



CITY OF ATLANTA

ANDRE DICKENS
MAYOR

DEPARTMENT OF CITY PLANNING
55 TRINITY AVENUE, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308
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JAHNEE R. PRINCE, AICP
Commissioner

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

MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-159 for 98 Atlanta Avenue SE

DATE: November 7, 2024

Applicant seeks a variance allow an accessory structure to exceed from 30% to 62% and to allow an accessory structure to exceed the height restriction from 20 feet to 20.39 feet.

Additional time has been requested by the NPU to allow the applicant 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-24-164 for 810 Huff Road NW

DATE: November 7, 2024

The applicant seeks a special exception to reduce the required off-street parking from 12 spaces to 4 spaces for a restaurant.

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

STAFF RECOMMENDATION: DEFERRAL - JANUARY 2025

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-24-126 for 445 Brentwood Drive NE

DATE: November 7, 2024

Applicant seeks a variance to reduce the east side yard setback from 7 feet to 3 feet 6 inches for the construction of a carport.

FINDINGS OF FACT:

Property Location: The subject property fronts 69.94 feet on the south side of Brentwood Drive NE and beginning approximately 274.5 feet from the southwest intersection of North Hilles Drive NE and Brentwood Drive NE. Zoned R-4/SPI-24 (Single Family Residential/Garden Hills Neighborhood Special Public Interest). Land Lot 60 of the 17th District, Council District 7, Fulton County, Georgia.

Relevant Zoning Requirements:

- The subject property is zoned R-4/SPI-24 (Single Family Residential/Garden Hills Neighborhood Special Public Interest).
- 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 lot measuring approximately 13,021 square feet (0.299 acres) of area, approximately 69.94 feet of frontage on Brentwood Drive NE. The lot narrows approximately 16 feet 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 10-foot grade change. The lot has some vegetation, but mainly manicured grass throughout.

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 with single-family homes, and all are zoned R-4/SPI-24 (Single Family Residential/Garden Hills Neighborhood Special Public Interest).

PROPOSAL: Applicant to reduce the east side yard setback from 7 feet to 3 feet 6 inches 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 subject property meets or exceeds the minimum area requirements for an R-4/SPI-24 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. The existing driveway already encroaches into the side setback and no other location on the property would be suitable for a carport. As a result, Staff finds the site contains extraordinary conditions that warrant the proposed reduction in side a 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 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 has a relatively 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 width, 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-24-131 for 155 7th Street NE

DATE: November 7, 2024

Applicant seeks a variance to increase the allowable height of a parking structure from 35 feet to 64 feet.

Property Location: The subject property fronts 181.56 feet on the south side of 7th Street and begins at the southwest intersection of Cypress Street and 7th Street. The property is located in Land Lot 49 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 SPI-16 SA1 (Midtown Special Public Interest District Regulations).
- Section 16-28.028(1)(c)(1) – Parking structures. *Non-public facades, height:* When a façade is adjacent to or facing any R-1 through R-5, RLC, RG-1, RG-2, MR-1, MR-2, or PD-H districts or existing residential use the structure shall not exceed 35 feet in height.

Property Characteristics: The subject property is a rectangular parcel with approximately 181.56 feet of street frontage and approximately 34,969 square feet (0.803 acres) of area. The lot is currently occupied an existing surface parking lot. Vehicular access to the property is provided via curb cuts on both 7th Street NE and Cypress Street NE. The topography is level. There are mature a few trees found in landscaped islands between parking spaces on the site.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate area vary in size and shape. The parcels immediately to the north, south, east, and west are also zoned SPI-16 SA1 (Midtown Special Public Interest District Regulations).

PROPOSAL: The applicant seeks a variance to increase the allowable height of a parking structure from 35 feet to 64 feet. This proposal is associated with Special Use Permit U-24-11/Ordinance 24-O-1251 which was approved by City Council on October 7, 2024. This approval allows the applicant to transfer excess development rights to the subject property to facilitate

development of approximately 265 multifamily units focused on student housing as well as approximately 1,600 square feet of ground floor commercial use. As part of this development the applicant intends to construct a parking garage with 170 parking spaces; due to the existence of MARTA Red/Gold Rail Lines underneath the site, below-ground parking is not feasible. Therefore, the applicant has requested additional height for their parking garage.

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 located directly above the tunnels which service the MARTA Red/Gold Rail Lines. 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 cause a hardship by significantly limiting the applicant's ability to provide parking to its residents and patrons. Although there are no parking minimums associated with SPI-16 SA1, the parking maximum is established as 548 spaces, so the applicants are only utilizing approximately 31% of their parking allowance for this structure. The development is intended to cater to college students aged 18-25 which is a demographic whose participation in private automobile usage is declining, and the site is located near a number of public transit options. The parking provided by this proposal should therefore be sufficient. Due to the existence of the MARTA tunnels beneath this site, underground parking is not feasible. Additionally, the applicant has provided evidence of other parking decks throughout Midtown at similar heights, suggesting that strict adherence to the height requirements would impose an uneven limitation. In summary, the applicant has taken care to provide less parking than the maximum, has no option to provide parking below ground, and is changing an existing surface parking lot into an active use with much needed housing options. 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 conditioned upon the following:

1. The parking deck face shall incorporate architectural articulation and architectural design elements such as a variety in façade treatment, materials, textures, colors and patterns to provide visual interest along the southern façade which abuts a residential use.

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-24-160 for 214 Peachtree Battle Avenue NW

DATE: November 7, 2024

Applicant seeks a variance to reduce the west side yard setback from 15 feet to 7 feet for the construction of an addition and patio.

