



KEISHA LANCE BOTTOMS  
MAYOR

## CITY OF ATLANTA

TIM KEANE  
Commissioner

DEPARTMENT OF CITY PLANNING  
55 TRINITY AVENUE, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308  
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KEYETTA M. HOLMES, AICP  
Director  
Office of Zoning and Development

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-28 for 728 Terry Street, S.E.

**DATE:** October 8, 2020

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**The applicant requests a variance to reduce the front yard setback from 20 feet to 10 feet, the south side yard setback from 5 feet to 3 feet and the depth of the front porch from 8 feet to 4 feet for the construction of a single family dwelling. Applicant seeks no other variances at this time.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 25 feet on the east side of Terry Street and begins 93 feet from the northeast intersection of Terry Street and Bill Lucas Drive. The property is located in Land Lot 54 of the 14<sup>th</sup> District, Fulton County, Georgia within the Summerhill neighborhood of NPU-V, Council District 1.

#### **Relevant Zoning Requirements:**

- The subject property is zoned R-4B-C (Single-Family Residential/Conditional)
- Minimum lot dimensions: Frontage: 40 feet; Minimum lot area: 2,800 square feet.
- Minimum yard setbacks: Front yard: 20 feet; Side yards: 5 feet; Rear yard: 5 feet.

**Property Characteristics:** The subject property is a non-conforming rectangular shaped lot of approximately 1,975 square feet (0.045 acres) with approximately 25 feet of frontage on the east side of Terry Street. The property is currently undeveloped. Vehicular access is available from Terry Street which has an approximately 10 foot wide right of way and was formerly known as Terry Alley. The lot topography slopes down approximately 6 feet from a highpoint at the front of the lot to a low point at the rear of the lot. A retaining wall that drops another approximately 4 feet abuts the subject lot to the rear. The property has no vegetation.

**Characteristics of Adjoining Properties, Neighborhood:** The lots in the surrounding area vary in size and shape. Adjoining parcels are zoned R-4B-C (Single Family Residential/ Conditional). Adjacent properties to the west and north are developed with single-family detached residences. Adjacent parcels to the east are developed with single-family detached residences and a small church, adjacent properties to the south are vacant.

**PROPOSAL:** The applicant is requesting a variance to reduce the front yard setback from 20 feet to 10 feet, the south side yard setback from 5 feet to 3 feet and the depth of the front porch from 8 feet to 4 feet for the construction of a single family dwelling.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The subject property is deficient in lot size by 825 square feet and deficient in width by 15 feet. The topography drops 6 feet and a retaining wall directly to the east of the subject property drops another 4 feet. Therefore, Staff finds the lot size, width and topography to be the extraordinary and exceptional conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship due to the deficiencies in lot size, width and topography which reduce the buildable area of the property. If the lot size and width met the R-4B-C standards, the requested variances would not be necessary. The lot width is 25 feet and the Summerhill Zoning Conditions require a minimum house width of 20 feet. The property was rezoned to remove this condition from the property in order to have a structure that is 16 feet 8 inches wide. With the reduction in the width of the house, the applicant proposes to maintain a standard setback in the north side yard where the adjacent property is one foot from the property line but requests a reduction to 3 feet on the south side yard setback. Due to a small lot size and a drop in topography at the rear that pushes the building footprint forward on the lot, the applicant has requested a front yard reduction from 20 feet to 18 feet and a reduction in the depth of the front porch from 8 feet to 4 feet in order to develop a 1,775 square foot single family residence. Neighboring structures have front setbacks of approximately 10 feet and although they have front porches, the porches do not meet the 8 foot depth required. Staff is of the opinion that the proposal is compatible with surrounding development and that the setback and porch width reductions proposed are reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The width and size of the lot combined with challenging topography and location on a narrow right of way are peculiar to this property rendering this site as unique and unusual. However, the existence of similar conditions on adjoining neighborhood properties does not negate the desirability of the proposal.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. Furthermore, the request would not pose a 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.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

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TIM KEANE  
Commissioner

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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-89 for 3084 West Roxboro Road, N.E.

**DATE:** October 8, 2020

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**The applicant seeks a special exception to increase the height of a fence in the half-depth front yard (Roxboro Drive) from 4 feet to 5 feet and to allow active recreation (swimming pool) in a yard adjacent to a street. The applicant seeks no other variances at this time.**

The property was not properly posted. Therefore, this case must be deferred to allow the applicant to post the public notice sign by the posting deadline.

**STAFF RECOMMENDATION: DEFERRAL TO NEXT AVAILABLE AGENDA**

cc: Keyetta M. Holmes, Zoning Administrator



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MAYOR

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TIM KEANE  
Commissioner

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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-90 for 1482 Piedmont Avenue, N.E.

**DATE:** October 8, 2020

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

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 100 feet on the northwest side of Piedmont Avenue and begins approximately 214 feet from the northwest intersection of Piedmont Avenue and Avery Drive. The property is located in Land Lot 55 of the 17<sup>th</sup> District, Fulton County, Georgia within the Ansley Park neighborhood of NPU-E, Council District 6.

#### **Relevant Zoning Requirements:**

- The subject property is zoned R-4/BL (Single Family Residential/Beltline Overlay).
- Section 16-28.008 (5)(a)(1): 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: (i) Where no retaining wall is constructed, fences not exceeding four feet in height may be erected.

**Property Characteristics:** The subject property is an irregular shaped lot of approximately 42,258 square feet (0.97 acres) with 100 feet frontage on the northwest side of Piedmont Road. The property is currently undeveloped. There is no vehicular access provided to the property. The topography declines from west to east throughout the site. The parcel abuts the rear property lines of seven single family homes that all have frontage along Avery Drive. There are a number of trees and shrubs of various sizes throughout the property. There is a chain-link fence along the Piedmont Road frontage.

**Characteristics of Adjoining Properties, Neighborhood:** The lots in the surrounding area vary in size and shape. Parcels to the north and west are zoned R-4/BL (Single Family Residential/Beltline Overlay) and are developed with single-family detached residential structures. Properties to the south and east are zoned C-1/BL (Community Business District/Beltline) and are undeveloped. The adjacent parcel to the east of the subject property is designated for future Beltline development.

**PROPOSAL:** The applicant is requesting a special exception to increase the height of a fence in the front yard from 4 feet to 6 feet adjacent to the Beltline trail.

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

**The Board of Zoning Adjustment may grant special exceptions in any district for greater heights of walls or fences in required yards only upon finding that such wall or fence is justified by reason of security or privacy and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the character of the neighborhood; topographic reasons or such greater height, in the yard or yards involved, is not incompatible with the character of the surrounding neighborhood.**

The applicant is requesting the increased height of a fence in the front yard to connect to the existing chain link fence along Piedmont Road. The subject property, Jove Park, is an undeveloped parcel that is privately-owned by the Ansley Park Beautification Foundation. The requested increase in height is not adequately supported by the application. The applicant indicates the fence is necessary to protect the residences that abut Jove Park from potential crime from the future Beltline trail and the nightclubs located in the Ansley Square Shopping Center. However, the topography declines towards the future Beltline Trail and then begins to incline further east where the Ansley Square Shopping Center is located. Thus, the future Trail sits well below the subject property and the Ansley Square Shopping Center. Additionally, there are a number of large and mature trees throughout the property and along the Jove Park property lines, as identified on the applicant's site plan. Thus, the topography and existing vegetation provides a significant natural barrier and deterrent from any perceived threats of crime. The applicant also did not adequately provide any details of any crimes or safety issues created by the businesses at Ansley Square Shopping Center, which according to the Fulton County Tax Assessor, has been in the community since 1962. Lastly, with regards to safety, Staff is of the opinion that a six-foot fence in the front yard will not provide greater safety than the allowed four-foot fence. As previously stated, there is an existing chain-link fence across the Piedmont Road frontage. This existing fence, along with the natural barriers created by the topography and vegetation, may possibly provide greater safety than the increased height in the front yard. In particular, many of the existing trees and vegetation appear to exceed 6 feet in height. Therefore, Staff is of the opinion that the applicant does not meet the criteria for a special exception to allow a 6-foot privacy fence in the required front yard setback.

