site was granted a variance previously via V-05-246 to allow a 5-foot high wrought-iron fence with 6-foot high columns in the front yard and half-depth front yard setback which now exists, as well as for active recreation adjacent to the street for a new pool. The applicant seeks to expand their proposal and now also include a new pool house and enclosed storage area on 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 and/or is justified by 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 overall site plan is intended to support development of the new pool house. Since Staff does not recommend approval of the setback reduction to facilitate the new pool house, Staff finds consideration of the remaining portions of the request to not be necessary.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director