FINDINGS OF FACT:

Property Location: The subject property fronts 100 feet on the south side of Peachtree Battle Avenue and begins approximately 284.5 feet from the southeast intersection of Woodward Way and Peachtree Battle Avenue. The property is located in Land Lot 112 of the 17th District, Fulton County, Georgia. It is located in the Peachtree Battle Alliance neighborhood of NPU-C, 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; Side yards: 15 feet; Rear yard: 30 feet.

Property Characteristics: The subject property is a rectangular-shaped lot of approximately 28,381 square feet (0.652 acres) and approximately 100 feet of frontage. The property is currently developed with an existing two-story home. Vehicular access is currently provided via a curb cut on Peachtree Battle Avenue. The topography declines by approximately 24 feet from its highest point to the lowest point. There are mature trees located on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size and shape and are consistently developed with residential structures. The parcels to the north, east, south, and west are zoned R-2A (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the west side yard setback from 15 feet to 7 feet for the construction of an addition and patio. The applicant proposes to remove an existing stone patio in the rear yard. The applicant also proposes to construct additions to the single-family structure and a new screened patio. The existing home currently encroaches into the west side yard

setback by 6.1 feet. The detached garage on the property currently encroaches into the west side yard setback by 12.4 feet.

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 is deficient in area by approximately 1,619 square feet. Additionally, the topography inclines by approximately 24 feet toward the rear of the property. Therefore, Staff finds lot size and topography as the extraordinary conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** An application of the zoning regulations would cause a hardship by preventing the proposed improvements from being constructed. The lot's deficiency in size, steep topography, and current configuration of existing structures limit the buildable area. The existing encroachment of the home into the west side yard setback prevent additions to the western portion of the structure from being made without encroaching into the required yard. The requested encroachment in the west side yard setback will facilitate improvements to the home's kitchen. 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 size and topography are peculiar to the subject property. Staff is unaware of similar conditions on adjacent parcels.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The requested variance would not impose upon adequate light and/or air on the adjacent properties. There is no potential impediment on emergency access or threats to health and fire safety because the property has adequate room for the requested improvements. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Staff finds the proposed variances to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-161 for 1230 West Peachtree Street NW

DATE: November 7, 2024

Applicant seeks a special exception to allow accessory outdoor amplified music at a coffee shop.

FINDINGS OF FACT:

Property Location: The subject property fronts 57.08 feet on the west side of West Peachtree Street and begins approximately 519.5 feet from the corner of 16th Street and West Peachtree Street. The property is located in Land Lot 108 of the 17th 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 SPI-16 SA1 (Midtown Special Public Interest District Subarea 1).
- Sec. 16-18P.005(4)(a). – Permitted principal uses and structures. – Outdoor amplified music permissible only when approved by the board of zoning adjustments through variance or special exception, as appropriate.

Property Characteristics: The subject property is a rectangular lot with approximately 57 feet of street frontage and 50,714 square feet (1.162 acres) of area. The property is currently occupied by an existing 31-floor multi-use high rise building. Vehicular access is provided via a curb cut on West Peachtree Street NW. The topography is relatively level. The site appears to be cleared of trees and landscaping; the building encompasses almost the entire parcel.

Characteristics of Adjoining Properties, Neighborhood: Other lots nearby vary a great deal in their size and shape; the area is among the most dense parts of Atlanta's urban center surrounded by similar high rises. The lots are irregular and many large buildings and campuses often span multiple parcels. The parcels to the north, south, east, and west are also zoned SPI-16 SA1 (Midtown Special Public Interest District Subarea 1).

PROPOSAL: The applicant seeks a special exception to allow outdoor amplified music on their patio. The applicant represents Foxtail Coffee Midtown, an eating and drinking establishment that has moved into one of the retail tenant spaces on the ground floor of the building. The ground floor of the building has space for five to seven retail tenants as well as the lobby of the residential multifamily component. To the right of Foxtail Coffee is a veterinary office, and the unit to the left is not yet occupied. Above is the parking facility for the building. Foxtail Coffee has a 320 square foot covered patio in front of their business where they would like to offer amplified music for their customers. The coffee shop is open from 6 a.m. to 9 p.m. daily with a maximum of three to four employees. The location offers no dedicated parking, instead relying on building tenants and pedestrians. Automobiles will park in the Hanover building visitor parking or locate street parking nearby.

CONCLUSIONS: The following conclusions pertinent to this request for a special exception from the zoning regulations are in accordance with Section 16-25.002(3) of the City of Atlanta Zoning Code.

- a. **Ingress and egress and proposed structure or uses thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and emergency access.** Ingress and egress to the subject property will not be affected by this proposal.
- b. **Off-street parking and loading.** The introduction of outdoor amplified music will not increase or decrease existing levels of parking and loading. This location is also located almost directly across the street from the Arts Center MARTA train station which allows an alternate transit mode for most patrons.
- c. **Refuse and service areas.** Refuse and service areas are shared among tenants in the building; the special exception request has no impact on refuse and service areas.
- d. **Buffering and screening.** No screening is necessary as the restaurant is not located near any uses that require protection. This area as a highly intense urban corridor that is extremely active during weekday business hours. Almost every nearby use is commercial, office, retail or institutional. Nearby residential uses are located in high rises where street-level noise is mitigated. West Peachtree Street NW is a five lane arterial road at this location – the incidental noise from hundreds of cars passing by each hour will likely drown out any noise produced by the eating and drinking establishment. The applicant must comply with the City’s noise ordinance. There is no impact upon nearby residences or establishments expected.
- e. **Hours and manner of operation.** The proposed business hours are seven days a week from 6:00 a.m. to 9:00 p.m. The applicant expects three to four employees at a time.