**RECOMMENDATION: DENIAL**

cc: Keyetta. M. Holmes, Zoning Administrator



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

## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-92 for 2680 Arbor Avenue, S.E.

**DATE:** October 8, 2020

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**The applicant seeks a variance to increase the size of an accessory structure from 30% to 71% of the main dwelling for the construction of a detached garage.**

The applicant submitted a request to amend the size of the accessory structure however, Staff advertised the original request in error. Therefore, Staff is recommending a deferral to the next available agenda.

**STAFF RECOMMENDATION: DEFERRAL TO THE NEXT AVAILABLE AGENDA**

cc: Keyetta M. Holmes, Zoning Administrator



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Director  
Office of Zoning and Development

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board *SA*

**SUBJECT:** V-20-93 for 1818 West Wesley Road, N.W.

**DATE:** October 8, 2020

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**The applicant seeks a special exception to allow active recreation (swimming pool) in a yard adjacent to a street. Applicant seeks no additional special exceptions at this time.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 251 feet on the north side of West Wesley Road and begins at the northwest intersection of West Wesley Road and Ridgewood Road. The property is located in Land Lot 233 of the 17th District, Fulton County, Georgia. It is located in the Paces Neighborhood of NPU-A, Council District 8.

#### **Relevant Zoning Requirements:**

- The subject property is zoned R-2 (Single-Family Residential).
- Minimum lot dimensions: frontage, 150 feet; minimum lot area, 43,560 square feet.
- Minimum yard setback(s): front yard, 60 feet; side yard, 15 feet; rear yard, 30 feet; half-depth front yard, 30
- *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 corner lot of approximately 42,240 square feet in area with a frontage of 251 feet on the north side of West Wesley Road. It is developed with a two-story single-family dwelling with a basement. Vehicular access is provided via a driveway off West Wesley Road. Topography declines towards the rear southeast corner of the site by approximately 10 feet. There are several mature trees, shrubbery and hedges surrounding the property especially along West Wesley Road.

**Characteristics of Adjoining Properties, Neighborhood:** Lots in the immediate area vary in size and shape. They are consistently developed with single-family detached homes with similar R-2 (Single Family Residential) zoning.

**PROPOSAL:** The applicant seeks a variance for the construction of a swimming pool in a yard adjacent to West Wesley Road.

**CONCLUSIONS:** 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 pool is proposed will be located west of the dwelling and setback approximately 60 feet from the front property line that faces West Wesley Road. Topography declines approximately 10 feet from the front of the property towards the rear. There are several mature trees and hedges that provide screening along the front yard. The applicant proposes to add more shrubbery, a 4-foot fence along the front property line, and a 6-foot fence along the west property line. Existing vegetation and proposed fencing will screen the proposed swimming pool from West Wesley Road and neighboring properties. Staff is of the opinion that the location of the proposed swimming pool would be minimally visible from West Wesley Road and neighboring properties. The proposed swimming pool would be screened from view by existing topography, landscaping, and a proposed shrubbery and 4-foot fence. Therefore, the impact on neighboring properties will be minimal.
- b) **The area for such activity could not reasonably be located elsewhere on the lot.** Staff is of the opinion that the west side yard provides the most reasonable location of the pool on the lot. The subject property is an irregular shaped corner lot with a single-family dwelling located near the center of the lot facing West Wesley Road. The existing single-family dwelling is setback more than 30 feet from the front yard and encroaches in the required rear yard setback thus, leaving the side-yards as the only buildable areas for the proposed pool. Locating the pool east of the dwelling would place it in the half-depth side yard thus making it adjacent to and visible from both West Wesley Road and Ridgewood Road. Additionally, existing vegetation and topography provides more screening for active recreation to be located in the west side yard. The applicant has proposed additional fencing and landscaping to reduce the visibility of the pool. Staff believes the proposed location of the pool is reasonable as it cannot be located elsewhere on the lot.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



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Director  
Office of Zoning and Development

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-94 for 2022 West Paces Ferry Road, N.W.

**DATE:** October 8, 2020

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**The applicant seeks a special exception to allow active recreation (swimming pool and spa) in a yard adjacent to a street. Applicant seeks no additional special exceptions at this time.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property front 53 feet on the north side of West Paces Ferry Road and begins 413 feet from the northwest intersection of West Paces Ferry Road and Riverly Road. The property is located in Land Lot 234 of the 17<sup>th</sup> District, Fulton County, Georgia. It is located in the Paces Neighborhood of NPU-A, Council District 8.

#### **Relevant Zoning Requirements:**

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

**Property Characteristics:** The subject property is an irregular shaped lot with 7.92 acres (344,995 square feet) and 53 feet of frontage. It is developed with a two story with basement single family dwelling. Vehicular access is provided via a gated driveway that terminates on the north side of the dwelling at an existing detached garage. A 4 foot iron fence and gate traverses the front yard. Topography is relatively level in the front however, towards the middle and rear of the lot, the topography declines by approximately 25 feet. There are several mature trees and shrubbery located in the front yard and throughout the property.

**Characteristics of Adjoining Properties, Neighborhood:** Lots in the immediate area vary in size and shape. They are consistently developed with single-family detached homes with similar zoning.

**PROPOSAL:** The applicant's intent is to construct a new swimming pool/spa in the yard adjacent to West Paces Ferry Road.

**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 topography varies throughout the property as it declines from the front of the property towards the rear by approximately 25 feet. Additionally, there are several mature trees and shrubbery located along the front yard. The existing vegetation shields the residence and proposed pool from West Paces Ferry Road. The location of the proposed swimming pool will be minimally visible to neighboring properties, as it will be screened from view by the following: existing topography and landscaping and a proposed 4 foot fence. The proposed pool will be located to the rear of the home and will not be visible from the adjacent street. Therefore, the impact on neighboring properties will be minimized.
- b) **The area for such activity could not reasonably be located elsewhere on the lot.** The subject property is an irregular shaped lot with topographic challenges. Due to the irregularities with the lot, the only location for the proposed pool is in the rear yard. However, the irregular topography and existing mature trees in the front and east side yards makes it almost impossible to construct the pool in this location. The rear yard provides the only available buildable area on the lot. Therefore, staff is of the opinion that the location of the proposed pool is reasonable as it cannot be located elsewhere on the lot.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-95 for 513 Ponce de Leon Avenue, N.E. and 689 Boulevard, N.E.

**DATE:** October 8, 2020

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**The applicant seeks a variance to reduce the transitional yard from 20 feet to 14 feet for the construction of an eating and drinking establishment.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 271 feet on the south side of Ponce de Leon Avenue, 57 feet on the east side of Boulevard and begins at the southeast intersection of Ponce de Leon Avenue and Boulevard. The property is located in Land Lot 48 of the 14<sup>th</sup> District, Fulton County, Georgia within the Old Fourth Ward Neighborhood of NPU-M, Council District 2.

#### **Relevant Zoning Requirements:**

- The subject property is zoned MRC-2-C/BL (Mixed Residential Commercial Conditional/Beltline Overlay)
- Sec. 16-34.009 (3)(a): *Transitional yards:* Where this district adjoins an R-1 through R-5, R-G, MR, RLC or PD-H district without an intervening street or without meeting the conditions in subsection 16-33.009(3)(b) of this chapter, a minimum of 20 feet is required which shall not be used for the purpose of parking, paving, loading, servicing or any other activity with the exception of private alleys or drives up to ten feet in width. Such yards shall be planted as approved by the city arborist and maintained as a landscaped strip.

**Property Characteristics:** The subject site is a 0.959-acre irregular shaped corner lot that fronts approximately 271 feet on the south side of Ponce de Leon Avenue and 57 feet on the east side of Boulevard. The property is currently developed with a one-story convenient store and Texaco gas station. The site topography is relatively flat throughout majority of the site with the exception of a 10 foot incline along the south property line. There are 11 trees located in the southeast corner of the site. Access to the site is via two curb-cuts on Ponce De Leon Avenue and one on Boulevard. The curb cut on Boulevard has an easement that provides access to the neighboring lots south of the subject site.

