



**ZONING BOARD OF APPEALS
MINUTES
Monday, January 8, 2024
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 (Secretary), Brett Peanasky, and Joanna Quillen

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

II. Approval of Minutes

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

Motion by Ms. Miller, second by Mr. Rutledge, minutes unanimously deferred for approval until the following meeting.

III. Old Business

A. Derek Bigham, property owner, has applied for a variance from setback requirements for the property located at 102 5th Avenue, Decatur, GA 30030. *This application was deferred from the November 13, 2023, meeting.*

Christopher Malone, a representative of the property owner, was in attendance and presented revised plans of the variance application that addressed previous concerns from the board regarding the building's location from the property line and easement.

Mr. Boyce brought up the concern of the narrative of the application regarding a setback variance not being consistent with the plans presented and requested clarification from the applicant on the exact variance requested.

Mr. Malone stated that after community feedback was taken into consideration the applicant revised the application to provide different options on the potential design of the home for the Board's review. Mr. Malone furthered that due to size of the lot and topographic constraints it has made the development of a home difficult. In the options provided by Mr. Malone a one-story and two-story design were provided, with Mr. Bigham stating the applicant would prefer the one-story option.

Mr. Boyce requests clarification from staff if section 2.1.6.B.4 of the UDO which speaks about the height for a building in a R-60 zoned district shall be reduced by half a foot by every foot the frontage is less than 60 feet would apply to this development. Mr. Boyce furthers the site's frontage along fifth avenue is 18 feet and questions if an additional variance would be needed if the board were to approve a two-story design.

Ms. de la Torre clarifies that although it is not stated within the UDO, through practice city has required a minimum of 20-feet for a two-story residential development. Thus, even in the case of a lot being small a height of 20-feet for residential development would be permitted. Ms. de la Torre emphasizes that proposed subject property is unique due to its location and size.

Mr. Boyce confirms whether Mr. Malone has reviewed the staff report, and if he is aware of the comments on the driveway location and idea of relocating the stop sign located on the corner of Fifth Avenue and Oakview to avoid conflict. Mr. Boyce requests if the applicant has contacted city officials on the movement of the existing stop sign in conflict with the proposed driveway or a potential easement.

Mr. Malone states both he and the applicant are aware of staff comments, and they have contacted city officials regarding the moving the stop located at the corner of Fifth Avenue and Oakview. They were told the stop sign would not be able to be moved from its current location.

Mr. Malone furthers that because of the inability to move the existing stop sign they would have to relocate the driveway off Oakview.

Mr. Boyce requests if the applicant has considered an easement due to the city owning the adjacent property.

Mr. Malone states that the applicant approached city to acquire a portion of land and was told that the city was not interested.

Ms. Miller requests whether any of the plans submitted show a driveway location off Oakview.

Mr. Malone states the none of the current plans provided as options show a driveway off Oakview, but the existing space would have enough room for a driveway.

Mr. Rutledge emphasizes the applicant should confirm with traffic control officials due to the location of the potential curb cut being in close proximity to the intersection of Oakview and Fifth Avenue.

Ms. de la Torre clarifies that the minimum required distance a curb cut can be from an intersection does not apply to R-60 zone properties per UDO requirements.

Mr. Boyce asks staff whether Mr. Malone has signed an affidavit to allow him to represent Mr. Bigham.

Ms. de la Torre states at this time an affidavit has not been submitted by Mr. Malone and requested that Mr. Bigham submit one.

Mr. Boyce opened public comment.

Kristin Denias, 324 Spring Street, Decatur, GA, who lives three houses down from the subject property states her neighbors and herself oppose the variance request due to a variety of reasons expressed at the August meeting when the case was first learned.

Ms. Denias's main concern was pedestrian safety concerns over the possible movement of the stop sign, stating the intersection experiences significant traffic during all times of the day. The concern was emphasized due to the subject property's close proximity to a high traffic crosswalk

predominately used by a neighboring school and previous vehicular accidents at the intersection. Ms. Denias continues stating that any change to the intersection must consider current pedestrian safety issues along Oakview, and that the movement of the stop sign would be impractical.

Ms. Denias then brought up the stormwater concerns of the site and how the subject property at this time collects a considerable amount of stormwater from neighboring properties. Ms. Denias states that her home which is a higher topography is susceptible to flooding, and the current design submitted by the applicant that shows a garage and driveway below street grade would result in flooding issues down the line.

Ms. Denias finally adds that the application needed to be revised to match was showing on the proposed plans to avoid confusion in the future.

