



Michael L. Thurmond
Chief Executive Officer

DeKalb County Zoning Board of Appeals

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

July 14, 2021 at 1:00 PM



Planning Department Staff Analysis

D1 **Case No: A-21- 1244824** **Parcel ID(s): 18-046-03-140**

Commission District 04 Super District 06

Applicant: Milner Scott Ball
426 Sinclair Ave
Atlanta, GA 30307

Owner: KMRS Properties LLC
240 Chastain Manor Dr
Norcross, GA 30071

Project Name: 1352 Chapel Street

Location: Property is located northeast of the intersection of Chapel Street and 3rd Avenue in Scottdale, Georgia 30079.

REQUEST: Variance from Chapter 27, Section 3.36.10 *Scottdale Overlay Building standards* to:

- 1) reduce the front yard setback from 30 feet to 20 feet
- 2) reduce the side yard setback from 7.5 feet to 5 feet
- 3) reduce the corner yard setback from 15 feet to 10 feet
- 4) increase the maximum height from 28 feet to 32 feet

Staff Recommendation: Deferral

STAFF FINDINGS:

Variance Analysis:

Updates:

Applicant contacted staff to request a deferral. Staff is recommending a deferral to allow the application more times to provide an updated site plan and drawings.

Previous Analysis from May 2021.

Based on the submitted materials, the applicant is requesting four variances (front, side, corner yard and height) to build a 2,397 square foot house on a corner lot at 1352 Chapel Street.

The subject property is located within the *Scottdale Overlay Tier 2 District. Chapter 27, Section 3.36.10 Scottdale Overlay Building standards* for single-family detached residences states the minimum lot size is 5,000 square feet and the minimum lot width is 50-feet. Based on the submitted site plan, the lot is 5,250 square feet and has a lot width of 50-feet, which is typical for the overlay district. The lot is conforming and meets the requirements of the *Scottdale Overlay Tier 2 District*. There is no extant development on the lot. The *Scottdale Overlay Tier 2 District* requires a minimum house size of 1,000 square feet, the applicant proposes to construct a 2,397 square foot house.

The subject property is conforming based on the submitted materials and County records. Although the site plan shows a rear setback of 40 feet, the zoning requires only a rear setback of 30 feet. If this were corrected, it appears the footprint of the proposed house would fit inside the front and rear yard setbacks. The requested variance may go beyond the minimum necessary to afford relief. The requested variance may constitute a grant of special privilege inconsistent with the limitations upon other properties in the overlay zoning district, *Scottdale Overlay Tier 2*.

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:

Although the applicant states in their Letter of Intent that the lot is narrow and shallow, the subject property meets the requirements of the *Scottdale Overlay Tier 2 District* and is conforming. No exceptional topographic conditions were observed during the site visit or on a topographic map. The application may not show by reason of exceptional narrowness, shallowness, shape or exceptional topographic conditions that 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.

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:

Based on the submitted site plan, it appears the requested variance may go beyond the minimum necessary to afford relief. The subject lot is conforming and granting this variance would constitute a grant of special privilege not enjoyed by other owners of conforming lots in the *Scottdale Overlay Tier 2*. The proposed home is more than twice the size of the minimum home required within the *Scottdale Overlay Tier 2*. The applicant could build a house larger than the minimum required by the zoning district on the subject property within the existing setbacks.

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 may be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district. Other property owners must comply with the Scottdale Overlay Tier 2 guidelines. 375 and 374 Creighton Avenue are the closest new developments on a corner lot. These properties appear to comply with the required setbacks and 28' height requirement.

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, it appears that the strict application of the applicable provisions and requirements of this chapter may not cause an undue and unnecessary hardship, as the proposed addition may be constructed within the current setback. The lot complies with the district requirements and there is room to construct a house within the setbacks.

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

Based on the submitted materials, it appears that the requested variance may not be consistent with the spirit and purpose of this chapter. The future land use for the subject property described in the *DeKalb County Comprehensive Plan* text is Traditional Neighborhood. The plan states that the intent of the character area is to preserve the style and appeal of older traditional neighborhood communities.

FINAL STAFF ANALYSIS:

The requested variance may go beyond the minimum necessary to afford relief, as the lot is conforming and there is room to construct a house within the required setbacks. The requested variance may constitute a grant of special privilege inconsistent with the limitations upon other properties in the overlay zoning district, *Scottdale Overlay Tier 2*. Therefore, Therefore, the Department of Planning and Sustainability recommends deferral of the request based on site plan submitted with the application dated 03/02/2021.

