



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-24-138 for 242 Wilbur Avenue SE

DATE: November 14, 2024

Applicant is seeking variances to reduce the north side yard setback from 7 feet to 4.5 feet and reduce the south side yard setback from 7 feet to 5 feet for the construction of a new duplex

The applicant has requested a deferral. Staff recommends deferral to the next available agenda.

RECOMMENDATION: DEFERRAL – JANUARY 9, 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-24-146 for 395 10th Street NE

DATE: November 14, 2024

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

The NPU is requesting a deferral to have time to further review the case. Staff is supportive of the request.

STAFF RECOMMENDATION: DEFERRAL – JANUARY 9, 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-24-148 for 1401 Woodbine Avenue SE

DATE: November 14, 2024

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

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

RECOMMENDATION: DENIAL WITHOUT PREJUDICE

cc: Keyetta M. Holmes, AICP, Director



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MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-176 for 4 East Drive NE

DATE: November 14, 2024

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

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

STAFF 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-24-177 for 1424 Newton Avenue SE
DATE: November 14, 2024

Applicant seeks a variance to reduce the front yard setback from 35 feet to 29 feet for the construction of a new front porch and pergola.

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

RECOMMENDATION: DEFERRAL - JANUARY 9, 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-24-179 for 155 West Paces Ferry Road NW

DATE: November 14, 2024

Applicant seeks a special exception to reduce the number of off-street parking spaces from 438 spaces to 296 spaces for the construction of private club amenities and parking.

This case has a special use request associated with it that must be approved before a special exception can be applied to the parking requirements. The applicant has requested a deferral and staff is supportive of this request.

RECOMMENDATION: DEFERRAL – FEBRUARY 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-24-182 for 1288 Plaza Avenue SW

DATE: November 14, 2024

Applicant seeks a variance to reduce the east and west side yard setbacks from 7 feet to 4 feet and a special exception to allow a parking bay in the required front yard for construction of a new single-family dwelling.

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

RECOMMENDATION: DEFERRAL – JANUARY 9, 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-24-185 for 885 North Eugenia Place NW

DATE: November 14, 2024

Applicant is seeking variances to reduce the north side transitional yard from 20 feet to 7.5 feet and reduce the south side yard setback from 15 feet to 7.5 feet for the construction of a multi-family residential development.

This case has not yet received a recommendation from NPU J. Staff recommends deferral to the next available agenda.

RECOMMENDATION: DEFERRAL – JANUARY 9, 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-24-188 for 1355 Boulevard Lorraine SW

DATE: November 14, 2024

Applicant seeks variances to reduce the south side yard setback from 7 feet to 3 feet, reduce the north side yard setback from 7 feet to 0 feet, and reduce the rear yard setback from 15 feet to 0 feet for the construction of a new single-family dwelling and detached garage.

The NPU has requested that the board defer this request to allow time to provide their recommendation. Staff is supportive of this request.

RECOMMENDATION: JANUARY 9, 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-23-178 for 734 Techwood Parkway

DATE: November 14, 2024

The applicant seeks variances to reduce the front yard setback from 50 feet to 10 feet, reduce minimum half-depth front yard setback from 25 feet to 15 feet, reduce the side yard setback from 15 feet to 10 feet, reduce the total open space requirement from 15,029 square feet to 11,000 square feet, and a special exception to reduce required minimum parking from 230 spaces to 0 spaces for a mixed-use development

FINDINGS OF FACT:

Property Location: The subject property fronts 173.1 feet on the west side of Techwood Drive and beginning at the southwest intersection of 4th Street and Techwood Drive. This property is in Land Lot 80 of the 14th District, Fulton County, Georgia. It is in the Georgia Tech Neighborhood of NPU-E, Council District 3.