**Characteristics of Adjoining Properties, Neighborhood:** The lots in the surrounding area vary in size and shape. Surrounding zoning includes C-2 (Commercial Service District) to the north, MRC-2-C (Mixed Residential Commercial Conditional) to the east and west, and R-5(Two Family Residential) to the south.

**PROPOSAL:** The applicant requests a variance to reduce the rear transitional yard between the MRC-2-C and R-5 zoning from 20 feet to 14 feet for the construction of a 3,904 square foot eating and drinking establishment with a 793 square foot accessory kiosk in the rear.

**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 irregularly shaped corner lot with topography that inclines approximately 10 feet along the southern property line. Staff finds that lot shape and topography present exceptional conditions pertaining to this particular piece of property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of the property would create an unnecessary hardship.** The applicant proposes removal of the existing convenient store and gas station for the construction of 3,904 square foot eating and drinking establishment with an accessory 793 square foot kiosk. The applicant also proposes two stacking drive-lanes with a combined width of approximately 18 feet in the rear of the property. The proposed stacking drive-lanes encroaches 6 feet into the required 20 foot transitional yard. Zoning regulations require that transitional yards, “shall not be used for the purpose of parking, paving, loading, servicing or any other activity”

Application of the MRC-2-C/BL zoning regulations and conditions would cause an unnecessary hardship because of the irregular lot shape and existing easement on the property. The subject site has an access easement off Boulevard and along the south west property line. The access-easement pushes development towards the northwest corner and east of the site. Furthermore, the irregular shape of the lot and its corner location would create line of sight issues that push development away from the northwest corner towards the east of the site. Staff believes that the combination of lot shape, application of zoning regulations, and the required access easement pushes development to the southeast of the site thus causing a 6 foot encroachment into the required rear transitional yard. Therefore, Staff is of the opinion that this proposal is reasonable.

- c. **Such conditions are peculiar to the particular piece of property involved.** The combination of irregular lot shape and access easement are peculiar to subject site. Staff is unaware of similar conditions on adjacent properties. The existence of similar conditions on adjoining neighborhood properties does not negate the reasonableness 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 intent of the transitional yard is to provide a transition between single family uses and denser uses, however the steep topographic incline along the rear property line creates a natural transitional separation between the uses. The requested reduction in required transitional yard would not impose upon adequate light and/or air on the adjacent properties. It would not pose a potential impediment on emergency access or threats to health and fire safety. The request would allow redevelopment that improves and reinforces sustained stability of the surrounding neighborhood. Staff finds the reduction of the transitional yard from 20 feet to 14 feet for the construction of an eating and drinking establishment is reasonable.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

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

## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-96 for 1237 Lena Street, N.W.

**DATE:** October 8, 2020

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**Applicant seeks a variance to reduce the front yard setback from 35 feet to 20 feet and to eliminate the requirement that garages must be recessed and located a minimum of 10 feet behind the front façade of the main dwelling for the construction of a single family dwelling.**

### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 50 feet on the north side of Lena Street and begins 68 feet from the northeast intersection of Lena Street and Burbank Drive. The property is located in Land Lot 142 of the 14<sup>th</sup> District, Fulton County, Georgia. It is located in the Hunter Hills Neighborhood of NPU-K, Council District 3.

### **Relevant Zoning Requirements:**

- The subject property is zoned R-4/BL (Single Family Residential/Beltline Overlay).
- Minimum lot dimensions: Frontage: 70 feet; Minimum lot area: 9,000 square feet.
- Minimum yard setbacks: Front yard: 35 feet; Side yard: 7 feet; Rear yard: 15 feet.
- Sec. 16-06.012. - Relationship of building to street. (2) *Garages*. Garages with front-facing garage doors shall be recessed and located a minimum distance of ten linear feet behind the front façade of the principal structure.

**Property Characteristics:** The subject property is an irregular-shaped, tapering lot of approximately 5,208 square feet of area and 50 feet of frontage. The property is currently developed with a single family home that encroaches into the front and east side yard setbacks. Vehicular access is provided to the property via a driveway terminating in the front of the house. The topography declines from the front to the rear of the property. There are several trees and shrubs located on the property.

**Characteristics of Adjoining Properties, Neighborhood:** Lots in the immediate area vary in size and shape and are consistently developed with single-family dwellings.

**PROPOSAL:** The applicant seeks a variance to reduce the front yard setback from 35 feet to 20 feet and to eliminate the requirement that garages must be recessed and located a minimum of 10 feet behind the front façade of the main dwelling for the construction of a single family dwelling.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The subject property is deficient in lot size by 3,792 square feet and lot width by 40 feet. Additionally, the lot narrows in width by 20 feet from the front to rear with declining topography in the same direction. Therefore, Staff finds lot size, shape, and topography as the extraordinary and exceptional conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The application of the zoning regulations would cause an unnecessary hardship by preventing the redevelopment of the property. The declining topography and narrowing lot width create conditions where the structure and garage have to be located towards the front of the property where the property is wider and more level. However, in doing so, the primary structure must encroach into the front yard setback. Additionally, the narrowing lot and declining topography would make it difficult to safely accommodate a garage anywhere but in the front of the house along the building line. Therefore, Staff is of the opinion that the proposed encroachment and elimination of the recessed garage requirement is reasonable and will allow for the development of a single family home.
- c. **Such conditions are peculiar to the particular piece of property involved.** The existing front and east side yard encroachments are peculiar to the subject property. Staff is unaware of similar conditions on any neighboring parcels. Therefore, Staff finds that this condition is particular to the piece of property involved.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would 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.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

## CITY OF ATLANTA

TIM KEANE  
Commissioner

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KEYETTA M. HOLMES, AICP  
Office of Zoning and Development

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-97 for 1111 Edison Garden, N.E.

**DATE:** October 8, 2020

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

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 147 feet on the south side of Edison Garden and begins at the southwest intersection of Edison Garden and West Roxboro Road. The property is located in Land Lot 7 of the 17<sup>th</sup> District, Fulton County, Georgia. It is in the Pine Hills 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.
- 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 corner lot with approximately 20,880 square feet of area and 147 feet of frontage on the south side of Edison Garden. Additionally, the frontage curves slightly at the intersection of Edison Garden and West Roxboro Road. It is developed with a two-story, single family residential structure with an attached garage, basement, and playground. Vehicular access is provided via a driveway along West Roxboro Road terminating at an attached garage on the side of the home. The topography declines from the frontage along West Roxboro Road towards the southwest corner of the lot. There are several trees and shrubs located throughout the property.

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

**PROPOSAL:** The applicant seeks a special exception to allow active recreation (swimming pool) and to reduce the rear yard setback from 20 feet to 10 feet.

### Part I

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** With a lot area of 20,880 square feet (0.48 acres) and 147 feet of frontage, the subject property meets or exceeds the minimum requirements for the R-3 zoning district. However, the lot shape is irregular, as the frontage curves slightly at the intersection of Edison Garden and West Roxboro Road, and the topography declines along West Roxboro Road towards the southwest corner of the lot. Therefore, Staff finds lot shape 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 due to the topography. The topography declines in a southwesterly direction which resulted in the primary structure being built towards the rear of the lot where the topography is relatively level. The building line for the structure begins about 10 feet past the required 50-foot setback and continues towards the southwest corner of the property. This creates a condition where there is less buildable area in the rear. Thus, reducing the rear yard setback allows for the proposed improvements to be constructed and is the most feasible location for them to be located due to the existing improvements and lot conditions. Therefore, Staff finds that the proposed encroachment is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The lot curves slightly at the intersection of Edison Garden and West Roxboro Road. Additionally, the building line for the primary structure begins approximately 10 feet past the required 50-foot setback. Staff finds that these conditions are peculiar to the subject property and is unaware of a similar condition on other neighborhood properties.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The 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. Therefore, Staff finds the requested variance to be reasonable.