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

BOA No. _____

Applicant and/or _____
Authorized Representative Milner Scott Ball

Mailing Address: _____
426 Sinclair Ave

City/State/Zip Code: _____
Atlanta, GA 30307

Email: _____
perch@perchbuilt.com

Telephone Home: _____ 678.593.0212 Business: _____ 678.593.0212

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: _____
KMRS PROPERTIES LLC

Address (Mailing): _____
240 CHASTAIN MANOR DR, NORCROSS, GA 30071

Email: _____
MELSIMS1952@YAHOO.COM

Telephone Home: _____ Business: _____
678.357.9993

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: _____ 3152 CHAPEL STREE City: _____ SCOTTDAL State: _____ GA Zip: _____ 30079

District(s): _____ 18 Land Lot(s): _____ 046 Block: _____ 03 Parcel: _____ 140

Zoning Classification: _____ R-75 Commission District & Super District: _____ 4

CIRCLE TYPE OF HEARING REQUESTED:

- VARIANCE (From Development Standards causing undue hardship upon owners of property.)
- SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)
- OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

*** PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS. ***

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT:

Date Received: _____ Fee Paid: _____

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: 03/02/2021

Applicant:
Signature



DATE: _____

Applicant:
Signature

ZONING BOARD OF APPEALS APPLICATION

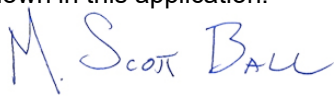
AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

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: 03/02/2021

Applicant/Agent: 
Signature


TO WHOM IT MAY CONCERN:

(I)/ (WE) KMRS PROPERTIES LLC
(Name of Owners)

being (owner/owners) of the property described below or attached hereby delegate authority to:

MILNER SCOTT BALL


Notary Public

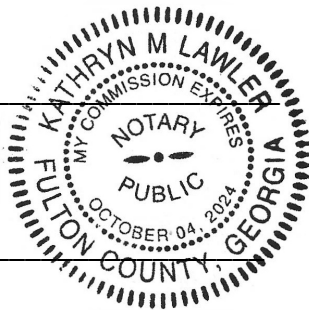

Owner

Notary Public

Owner

Notary Public

Owner



Statement of Request and Justifications

Request

We request that the east side yard setback be reduced from 7.5 feet to 5 feet and the front yard setback be reduced from 25 feet to 20 feet. Both requested setbacks are consistent with those of the other improved properties on the same block face.

Justifications

1. By reason of exceptional narrowness and shallowness of the existing lot of record, which is only 50 feet wide and is only 52% the minimum required square feet required of a newly platted lot in the R-75 District, 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. Please see the proposed size and placement of the new home in relationship to the other houses on the same block face.

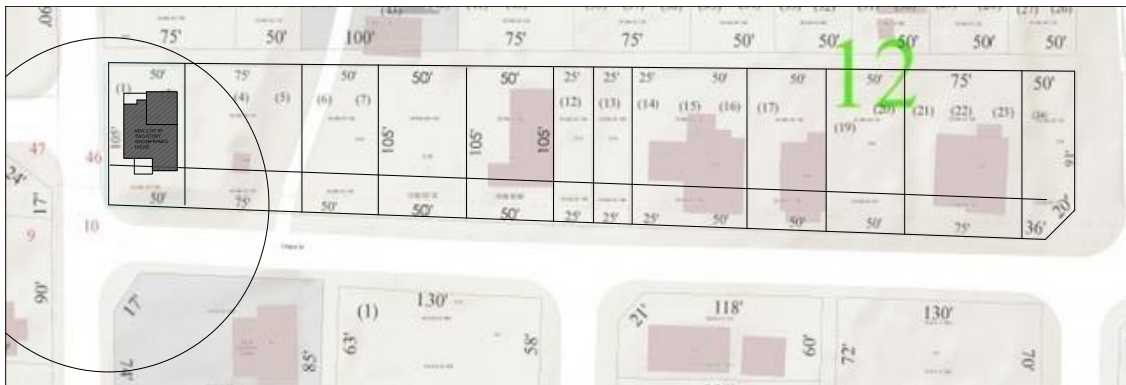
2. The proposed new home is of modest size and is comparable to the other homes on the block face. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.

3. The proposed new home is of modest size and is comparable to the other homes on the block face. 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.

