



**ZONING BOARD OF APPEALS  
SUMMARY  
Monday, December 11, 2023  
City Commission Meeting Room  
509 North McDonough Street**

**I. Call to Order at 7:30PM**

Members Present: KC Boyce (Chair), Andrew Rutledge (Vice-Chair), Kristin Miller, Brett Peanasky, and Joanna Quillen

Members Absent: none

Staff Present: Jennings Bell, Kay Evanovich, and Aileen de la Torre

**II. Approval of Minutes**

Approval of Minutes from the November 13, 2023, meeting.

*Motion by Ms. Miller, second by Ms. Quillen, minutes unanimously approved as amended.*

**III. Old Business**

Barbara Blum, property owner, has applied for a variance from stream buffer requirements for the property located at 343 Winnona Drive, Decatur, GA 30030.

Barbara Blum presented the application. She stated they removed the sidewalk to reduce impervious within the buffer and stay closer to the current square footage. She stated they also worked with landscape architect Alan Wazinsky to design an infiltration system to collect the first two inches of rainwater.

The Board requested Mr. Bell speak to the application regarding mitigation measures and recommendations. Mr. Bell indicated Ms. Blum has presented what was recommended in the staff report.

Mr. Boyce opened public comment. There being none, Mr. Boyce closed public comment and opened board discussion.

The Board did not express any concerns regarding the application, noting Ms. Blum addressed all their feedback from the previous meeting thoroughly.

*Motion by Ms. Miller, second by Ms. Quillen, the Zoning Board of Appeals unanimously approved a variance from stream buffer requirements substantially similar to the revised plans.*

**IV. New Business**

A. David Gutman, property owner, has applied for a variance from stream buffer requirements for the property located at 2511 McKinnon Drive, Decatur, GA 30030.

There was no one to present the application.

In response to a question from the Board, Mr. Bell indicated the entire property is within the city limits.

*Motion by Mr. Rutledge, second by Ms. Miller, the Zoning Board of Appeals unanimously approved to table the application.*

- B. Allison Phalen, property owner, has applied for a variance from setback and floor area requirements for the property located at 913 3<sup>rd</sup> Avenue, Decatur, GA 30030.

Robert Koch of 253 East Lake Drive, architect, presented the application. He stated there are two proposed designs, both of which include a new porch that will exceed the front setback. He stated the first design is over maximum floor area but has lower ceiling heights with dormers to minimize building mass. He stated the second design is almost a full second story that will look like a larger house but the garage will be converted to a carport so there will be no additional floor area.

Ms. Phalen stated they have lived in Decatur since 2004 and need additional space for their family of five to be able to stay. She stated to do this they have to exceed floor area square footage.

Russ Melton of 2465 N Decatur Road, contractor, stated the house will maintain the charm of the street and will not look like the largest one. He stated it would be wasteful to convert the garage to a carport when it would make no difference from the street view.

In response to a question from Ms. Quillen, Mr. Koch indicated the difference in the side elevation is a six-foot knee wall versus a nine-foot wall.

In response to questions from Mr. Boyce, Mr. Koch indicated they removed all the spaces with a ceiling height of less than seven feet from the calculation. He stated the first design is 3641 square feet and the second is 3691 square feet. He stated the porch will come off the northeast corner.

In response to a question from Ms. Miller, Mr. Koch indicated they are trying to minimize the expense of converting the garage to a carport. Ms. Miller stated the answer does not explain why the design would change to one with a larger mass. Mr. Peanasky clarified the question by asking if the first design option is preferred why not build that and just convert the garage into a carport.

Ms. Miller stated it appears they are trying to give the Board a reason to grant a variance by proposing less massing. Mr. Koch indicated once the garage is converted to a carport either design option is available because a variance will not be necessary and it will be up to the property owners which one they choose.

In response to a question from Mr. Peanasky, Mr. Boyce indicated the front yard setback is not subject to section 2.1.5.B. Mr. Koch stated there is too much variance between the front yards.

Mr. Boyce opened public comment. There being none, Mr. Boyce closed public comment and opened board discussion.

The Board expressed no concerns regarding the front porch as every house on the street has one and it will be a relatively small addition. However, they did struggle with the floor area square footage, noting that massing is the reason they limit it. They stated they routinely do not grant variances for floor area and do not feel comfortable granting one in this case.

Ms. Miller briefly addressed the applicants, stating her family of five also added an upstairs to their house for more space, but they chose architectural elements to minimize massing. She indicated her reason was even though she is not inclined to grant a variance she still finds the first design is the better one.

The Board presented two options: one, to approve the front yard setback then if the garage is converted a floor area variance is not needed; or two, to defer the application for additional time to tweak the design.