## Part II

**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 from the street due to the existing mature trees and landscaping. There are a number of large pine trees and hardwood around the perimeter of the lot in this area, as well as a five-foot iron fence fronting West Roxboro Road and a six-foot wooden fence along the rear property line. The existing fencing and natural vegetation should minimize the impact on the neighboring properties.
  
- b. **The area for such activity could not reasonably be located elsewhere on the lot.** The pool cannot be located elsewhere due to the location of the existing house and topography. The building line for the primary structure is setback approximately 60 feet from the Edison Garden frontage and the topography declines in a southwesterly direction. In particular, the manner in which the structure was built, limits the remaining buildable area in the rear of the lot where a small portion of the pool may be visible from the frontage along West Roxboro Road. However, much of the pool is obstructed from view as it is located behind the home and the existing landscaping and fencing should be maintained to reduce the visibility of the pool. Therefore, Staff is of the opinion that the location of the proposed pool is reasonable as it cannot be located elsewhere on the lot.

**RECOMMENDATION: APPROVAL of PART I AND PART II**

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

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TIM KEANE  
Commissioner

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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board *RJA*

**SUBJECT:** V-20-98 for 1285 Druid Place, N.E.

**DATE:** October 8, 2020

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**The applicant seeks a variance to reduce the half-depth front yard setback from 17.5 feet to 4.89 feet and the front yard setback from 35 feet to 29.6 feet for the construction of a second story addition. Applicant seeks no other variances at this time.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 45 feet on the south side of Druid Place and begins at the southwest intersection of Druid Place and Candler Street. The property is located in Land Lot 240 of the 15<sup>th</sup> District, DeKalb County, Georgia within the Candler Park neighborhood of NPU-N, Council District 2.

#### **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 has an irregular shaped lot of 6,677 square feet (0.15 acres) with approximately 45 feet of frontage on the south side of Druid Place. The lot is currently developed with a single family residence. The subject property has vehicular access from a driveway off Druid Place. The site topography is significant as it declines 7 feet from a high point at the front northwest corner to a low point at the rear southeast corner of the lot. The topography declines approximately 9 more feet from the property line to the street along the Candler Street frontage. The property is vegetated with shrubs and several trees.

**Characteristics of Adjoining Properties, Neighborhood:** The lots in the surrounding area vary in size and shape. Parcels nearby are developed with single family detached residential structures with R-4 (Single Family Residential) zoning.

**PROPOSAL:** The applicant is requesting to reduce the half-depth front yard setback from 17.5 feet to 4.89 feet and the front yard setback from 35 feet to 29.6 feet for the construction of a second story addition.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot area is deficient by 2,323 square feet and the lot width is 25 feet less than the R-4 zoning requirements. The topography is significant, as it declines 7 feet from the front of the property towards the rear and an additional 9 feet from the lot to street along the Candler Street frontage. The shape is irregular with 45 feet of width in the front and 50 feet of width in the rear. Therefore, Staff finds the lot area, width, shape and topography as the extraordinary and exceptional conditions regarding this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship due to the irregularities in lot area, width, shape and topography which have an impact on the available buildable area of the property. The lot is smaller in size and width than the R-4 zoning standard and the lot is a corner lot which further restricts the buildable area of the lot. The proposed second story addition will not increase the existing front yard or half-depth front yard encroachments and will remain within the existing footprint of the structure. The half-depth front yard setback variance would not be necessary if the lot width met the R-4 standard, additionally, the irregular lot shape brings the front east corner closer to the property line than the rear east corner. Therefore, Staff finds the request to be reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The combination of deficient lot area, width, shape, corner lot location and steep topography are peculiar to this particular piece of property rendering this site as unique and unusual. However, the existence of similar conditions on neighboring properties does not negate the desirability of the proposal.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. Furthermore, the request would not pose a 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.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

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TIM KEANE  
Commissioner

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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board *SAJ*

**SUBJECT:** **V-20-100 for 1777 Flagler Avenue, N.E.**

**DATE:** October 8, 2020

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**The applicant seeks a variance to reduce the front yard setback from 35 feet to 27 feet 6 inches for the construction of a second story addition. Applicant seeks no other variances at this time.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 60 feet on the northeast side of Flagler Avenue and begins 681 feet from the northeast intersection of Flagler Avenue and Montgomery Ferry Road. The property is located in Land Lot 56 of the 17<sup>th</sup> District, Fulton County, Georgia within the Piedmont Heights neighborhood of NPU-F, Council District 6.

#### **Relevant Zoning Requirements:**

- The subject property is zoned R-4/BL (Single Family Residential/ Beltline Overlay)
- Minimum lot dimensions: Frontage: 70 feet; Minimum lot area: 9,000 square feet.
- Minimum yard setbacks: Front yard: 35 feet; Side yards: 7 feet; Rear yard: 15 feet.

**Property Characteristics:** The subject property is a rectangular shaped lot of 8,283 square feet (0.19 acres) with approximately 60 feet of frontage on the northeast side of Flagler Avenue. The lot is currently developed with a single family residence and a detached garage. The subject property has vehicular access from a driveway off Flagler Avenue. The site topography is significant and rises 14 feet from a low point at the front to a high point at the rear. The property is vegetated with shrubs and several mature trees.

**Characteristics of Adjoining Properties, Neighborhood:** The lots in the surrounding area vary in size and shape. Parcels nearby are developed with single family detached residential structures with R-4/BL (Single Family Residential/ Beltline Overlay) zoning.

**PROPOSAL:** The applicant is requesting to reduce the front yard setback from 35 feet to 27 feet 6 inches for the construction of a second story addition.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot area is deficient by 717 square feet and the lot width is 10 feet less than the R-4 zoning requirements. The topography is significant, as it rises 14 feet from the front of the property towards the rear. Therefore, Staff finds the lot area, width and topography as the extraordinary and exceptional conditions regarding this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship due to the irregularities in lot area, width and topography which has an impact on the available buildable area of the property. The lot is smaller in size and width than the R-4 zoning standard. The proposed second story addition will not increase the existing front yard encroachment or the existing footprint of the structure. The structure cannot practically be expanded further to the rear due to the rise in topography and the existing floor plan of the house. Without the requested variance, the zoning regulations would create a hardship by preventing improvements to the property that are reasonable for a residential lot and not anticipated to adversely affect the adjoining properties or the surrounding neighborhood. A proposal to construct a second story is a reasonable way for residential property owners to expand their living space in order to realize long-term value in their property. Therefore, Staff finds the request to be reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The combination of deficient lot area, width and steep topography are peculiar to this particular piece of property rendering this site as unique and unusual. However, the existence of similar conditions on neighboring properties does not negate the desirability of the proposal.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. Furthermore, the request would not pose a 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.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



# CITY OF ATLANTA

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TIM KEANE  
Commissioner

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

## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board *RAJ*

**SUBJECT:** V-20-102 for 1000 Howell Mill Road, N.W.

**DATE:** October 8, 2020

**The applicant seeks a special exception to reduce the onsite parking from 50 spaces to 10 spaces for an eating and drinking establishment.**

### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 100 feet on the west side of Howell Mill Road and begins at the northwest intersection of Howell Mill Road and 10<sup>th</sup> Street. The property is located in Land Lot 150 of the 17<sup>th</sup> District, Fulton County, Georgia in the Marietta Street Artery neighborhood of NPU-E, Council District 3.

### **Relevant Zoning Requirements:**

- The subject property is zoned C-2 (Commercial Service).
- Minimum parking requirements: One space for each 100 square feet of floor area. Where an eating and drinking establishment derives more than 60 percent of its gross income from the sale of malt beverages, wine and/or distilled spirits, it shall be required to have one space for each 75 square feet of floor area. Floor area shall include, in addition to those areas defined in [section 16-29.001](#)(13)(b), areas within the existing building footprint where walls have been removed and a permanent roof remains.

**Property Characteristics:** The subject property is an irregular-shaped corner lot of approximately 15,338 square feet (0.352 acres). It is developed with a one-story building that is currently vacant. The property is accessed via a curb cut along 10<sup>th</sup> Street. The topography is relatively flat throughout the site. There are a few trees around the perimeter of the property.

