

## **DeKalb County Zoning Board of Appeals**

Department of Planning & Sustainability 330 Ponce De Leon Avenue, Suite 300 Decatur, GA 30030



Michael L. Thurmond Chief Executive Officer Wednesday, February 10, 2021 at 1:00 PM Planning Department Staff Analysis

N1 Case No: A-21-1244564 Parcel ID(s): 18-009-01-023

Commission District: 04 Super District 06

**Applicant:** Katie Moorman

Earthsky Builders 1368 Catherine St Decatur, GA 30030

Owner: Paul Sibley

384 3<sup>rd</sup> Ave

Scottdale, GA 30079

**Project Name:** 384 3<sup>rd</sup> Avenue, Scottdale, GA 30079

**Location:** The property is located east of 3<sup>rd</sup> Avenue, at 384 3<sup>rd</sup> Avenue, Scottdale, GA 30079

**REQUEST:** Variance from Chapter 27 of the DeKalb County Zoning Ordinance to reduce the rear yard setback from

30 feet to 28 feet for a proposed two-story rear addition, within the Scottdale Overlay District Tier 2.

Staff Denial.

Recommendation:

#### **STAFF FINDINGS:**

## Variance Analysis:

The subject property is located within Tier II of the Scottdale Overlay District. Per Chapter 27- 3.36.10. Building standards of the DeKalb County Zoning Ordinance states the minimum lot size for properties within Tier II of the Scottdale Overlay is 5,000 square feet, which the subject property exceeds. The minimum lot width is 50 feet, which the lot also exceeds.

Based on the submitted materials, the applicant wishes to construct a two-story rear addition to an extant house that was constructed in 1930, per County records. The rear addition would reduce the rear yard setback to 28 feet; two feet less than the minimum 30 feet required by Tier II of the Scottdale Overlay. The proposed two-story addition will follow the side (north and south) elevations of the existing structure, expanding into the rear yard.

Based on the submitted site plan, it appears that this requested variance may go beyond the minimum necessary to afford relief. Therefore, the requested variance meets the criteria of approval as listed below:

1. By reason of exceptional narrowness, shallowness or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district:

The strict application of the requirements of this chapter may not deprive the property owner of rights and privileges enjoyed by other property owners by reason of exceptional narrowness, shallowness, or shape of topographic conditions. Nearby lots along Third Avenue, Cedar Street, Cherry Street and Chapel Street range in width from 25-feet to 100-feet, many having been developed with one and two-story, detached, single-family residences.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located:

The requested variance goes beyond the minimum necessary relief and may constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. The encroachment into the rear setback is 6% more than the minimum rear yard setback requirement of 30 feet. Some houses along Third Avenue have increased their square footage by building a second-story, side additions, or rear additions.

# 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located:

Based on the submitted materials, it appears that granting the variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district. The proposed addition would be consistent with the intent of the Scottdale Area Compatible Use Overlay District to enhance the existing character of the Scottdale Community and encourage development that is appropriate for the existing character of the Scottdale Community. Based on the staff site visit, some nearby houses were originally constructed between 1930 and 1970 within the current 7.5-feet side yard buffer, suggesting the proposed addition would be compatible with the existing housing stock in the community.

## 4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:

Based on the submitted materials, the strict application of the applicable provisions and requirements of this chapter may not cause an undue hardship for the applicant. If the proposed addition were to be constructed to be two feet shallower, it would conform with the rear setback of 30-feet established by the zoning code under R-75.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

The requested variance and associated addition appear to be consistent with the spirit and purpose of Chapter 27- 3.36.3 Scottdale Area Compatible Use Overlay Statement of purpose and intent and the DeKalb County Comprehensive Plan text. In part, the district's purpose is to preserve, protect and enhance the existing character of the Scottdale Community. The proposed addition may support that goal. Based on submitted materials, it is unknown if the proposed addition follows the design guidelines for the Scottdale Area Compatible Use Overlay District.