Relevant Zoning Requirements:

- The subject property is zoned O-I (Office Institutional)
- Minimum yard setbacks: Front yard: 50 feet; Side yard: 15 feet; Rear yard: 25 feet.
- Sec. 16-10.009(1)- *Schools, colleges, churches, recreation or community centers and other places of assembly:* One space for each four fixed seats (with 18 inches of bench length counted as one seat) or one space for each 35 square feet of enclosed floor area for the accommodation of movable seats in the largest assembly room, whichever is greater
- Sec. 16-10.009(4)- *Dwellings and lodgings:* See section 16-08.007, Table I, for applicable ratios according to the appropriate floor area ratio (0.67 spaces per dwelling).
- Sec. 16-10.009(11) *Other uses:* One space for each 300 square feet of floor area

Property Characteristics: The subject property is an irregularly shaped lot measuring 21,780 square feet (0.5 acres) with frontages on Techwood Drive and Fourth Street. The property is currently developed with a single-story office/institutional building housing the Baptist Collegiate Ministry Student Union at Georgia Tech. Vehicular access is provided via a curb cut on Fourth Street, and paved parking is present in the front yard setback. Limited access to the property is also provided by an alley located near the southwestern property line for additional parking and trash collection. The topography of the parcel varies, with an overall elevation change of 12 feet across the site.

Characteristics of Adjoining Properties, Neighborhood: Nearby properties are developed primarily with residential buildings for Georgia Tech students. Nearby properties display sparse parking availability.

PROPOSAL: The applicant seeks variances to reduce the front yard setback from 50 feet to 10 feet, reduce minimum half-depth front yard setback from 25 feet to 15 feet, reduce the side yard setback from 15 feet to 10 feet, reduce the total open space requirement from 15,029 square feet to 11,000 square feet, and a special exception to reduce required minimum parking from 230 spaces to 0 spaces for a mixed-use development including 55 dwelling units, a 6,500 square foot community center and 1,000 square feet of office space for the BCM and an 800 square foot commercial space.

CONCLUSIONS: The following conclusions pertinent to this request for a variance 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 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.

The applicant has provided site plans illustrating the parking constraints due to the unusual shape of the property. The required off-street parking minimum of 230 spaces for the proposed use of the new building far exceeds the anticipated demand and is incompatible with the character of the area. The parcel is located on Georgia Tech's campus, where pedestrian, bus, and bicycle commuting are the primary method of travel on campus. The applicant is also seeking a parking arrangement with Georgia Tech. The City of Atlanta encourages developments that improve pedestrian character and limit the number of vehicle trips in the area, which is achieved by limiting how many cars can park on location. Therefore, Staff is of the opinion that the proposed request to reduce the parking requirement is reasonable.

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 features an unusual five-sided shape, with no uniform width. Of the two frontages, the shortest is located on Fourth Street. This places the front yard setback along the narrowest portion of the parcel. The O-I code section does not specify minimum lot frontage and area, but rather specifies "*lot dimensions shall be sufficient to meet other requirements set forth herein*". The parcel measured 0.5 acres in area, severely limiting the developable area in addition to the constraints of unusual shape and narrow frontage.
- 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 unnecessary hardship by significantly restricting the buildable area and potential redevelopment of the parcel. The strict interpretation of the code would also create a development that is inconsistent with the surrounding properties in terms of the building's relationship to the street, scale, and pedestrian experience.

- c. **Such conditions are peculiar to the particular piece of property involved.** The parcel's pinched shape, narrow frontage, and small developable area 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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Office of Zoning and Development

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Angela M. Blatch, Secretary to the Board

SUBJECT: V-24-172 for 1020 Foxcroft Road NW *AMB*

DATE: November 14, 2024

The applicant seeks a special exception to increase the number of retaining walls in the rear yard from two to four and a variance to reduce the rear yard setback from 30 feet to 22 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 252.86 feet on the east side of Foxcroft Road and beginning 657.4 feet from the southeast intersection of Dumbarton Court and Foxcroft Road. This property is in Land Lot 180 of the 17th District, Fulton County, Georgia. It is in the Kingswood Neighborhood of NPU-A, Council District 8.

Relevant Zoning Requirements:

- The subject property is zoned R-2 (Single Family Residential)
- Minimum yard setbacks: Front yard: 60 feet; Side yard: 15 feet; Rear yard: 30 feet.
- Sec. 16-28.008(5)(a)(2)(ii)- Not more than two retaining walls with a maximum height of six 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.
- Sec. 16-28.008(5)(a)(2)(iii)- A fence not exceeding six feet is permitted at the top of one of the provided retaining walls.

Property Characteristics: The subject property is a wide, rectangular lot measuring 43,340 square feet (0.995 acres) with a frontage of 252.86 feet along Foxcroft Road NW. The property is currently under construction for a single-family home. The proposed retaining walls and pool walls have already been constructed without approved entitlements. Vehicular access is provided via a curb cut on Foxcroft Road NW. The topography of the parcel features a significant grade change of approximately 58 feet across the site, resulting in steep and varying grade on the lot.