**Characteristics of Adjoining Properties, Neighborhood:** Lots in the immediate area vary in shape, size, and zoning classifications. They are developed with residential and non-residential structures. To the north, the parcels and west are zoned PD-MU (Planned Development – Mixed Use). To the south, the parcels are zoned MRC-3 (Mixed Residential Commercial – Sector 3). To the east, the parcels are zoned MRC-3-C (Mixed Residential Commercial – Sector 3 – Conditional).

**PROPOSAL:** The applicant seeks a special exception to reduce the onsite parking from 50 spaces to 10 spaces for an eating and drinking establishment.

**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 intends to convert an existing building into an eating and drinking establishment. Based on the application, the square footage in the structure will be allotted as follows:

Eating and Drinking Establishment: 4,904 square feet

It is expected that the business will operate seven days week during the hours of 11 a.m. to 10 p.m. Approximately 11 employees will be on site during the peak hours of operation. The applicant indicates that they anticipate many of their patrons will be walking to the location, as there are a number of mixed use residential and commercial developments in the area. Many of these mixed use developments provide paid parking on-site and are within a short distance of the proposed restaurant. Additionally, the applicant anticipates many of their customers will utilize to-go or delivery options as opposed to dining in the restaurant. This estimation is based on the operations of an existing location on Moreland Avenue which provides only 15 parking spaces.

Typically requests for parking reductions are accompanied by shared parking agreements, however, in this case public parking is available across the street from the site. Staff is concerned that as this area of the Marietta Street Artery neighborhood grows and redevelops, more pressure will be placed on parking and adaptive reuse opportunities may become more limited. However, based on how the business plans to operate and the other public parking opportunities in the area, Staff finds the requested reduction to be reasonable as long as the applicant is the operator of the establishment.

**RECOMMENDATION: APPROVAL with the following condition:**

1. This special exception shall be valid as long as Hattie B's of Georgia, LLC is the operator.

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

## CITY OF ATLANTA

TIM KEANE  
Commissioner

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KEYETTA M. HOLMES, AICP  
Office of Zoning and Development

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board *RJA*

**SUBJECT:** V-20-105 for 454 Loridans Drive, N.E.

**DATE:** October 8, 2020

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**The applicant seeks a special exception to allow active recreation (swimming pool) in a yard adjacent to a street and to reduce the rear yard setback from 20 feet to 12 feet for the construction of a swimming pool, spa and patio.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 100 feet on the north side of Loridans Drive and begins 173 feet from the northeast intersection of Loridans Drive and Wieuca Road. The property is located in Land Lot 65 of the 17<sup>th</sup> District, Fulton County, Georgia. It is in the North Buckhead Neighborhood of NPU-B, Council District 7.

#### **Relevant Zoning Requirements:**

- The subject property is zoned R-3 (Single Family Residential).
- Minimum lot dimensions: 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.
- Active recreation in yards adjacent to streets: Swimming pools, tennis courts and other active recreation facilities shall not be permitted in connection with residential uses in residential districts in any yard, required or other, adjacent to a street, other than by special exception granted by the board of zoning adjustment

**Property Characteristics:** The subject property is an irregular-shaped lot with approximately 36,744 square feet of area and 100 feet of frontage on the north side of Loridans Drive. It is developed with a single family residential structure with an attached garage. Vehicular access is provided via a driveway along Loridans Drive terminating at an attached garage on the side of the home. The topography inclines steeply from the frontage of the lot towards the rear by approximately 30 feet. A stone retaining wall has been constructed along the frontage on Loridans Drive and along both sides of the driveway leading towards the primary structure. There appears to be an unimproved alley along the eastern property line. There are several trees and shrubs located throughout the property.

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

**PROPOSAL:** The applicant seeks a special exception to allow active recreation (swimming pool) and to reduce the rear yard setback from 20 feet to 12 feet for the construction of a swimming pool, spa and patio.

### Part I

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** With a lot area of 36,744 square feet (0.84 acres) and 100 feet of frontage, the subject property meets or exceeds the minimum requirements for the R-3 zoning district. However, the lot shape is irregular, expanding in width by approximately 110 feet from the front to the rear. The topography is also irregular as it inclines towards the rear of the lot. Therefore, Staff finds lot shape 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 due to the topography. The topography rises quite steeply from the front property line towards the primary structure. The steep change in grade severely limits the buildable area on the property even though it exceeds the minimum lot requirements. Because of this, the primary structure was built towards the rear of the lot where the topography is relatively level. Reducing the rear yard setback allows for the proposed improvements to be constructed and is the most feasible location for them to be located due to the existing improvements and lot conditions. Therefore, Staff finds that the proposed encroachment is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The increase in lot width is peculiar to the subject property. Staff is unaware of a similar lot shape for the other adjoining neighborhood properties. However, the existence of similar conditions 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 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. Therefore, Staff finds the requested variance to be reasonable.

## Part II

**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 from the street due to the steep increase in topography, which inclines more than 30 feet from the front to the rear. Additionally, there are several large and mature trees and landscaping in the side and rear yards creating a natural visual barrier to the pool. Therefore, the impact on neighboring properties will be minimized.
- b. **The area for such activity could not reasonably be located elsewhere on the lot.** The pool cannot be located elsewhere due to the location of the existing house and topography. Additionally, much of the pool is obstructed from view as it is located behind the home. The existing landscaping should be maintained to reduce the visibility of the pool. Therefore, Staff is of the opinion that the location of the proposed pool is reasonable as it cannot be located elsewhere on the lot.

**RECOMMENDATION: APPROVAL of PART I AND PART II**

cc: Keyetta M. Holmes, Zoning Administrator



# CITY OF ATLANTA

KEISHA LANCE BOTTOMS  
MAYOR

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TIM KEANE  
Commissioner

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

## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-106 for 284 & 302 Decatur Street, S.E.

**DATE:** October 8, 2020

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**The applicant requests a variance to reduce the open space requirement from 27,236 square feet to 16,473 square feet for the construction of a mixed used development. Applicant seeks no other variances at this time.**

### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts approximately 247 feet on the north side of Decatur Street and begins at the northwest intersection of Decatur Street and Bell Street. The property is located in Land Lot 52 of the 14<sup>th</sup> District, Fulton County, Georgia within the Sweet Auburn neighborhood of NPU-M, Council District 5.

### **Relevant Zoning Requirements:**

- The subject property is zoned MRC-3-C (Mixed Residential Commercial-Conditional)
- Sec. 16-34.010. Minimum Open Space Requirements
  - Table I, "Land use intensity ratios"

**Property Characteristics:** The subject property is approximately 1.389 acres (60,525 square feet) and consists of two parcels. It is located at the corner of Decatur Street and Bell Street with approximately 247 feet of frontage on the north side of Decatur Street and approximately 197 feet of frontage on the west side of Bell Street. The property is currently developed with a one story brick building, surface parking and a grandfathered billboard in the center of the site. The billboard has an easement on the ground and restricts the building heights around it to keep view lines open from I-75/85. The topography varies throughout the lot but overall inclines approximately 8 feet from a highpoint at the center of the lot to a low point towards the northeast corner. The topography drops approximately 5 additional feet at a retaining wall along the north property line. The subject site is landscaped with mature trees and a few foundation plantings. There is one curb cut on Decatur Street and one curb cut on Bell Street.

**Characteristics of Adjoining Properties, Neighborhood:** The surrounding properties are zoned RG-4 (Residential General) to the north and east, I-1(Light Industrial) to the south, and C-2 (Commercial Service) to the west. The surrounding uses include apartments to the east, vacant land to the north, research and development to the south, and non-profit office uses to the west.