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-24-162 for 2109 Ridgedale Road NE

DATE: November 7, 2024

Applicant seeks a variance to reduce the front yard half-depth setback from 17.5 feet to 13.8 feet for the construction of a covered deck.

FINDINGS OF FACT:

Property Location: The subject property fronts 48 feet on the south side of Ridgedale Road and beginning at the southeast intersection of Branham Street and Ridgedale Road. The property is located in Land Lot 205 of the 15th District, DeKalb County, Georgia. It is located in the Kirkwood Neighborhood of NPU-O, Council District 5.

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 zero-lot-line subdivision for residential uses: Lot Area: 9,000 square feet; frontage: 70 feet

Property Characteristics: The subject property is a regular shaped lot with approximately 45 feet of street frontage and 8,648 square feet (0.198 acres) of area. The property has a single-family home.

Characteristics of Adjoining Properties, Neighborhood: The other lots are similar in their size, shape, and area. Properties located in the north, east, south, and west are all zoned R-4 (Single Family Residential), and include single-family homes.

PROPOSAL: The applicant seeks a variance to reduce the front yard half-depth setback from 17.5 feet to 13.8 feet for the construction of a covered deck.

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 and frontage. The footprint of the existing structure encroaches on the front yard half-depth setback. Therefore, Staff finds size, frontage, and encroaching footprint to be 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 unnecessary hardship by preventing the proposed development from being constructed as requested. Due to the entire west portion of the home encroaching on the front yard half-depth setback, any rear addition would require a variance. The covered deck will not extend in the front yard half-depth setback any further than the existing footprint of the home. 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 referenced conditions appear to be peculiar to the particular piece of property; staff has not 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. The request allows an increase in the quality of life for the homeowners. 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-24-163 for 762 Saint Charles Avenue NE

DATE: November 7, 2024

The applicant seeks a variance from the zoning ordinance to increase the total floor area of an accessory structure from the required 30% of the main structure to 58.6% of the main structure.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on north side of Saint Charles Avenue and begins 359 feet from the northeast intersection of Ponce De Leon Place and Saint Charles Avenue. This property is in Land Lot 17 of the 14th District, Fulton County, Georgia. It is in the Virginia Highlands/Ansley Park Neighborhood Mount in NPU-F, Council District 6.

Relevant Zoning Requirements:

- 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.
- The site is used a single-family

Property Characteristics: The subject site has a regular shape with a lot area of 0.217 acres (9,464 square feet) and a 50-foot frontage along Saint Charles Avenue and frontage on an alley along the back of the property. The property is improved with a 1-story 2,774 square foot dwelling and an 800 square foot detached garage that has access from the rear alley.

Characteristics of Adjoining Properties, Neighborhood: The adjoining lots to the east and west are used for multi-family uses. All properties are zoned RG-2.

PROPOSAL: The applicant seeks a variance to increase the total floor area of the proposed accessory structure from 30% to 58.6% 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 RG-2 Zoning District requires a minimum lot width of 20 feet and a minimum lot area of 1,000 square feet. The lot width of the subject property is 50 feet and the lot size is 9,464 square feet. However, the lot has very steep topography on the front yard, as there is a 20-foot drop from the house location to the sidewalk on the street. Therefore, the house does not have vehicular access from the street, but it has access from the rear alley to the detached garage facing the alley. Given the existing topography, Staff is of the opinion that the lot has extraordinary conditions.
- b) **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Enforcing the 30% limit requirement on accessory structures will prevent the property owner from doing the proposed improvements. The lot's shape does not allow for a different configuration. The proposed improvements do not anticipate causing negative impacts to the adjacent properties from a zoning perspective.
- c) **Such conditions are peculiar to the particular piece of property involved.** The existing improvements on the site consist of the primary dwelling and a detached 2-car garage. The detached 801 square-foot garage already uses the 30% accessory structure allowance, whereas if the primary dwelling unit had an attached garage, the property owner wouldn't need to request relief to exceed the threshold. Staff is of the opinion that the existing improvements configuration due to the topography and shape of the lot is an unusual condition which warrants relief from the Zoning Ordinance.
- 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



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MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-165 for 882 Hall Street NW

DATE: November 7, 2024

Applicant is seeking variances to reduce the south side yard setback from 15 feet to 4 feet and reduce the front yard setback from 30 feet to 12 feet to bring an existing single-family dwelling into compliance

FINDINGS OF FACT:

Property Location: The subject property fronts 57.22 feet on the west side of Hall Street and beginning at the northwest intersection of Dupree Street and Hall Street. The property is located in Land Lot 208 of the 14th District, Fulton County, Georgia. It is in the Center Hill Neighborhood of NPU-J, Council District 9.

Relevant Zoning Requirements:

- The subject property is zoned R-4A/WIZ (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.
- Maximum lot coverage: 55% of net lot area

Property Characteristics: The subject property is developed with a single family home constructed circa 1930 on a rectangular, corner parcel fronting Hall Street NW and Dupree Avenue NW. The area of the parcel is 10,676.69 square feet (0.245 acres) with 57.22 feet of frontage on Hall Street NW and 169 feet of frontage on Dupree Avenue. The existing single-family dwelling is currently encroaching upon the front, and half-depth front yard setbacks. The topography of the parcel varies, with an overall elevation change of approximately 22 feet across the site, located primarily in the rear yard.