## **FINAL STAFF ANALYSIS:**

It appears that the requested variance goes beyond the minimum necessary to afford relief. The requested variance exceeds by 6% the minimum allowed rear yard setback requirement of 30 feet. Therefore, granting this variance may constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. Therefore, the Department of Planning and Sustainability recommends denial of the request based on the submitted site plan received on January 7, 2021.



## DeKalb County Department of Planning & Sustainability

Hon. Michael Thurmond Chief Executive Officer Andrew Baker, AICP, Director

# ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING (VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)

		BOA No.
Applicant and/or Authorized Representative KATIE MOOR	MAN	
Mailing Address: EARTH SKY BUILD	ERS , 136	8 CATHERNE ST
City/State/Zip Code: DECATUR, CAA	30030	
Email: KATIE @ EARTHS KY BULL	DERS. CO	<u> </u>
Telephone Home: 404-384-6866 Busin	ness: <u>404-94</u>	H- 9220 H- Fax No.: N/A
OWNER OF RECO	ORD OF SUBJEC	T PROPERTY
Owner: PAUL SIBLEY		
Address (Mailing): 384 3rd AVE		
City/State/Zip Code: SCOTTDALE, C		
Email: P10PABLO @ GMAIL.		
Telephone Home: 404 - 456 - 6954 Busin		
ADDRESS/LOCAT	ION OF SUBJEC	T PROPERTY
Address: 384 3rd AVE Cit	y: SOTTDAL	E State: <u>GA</u> Zip: <u>3007</u> 9
District(s):		
District(s): Land Lot(s):	Block:	Parcel:
District(s): Land Lot(s):	Block:	Parcel:
Zoning Classification: R-75	Commission District & Super District:	
CIRCLE TYPE OF HEARING REQUESTED		
VARIANCE (From Development Standards causing	undue hardship u	pon owners of property.)
SPECIAL EXCEPTIONS (To reduce or waive off-street)	eet parking or load	ding space requirements.)
• OFFICIALS APPEALS OF ADMINISTRATIVE DECI	SIONS.	
TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DE Date Received:	PARTMENT	Fee Paid:

330 West Ponce de Leon Avenue – Suites 100-500 – Decatur, Georgia – 30030 [voice] 404.371.2155 – [Planning Fax] (404) 371-4556 [Development Fax] (404) 371-3007 Web Address <a href="http://www.dekalbcountyga.gov/planning">http://www.dekalbcountyga.gov/planning</a> Email Address: <a href="mailto:planninganddevelopment@dekalbcountyga.gov">planninganddevelopment@dekalbcountyga.gov</a>



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# ZONING BOARD OF APPEALS APPLICATION AUTHORIZATION OF THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals

To inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

DATE: 12 10 2020	Applicant: Dan Signature
	Signature
DATE:	Applicant:



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## ZONING BOARD OF APPEALS APPLICATION

## AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property and that I authorize the applicant/agent to apply for a hearing to the Zoning Board of Appeals for the requests as shown in this application

DATE: 12 10 2020 Applicant/Agent: Applicant/Agent: Signature
TO WHOM IT MAY CONCERN:
(I)/ (WE) PAUL SIBLEY (Name of Owners)
being (owner/owners) of the property described below or attached hereby delegate authority to:
KATIE MOURMAN (Name of Applicant or Representative)
Notary Public Owner
Notary Public Owner
Notary Public Owner

### **Letter of Intent**

A. We request to build an addition onto the rear of the existing house to create a new living room and bedroom on the first floor, and a master suite on the second floor.