Mr. Melton stated it was frustrating that 15-20 thousand dollars will be spent to convert the garage, which will make no difference visually. The Board agreed but indicated they are there to uphold the code and they cannot set that precedent. They stated the history is when the city wrote the Unified Development Ordinance there was a substantial amount of public concern about big houses on small lots, and so they have closely adhered to that.

The applicants agreed to get the variance for the porch and work on the design of the house.

*Motion by Mr. Peanasky, second by Mr. Rutledge, the Zoning Board of Appeals unanimously approved a variance from front setback requirements and took no action on the request for an increase in floor area.*

- C. Danielle Iuliano, property owner, has applied for a variance from stream buffer requirements for the property located at 308 Madison Avenue, Decatur, GA 30030.

Danielle Iuliano presented the application. She stated the property is on a substantial slope and there is a lot of water damage, including the deteriorating driveway and fence must be replaced so water will drain correctly. She stated Mr. Bell provided recommendations such as additional shrubbery and a flow well they want to incorporate.

Joe Prochaska of 1614 Anita Place NE Atlanta, contractor, stated the house was never graded properly when it was built, which has created many of the water problems. He stated they began work on a deck to address some of those problems several years ago but did not get a permit, for which he apologized. He requested to keep the deck then fix the other issues with Mr. Bell's recommendations.

Ms. Iuliano added it has taken a while to return to the Board from the first time they were here several years ago because she was a first responder during the pandemic. She stated if the Board requests that she remove the deck she will, although she would prefer to keep it.

In response to questions from Ms. Quillen and Ms. Miller, Mr. Prochaska indicated they just want to put the deck back onto the existing structure, which is 96 square feet. Ms. Iuliano stated when they went under contract for the house in 2015 the builder did not indicate there was a stream buffer and it is not something she is familiar with.

In response to a question from Mr. Peanasky, Mr. Prochaska indicated the survey shows the six-foot extension into the buffer although it may not be to scale.

In response to a question from Mr. Boyce, Ms. Iuliano indicated they looked at altering the stairs but ultimately lined everything up to what was already there.

In response to a question from Ms. Miller, Ms. Iuliano indicated they intend to replace the driveway with concrete with a trench along the side. Mr. Prochaska stated it will be more of a curved end along the right side to guide the water down to the creek rather than the neighbors. He stated the driveway was not built properly.

Mr. Boyce opened public comment. There being none, Mr. Boyce closed public comment and opened board discussion.

The Board requested Mr. Bell speak to the application regarding mitigation measures and recommendations. Mr. Bell indicated Ms. Iuliano is amenable to the recommended mitigation measures presented in the staff report. He stated it would be beneficial for staff reviewers to know exactly what the Board is approving as there is a discrepancy in the drawing. He stated the proposed erosion and infiltration work will be protective of the environment.

In response to questions from Mr. Peanasky and Ms. Miller, Mr. Bell indicated rain gardens and flow wells are both acceptable ways of correcting the issues. He stated each has a different application depending on how a property owner wants to use the yard.

The Board began the discussion with an apology to Ms. Iuliano for incorrectly interpreting the code regarding her application from 2019 after seeking clarification from the City Attorney.

The Board stated their main concern is how to minimize intrusion into the stream buffer, primarily because the drawing is not clear about the size of the deck. They indicated the fence is also problematic even though it was not brought up in the general discussion and they must be sure any replacement has the proper openings.

Ms. Iuliano stated the fence was there when they purchased the home but it is now in poor condition. She stated they want to keep the fence but are amenable to working with staff on a design solution that will allow a wildlife corridor while securing their pets and children. She stated the fence is not an immediate need so they have time to explore options.

The Board noted finishing the deck may or may not cause more water problems while acknowledging it is a modest ask on a difficult property. They expressed concern about balancing precedent with the fact they purchased a property that didn't have room for a deck based on regulations in place at the time.

The Board discussed the location of the 75-foot stream buffer, which is the back line of the house, and that they would have asked for an alternate design had the applicant requested a variance prior to construction. The Board ultimately felt this application has a more complete approach to managing stormwater on the lot whereas previous ones focused on the deck. They reiterated fence repair should better support the ecological function of the stream buffer through a 50% open requirement, which can be accomplished through staff review during the permit process.

*Motion by Mr. Rutledge, second by Mr. Peanasky, the Zoning Board of Appeals unanimously approved a variance from stream buffer requirements substantially similar to the submitted plans and subject to conditions in Item 3 of the staff report regarding the fence, which states "limit fence work to minimal repairs or require 50 percent openness for full fence replacements in the buffer."*

## **V. Reports and Other Business**

The 2024 ZBA calendar was reviewed and accepted.

## **VI. Adjourn**

*Motion by Mr. Rutledge, second by Mr. Peanasky, the Zoning Board of Appeals unanimously approved to adjourn at 8:55PM.*