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

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

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

1. **Approval of Minutes**

Approval of Minutes from the February 12, 2024, meeting.

*Motion by Ms. Miller, second by Ms. Quillen, approval of minutes was deferred to the following meeting.*

1. **Old Business**
   1. Derek Bigham, property owner, has applied for a variance from setback and height requirements for the property located at 102 5th Avenue, Decatur, GA 30030. *This project was deferred from the August 2023, November 2023, and January 2024 meetings.*

Christopher Malone, 102 5th Avenue, a contractor for the project representing the property owner stated they were able to incorporate some of the concerns stated at the previous ZBA regular meeting held on January of 2024. Concerns such as sightlines and flood prone areas were addressed from the removal of the below grade driveway from the proposed plans which to the raising of the main floor. As a result, Mr. Malone stated they are requesting variance from floor area ratio, setbacks, and height requirements. Mr. Malone also added the previous proposal to move the stop sign located at the intersection of 5th and Oakview was abandoned due to existing conflicting traffic orientation and the city denying the proposal.

Mr. Boyce commended Mr. Malone for providing multiple design options for the board but inquired whether the location of the driveway and third bedroom was within the stormwater easement based on the proposed site plans and construction documents.

Mr. Malone confirmed that was the case.

Mr. Boyce stated that he would be reluctant to approve the construction of a living area within the stormwater easement. In addition, Mr. Boyce stated for the record that his main concern regarding sightlines in the previous site plan was visibility of the sidewalk for non-vehicular traffic.

Ms. Miller raised concerns regarding the setback variance requests where a 6-inch setback was proposed, and whether or not the property would have the space for construction and other architectural features such as roof overhang.

Mr. Malone states the proposed residence will not incorporate roofs with overhang.

Ms. Miller adds that after review of the staff report and after confirmation by staff, the lot coverage requirement of the project was 69% rather than the listed 40%. Ms. Miller requested staff to confirm the items as well included in the lot coverage calculation, and for clarification of building height requirements.

Ms. De La Torre confirmed Ms. Miller was correct regarding the maximum lot coverage and that the maximum height of the residence would be 25-feet per UDO requirements.

Mr. Boyce also confirmed that an affidavit to allow for the representation of Derek Bigham by Mr. Malone was received by Ms. De la Torre.

Kristin Dennis, 324 Spring Street, inquired regarding the recommendation of the staff report, due to the report being absent from the City of Decatur Zoning Board of Appeals page.

Mr. Taye issued an apology for the absence of the staff report from the city website, but added typically a staff recommendation typically is not added to Zoning Board of Appeals cases.

Ms. Dennis stated the concerns of the neighbors at each ZBA meeting reflected how burdened and flood prone the area was. Ms. Dennis added that there have been several instances of flooding that have occurred at the rear of the neighboring properties and has had to enlist the help of neighbors to mitigate the flooding issues. Finally adding that she has the intention of looking out for her neighbors and disagrees with an approval of a variance that would create a flood prone residence.

Peter Isbister, 332 Spring Street, emphasized the importance of receiving staff reports prior to the regular meetings since it is a key piece of information for the public to understand whether or not they want to engage in ZBA meetings. Mr. Isbister emphasized several of Ms. Dennis’ points regarding neighbors that experienced flooding in the area and added his own experiences working with City Staff, and frustration for the lack of action. Mr. Ibister also added that he did not believe the board had the authority to approve a development within a city easement and recommended the board denying the application to provide more to for solution a year from now.

Mr. Boyce asked if there are any additional comments of opposition, and then closed public comment for board discussion.

Ms. Quillen inquired how much of the development is located within the easement.

Mr. Malone stated the location of the driveway within the easement was forced due to the requirements for off-street parking within the UDO.

Mr. Peanasky agreed with concerns regarding approval of the driveway within the easement but added that the applicant has made these changes in response to the board’s previous concerns. A homeowner purchasing such a property must be aware and understand that because of the location of the driveway there may come a time when the city will have to access the site. Mr. Peanasky closed by stating that the previous concerns that been addressed by the applicant and that he is satisfied with the plans so long a permanent dwelling is not located above the driveway within the easement.

Ms. Miller stated her agreement with Mr. Peanasky regarding a dwelling area being located within the easement as well as a deck. Ms. Miller also added she does not agree with an approval of the setback and height variance requests but is open to discussion.

Mr. Boyce added again how difficult the site is and agreed with fellow board members regarding their concern about allowing a permanent structure within the easement. In addition, due to the flooding concerns and the site not being able to create a basement a variance for floor area ratio is understandable. Mr. Boyce concluded that he supports the variance request so long as a living area was not created within the easement.

Ms. Miller questioned why the requested residence needed to be so close to property lines.

Mr. Peanasky added he did not believe the applicant was proposing a design to get the most out of the lot and the original request did not request the same number of variances. The proposed design incorporated many of the concerns the board had regarding flooding and site lines. Mr. Peanasky also added that the location in which the property would be six inches from the property line was adjacent to the stormwater easement which at this time has not been approved for a development.

Ms. Miller added that she disagrees with the approval of design due to neighboring lot being undeveloped at that time, and a resident would be unable to provide maintenance to the property with such setbacks.

Ms. Quillen added she was not concerned and from her own residence slightly encroaches into her neighboring property and that often these situations are solved rather through neighborly conversations and relationships. Ms. Quillen added because of the owners’ entitlements to develop the property, a decision must be made on what concerns can be addressed with the proposed designs, and that the applicant has addressed the main concerns of the board.

Mr. Boyce added that if a board were to defer that they must provide clear solutions in what the applicant can do for approval.

Mr. Peanasky stated that he does not see what else the applicant can change for approval.

Ms. Miller said she understands the other board members and agrees that the plans submitted by the applicant have improved but is not comfortable with an approval of a six-inch setback.

Mr. Boyce asked if other board members agree with the proposed plans.

Ms. Quillen said she did.

Mr. Boyce posed the question of what design option provided by the applicant regarding a deck, third bedroom, or neither should be approved.

Mr. Peanasky added that the decision should be made by the applicant and the board should at most limit a dwelling within the easement.

*Motion by Mr. Peanasky, second by Ms. Quillen, for the approval of the variances requested for 102 5th Avenue at a 3-1 split vote with the following conditions: plans must be substantially similar to the plans presented at the March 11th Zoning Board of Appeals meeting, the driveway surface shall be constructed with a pervious pavement material, and no occupiable living space shall be located within the stormwater easement.*

1. **New Business**

None

1. **Reports and Other Business**

None

1. **Adjourn**

*Motion by Ms. Miller, second by Ms. Quillen, the Zoning Board of Appeals unanimously approved to adjourn at 8:36 PM.*