Characteristics of Adjoining Properties, Neighborhood: Nearby parcels are similar in size, shape, and area, are developed with single family homes, and are designated as R-2 (Single Family Residential).

PROPOSAL: The applicant seeks a special exception to increase the number of retaining walls in the rear yard from two to four and a variance to reduce the rear yard setback from 30 feet to 22 feet to bring the subject property into compliance.

PART I

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 four extant concrete retaining walls all measuring 6 feet or less in height in the rear and side yards. The applicant requests this special exception to bring the existing walls into compliance with the City's code of ordinances.

The subject property features dramatic shifts in topography, with total elevation difference of approximately 58 feet across the site. The existing retaining walls are necessary for the reasonable use of the rear yard. Therefore, staff is of the opinion that the Special Exception request for an increased number of retaining walls is reasonable. The existing retaining walls are located in the rear yard and are at different elevations from the directly adjacent neighbors and are not visually disruptive to the character of the neighborhood. Therefore, Staff finds the requested special exception is justifiable.

PART II

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 lot size by approximately 217.8 feet, yet features significant frontage (252.86 feet), creating a wide, shallow, lot and corresponding buildable area. The dramatic topography of the parcel also limits suitable sites for construction within the site. The useable area of the rear yard is constricted by the steep topography to the north, east, and west. Staff finds deficient lot size and topography 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 unnecessary hardship by significantly restricting the size and use of the rear yard.
- c. **Such conditions are peculiar to the particular piece of property involved.** The parcel's deficient lot size, and steep topography 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 of Part I and Part II

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-24-178 for 876 Arlington Place NE

DATE: November 14, 2024

Applicant seeks a variance to reduce the front yard setback from 35 feet to 32.6 feet for porch enclosure and second floor reconstruction.

FINDINGS OF FACT:

Property Location: The subject property fronts 50 feet on the west side of Arlington Place and begins approximately 409.7 feet from the northwest intersection of Briarcliff Place and Arlington Place. The property is located in Land Lot 16 of the 14th 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 yards: 7 feet; Rear yard: 15 feet.

Property Characteristics: The subject property is a rectangular-shaped lot of approximately 8,501 square feet (0.195 acres) and approximately 50 feet of frontage. The property is currently developed with an existing two-story home. Vehicular access is currently provided via a curb cut on Arlington Place. The topography declines by approximately 16 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, and south, are zoned R-4 (Single Family Residential). The parcels to the west are zoned RG-2 (Residential General) and NC-12 SA1 (Atkins Park Neighborhood Commercial Atkins Park Mixed Use).

PROPOSAL: The applicant seeks a variance to reduce the front yard setback from 35 feet to 32.6 feet for porch enclosure and second floor reconstruction. The existing home currently encroaches into the front yard setback by 2.4 feet and the north side yard setback by 3.1 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 499 square feet and deficient in width by approximately 20 feet. Additionally, the topography inclines by approximately 16 feet toward the rear of the property. Therefore, Staff finds lot size, width, 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 footprint of the existing home limits the ability to build the second story additions to the structure without the need for a variance. Furthermore, the lot is deficient in size and width, limiting the overall buildable area. The requested encroachment in the front yard setback will facilitate improvements to the home's living space. 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, width, 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-24-180 for 1682 North Avenue NW

DATE: November 14, 2024

The applicant seeks a variance to reduce the east side yard setback from the required 7 feet to 1.3 feet.

FINDINGS OF FACT:

Property Location: The subject property fronts 61.8 feet on the southside of North Avenue and beginning at the southeast intersection of Arvilla Street and North Avenue. This property is in Land Lot 146 of the 14th District, Fulton County, Georgia. It is in the Grove Park Neighborhood in NPU-J, Council District 3.

Relevant Zoning Requirements:

- Zoning District: R-4A
- Front yard: There shall be a front yard having a depth of not less than 30 feet.
- Side yard: There shall be two side yards, one on each side of the main building, each having a width of not less than seven feet.
- Rear yard: There shall be a rear yard of not less than 15 feet.

Property Characteristics: The subject site is a regular lot with rectangular shape with a lot area of 11,586 square feet (0.266 acres) and a lot frontage of 61.80 feet. The site is improved with a one-story single-family home and a driveway.