Characteristics of Adjoining Properties, Neighborhood: The surrounding neighborhood is developed primarily with single-family homes and is zoned R-4A/WIZ (Single Family Residential/Westside Park Affordable Workforce Housing Overlay) with some MR-3 (Multifamily Residential) to the east along Dupree Avenue.

PROPOSAL: Applicant is seeking variances to reduce the south side yard setback from 15 feet to 4 feet and reduce the front yard setback from 30 feet to 12 feet to bring an existing single-family dwelling into compliance. The encroaching porch was previously enclosed, requiring variances in the front and half-depth front yards before further rehabilitation can take place on the subject property.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The subject parcel exceeds the minimum frontstage and area required in the R-4A (Single Family Residential) zoning district. The parcel does feature a dramatic change in topography of approximately 22 feet, located primarily in the rear yard. This change in topography may explain the existing structure's placement near the southeast corner of the lot. The existing structure is encroaching into the front and half-depth front yards. Therefore, Staff finds topography and the position of the existing structure 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 unduly restrict future improvements to the existing structure such as remodeling and the existing enclosure of the front porch to increase living space. Strict interpretation of the code would result in constraints which would likely make improvement of the dilapidated existing structure less financially viable. 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 location of the existing structure within the required front and side yards (likely due to the topography present on the site) is 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
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-24-166 for 2185 Adams Drive NW

DATE: November 7, 2024

Applicant seeks a variance to reduce the rear yard setback from 15 feet to 5.4 feet and to increase lot coverage from 50% to 62%.

FINDINGS OF FACT:

Property Location: The subject property fronts 100.7 feet on the east side of Adams Drive and beginning 99.96 feet from the southeast intersection of La Dawn Lane and Adams Drive. Zoned R-4 (Single Family Residential). 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).
- 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 shallow square lot, with approximately 140 feet of street frontage and 9,310 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 and varies by 11 feet in the interior of the lot. There are mature trees onsite.

Characteristics of Adjoining Properties, Neighborhood: The other lots in the immediate area vary greatly 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 rear yard setback from 15 feet to 5.4 feet for the construction of a rear deck 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 lot is an irregularly square-shaped lot and has a topography change of 11 feet interior to the lot where the house currently exists. Both greatly limit the buildable area for this lot and the new structure will replace a previously existing deck structure, currently unusable. Therefore, Staff finds the shape and 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 cause a hardship by preventing the applicant from “outdoor enjoyment” of their yard due to the excessive runoff and the deck not being safe or usable. Additionally, the applicant has made efforts to mitigate runoff by introducing “permeable turf” in the rear which is counted as a pervious material, but product specifications show a level of permeable. 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, topography, and applicant’s efforts to mitigate runoff with a material with some level of permeability appear to be the conditions peculiar to this site; staff has not identified similar shapes or 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 deck will replace an existing structure and the lot coverage will include materials with permeability 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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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-24-167 for 362 Ralph David Abernathy Boulevard SW

DATE: November 7, 2024

The applicant seeks a variance to reduce the west side yard setback from 20 feet for residential uses for portions of buildings above 52 feet in height to 2.5 feet and reduce the south transitional yard from 20 feet to 3 feet for the construction of townhomes.

FINDINGS OF FACT:

Property Location: The subject property fronts approximately 113.42 feet on the south side of Ralph David Abernathy Boulevard and begins at the southwest intersection of Ira Street and Ralph David Abernathy Boulevard. Zoned SPI-18 SA3 (Mechanicsville Neighborhood Special Public Interest District Subarea 3). Land Lot 86 of the 14th District, Fulton County, Georgia.

Relevant Zoning Requirements:

- The subject property is zoned SPI-18 SA3(Special Public Interest District Subarea 3)

Property Characteristics: The subject property is approximately 0.193 acres (8,388 square feet) with approximately 113.42 feet of Ralph David Abernathy Boulevard S.W. frontage. The lot is currently undeveloped land and has been since 2011. The topography rises from NE corner of the lot at the intersection of Ralph David Abernathy Boulevard and Ira Street and level out as you approach the middle of the lot. The subject site is landscaped with mature trees and shrubs along Ralph David Abernathy Boulevard S.W. and throughout the subject property. There is currently no curb cuts along Ralph David Abernathy Boulevard S.W. nor Ira Street therefore there is no vehicular access to the site.

Characteristics of Adjoining Properties, Neighborhood: The lots in the surrounding area vary in size and shape. The surrounding zoning includes a mix of residential, neighborhood commercial, zoning. SPI-18 SA5 (Special Public Interest Subarea 5) (Single Family Residential) along the entire west, and south property boundaries, SPI-18 SA6 (Special Public Interest Subarea 6) (Two-Family Residential) to the north across Ralph David Abernathy Boulevard

S.W., and SPI-18 SA3 (Special Public Interest Subarea 3) (RDA Residential Commercial), east along Ralph David Abernathy Boulevard S.W. PD-H (Planned Development Housing), RG-4-C (Residential General Sector 2 Conditional), and RG-5 (Residential General Sector 5) to the southeast across Peachtree Road.