- 1. The lots in this entire neighborhood are all very small for their stated zoning (R-75), and most if not all the houses in the neighborhood are non-conforming for the lots. Many houses in the neighborhood have been added to or enlarged beyond the footprint to make room for the occupants, and the needs of our homeowners are no different. In this particular case, the lot is shallow and narrow in comparison to others in the neighborhood, which means the existing house is already nonconforming on the rear setback.
- 2. In our plans and in our design, we have kept our expansion minimal, so as not to go beyond the minimum necessary for relief. We also expanded within the existing side lines of the house, and are asking only to expand the rear of the house that is already over the rear setback.
- 3. The front and side setbacks remain the same, so that neighbors would hardly know there is a difference. The addition would raise property values, and make the size of the house more commensurate with those being built or added to around it. The owner also has signatures of support from their neighbors.
- 4. The literal interpretation of the setback guidelines for R-75 would hold this homeowner and others in this neighborhood to a smaller house than they have now, and cause them unnecessary hardship by holding their property to a standard created and applied long after the lots were divided and the houses were built. It would force their footprint into an unnaturally narrow and shallow line.
- 5. The requested variance would be consistent with the spirit of the DeKalb Comprehensive Plan. It would allow limited and sustainable growth in an existing home and lot, and with minor changes give the homeowners a more functional and useful home and space. The size of this house with the addition is similar or smaller than other houses on R-75 lots throughout DeKalb, and indeed smaller than more than a few of its neighbors in this neighborhood of many nonconforming lots.
- B. We are requesting the following variance:
  - 1. We request a change from the rear setback of 40' to 28'. This will not be out of line with the other houses in the neighborhood. The current house as it sits is original and non-conforming, as it sits on a lot that is both narrow and shallow.

ALL MATTERS OF TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHTS-OF-WAY PUBLIC OR PRIVATE. NOTE: PROPERTY LINES SHOWN ON THIS MAP/PLAT REPRESENT PHYSICAL FIELD CONDITIONS BY EVIDENCE OF APPARENT POSSESSION (IRON PINS FOUND, OLD & ESTABLISHED FENCE LINES, OLD WALL LINES, SHRUB & HEDGE LINE, HOUSE LOCATIONS, ETC.) THEY MAY DIFFER AND BE IN CONTENTION FROM EVIDENCE FOUND AT THE APPLICABLE COUNTY COURTHOUSE. THEY MAY ALSO DIFFER FROM OTHER SURVEYOR OPINIONS AND/OR NEIGHBORS SURVEYS/PLATS. A FULL LAND TITLE REPORT OPINION ON ALL PROPERTIES, INCLUDING ADJACENT AND CONTIGUOUS PROPERTIES MAY BE NEEDED TO RESOLVE ALL POSSIBLE PROPERTY LINE DISPUTES OR DISCREPANCIES.

THIS MAP/PLAT WAS MADE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. EASEMENTS AND ENCUMBRANCES MAY EXIST WHICH BENEFIT AND BURDEN THIS PROPERTY. THIS MAP/PLAT IS SUBJECT TO REVISIONS AND UPDATE UPON RECEIPT OF SAID TITLE COMMITMENT.

BUILDING LINES SHOWN HEREON DERIVED FROM VARIOUS ONLINE SOURCES. THEY MAY BE IN CONTENTION WITH OR DIFFER FROM INTERPRETATIONS OF GOVERNING AUTHORITIES. IT IS THE CLIENT'S OBLIGATION TO CONFIRM WITH PERMITTING AGENCIES BASED ON THEIR SPECIFIC CONSTRUCTION PROJECTS.

NO DETERMINATION OF FLOOD HAZARD HAS BEEN MADE FOR THIS PROPERTY BY THIS SURVEYOR. \* L E G E N D \*

DRIVEWAY

IRON PIN FOUND

ARC LENGTH

LAND LOT

LLL LAND LOT LINE

**NEIGHBOR'S** 

NOTE: ALL ITEMS IN THIS LEGEND MAY NOT APPEAR ON THIS PLAT.