Characteristics of Adjoining Properties, Neighborhood: The subject property is located within a single-family neighborhood zoned R-4A. The lots fronting North Avenue have similar width and depth as the subject property.

PROPOSAL: The applicant seeks a variance to reduce the east side yard setback from 7 feet to 1.3 feet to allow the existing addition to the house.

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 the site does not have steep topography. However, there is a creek that runs outside the western property line. This creek has stream buffers, and the house sits within the 50-foot city undisturbed buffer and 75-foot city impervious setback. Because of the location of this creek, the house therefore is located outside the 25-foot state stream buffer and therefore pushed toward the eastern property line causing the house to be in very close proximity to the eastern property line, hence the variance request. Staff is of the opinion that the site has exceptional conditions due to the creek and stream buffers on the property.
- 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 7-foot side setback will prevent the applicant from constructing the proposed improvements. The setback reduction appears to have no negative impact on the adjacent neighbor as the existing house structures are 15 feet apart.
- c) **Such conditions are peculiar to the particular piece of property involved.** The existing house footprint is currently nonconforming as it is located 1.3 feet away from the property line. The proposed addition will not increase the degree of nonconformance as it will maintain the same footprint encroachment as shown on the submitted survey.
- 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 will not 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 eastern side setback.

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-24-183 for 23 Spence Avenue NE

DATE: November 14, 2024

Applicant seeks a variance to reduce the southern side yard setback from 7 feet to 2.4 feet the allow the construction of a screened-in porch.

FINDINGS OF FACT:

Property Location: The subject property fronts 59 feet on the east side of Spence Avenue and beginning 209 feet from the southeast intersection of Hosea L. Williams Drive and Spence Avenue. Zoned R-4 (Single Family Residential). Land Lot 203 of the 15th District, Dekalb County, Georgia. It is located in the East Lake Neighborhood of NPU-O, Council District 5.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential).
- Minimum 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 long narrow shaped, lot with approximately 59 feet of street frontage and 15,680 square feet (0.359 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 2.4 feet for renovation of an 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 a narrow irregularly shaped lot due to a lack of frontage. The subject property only fronts 59 feet in a district that requires a minimum of 70 feet of street frontage. 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 hardship by preventing the applicant from being able to improve and enjoy their property. The subject property predates the zoning regulations, and the home currently exists outside of the buildable area. Any improvement on the property would require relief. 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 lot's narrow shape, the nonconforming footprint of the existing single-family dwelling, and the subject property predating the zoning code appear to be conditions peculiar to this site. Staff has not identified similar 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 proposal plans to remove a concrete patio which will also reduce the lot coverage and current encroachments. 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

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-24-184 for 1 Leslie Steet NE

DATE: November 14, 2024

The applicant seeks a special exception to allow active recreation in a yard adjacent to a street.

FINDINGS OF FACT:

Property Location: The subject property fronts 100 feet on the east side of Leslie Street and begins at the northeast intersection of Hosea L. Williams Drive and Leslie Street. This property is in Land Lot 208 of the 5th District, Fulton County, Georgia. It is in the Edgewood Neighborhood in NPU-O, Council District 5th.

Relevant Zoning Requirements:

- Active recreation in yards adjacent to streets, residential districts, special exceptions: 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 site is a corner lot with a lot area of 16,335 square feet (0.375 acres) and a lot frontage of 100 feet along Leslie Street and 150 feet along Whiteford Avenue. The site is improved with a two-story single-family home and a driveway.

Characteristics of Adjoining Properties, Neighborhood: The subject property is located within a single-family neighborhood zoned R-4A. This lot appears to be bigger than the other corner lots on the block.

PROPOSAL: The applicant seeks a variance from the Zoning Ordinance to allow for active recreation in the yard adjacent to a street for the construction of a pool.

CONCLUSIONS: The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Sec. 16-28.008(6).

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 pool will be located 31 feet away from the interior property line and 37 feet away from Hosea L Williams Drive. The pool will be enclosed by an existing 6-foot privacy fence. No substantial noise or light impact is anticipated to affect the abutting neighbors. The proposed pool use will be for the enjoyment of the property owners and guest, therefore, no substantial concentration of persons or vehicular traffics will be generated.

b) **The area for such activity could not reasonably be located elsewhere on the lot.**

The proposed pool location is reasonable given the location of the house footprint in relation to the adjacent streets, shape of the lot and the desire to maintain the pool in proximity to the house. Therefore, it is staff opinion that the proposed pool could not be reasonably in any other location.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



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 Blatch, Secretary to the Board *AMB*

SUBJECT: V-24-186 for 286 Sisson Avenue NE

DATE: November 14, 2024

Applicant seeks variances to reduce the front yard setback from 30 feet to 20 feet and reduce the south side yard setback from 15 feet to 10 feet for the construction of a new two-story single-family dwelling.