PROPOSAL: The applicant seeks a variance to reduce the west side yard setback from 20 feet for residential uses for portions of buildings above 52 feet in height to 2.5 feet and reduce the south transitional yard from 20 feet to 3 feet for the construction of new townhomes.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** This zoning district is unique as it does not have a minimum lot size or width requirements. The topographic conditions change approximately 6 feet in elevation between the NE corner of the lot at the intersection of Ralph David Abernathy Boulevard and Ira Street and level out as you approach the middle of the lot. Additionally, this zoning district SPI-18 SA3 has 20-foot transitional buffers that's triggered when abutting SPI-18 SA5 properties.
- 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 hardship. The topographic issues along with the transitional buffers along the western and southern property lines would significantly affect the buildable area on the lot and prevent a reasonable proposed infill development. Furthermore, since this project is a future residential development at sidewalk level a 5-foot supplemental zone is trigger along the Ralph David Abernathy Boulevard and IRA Street further impacting the buildable area. 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 this piece of property; staff have not identified similar conditions on adjoining neighborhood lots. This lot is unique as it is the only lot on this block of Ralph David Abernathy Boulevard and IRA Street within SPI-18 SA3 adjacent to and abutting SPI-18 SA5 which triggers the 20-foot transitional buffer along the western and southern property lines. 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 requested variance would not be a detriment to the public good by eliminating the 20-foot buffer along the western and southern property line. 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

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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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-24-168 for 4460 Garmon Road NW

DATE: November 7, 2024

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

FINDINGS OF FACT:

Property Location: The subject property fronts 219.94 feet on the west side of Garmon Road and begins at the southwest intersection of Swims Valley Drive and Garmon Road. The property is located in Land Lot 178 of the 17th District, Fulton County, Georgia. It is located in the Mt. Paran/Northside Neighborhood of NPU-A, Council District 8.

Relevant Zoning Requirements:

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

Property Characteristics: The subject property is an irregular shaped lot of approximately 219.94 feet of street frontage and 96,110 square feet (2.206 acres) of area. The property is currently developed with an existing two-story home. Vehicular access is currently provided via a curb cut on Garmon Road. The topography declines by approximately 58 feet from its highest point to the lowest point. There is a 25-foot, 50-foot, and 75-foot buffer located on the property. There are mature trees located on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in shape, size, and area. All of the parcels to the north, south, east, and west are zoned R-1 (Single-Family Residential District).

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

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

- a. **The location will not be objectionable to occupants of neighboring property or the neighborhood in general by reason of noise, lights, or concentrations of persons or vehicular traffic.** The location of the proposed swimming pool will most likely not be visible as it will be obstructed by the proposed landscaping, inclining topography, and existing mature trees located throughout the property. Therefore, staff believes the request is reasonable and the impact to any others will be minimal.
- b. **The area for such activity could not be reasonably located elsewhere on the lot.** Due to the lot's steep topography, existing buffers, and the placement of the existing single-family structure, staff believes the location of the proposed pool to be appropriate as it could not be located elsewhere on the lot. The proposed location minimizes impact to existing structures, hardscape, and trees.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
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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-24-169 for 3968 Paces Ferry NW

DATE: November 7, 2024

The applicant seeks a special exception to increase the height of a retaining wall in the east side yard from 6 feet to 11 feet and allow active recreation in a yard adjacent to a street for the construction of a pool and accessory structure.

FINDINGS OF FACT:

Property Location: The subject property fronts 219.78 feet on the south side of Paces Ferry Road and beginning approximately 721.68 feet from the southeast intersection of River Forest Road and Paces Ferry Road. The property is located in Land Lot 235 of the 17th District, Fulton County, Georgia. It is in the Paces Neighborhood of NPU-A, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-1 (Single Family Residential).
- Minimum lot dimensions: Frontage: 200 feet; Minimum lot area: 2 acres.
- Minimum yard setbacks: Front yard: 60 feet; Side yard: 25 feet; Rear yard: 35 feet.
- Maximum lot coverage: Maximum lot coverage within this district shall not exceed 25% percent of the total lot area.
- *Walls or fences in required yards; height limits:* Fences, walls or hedges may occupy required yards as follows; provided, however, that such fence, wall or hedge shall be maintained in a safe and sightly condition and that no such walls or fences create substantial impediments to visibility as prohibiting at [section 16-28.008\(9\)](#). The height of a retaining wall shall be measured as the greatest vertical length from one side of finished grade to the top of said adjacent retaining wall unless specified below. (a) In the R-1 through R-5 districts, the following retaining walls and fences are permitted: **(i): Side and Rear yard:** Where no retaining wall is constructed, fences or walls not exceeding six feet in height may be erected or maintained. **(3):** Where a driveway is required to be constructed, retaining wall height shall be measured above the existing undisturbed grade of the lot as established by plans meeting the specifications required for soil erosion and

sedimentation control by section 74-40 (as it may be amended). (ii) For retaining walls in any required yard greater than six feet in height shall require a special exception from the board of zoning adjustment in accordance with provision (e) below.

- 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 is a regular-shaped lot covering approximately 87,460.79 square feet (2.01 acres) and having around 221 feet of frontage on Paces Ferry Road. The lot is vacant and undeveloped. The lot's topography is varied, with topography rising from the westernmost point of the front property line toward the east, then sloping down to a ditch in the center. From the center, the topography increases again toward the rear of the lot, with an additional rise from the westernmost point of the rear property line to its eastern edge, resulting in a total grade change of 48 feet. The property includes two 75-foot City of Atlanta impervious setbacks, two 50-foot City of Atlanta buffers, two 25-foot State buffers, and a central ditch. Scattered trees are also present throughout the lot.