AKA ALSO KNOWN AS

N/F NOW OR FORMERLY N/F NOW OR FORMERLY APD AS PER DEED APP AS PER PLAT NAIL NAIL FOUND

PLAT (BOOK/PAGE) BSL BUILDING (SETBACK) LINE POB POINT OF BEGINNING
POINT OF COMMENCEMENT CP COMPUTED POINT
CTP CRIMP TOP PIPE FOUND POC RADIUS LENGTH

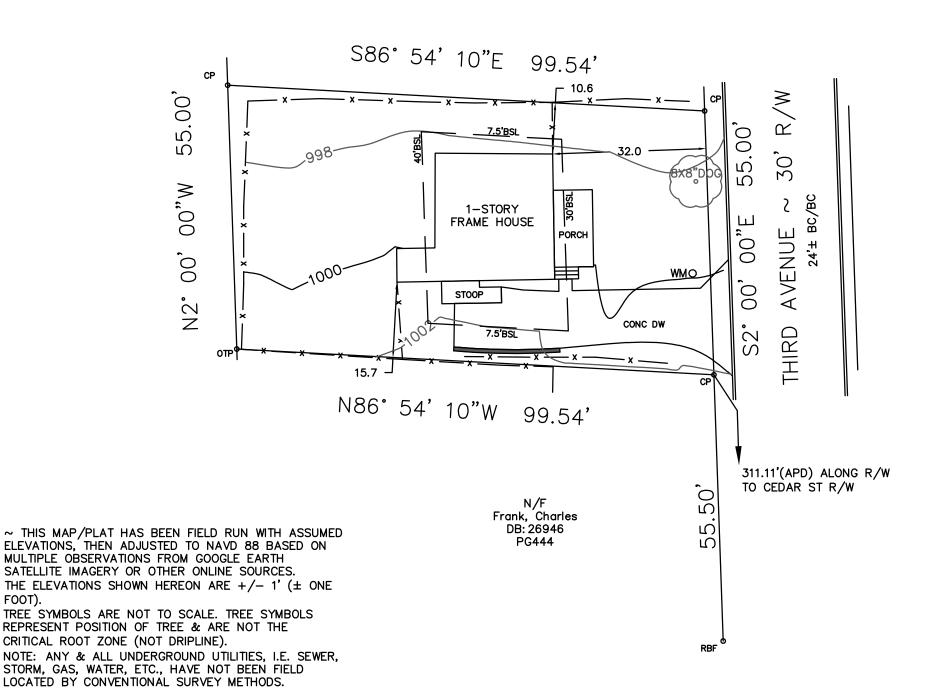
DEED (BOOK/PAGE) RIGHT-OF-WAY REINFORCING BAR FOUND RBF EDGE OF PAVEMENT (1/2" UNO)FFE FINISH FLOOR ELEVATION 1/2" REINFORCING BAR SET SIDEWALK RBS FKA FORMERLY KNOWN AS

SW SSE SANITARY SEWER EASEMENT SSCO SANITARY SEWER CLEANOUT -X- FENCE LINE

WALL

N/F Maddox, Arthur James

MAGNETI



PROPERTY ADDRESS: 384 Third Ave Scottdale, GA 30079

> LAND AREA: 5453 SF 0.125 AC

IMPERVIOUS AREA: DW: 624 SF WALL: 18 SF ST00P: 52 SF HOUSE: 708 SF PORCH: 143 SF EXIST= 1545 SF=28.3%

ZONING: R-75

SCALE 1" =

PLAT PREPARED FOR:

384 Third Ave

		★   N0.3030   ★	
PARCEL ID:18 009 01 023			12/5 8/8/
	LAND LOT 9 18th DISTRICT	BY:	ATLANTA SURVEY
	DeKALB COUNTY, GEORGIA FIELD DATE: 10-22-2020	MF	CS W LOW
	LOCATED IN UNINCORP DRAWN DATE: 10-26-2020	SS	SURVEY SYSTEMS ATLANTA 2156 W Park Ct, Ste D, Stone Mtn, GA 30087
	REFERENCE: PLAT BOOK , PAGE ALL MATTERS OF TITLE A REFERENCE: DEED BOOK 24298, PAGE 538 NOR USED TO CONVEY F	RECORDED	COA #LSF000867, info@SurveySystemsAtlanta.com Cell 678-591-6064 ~ Office 404-760-0010
	THE FIELD DATA LIPON WHICH THIS PLAT IS BASED HAS A CLOSUL	RE OF 1	FOOT IN 30 000+ FEET AN ANGLILAR ERROR OF