FINDINGS OF FACT:

Property Location: The subject property fronts 49.80 feet on the west side of Sisson Avenue and beginning 209 feet from the northwest intersection of Wisteria Way and Sisson Avenue. The property is located in Land Lot 212 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 50 feet of street frontage and 7,006 square feet (0.161 acres) of area. The property has a dilapidated frame structure from an unpermitted construction project, and overgrown vegetation.

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 setback from 30 feet to 20 feet and reduce the south side yard setback from 15 feet to 10 feet for the construction of a new two-story single-family dwelling.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot is deficient in size and frontage. A sewer easement traverses the lot, nearly cutting the property in half. Therefore, Staff finds size, frontage, and the sewer easement to be an 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. The sewer easement traverses through the middle of the lot, affecting the buildable area and for a continuous structure. The request would allow for a single-family home to be built on the property. Therefore, Staff is of the opinion that the proposed request is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The conditions identified above are peculiar to the piece of property involved as staff is not aware of a parcel in the immediate area to be impacted by a sewer easement to this degree.
- 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 current structure on the property is dilapidated and a public hazard. It is located on the corner of Wisteria Way and Sisson Avenue, impacting the visual aesthetic along that street frontage. 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. If not granted, the hazardous structure would likely remain as blighted property in the Kirkwood neighborhood. Thus, Staff finds the requested variance to be reasonable.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



ANDRE DICKENS
MAYOR

CITY OF ATLANTA

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

JAHNEE R. PRINCE, AICP
Commissioner

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

MEMORANDUM

TO: Board of Zoning Adjustment

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

SUBJECT: V-24-187 for 786 Woodland Avenue SE

DATE: November 14, 2024

Applicant seeks a variance to reduce the south side yard setback from 7 feet to 3 feet for the construction of an accessory dwelling unit.

FINDINGS OF FACT:

Property Location: The subject property fronts 39.25 feet on the east side of Woodland Avenue and begins approximately 340 feet from the southeast intersection of Ormewood Avenue and Woodland Avenue. The property is located in Land Lot 11 of the 14th District, Fulton County, Georgia. It is located in the Ormewood Park 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 yards: 7 feet; Rear yard: 15 feet.

Property Characteristics: The subject property is a rectangular-shaped lot of approximately 8,700 square feet (0.200 acres) and approximately 39.25 feet of frontage. The property is currently developed with an existing one-story home. Vehicular access is currently provided via a curb cut on Woodland Avenue. The topography declines by approximately 164 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-4 (Single Family Residential).

PROPOSAL: The applicant seeks a variance to reduce the south side yard setback from 7 feet to 3 feet for the construction of an accessory dwelling unit. The applicant intends to demolish an existing detached shed to construct the accessory dwelling unit. The existing home currently encroaches into the north and south side yard setback by 3.9 feet and 2.1 feet, respectively.

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 300 square feet and deficient in width by approximately 30.75 feet. Additionally, the topography declines by approximately 14 feet toward the rear of the property. Therefore, Staff finds lot size, width, 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 footprint of the existing home and configuration of structures in the rear yard limits the ability to build without the need for a variance or limiting the recreational space in the rear. Furthermore, the lot is deficient in size and width, limiting the overall buildable area. The requested encroachment into the south side yard setback will facilitate the construction of a new accessory dwelling unit that will provide more space for the applicant's family and guests. 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, width, 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



CITY OF ATLANTA

ANDRE DICKSON
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-24-190 for 1105 Northside Drive NW

DATE: November 14, 2024

The applicant seeks a special exception to reduce the minimum off-street parking from 43 parking spaces to 29 parking spaces for the construction of an eating and drinking establishment.

FINDINGS OF FACT:

Property Location: The subject property fronts 149.99 feet on the east side of Northside Drive and beginning 363.97 feet from the southeast intersection of 14th Street and Northside Drive. The property is located in Land Lot 149 of the 17th District, Fulton County, Georgia. It is in the Home Park Neighborhood of NPU-E in Council District 3.