Characteristics of Adjoining Properties, Neighborhood: The surrounding lots vary in size and shape, with most developed as residential properties. To the north of the property is The Lovett School, a coeducational K-12 independent school. The properties directly adjacent to the north, west, and south are made up of single-family homes, and all the lots immediately bordering the property are zoned R-1 (Single Family Residential).

PROPOSAL: The applicant seeks a special exception to increase the height of a retaining wall in the east side yard from 6 feet to 11 feet and allow active recreation in a yard adjacent to a street for the construction of a pool and accessory structure.

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

The Board of Zoning Adjustment may grant special exceptions in any district for greater heights of walls or fences in required yards only upon finding that such greater height is justified by requirements for security or privacy of persons and/or property and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood: The applicant is requesting a special exception to construct an 11-foot retaining wall along the east side of the property within the east side yard setback. During a site visit, staff observed significant topographical challenges that justify the proposed wall's placement, as it aligns with the irregular topography on the east side of the property. The section of the wall reaching 11 feet in height corresponds to a considerable grade change in this area. The purpose of the wall is to provide structural support for the proposed driveway off Paces Ferry Road and to stabilize the rear yard, where the topography steeply declines to the creek in the middle of the lot. This retaining wall will help contain soil and prevent erosion on the sloped site, ensuring safe access to the planned garages on the east side. The subject property is located on sloped land, with a 14-foot elevation difference from the property line down to the proposed wall location. The wall's position, 14 feet below the front property line, minimizes any potential visual

impact and maintains compatibility with the neighborhood's character. Staff finds that the application meets Criterion 3, as the wall's greater height is justified by the topography, and therefore recommends approval of the special exception.

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 proposed 28-by-10-foot swimming pool will be strategically positioned to minimize visibility from neighboring properties. Screening elements include a 5-foot-high wall to block views from the street, a 5-foot-high black aluminum gate with an outward-opening, self-closing, and self-latching mechanism, and a 5-foot-high black aluminum fence enclosing the pool area provides additional security. Additionally, a proposed patio on piers will be located to the west of the pool, while a covered porch is planned on the east side. The pool area will also benefit from a natural 4-foot drop in topography from the front property line to the pool site, providing additional screening from West Paces Ferry Road and further reducing visual impact on neighboring properties.

- b. **The area for such activity could not reasonably be located elsewhere on the lot.** The swimming pool is proposed to be situated within the buildable area near the west side and front of the home, accommodating the site's irregular topography and a central creek that limits usable space in the property's core. The placement of the proposed pool is restricted by the existing tree canopy, as well as by two 75-foot City of Atlanta impervious setbacks, two 50-foot City of Atlanta buffers, two 25-foot State buffers, and the central ditch. Given these constraints, Staff finds the proposed pool location to be reasonable, as it represents the most feasible option on the lot.

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-24-170 for 2135 Brookview Drive NW

DATE: November 7, 2024

The applicant seeks a variance to reduce the northside yard setback from the required 10 feet to 7 feet 6-inches, reduce the front yard half-depth setback from the required 25 feet to 23 feet, and increase the height of an accessory structure from the required 20 feet to 23 feet 9 inches.

FINDINGS OF FACT:

Property Location: The subject property fronts 111.2 feet on Brookview Drive and begins at the northeast intersection of Wadsworth Drive and Brookview Drive. This property is in Land Lot 185 of the 17th District, Fulton County, Georgia. It is in the Wildwood Neighborhood in NPU-C, Council District 8.

Relevant Zoning Requirements:

- Chapter 5A Section 16-05.008 (1) Front yard: There shall be a front yard having a depth of not less than 50 feet.
- Chapter 5A Section 16-05.A.008(2) Side yard: There shall be two side yards, one on each side of the main building, each having a width of not less than 10 feet.
- Chapter 28 Section 16-28.004(3) 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.

Property Characteristics: The subject site is a corner lot with regular shape with a lot area of 13,500 square feet (0.367 acres) and a lot frontage of 85 feet along Brookview Drive. The property is improved with a 4,338 square-foot two-story house and driveway.

Characteristics of Adjoining Properties, Neighborhood: The subject property is located within the established Wildwood Neighborhood and all adjoining and nearby lots are single-family homes zoned R-3A.

PROPOSAL: The applicant seeks a variance to reduce the northside yard setback from the required 10 feet to 7 feet 6-inches, reduce the front yard half-depth setback from the required 25

feet to 23 feet, and increase the height of an accessory structure from the required 20 feet to 23 feet 9 inches to allow the construction of a two story accessory structure for the construction of a detached garage on the first floor and guest house on the second floor, the addition of a decorative feature (trellis) on the front of the garage door and the addition of screened front porch.

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 lot is not deficient in lot area or width and there is no steep topography on the site. However, the property is a corner lot, which is subject to a 25-foot half-depth setback, which is greater than the 10-foot setback of interior lots. The setback reductions will be the minimum necessary to allow the decorative trellis and front porch corner within the half-depth setback, additionally the proposed screened porch will match the existing encroachment of the principal dwelling within the 10-foot side yard setback. Regarding the height of the proposed accessory structure, the house is located 50 feet lower at the corner of Wadsworth Drive and Brookview Drive from the houses located at the corner of Radcliff and Wadsworth. The increase in height will match the scale of the other houses on the block. Therefore, Staff is of the opinion that the corner lot nature and the elevation of the house in relation to the block are extraordinary conditions.
- b) **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Enforcing the required side setbacks will create an unnecessary hardship to the applicant, as the applicant will not be able to make the proposed improvements. The setback reduction request will not negatively affect the adjacent neighbors, and the height increase will align with the roof pitch of the existing house and the neighboring properties on the block.
- c) **Such conditions are peculiar to the particular piece of property involved.** The existing house footprint is nonconforming as it encroaches 2 feet within the required 10-foot setback. The lot is also a corner lot with greater setbacks as it fronts two streets. The existing house has a 9/12 roof pitch and the requested height increase of the garage will match the roof pitch of the existing primary structure. Therefore, staff is of the opinion that there are peculiar conditions on the lot.
- d) **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The requested variances will not be detrimental to the public good and impair the purpose and intent of the Zoning Ordinance. The setback reduction is the minimum relief necessary to match the existing nonconformity encroachment on the side setback and to be able to have a decorative feature on the house within the half-depth setback. The increase in height will match the existing roof pitch of the house and will be align with the character of the houses on the block.