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE OF 1 FOOT IN 30,000+ FEET, AN ANGULAR ERROR OF 05 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE LEAST SQUARES METHOD. THIS PLAT HAS BEEN CALC-ULATED FOR CLOSURE AND FOUND TO BE ACCURATE TO 1 FOOT IN 40,000+ FEET. AN ELECTRONIC TOTAL STATION WAS USED IN THE PREPARATION OF THIS PLAT. NO STATE PLANE MONUMENT FOUND WITHIN 500' OF THIS PROPERTY.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.

\* L E G E N D \* NOTE: ALL ITEMS IN THIS LEGEND MAY NOT APPEAR ON THIS PLAT. AKA ALSO KNOWN AS N/F NOW OR FORMERLY APD AS PER DEED NAIL NAIL FOUND APP AS PER PLAT P PLAT (BOOK/PAGE)
BSL BUILDING (SETBACK) LINE POB POINT OF BEGINNING
CP COMPUTED POINT POC POINT OF COMMENCEMENT CTP CRIMP TOP PIPE FOUND RADIUS LENGTH D DEED (BOOK/PAGE) R/W RIGHT-OF-WAY DW DRIVEWAY REINFORCING BAR FOUND EP EDGE OF PAVEMENT (1/2" UNO)FFE FINISH FLOOR ELEVATION 1/2" REINFORCING BAR SET SIDEWALK RBS FKA FORMERLY KNOWN AS IRON PIN FOUND SSE SANITARY SEWER EASEMENT SSCO SANITARY SEWER CLEANOUT ARC LENGTH LL LAND LOT -X- FENCE LINE LLL LAND LOT LINE WALL

N NEIGHBOR'S

The installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land disturbing activities.

Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control additional erosion and sediment control measures shall be implemented to control or treat the sediment

Additional erosion controls shall be installed as deemed necessary by the on—site inspector. All lots/sites with 2' of fill or greater will require a compaction certificate by a professional registered engineer prior to a building permit and/or prior to footers being poured. Locate and field stake all utilities, easements, pipes flood limits, stream buffers, and tree save areas prior to any land disturbina activities.

All tree protection areas to be protected from sedimentation.

All tree protection devices to be installed prior to land disturbance and maintained until final

All tree protection fencing to be inspected daily and repaired or replaced as needed. A final as—built lot survey required prior to issuance of Certificate of Occupancy. A final as-built water quality certificate required prior to Certificate of Occupancy. Dumpsters and/or temporary sanitary facilities shall not be located in street or tree protection

area or right-of-way. Water quality BMP(s) to be installed at the time of final landscaping.

8: 00am-5: 00pm

o Saturday

MAGNETI

All collected water shall be directed to the water quality BMP(s). No water quality BMP(s) allowed in undisturbed stream buffers or tree save/critical root zone. Work hours and construction deliveries are: o Monday—Friday 7:00am—7:00pm

Charles W. Loveless certify under penalty of law that this plan was prepared after a site visit to the locations described herein by myself or my authorized agent, under my direct supervision.