**PROPOSAL:** The applicant is requesting a variance to reduce the useable open space from 27,236 square feet to 16,473 square feet for the construction of a mixed used development.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** There are no minimum lot size and width requirements in the MRC-3 (Mixed Residential Commercial) zoning district. However, the lot has irregular topography with an 8 foot change in grade from the center to the north property line and an additional drop of 5 feet at the north property line for a total drop of 13 feet. Therefore, Staff finds topography as the extraordinary and exceptional condition pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship due to the irregularities in lot topography, a billboard easement at the center of the site, and the nature of the permitted supportive housing use. The applicant is proposing to redevelop the property with a mixed-use building consisting of approximately 16,000 square feet of commercial space on the ground floor with 117 affordable (30%-80% AMI) and supportive housing residential units on the second, third and fourth floors. The proposed roof height is 40 feet, well below the 225 feet permitted in MRC-3 zoning. The proposed building will total 120,142 square feet overall. The declining topography has an impact on the location and arrangement of the buildings on the site which in turn impacts the open space requirement. Additionally, the site is encumbered with a grandfathered billboard located at the center of the site. The subject property accommodates the access, visibility and utility easements to service the billboard. These easements restrict the height of the development as visibility rights to the billboard must be maintained. The easements also limit the amount of occupiable ground level usable open space because an access easement must be preserved at the northern side of the billboard easement. In addition, due to the nature of the supportive housing use that is included in the development, elements such as unit balconies and rooftop amenities that may be counted as usable open space, are hazardous to the occupants who historically suffer from mental illness. Therefore, Staff finds this proposal to reduce the required open space to be reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The combination of irregular topography and location of a grandfathered billboard at the center of the site are peculiar to the subject parcel rendering this site as unique and unusual. However, the existence of similar conditions on neighboring properties does not negate the desirability of the proposal.

- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. Furthermore, the request would not pose a 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 variance to reduce the required open space to be reasonable.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



# CITY OF ATLANTA

KEISHA LANCE BOTTOMS  
MAYOR

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TIM KEANE  
Commissioner

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

## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-108 for 1164 McLynn Avenue, N.E.

**DATE:** October 8, 2020

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**Applicant seeks a variance to reduce the west side yard setback from 7 feet to 5.5 feet, the rear yard setback from 15 feet to 3.5 feet and to increase the size of an accessory structure from 30% to 43% of the main dwelling for the construction of a detached accessory structure. Applicant seeks no other variances this time.**

### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 70 feet on the north side of McLynn Avenue and begins 168 feet from the northeast intersection of McLynn Avenue and Lanier Boulevard.. The property is located in Land Lot 2 of the 17<sup>th</sup> District, Fulton County, Georgia. It is located in the Morningside/Lenox Park Neighborhood of NPU F, Council District 6.

### **Relevant Zoning Requirements:**

- Zoning: R-4 (Single-Family Residential).
- Minimum lot dimensions: frontage of 70 feet; minimum lot area of 9,000 square feet.
- Minimum yard setback(s): front yard at 35 feet; side yard at 7 feet; rear yard at 15 feet.
- Accessory buildings in R-1 through R-5 districts shall not contain a total floor area greater than 30% of the main structure.

**Property Characteristics:** The subject property is an irregular shaped lot with 8,085 square feet in area and 70 feet of frontage. It is currently developed with a two-story single-family dwelling. Vehicular access is provided via an existing curb cut and driveway located to the west of the dwelling. The driveway provides access to an existing garage located in the rear yard. The topography varies in grade and has sharp incline from the front to rear of the property. There are several mature trees and shrubbery located throughout the lot.

**Characteristics of Adjoining Properties, Neighborhood:** Lots in the immediate area vary in size and shape. They are consistently developed with single-family detached homes with similar R-4 (Single-Family Residential) zoning.

**PROPOSAL:** The applicant seeks a variance to reduce the west side yard setback from 7 feet to 5.5 feet, the rear yard setback from 15 feet to 3.5 feet and to increase the size of an accessory structure from 30% to 43% of the main dwelling for the construction of a detached accessory structure.

**CONCLUSIONS:** The following conclusions pertinent to this request for a variance from the zoning regulations are in accordance with Section 16-26.003 (1) 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 deficient lot area by 915 square feet per the minimum requirements for the R-4 zoning district. The shape is irregular as it tapers towards the rear yard. Additionally, the topography is also irregular as it inclines by approximately 16 feet from the front to rear. Therefore, Staff finds the size, shape and topography of the lot as extraordinary and exceptional conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship by preventing the replacement and expansion of a commonly found accessory structure, a detached garage. Although the garage is a not the typical size for two cars, the existing 3,649 square-foot house coupled with the size of the lot allows for additional square footage to be added to an accessory structure. Under the current zoning, the square footage of the residence could be up to 4,042 square feet. Based on the size of the existing dwelling the applicant has 393 square feet of unused development permissions that if implemented, would eliminate the need for the variance for maximum floor area ratio. It is not sensible to ask the property owner to increase the size of the house simply to be able to build a reasonable sized two-car garage without the requested variance. Additionally, the existing garage currently encroaches into the west and rear yard setbacks. The proposed garage will maintain the previous level of encroachment. Therefore, Staff is of the opinion that the construction of a new two-car detached garage is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The lot shape, size, topography and encroachments are unique to the subject property. Staff has not evaluated other structures and is unaware of adjacent properties with similar encroachments and lot conditions. Therefore, Staff is of the opinion that the conditions are peculiar.
- 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

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

## CITY OF ATLANTA

TIM KEANE  
Commissioner

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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-109 for 1112 Zimmer Drive, N.E.

**DATE:** October 8, 2020

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**Applicant seeks a variance to reduce the west side yard setback from 7 feet to 1.25 feet for additions to the existing single family dwelling.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 65 feet on the north side of Zimmer Drive and begins 124 feet from the northeast intersection of Zimmer Drive and North Highland Avenue. The property is located in Land Lot 2 of the 17<sup>th</sup> District, Fulton County, Georgia. It is located in the Morningside/Lenox Park Neighborhood of NPU-F, Council District 6.

#### **Relevant Zoning Requirements:**

- Zoning: 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 an irregular-shaped lot with approximately 8,303 square feet of area and 65 feet of frontage. It is developed with a two-story single family residential structure with a basement that currently encroaches into the west side yard setback. There is a swimming pool, hot tub, and carport located in the rear of the property. Vehicular access is provided via a driveway terminating at a carport in the rear. Topography inclines slightly from the front property line towards the front of the house. There are a few trees and shrubs throughout the site.

**Characteristics of Adjoining Properties, Neighborhood:** Lots in the immediate area vary in size and shape. They are consistently developed with single-family detached homes with similar R-4 (Single Family Residential) zoning.

**PROPOSAL:** The applicant seeks a variance to reduce the west side yard setback from 7 feet to 1.25 feet for additions to the existing single family dwelling.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The property is deficient in lot width by 5 feet and lot size by 697 square feet. Additionally, the lot width narrows 15 feet from the front to the rear of the lot. Therefore, Staff finds lot shape, width, and size as the extraordinary and exceptional conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The application of the zoning regulations would cause an unnecessary hardship due to the lot width. The existing house encroaches into the west side yard setback and the proposed enclosed porch addition follows the existing building line in this area. However, because the lot narrows from the front to rear, the proposed structure would further encroach into the west side yard. If the lot maintained its width from front to rear, a variance would most likely be unnecessary. Therefore, Staff finds the proposed west side yard reduction as reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The existing west side yard encroachment is peculiar to the subject property. Staff is unaware of similar conditions on adjacent properties.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The 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. This proposal would promote desirable living conditions and reinforce the stability of the surrounding neighborhood.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



# CITY OF ATLANTA

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

## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-110 for 183 Moreland Avenue, S.E.

**DATE:** October 8, 2020

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The applicant seeks for a variance to reduce the north transitional yard from 20 feet to 3 feet (dumpster enclosure) and the rear transitional yard from 20 feet to 18 feet for the construction of a multifamily development.

### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 153 feet on the west side of Moreland Avenue and begins 30 feet from the northwest intersection of Moreland Avenue and Arkwright Place. The property is located in Land Lot 13 of the 14<sup>th</sup> District, Fulton County, Georgia within the Reynoldstown Neighborhood of NPU-N, Council District 5.