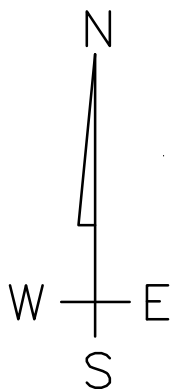
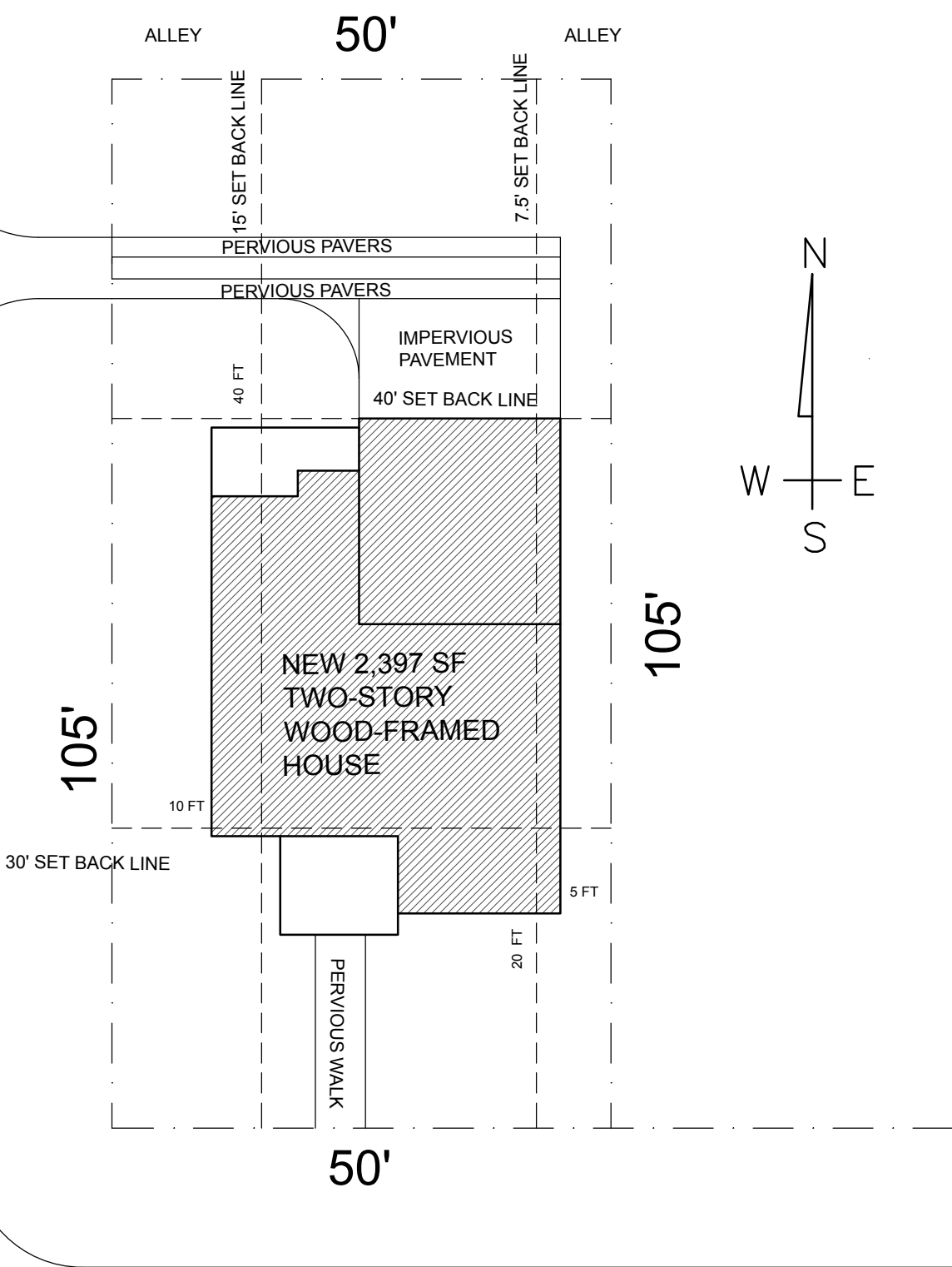
4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship by prohibiting a modest new home that is comparable to the other homes on the block face.

5. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text by preserving the historic use and scale of the surrounding neighborhood.

Note that the proposed building foot print shown in black in the below image is consistent in size and setbacks with the other buildings on that same block face. Property lines and the minimum front yard setback line are shown.