EROSION CONTROL LEGEND APPLY TO ALL DISTURBED AREAS

A. TEMPORARY COVER OF PLANT RESIDUES APPLIED TO THE SOIL SURFACE FOR A PERIOD OF (6) MONTHS OR LESS WHEN SEEDING IS NOT PRACTICAL

ESTABLISHING A TEMPORARY NEGATIVE COVER WITH FAST GROWING SEEDING ON DISTURBED
AREAS. SEE EROSION CONTROL NOTES
ESTABLISHING PERMANENT VEGATATIVE

DS3 COVER SUCH AS TREES, SHRUBS, VINES, GRASSES OR LEGUMES
ON DISTURBED AREAS. SEE ENLARGED PLANS
DISTURBED AREA STABILIZATION Ds4 (WITH SODDING)

CONTROLLING SURFACE AND AIR MOVEMENT OF DUST ON LAND DISTURBING ACTIVITIES

CUT-OFF & CAP ALL UTILITIES AT THE PROPERTY LINE FOR FUTURE USE

NO UTILITY WORK

NO GRADING NO CUT, NO FILL

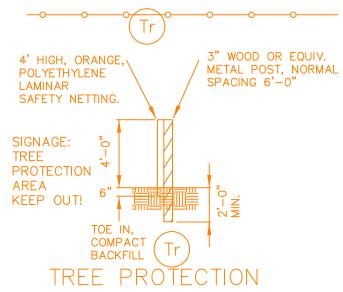
NO TREES REMOVED PROTECT ALL TREES

NO PROPOSED GRADING EXCEEDING TWO (2)'. CONTOURS SHOWN ARE MAX 3H:1V SLOPES

DeKALB COUNTY - NOTES

- 1. ALL LAND DISTURBANCE TO BE STABILIZED WITH VEGETATION UPON COMPLETION OF DEMOLITION.
- 2. ALL TREES TO REMAIN AND HAVE PROPERTY PROTECTION
- UNLESS APPROVED PLANS INDICATE OTHERWISE. 3. ALL DEMOLITION DEBRIS TO BE HAULED OFF SITE.
- 4. DUMPSTERS AND/OR TEMPORARY SANITARY FACILITIES SHALL NOT BE LOCATED IN THE STREET OR TREE PROTECTION AREA OR OTHER RIGHT OF WAY.
- 5. ADDITIONAL EROSION CONTROLS SHALL BE INSTALLED AS DEEMED NECESSARY BY THE ON-SITE INSPECTOR(S).
- 6. CALL FOR FINAL INSPECTION AT (404) 371-4913

INDICATES TREE PROTECTION FENCE



FENCING DETAIL (NOT TO SCALE)