### **Relevant Zoning Requirements:**

- The subject property is zoned MRC-1-C/BL (Mixed Residential Commercial Conditional/ BeltLine Overlay)
- Sec. 16-34.009 (3)(a): *Transitional yards:* Where this district adjoins an R-1 through R-5, R-G, MR, RLC or PD-H district without an intervening street or without meeting the conditions in subsection 16-33.009(3)(b) of this chapter, a minimum of 20 feet is required which shall not be used for the purpose of parking, paving, loading, servicing or any other activity with the exception of private alleys or drives up to ten feet in width.

**Property Characteristics:** The subject property is a regular rectangular shaped lot of approximately 0.51 acres (22,022 square feet) with a frontage of approximately 153 feet on the west side of Moreland Avenue. The lot is currently developed with a one-story church building and parking lot. Vehicular access to the site is provided via one curb cut on Moreland Avenue. The topography inclines approximately 8 feet towards the west of the property.

**Characteristics of Adjoining Properties, Neighborhood:** The lots in the surrounding area vary in size and shape. Parcels nearby are developed with a mix single-family detached dwellings and commercial buildings. Surrounding zoning includes, R-5 (Two- Family Residential) to the north and west, C-2 (Commercial Service) to the south, and C-1 (Community Business) to the east of the subject property.

**PROPOSAL:** The applicant requests a variance to reduce the north transitional yard from 20 feet to 3 feet (dumpster enclosure) and the rear transitional yard from 20 feet to 18 feet for the construction of a 16-unit multifamily townhome development. The applicant removed the proposed dumpster enclosure. Therefore, the request has been amended to reduce the north transitional yard from 20 feet to 11 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 lot has topography that inclines approximately 8 feet towards the rear/west property line which has a retaining wall. Staff finds that topography presents extraordinary conditions that are pertinent to this particular piece of property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of the property would create an unnecessary hardship.** The application of the zoning regulations would create an unnecessary hardship. The MRC zoning regulations require a 5-foot street furniture zone, 10-foot sidewalk, and 5-foot supplemental zone totaling to a 20 feet front-yard setback. Compliance with the zoning requirements pushes the proposed development towards the rear thus, causing a 2 foot encroachment into the rear transitional yard. Additionally, the encroachment into the north transitional yard setback is driven by the depth of the lot and its adjacency to a proposed parking lot. If the subject were to be combined with 195 Moreland, the reduction in the north transitional yard would be unnecessary. However, the applicant does not intend to combine the lots as this action would possibly create additional variance requests. Therefore, Staff is of the opinion that this proposal is reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** Staff is unaware of similar conditions on adjacent properties. However, the existence of similar conditions on adjoining neighborhood properties does not negate the reasonableness 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.** Relief from the required transitional yard, if granted, would not impose upon adequate light and/or air on the adjacent properties. It would not pose a potential impediment on emergency access or threats to health and fire safety because the property has adequate room for the proposed development. The purpose of the transitional yard is to provide a transition between single family uses and denser uses. Staff believes that the proposed 18-foot rear and 11-foot north transitional yards are adequate for a transition between the proposed medium density residential use and the surrounding R-5 two-family residential zoning. The proposed would allow redevelopment that improves and reinforces sustained stability of the surrounding neighborhood. Staff finds the reduction of the transitional yards for the construction of a 16-unit residential development to be reasonable.

**RECOMMENDATION: APPROVAL with the following condition:**

1. The north transitional yard shall be reduced from 20 feet to 11 feet.

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

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TIM KEANE  
Commissioner

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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board *RJT*

**SUBJECT:** V-20-111 for 1854 Flagler Avenue, N.E.

**DATE:** October 8, 2020

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**The applicant seeks a variance to reduce the south side yard setback from 7 feet to 2.4 feet and the north side yard setback from 7 feet to 5.3 feet for additions to an existing single family dwelling. Applicant seeks no other variances at this time.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 60 feet on the west side of Flagler Avenue and begins 115 feet from the intersection of Flagler Avenue and Rock Springs Road. The property is located in Land Lot 57 of the 17<sup>th</sup> District, Fulton County, Georgia within the Piedmont Heights neighborhood of NPU-F, Council District 6.

#### **Relevant Zoning Requirements:**

- The subject property is zoned R-4/BL (Single Family Residential/ Beltline Overlay)
- Minimum lot dimensions: Frontage: 70 feet; Minimum lot area: 9,000 square feet.
- Minimum yard setbacks: Front yard: 35 feet; Side yards: 7 feet; Rear yard: 15 feet.

**Property Characteristics:** The subject property is a rectangular shaped lot of 8,814 square feet (0.20 acres) with approximately 60 feet of frontage on the west side of Flagler Avenue. The lot is currently developed with a single family residence and a detached garage. The subject property has vehicular access from a driveway off Flagler Avenue. The site topography is significant and declines 14 feet from a high point at the front to a low point at the rear. The property is vegetated with shrubs and several mature trees.

**Characteristics of Adjoining Properties, Neighborhood:** The lots in the surrounding area vary in size and shape. Parcels nearby are developed with single family detached residential structures with R-4/BL (Single Family Residential/ Beltline Overlay) zoning. The rear property line abuts the Beltline.

**PROPOSAL:** The applicant is requesting a variance to reduce the south side yard setback from 7 feet to 2.4 feet and the north side yard setback from 7 feet to 5.3 feet for additions to an existing single family dwelling.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The lot area is deficient by 186 square feet and the lot width is 10 feet less than the R-4 zoning requirements. The topography is significant, as it declines 14 feet from the front of the property towards the rear. Therefore, Staff finds the lot area, width and topography as the extraordinary and exceptional conditions regarding this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause a hardship due to the irregularities in lot area, width and topography which has an impact on the available buildable area of the property. The lot is smaller in size and width than the R-4 zoning standard. The south side wall of the proposed rear addition will extend to the rear in line with an existing non-conforming setback. The south side wall is not parallel with the south property line and will be setback 2.4 feet at the narrowest point as it is now and will become wider as the wall extends to the rear. The north side setback for the existing detached garage is currently 5.3 feet. The applicant proposes to add an attached carport at the basement level with living space at the main floor level that maintains the existing north side yard setback of 5.3 feet. These variances would not be necessary if the lot width met the R-4 standard width and the existing encroachments did not exist. Therefore, Staff finds the request to be reasonable.
- c. **Such conditions are peculiar to the particular piece of property involved.** The combination of deficient lot area, width and steep topography are peculiar to this particular piece of property rendering this site as unique and unusual. However, the existence of similar conditions on neighboring properties does not negate the desirability of the proposal.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. Furthermore, the request would not pose a 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.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



# CITY OF ATLANTA

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TIM KEANE  
Commissioner

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

## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board 

**SUBJECT:** V-20-112 for 163 Murray Hill Avenue, N.E.

**DATE:** October 8, 2020

**The applicant seeks a variance to reduce the north side yard setback from 7 feet to 3 feet 9 inches for an addition to an existing single family dwelling. Applicant seeks no other variances at this time.**

### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 50 feet on the east side of Murray Hill Avenue and begins 570 feet from the northwest intersection of Murray Hill Avenue and Sisson Avenue. The property is located in Land Lot 221 of the 15<sup>th</sup> District, DeKalb County, Georgia within the Kirkwood neighborhood of NPU-O, Council District 5.

### **Relevant Zoning Requirements:**

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

**Property Characteristics:** The subject property is a rectangular shaped corner lot with 8,473 square feet of area and 50 feet of frontage along Murray Hill Avenue. The property is developed with a one story, single-family dwelling. A curb cut provides vehicular access which terminates at an existing 6-foot wooden fence. The topography inclines from the front towards the rear. There are several of mature trees and shrubbery throughout the property.

**Characteristics of Adjoining Properties, Neighborhood:** Lots in the surrounding area vary in size and shape. Parcels surrounding the property are developed with single-family homes with R-4A (Single-Family Residential).