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-24-171 for 1521 McLendon Avenue NE

DATE: November 7, 2024

Applicant seeks a variance to reduce the front yard setback from 35 feet to 16.375 feet for main floor expansion and second-story addition.

Property Location: The subject property fronts 50 feet on the south side of McLendon Avenue and begins approximately 150 feet from the southwest intersection of Mell Avenue and McLendon Avenue. The property is located in Land Lot 210 of the 15th District, Dekalb County, Georgia. It is located in the Candler Park Neighborhood of NPU-N, Council District 2.

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.

Property Characteristics: The subject property is a rectangular parcel with approximately 49.7 feet of street frontage and approximately 8,355 square feet (0.192 acres) of area. The lot is currently occupied by the existing one-story principal structure and a detached carport. Vehicular access to the property is provided via a curb cut on McLendon Avenue NE. The topography is level. There are mature trees located on the site.

Characteristics of Adjoining Properties, Neighborhood: Other lots in the immediate area vary in size and shape. The parcels immediately to the north, east, and west are also zoned R-4 (Single Family Residential District). The parcel to the south is zoned R-5-C (Two Family Residential/Conditional)

PROPOSAL: The applicant seeks variances to reduce the front yard setback from 35 feet to 16.375 feet for main floor expansion and second-story addition. The structure is existing and currently encroaches within the setback, so any vertical addition would be required to apply for a variance. The proposal does not increase the degree of horizontal encroachment within any setback; the only increase in footprint occurs on the rear side of the house within the allowable buildable area.

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 width and area for its zoning designation. 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 requiring the applicant to unnecessarily remove existing structures and foundations on site to make improvements. As mentioned, since the existing structure already encroaches within the setback, any vertical improvement will require a variance unless the location of the entire house is moved. The structures on site have existed without negative impact for surrounding properties for decades; the Dekalb county tax assessor identifies this structure as constructed originally in 1918 and remodeled over time since. Furthermore, the site's deficiency in both size and width make the typical R-4 setbacks difficult to comply with even if the structure weren't already existing. The current location of the structure is consistent with surrounding properties and the proposed improvements will remain consistent with the existing character of the neighborhood. 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

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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-24-132 for 4081 Club Drive NE

DATE: November 7, 2024

Applicant seeks a variance to reduce the rear yard setback from 20 feet to 4 feet for the construction of a new swimming pool.

FINDINGS OF FACT:

Property Location: The subject property fronts 209.85 feet on the east side of Club Drive and begins approximately 484 feet from the northeast intersection of West Brookhaven Drive and Club Drive. The property is located in Land Lot 11 of the 17th District, Fulton County, Georgia. It is located in the Brookhaven neighborhood of NPU-B, Council District 7.

Relevant Zoning Requirements:

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

Property Characteristics: The subject property is an irregular-shaped lot of approximately 22,312 square feet (0.512 acres) and approximately 209 feet of frontage. The property is currently developed with an existing one-story home. The topography declines by approximately 23 feet from its highest point to the lowest point. The property is located within the 100-year flood zone. There are mature trees located on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size and shape and are consistently developed with residential structures. The parcels to the north, east, south, and west are zoned R-3 (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the rear yard setback from 20 feet to 4 feet for the construction of a new swimming pool.

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 is an irregular, trapezoidal-shaped parcel that has ample frontage but limited depth, which impacts the buildable area of the site and requires the building to be located closer to the back of the lot to accommodate the front yard setback. Additionally, there is a significant shift in topography across the site, providing further challenges to development. The lot is also substantially encumbered by a flood zone that bisects the buildable area. Therefore, Staff finds the lot shape, topography, and flood zone to be the extraordinary conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** An application of the zoning regulations would cause a hardship by preventing the proposed improvements from being constructed. The lot's irregular shape, steep topography, and intersecting flood plain located throughout the southern portion of the property create a very small buildable area in the rear of the property. The swimming pool cannot reasonably be built within the property's buildable area. The requested encroachment in the rear yard setback will facilitate a swimming pool behind the footprint of the home. Furthermore, the shape and orientation of the lot makes it so the improvements could not be reasonably located elsewhere on the lot. 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 shape and topography, and the property's location within the 100-year flood plain are peculiar to the subject property. Staff is unaware of similar conditions on adjacent parcels.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The requested variance would not impose upon adequate light and/or air on the adjacent properties. There is no potential impediment on emergency access or threats to health and fire safety because the property has adequate room for the requested improvements. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Staff finds the proposed variances to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

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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-24-141 for 2897 Habersham Way NW

DATE: November 7, 2024

Applicant seeks a variance to reduce the rear yard setback from 30 feet to 5 feet 8 inches and increase the lot coverage from 35% to 59.5% for the construction of an accessory structure.