Christopher Phillips, 128 Fifth Avenue, Decatur, GA, expressed his frustration with the developer for failure to construct a residence since the demolition of the previous black church previously residing on subject property. Mr. Philips recommends the collaboration of the applicant and city officials to get a better understanding on how to forward. Mr. Philip stated vehicular accidents caused from drivers that speed along Oakview were also a major concern. Finally, Mr. Philips stated he had concerns with the lack of trees being retained on plans due to the size of the site, and the construction of even a one-story building would obstruct the visibility of on-coming traffic for pedestrians.

Laura Spriggs, 316 Spring Street, Decatur, GA, states concern with the proposed plan because of the increase congestion and the possible affect it could have on the Safe Rights to School initiative. She furthered that stormwater issues would also contribute to this congestion, and the overall reconfiguration of the site would not positively impact the area. Ms. Spriggs is against approval of the current variance request.

Robyn Paynter, 332 Spring Street, states she is directly behind the subject property and experiences flooding issues frequently with drainage issues extending into neighboring properties. Ms. Paynter questions the lack of care and diligence in the proposed plans and urges the board to not grant approval of the variance request until the applicant has addressed the concerns brought by neighbors and existing stormwater concerns.

Mr. Boyce closed public comment.

Mr. Rutledge thanked the applicant in providing different options for a possible residential design, but told the applicant based off the current design the potential for flooding was very high. Mr. Rutledge acknowledges that the site had several hardships but would not support approval unless a viable design was proposed.

Mr. Peanasky also commends the applicant for the design options presented but due to the hardships and existing pedestrian concerns he would not support a driveway to be located off Fifth Avenue. Mr. Peanasky adds that in his view a driveway would not be needed for this particular site and street parking could suffice, but Mr. Peanasky furthered that it would be an additional variance request if off-street parking was not provided.

Mr. Boyce responded by stating in previous plans submitted that did not show off-street parking brought up the concerns of sight lines being obstructed because of street parking.

The Board discussed further where a car would park if the site did not provide off-street parking.

Ms. Miller stated that current variance request is a significant request and is hesitant on approving the case.

Mr. Boyce commended the applicant again but stated the main concerns of flooding and sight lines for on-coming traffic being obstructed were not addressed in the proposed plans pose too great a risk. Ms. Quillen seconds this statement, and the location of the driveway would obstruct the view of a driver exiting the driveway, and requests the applicant show examples of the perspective of the driver to address safety concerns.

Mr. Boyce then adds he would like to further verify if a height variance will be needed. Mr. Boyce then asks the applicant if he would like to defer to a later meeting.

Mr. Malone requests for a later meeting and requests for more clarification on what needs to be changed to the proposed plans.

Mr. Rutledge recommends conversing with the Jennings Bell (City Engineer) to address the stormwater issues experienced at the site. Mr. Boyce states the applicant should take consideration the site lines of the area and to think of solution that does not hinder the ability for pedestrian traffic to use the sidewalk.

The Board discusses further the difficulty of the project and when they could meet next for the case. Ms. de la Torre states the February regular meeting may be cancelled due to a lack of applications submitted and recommends deferring the case to March.

Motion by Mr. Peanasky, second by Ms. Miller; the Zoning Board of Appeals unanimously approved a deferral to the March 11, 2024, meeting.

IV. New Business

Kathryn Brookmeyer and Jason Chernock, property owners, have applied for a variance from stream buffer requirements for the property located at 202 Garden Lane, Decatur GA 30030.

Mr. Chernock, 202 Garden Lane, Decatur, GA, addressed the board and stated the proposed project to encroach within a stream buffer was to replace an existing deck.

Mr. Boyce asked the applicant if they are aware of staff comments regarding a rain garden.

Mr. Chernock responded that they are aware and willing to install it but request guidance from the city on the correct location.

Ms. Quillen asked the applicant if the area under the deck will be open and permeable.

Mr. Chernock confirmed that it would be.

Mr. Bell stated the applicant request is a standard procedure and he would be more than willing to assist Mr. Chernock on the correct location of the rain garden.

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

Ms. Miller stated the applicant is primarily within a 75-foot stream buffer, the request is replacing an already existing deck. The applicant is not proposing on adding impervious surfaces, and willing to incorporating a rain garden.

Motion by Ms. Miller, second by Mr. Rutledge, the Zoning Board of Appeals unanimously approved a variance from stream buffer requirements with the condition to include a rain garden that captures the first two inches of rainwater.

V. Reports and Other Business

Nahom Taye, Planner, was introduced. He will be taking over as ZBA staff liaison in 2024.

VI. Adjourn

Motion by Ms. Rutledge, second by Ms. Miller, the Zoning Board of Appeals unanimously approved to adjourn at 8:30 PM.