**PROPOSAL:** The applicant seeks a variance to reduce the north side yard setback from 7 feet to 3 feet 9 inches for an addition to an existing single family dwelling. The applicant's intent is to add a rear addition.

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The subject property exceeds the R-4A minimum lot requirements. However, the topography is irregular as it inclines by approximately 4 feet from front towards the rear. Therefore, Staff finds topography as the extraordinary and exceptional conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the regulations would create an unnecessary hardship because of the irregularities of the lot regarding topography. The existing home encroaches into the north side yard setback by approximately 3 feet. The proposed addition will encroach further into the north side yard setback. However, the additional encroachment is approximately 4 inches. Therefore, Staff is of the opinion that the proposal is reasonable considering the non-conforming conditions of the lot and the existing encroachment.
- c. **Such conditions are peculiar to the particular piece of property involved.** The existing encroachment and topography are peculiar as Staff has not evaluated other structures and is unaware of adjacent properties with similar conditions. However, the existence of similar conditions on adjoining neighborhood properties does not negate the desirability of the proposal.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The proposal would not impose upon the adequate light and/or air on the adjacent properties. Furthermore, the request would not pose a 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. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance.

**RECOMMENDATION: APPROVAL**

cc: Keyetta M. Holmes, Zoning Administrator



KEISHA LANCE BOTTOMS  
MAYOR

## CITY OF ATLANTA

TIM KEANE  
Commissioner

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

### MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Racquel T. Jackson, Secretary to the Board *RAJ*

**SUBJECT:** V-20-48 for 8 Clifton Street, S.E.

**DATE:** October 8, 2020 (*deferred September 10, 2020*)

**Applicant seeks a variance to reduce the south side transitional yard setback from 20 feet to 5 feet, the east side transitional yard setback from 20 feet to 2 feet, reduce the width of a two way driveway from 24 feet to 12 feet (narrowest point) and a special exception to reduce the onsite parking from 26 spaces to 12 spaces for the construction of a multifamily development.**

#### **FINDINGS OF FACT:**

**Property Location:** The subject property fronts 200 feet on the east side Clifton Street and begins at the southeast intersection of Clifton Street and Hosea L. Williams Drive. The property is in Land Lot 207 of the 15<sup>th</sup> District, DeKalb County Georgia. It is in the Kirkwood neighborhood of NPU O, Council District 5.

#### **Relevant Zoning Requirements:**

- The subject property is zoned MR-3-C (Multi-family Residential - Conditional).
- Minimum lot dimensions: Frontage: 40 linear feet; Minimum lot area: 2,000 square feet.
- Minimum yard setbacks: Side yard: Minimum depth of 15 feet, except that the side yard may be reduced to zero feet when a residential use has no residential windows adjacent to such yard. Rear yard: Minimum depth of 15 feet.
- Transitional Yards: For all other MR districts, where such districts adjoin an R-1 through R-5, R-G, RLC or PD-H district without an intervening street or without meeting the conditions in subsection 16-35.009(2)(b) of this chapter, a minimum of 20 feet is required which shall not be used for the purpose of parking, paving, loading, servicing or any other activity with the exception of private alleys or drives up to ten feet in width. Such yards shall be planted as approved by the city arborist and maintained as a landscaped strip.
- Curb cuts and parking structures: Driveway and curb cut widths shall be 24 feet for two-way entrances and 12 feet for one-way entrances, unless otherwise permitted by the commissioner of public works.
- Off-street parking structures: see Table I, "Land use intensity ratios", for minimum parking requirements under appropriate FAR for the development.

**Property Characteristics:** The property consists of approximately 0.42 acres (18,311 square feet) of net lot area. It is currently developed with an 8-unit, two-story apartment building. The topography is relatively level across the site. Vehicular access to the property is available via curb cuts along both Hosea L. Williams Drive and Clifton Street. There are very few trees and shrubs surrounding the property.

**Characteristics of Adjoining Properties, Neighborhood:** The parcels to the north, west, and south are zoned R-4A (Single Family Residential) and most are developed with single family residential structures. Parcels to the east are zoned RG-2 (Residential General) and are developed with a church and a multi-family residential building.

**PROPOSAL:** The applicant seeks a variance to reduce the south side transitional yard setback from 20 feet to 5 feet, the east side transitional yard setback from 20 feet to 2 feet, reduce the width of a two way driveway from 24 feet to 12 feet (narrowest point) and a special exception to reduce the onsite parking from 26 spaces to 12 spaces for the construction of a multifamily development. The proposal includes 15 new multi-family units. There is an existing 8-unit multi-family development on the property. Based on the updated site plan dated 9/28/2020, the applicant intends to demolish two of these existing units to accommodate a wider driveway.

The property was rezoned from RG-2 (Residential General) to MR-3-C (Multi-family Residential – Conditional) via ordinance 19-O-1585. Additionally, a land use amendment from SFR (Single Family Residential) and MDR (Medium Density Residential) was adopted via ordinance 19-O-1654.

## PART I

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

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** The subject property exceeds the minimum lot requirements and the topography is relatively level. Therefore, Staff finds there are no extraordinary and exceptional conditions pertaining to this property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** The applicant proposes several variances in order to construct an additional 15 residential units where only 8 currently exist. The rezoning effectively created nonconforming conditions on the property triggering the need for variances. The reduction to the south transitional yard would allow 9 new units in this area at Clifton Street. In order to safely arrange the new units in this area without limiting access to the site, the applicant intends to demolish two of the existing multi-family units. This would allow for a wider driveway and maintain a point of ingress and egress from Clifton Street to the property.

The applicant also proposes a reduction to the east transitional yard to accommodate existing parking. Thus, the reduction in this area is not for new structures, but only to allow the existing parking to remain. Staff finds both reductions to the south and east transitional yards as reasonable.

Lastly, the applicant requesting a reduction to the width of a two-way driveway from 24 feet to 12 feet at the narrowest point. This is an existing driveway that is now non-conforming because of the rezoning. However, based on the revised site plan submitted on September 28, 2020 by the applicant, the driveway will now be 20-feet wide. Based on comments from Fire Plans Review, the 20-foot driveway should be a sufficient width so that fire trucks and other emergency vehicles can safely access the property. Additionally, the two points of access to the site along with the wider driveway should enhance the safety of cars entering and exiting the property. Thus, Staff finds the driveway reduction reasonable.

- c. **Such conditions are peculiar to the particular piece of property involved.** The only peculiar conditions for the subject property are the encroachments, which were created when the property was rezoned via Ordinance 19-O-1585. Thus, any hardships or peculiarities with the existing encroachments were self-imposed to the particular piece of property involved.
- d. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.** The 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. However, the requested variances do not meet all of the criteria as required by Chapter 26 of the Zoning Ordinance. Should the Board approve the variances, Staff requests that the following condition be included: The driveway shall maintain a width of at least 20 feet throughout the site.

## PART II

**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.**

There are 12 existing parking spaces on the property, however, adequate parking is not available for the additional proposed 15 multi-family units. To accommodate the additional units, the applicant intends to utilize 8 on-street parking spaces as depicted on the site plan in addition to the 12 onsite. The Zoning Code Quick Fixes allow the on-street spaces to count towards the minimum parking requirements. Additionally, the existing 8-unit multifamily building was constructed in 1950 according to the Dekalb County Tax Assessor. The Zoning Code Quick Fixes provides that there is no residential parking requirement for that building. As a result, the required parking for the development is 15 spaces. The 12 off-street parking spaces along with the 8 proposed on-street spaces should accommodate the 15 additional units. Therefore, Staff finds that this special exception is not required.

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**RECOMMENDATION: TECHNICAL DENIAL of PART I** - The subject property does not satisfactorily meet the criteria for an extraordinary and exceptional lot condition. For the sole reason that it does not meet all the criteria, Staff is not recommending approval of the requested variances. However, approval of the requested zoning relief would not cause substantial detriment to the public good or impair the purposes and intent of the zoning ordinance.

**DENIAL WITHOUT PREJUDICE of PART II**

cc: Keyetta M. Holmes, Zoning Administrator