FINDINGS OF FACT:

Property Location: The subject property fronts 100 feet on the south side of Habersham Way and begins approximately 261.4 feet from the southeast intersection of Habersham Road and Habersham Way. The property is located in Land Lot 113 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; Side yards: 15 feet; Rear yard: 30 feet.
- Maximum lot coverage: 35 percent of total lot area.

Property Characteristics: The subject property is a rectangular lot of approximately 19,391 square feet (0.445 acres) and approximately 100 feet of frontage. The topography declines by approximately 34 feet from its highest point to the lowest point. Vehicular access to the site is provided by a curb cut on Habersham Way. It is currently developed with a single-family residential structure, a swimming pool, and an accessory structure. There are mature trees located on the property.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size and shape and are consistently developed with residential structures. The parcels to the north, east, south, and west are zoned R-2A (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the rear yard setback from 30 feet to 5 feet 8 inches and increase the lot coverage from 35% to 59.5% for the construction of an accessory structure. The structure indicated by this proposal is a cabana that has already been built and currently violates the requirements of the zoning district.

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 is deficient in area by approximately 10,609 square feet. Additionally, the topography inclines by approximately 34 feet toward the rear of the property. Therefore, Staff finds lot size and topography as the extraordinary conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship by preventing the proposed improvement from being constructed. The lot's topography, deficiencies in size, and the configuration of existing structures in the rear yard limit the buildable area. Due to the location of the existing dwelling and swimming pool, the applicant's proposed location for the cabana is the most viable option. If the lot met the minimum size requirements, then it is more likely that the cabana could be constructed by right without encroachment into the rear yard setback. Previous improvements to the site, including the demolition of a terrace and the construction of a swimming pool and retaining wall, reduced the existing lot coverage from 59.5% to 57.5%. The proposal to construct a pool cabana returns the lot coverage to its prior nonconforming rate. 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 size and topography are peculiar to the subject property. Staff is unaware of similar conditions on adjacent parcels.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The requested variance would not impose upon adequate light and/or air on the adjacent properties. There is no potential impediment on emergency access or threats to health and fire safety because the property has adequate room for the requested improvements. The request allows an increase in the quality of life, which improves and reinforces the sustaining stability of the surrounding neighborhood. Staff finds the proposed variances to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-130 2010 Highview Road SW

DATE: November 7, 2024

The applicant seeks a special exception to increase the height of a privacy fence (more than 50% opacity) in the half-depth front yard from 4 feet to 8.2 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 223 feet on the east side of Highview Road and beginning at the southeast intersection of Beecher Road and Highview Road. This property is in Land Lot 182 of the 14th District, Fulton County, Georgia. It is in the Beecher Hills Neighborhood of NPU-I, Council District 11.

Relevant Zoning Requirements:

- The subject property is zoned R-3 (Single Family Residential)
- Sec. 16-28.008(5)(a)(i)- In the R-1 through R-5 districts, the following retaining walls and fences are permitted within the required front and half-depth front yards: Where no retaining wall is constructed, fences not exceeding four feet in height may be erected.
- Sec. 16-28.008(9)(b)- At intersections of driveways with streets, such visibility triangles shall be maintained to include an area bounded by the first 20 feet along the intersecting edges of the roadway and 20 feet along the intersecting edges of the roadway and driveway (driving surfaces) projected where rounded and a line connecting the ends of such lines.

Property Characteristics: The subject property is a rectangular corner lot measuring 23,740.2 square feet (0.545 acres) with a frontage along Highview Road SW and Beecher Road. The property is developed with a one-story “raised ranch” style home and driveway. The proposed walls and gate have already been constructed without a Special Exception or permit. Vehicular access is provided via a curb cut on Highview Road SW. The topography of the parcel features a dramatic grade change of approximately 31 feet, dropping toward the northeast.

Characteristics of Adjoining Properties, Neighborhood: Lots in the immediate area vary in size, shape, and area. Abutting properties to the east and south are developed with single-family dwellings and are zoned R-3. No comparable walls or gates were observed.

PROPOSAL: The applicant seeks a special exception to increase the height of a privacy fence (more than 50% opacity) in the half-depth front yard from 4 feet to 8.2 feet.
for an existing wall and gate

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

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

The applicant seeks a special exemption for extant concrete masonry unit walls measuring 8.2 feet in height in the half-depth front yard, as well as a gate across the existing driveway. The applicant requests this special exception in response to safety concerns detailed in the application and supported by the police report dated January 29, 2024 which documents an auto-theft on the property

The applicant has not provided evidence of walls or fences of similar height and/or design located within the area. It is also important to note that the design and material (concrete masonry units) used for the wall enclosure is more consistent with building construction rather than privacy walls or fences. Visually, the walls enclosing the driveway serve as more of an *addition* to the single family home, sans roof. Furthermore, the existing walls and gate do not comply with the visibility requirements set forth in City of Atlanta Code of Ordinances Section 16-28.008(9) *Visibility at intersections*, which prohibits structures over 2.5 feet in height within the visibility triangle along the intersecting edges of the roadway and driveway. Therefore, staff is of the opinion that the Special Exception request for extended fence height is not compatible with surrounding properties.

Staff is of the opinion that the applicant has provided evidence to support their claims for security following the auto theft on January 29, 2024. However, the existing wall enclosure and gate are significantly incompatible with the surrounding character of the neighborhood and the character of the typical residential privacy fence/wall.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director