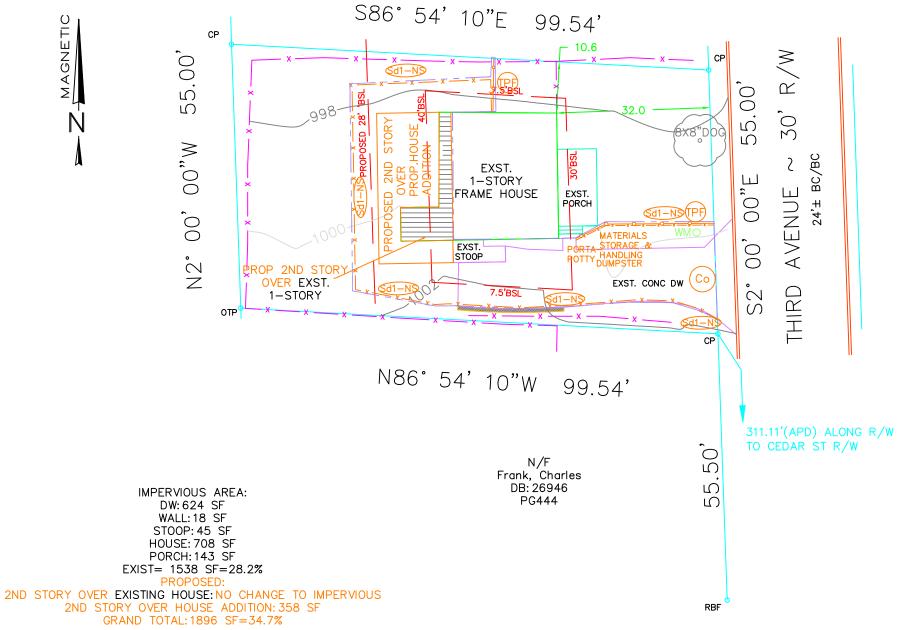
INDICATES SILT FENCE

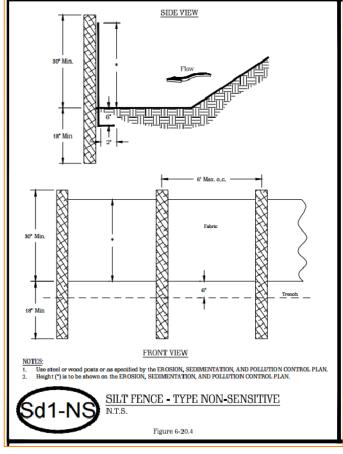
TREE PROTECTION SIGNS are to be placed at least every 50' along the length of the Tree Protection Fence. The signs should be in a language so that all workers on site are able to understand.

DISTURBED AREA 1975 SF= 0.045 AC

(Co) CONSTRUCTION OUTLET

N/F Maddox, Arthur James





TREE PROTECTION AREA

TREE ENCLOSED BY THIS FENCE ARE PROTECTION BY PLANNING CONDITIONS AND ARE SUBJECTS OF A TREE PRESERVATION ORDER. TOWN & COUNTRY PLANNING ACT 1980

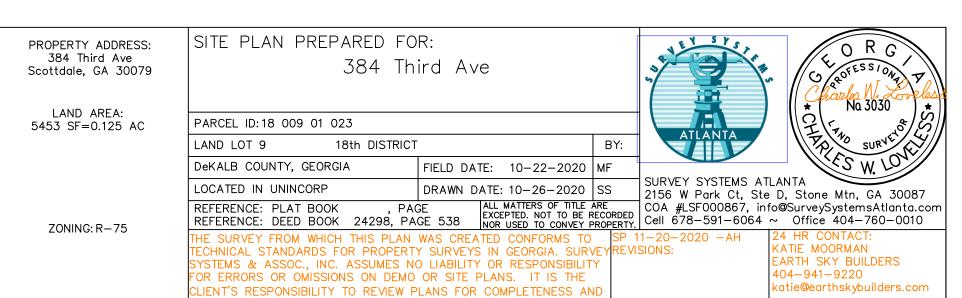
CONTRAVENTION OF TREE PRESERVATION ORDER MAY LEAD TO

CRIMINAL PROSECUTION THE FOLLOWING MUST BE OBSERVED BY ALL PERSONS

- THE PROTECTION FENCING MUST NOT BE REMOVED.
- NO PERSON SHALL ENTER THE PROTECTED AREA NO MACHINE OR PLANT SHALL ENTER THE
- NO MATERIALS SHALL BE STORED IN THE PROTECTED AREA
- NO SPOIL SHALL BE DEPOSITED IN THE PROTECTION AREA