Relevant Zoning Requirements:

- The subject property is zoned C-2 (Commercial Service)
- 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 for eating and drinking establishments and delicatessens 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 a double frontage lot located between Northside Drive NW and the Hemphill Avenue right-of-way. With an irregular shape, the property covers approximately 33,859 square feet (0.7773 acres) and has a frontage of roughly 150 feet

along Northside Drive NW and 112 feet along Hemphill Avenue. The site currently includes a one story, 4,609 square foot brick building with stone columns and a brick patio, situated on asphalt/concrete pavement that provides 29 parking spaces, including three handicapped spaces and two designated for mobile orders. The lot has a relatively flat topography, with a gentle upward slope from the Northside Drive frontage to the Hemphill Avenue frontage, resulting in a 10-foot grade change. Natural buffers in the form of trees line the northern and southern property boundaries, offering a degree of separation from the adjacent commercial properties.

Characteristics of Adjoining Properties, Neighborhood: The property is surrounded by various shapes and sizes and is developed with non-residential uses. The parcels to the north, east, south, and west of the subject property are zoned C-2 (Commercial Business).

PROPOSAL: The applicant seeks a special exception to reduce the minimum off-street parking from 43 parking spaces to 29 parking spaces for the construction of an eating and drinking establishment.

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, 43 on-site parking spaces are required for the Eating and Drinking establishments on the subject property. This proposed facility is a 4,609 square foot, one story brick building. Per C-2 district regulations, one parking space is required for each 100 square feet of floor area for such establishments, provided they derive less than 60 percent of their gross income from malt beverages, wine, or distilled spirits. This calculation includes areas within the building footprint where walls have been removed but a permanent roof remains. The applicant has confirmed the proposed restaurant will have less than 60 percent of its income from these sources.

The request for a special exception is due primarily to the narrowness and tapering shape of the lot, which creates a hardship for the parking layout. Additionally, the McDonald's Corporation will not allow the current franchisee to consolidate the 9,186 square feet (0.2109 acres) at the southern end of Northside Drive. As a drive-thru establishment, the primary use will be for drive-thru service rather than dine-in. The applicant seeks a reduction in on-site parking but has secured a shared parking arrangement with the adjacent parcel on the southeastern side to meet the minimum parking requirements. Similar drive-thru restaurants along this corridor provide limited parking, prioritizing drive-thru service over sit-down space.

A site visit by staff confirmed that other nearby establishments, including Waffle House, Burger King, Chick-fil-A, and Cookout, face similar site constraints with irregularly shaped lots or limited indoor seating. These businesses along Northside Drive rely heavily on drive-thru traffic and have

minimal parking needs for indoor seating. The applicant's proposal of 4,271 square feet of area will not negatively impact the public good, as the shared parking arrangement will adequately support customer and employee needs.

The subject property requires 43 parking spaces; however, meeting this requirement is challenging within the current lot boundary. A lease agreement for off-site parking at 1098 Hemphill Ave, NW, in the southeast corner of the site, has been provided, capturing standard off-site parking needs. Upon approval of this variance, the applicant will submit a Special Administrative Permit for a shared parking agreement to the Office of Zoning and Development to ensure compliance with zoning ordinances.

Additionally, staff consulted with the Atlanta Department of Transportation (ATLDOT), which reported no concerns for the site's eating and drinking establishment and drive-thru operations. The development will meet all other zoning requirements as set forth by the City of Atlanta Office of Zoning and Development. Based on these factors, staff supports a reduction in the required parking spaces from 43 to 29 as a reasonable solution given the site constraints.

RECOMMENDATION: APPROVAL

cc: Keyetta M. Holmes, AICP, Director



CITY OF ATLANTA

ANDRE DICKSON
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-24-181 for 607 Clifton Road NE

DATE: November 14, 2024

Applicants seek a variance to reduce the rear yard setback from 15 feet to .6 feet, reduce the south side yard setback from 7 feet to 2.5 feet, and increase the maximum lot coverage from 50% to 50.4% for construction of a fireplace with a chimney.

FINDINGS OF FACT:

Property Location: The subject property fronts 66.35 feet on the east side of Clifton Road and beginning approximately 66.6 feet from the northeast intersection of Muriel Avenue and Clifton Road. Land Lot 239 of the 15th District, Dekalb County, Georgia in the Lake Claire neighborhood of NPU-N Council District 5.