NO EXCAVATION SHALL OCCUR IN THE PROTECTED

ANY INCURSION INTO THE PROTECTED AREA MUST BE WITH THE WRITTEN PERMISSION OF THE LOCAL PLANNING AUTHORITY



CCURACY. ANY REDLINES, COMMENTS, CORRECTIONS, ALTERATIONS, TC. (FROM ANYONE EXCEPT THE CLIENT) SHALL BE DEEMED AS

LLABLE AND ADDITIONAL CHARGES SHALL APPLY



IF YOU DIG GEORGIA... CALL US FIRST! UTILITIES PROTECTION CENTER 811 IT'S THE LAW 1-800-282-7411

RELEASED FOR CONSTRUCTION Photographs of 384 3<sup>rd</sup> Ave





Front of house





Rear of house and back yard where addition will go





Rear of house and back yard where addition will go

Photographs of Adjacent Properties



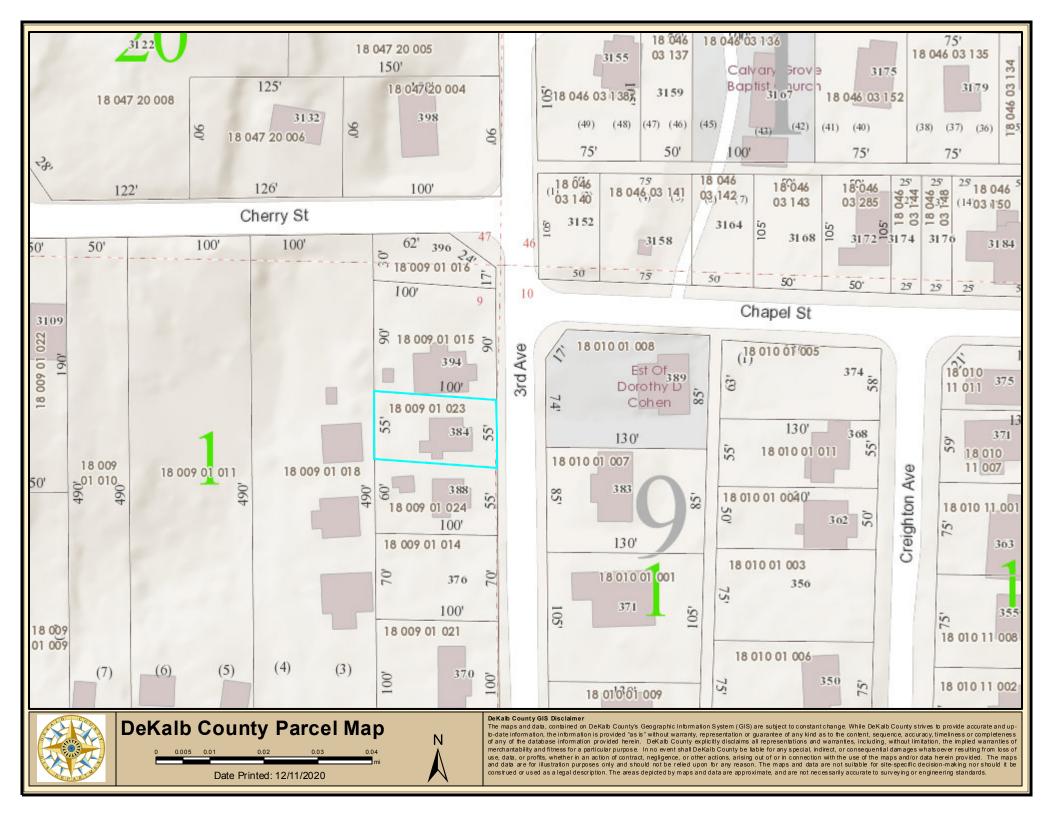












## Adjacent Neighbors and Supporters

RE: Proposed renovations and addition to 384 Third Ave

Home Owner: Paul Sibley

The renovation plans for the above mentioned property require a variance because we want to extend the existing lines of the house to create an addition for a living room, bedroom, and second floor master bedroom. These plans require a variance because the existing house is non-conforming to the lot. The variances we are requesting are:

1. Rear yard setback from 40 feet to 28 feet (current distance is 33 feet)

These plans will be presented to the Zoning Board of Appeals Public Hearing on Wednesday January 13, 2021.

Paul has made me aware of his proposal to build an addition and I support their application.

Address	Print Name	Signature
1.383 Third Ave	Sunya Woods	Shord
2.370 Third Ave.	Treding Huft	Tien The
3. 3/48 Celor	Luke Allerdice	LI
4. 376 third Are	William Shorted	With
5. 388 Third Ave	Charles Frank	Clas Fut
6.		
7.		
8.		
9.		
10.		