Relevant Zoning Requirements:

- The subject property is zoned R-4 (Single Family Residential).
- Minimum lot dimensions: frontage, 70 feet; minimum lot area, 9,000 square feet.
- Minimum yard setbacks: Front yard: 35 feet; Side yards: 7 feet; Rear yard: 15 feet.
- Maximum lot coverage: Maximum lot coverage within this district shall not exceed 50% percent of the total lot area.

Property Characteristics: The subject property spans 10,088 square feet (approximately 0.23 acres) and features 66.35 feet of frontage along Clifton Road. It is currently developed with a one-story brick-framed house that includes an overhanging deck at the rear. The front yard is enhanced by a step stone sidewalk and an attached porch, while the rear yard boasts artificial grass, planters, a garage, a deck, a fireplace, and stone walls. Vehicular access is provided via a curb cut and driveway on the north side of the home, leading to a garage situated in the rear yard. The property's topography is relatively flat, adorned with manicured grass and several trees throughout the landscape.

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: The applicants seek a variance to reduce the rear yard setback from 15 feet to .6 feet, reduce the south side yard setback from 7 feet to 2.5 feet, and increase the maximum lot coverage from 50% to 50.4% for construction of a fireplace with a chimney

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 a regularly shaped interior lot measuring 66.35 feet in width and encompassing an area of 10,088 square feet. It exceeds the minimum lot size requirement for R-4 zoning by 1,088 square feet; however, it falls short of the required lot width by 3.65 feet. The topography of the lot is relatively flat and does not play a role in this request. While the lot meets and exceeds the size requirements, Staff finds that the deficiency in width presents extraordinary and exceptional circumstances unique 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.** Adhering to the City of Atlanta's zoning regulations would indeed create a hardship for the applicant by preventing the use of their outdoor fireplace with a chimney in its current location within the rear yard setback. It would also require the removal of the existing encroachment of the fireplace within this setback area. However, staff has significant safety concerns regarding the proposed variance, particularly in light of Section 307 of the building code, which imposes strict limitations on open burning and fireplace placement. After consulting with Fire Inspectors from the Atlanta Fire Rescue Department within the Office of Buildings, staff noted that they do not support the fireplace installation. The Fire Inspectors cited relevant building codes, including specific provisions of Section 307, which further support the potential denial of the variance request.

According to Section 307.1.1 (Prohibited Open Burning), open burning is not allowed if atmospheric conditions or local factors create a hazardous situation. Given the fireplace's proximity to nearby trees and structures in the rear yard, there is an elevated risk, particularly during adverse weather. Additionally, Section 307.4 (Location Requirements) specifies that open burning, including fireplaces, should be located at least 50 feet from any structure or, if in an approved container, at least 15 feet away. With the applicant's proposed location at only 0.6 feet from the rear property line and approximately 5 feet from the alley and neighboring properties, the fireplace does not meet these required setbacks, raising concerns for both safety and compliance. The need for a permit (Section 307.2) is also relevant, as the applicant must secure approval from the fire code official to ensure that safety regulations are upheld. If this permit cannot be obtained, the construction of the fireplace may be restricted. Section 307.3 (Extinguishment Authority) further gives the fire code official the power to order the extinguishment of any open burning that creates or contributes to a hazardous situation.

While the applicant states that existing conditions on the lot limit the available open area and impact the functionality of the rear yard, staff believes that these zoning and safety codes take precedence. The close proximity of the fireplace to neighboring properties and trees could create a significant fire hazard, ultimately outweighing the claimed hardship of limited outdoor recreational space. Consequently, staff does not support the variance request due to the fireplace's non-compliance with critical fire and safety codes.

- c. **Such conditions are peculiar to the particular piece of property involved.** What makes this property unique are the encroachments in the required yards, the existing 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.** If granted, the requested relief would indeed cause substantial detriment to the public good and impair the purposes and intent of the City of Atlanta's Zoning Ordinance. Allowing the existing chimney to remain, given their significant encroachments into the required setbacks, contradicts the zoning regulations designed to ensure safety, aesthetics, and the orderly development of neighborhoods. While the proposal may aim to enhance living conditions and promote stability within the community, it ultimately undermines the regulatory framework established to protect the public interest and maintain the character of the surrounding area.

RECOMMENDATION: DENIAL

cc: Keyetta M. Holmes, AICP, Director