3RD AVE



SIDING SHALL BE CEMENT FIBER BOARD AND ROOF SHALL BE ARCHITECTURAL SHINGLES

2 ELEVATIONS
Scale: 1" = 16'-0"

TIER II SCOTTSDALE OVERLAY ZONING IN DEKALB COUNTY			
	REQUIRED	EXISTING	PROPOSED
MIN. LOT SIZE	5,000 SF	5,250 SF	SAME
MIN. LOT WIDTH	50 FT	50 FT	SAME
CORNER YARD	15 FT	NA	10 FT
FRONT YARD	30 FT***	NA	20 FT
SIDE YARD	7.5 FT	NA	5 FT
REAR YARD	40 FT	NA	40 FT
MAX. HEIGHT	32 FT	NA	32 FT
MAX. IMPERVIOUS SURFACE	35% (1,838 SF)	NA	35%(1,838 SF)

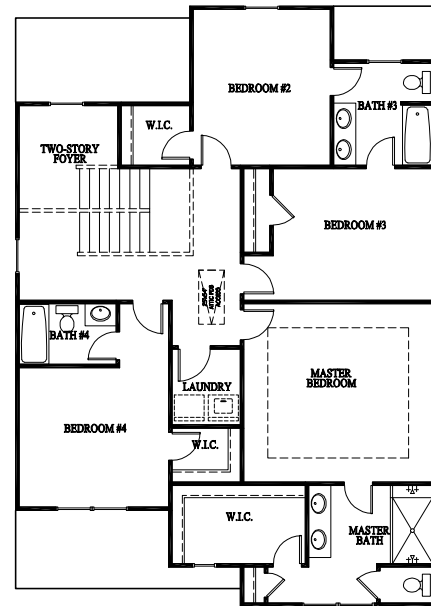
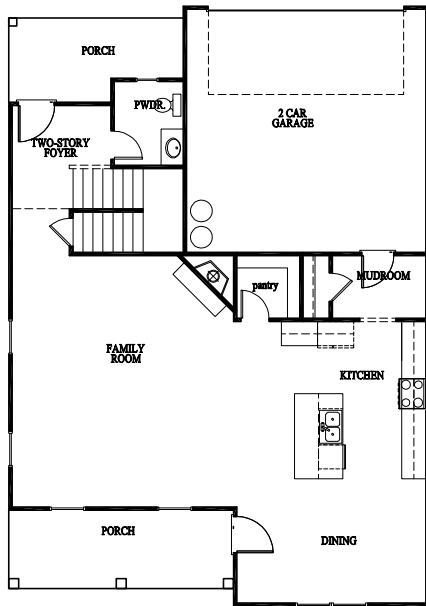
1 SITE PLAN
Scale: 1" = 16'-0"

PROJECT NO:
2020-1
CHAPEL ST HOUSE
3152 CHAPEL ST
SCOTIDALE, GA 30079

Revision
1.19.2021

NEW SITE PLAN

S.2
ISSUE: NOT RELEASED FOR CONSTRUCTION



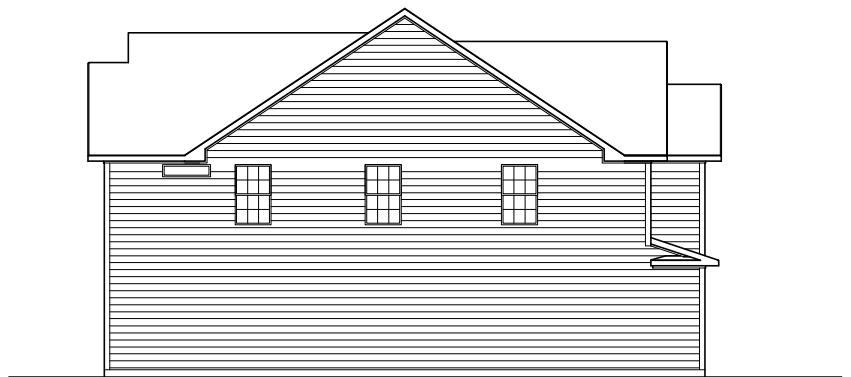
front elevation (north)



right elevation (east)



rear elevation (south)



left elevation (west)

AREAS (HEATED)	
1st FLOOR	1080 SF
2nd FLOOR	1345 SF
TOTAL	2425 SF
AREAS (UNHEATED)	
GARAGE	- SF
BASEMENT	- SF
PORCH	- SF
	- SF

CONCEPT PLAN 3152 CHAPEL ST 35'W x 46' D



The maps and data, combined on DeKalb County's Geographic Information System (GIS) are subject to constant change. While DeKalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. DeKalb County explicitly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall DeKalb County be liable for any special, indirect, or consequential damages whatsoever resulting from loss of use, data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data herein provided. The maps and data are for illustration purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific decision-making nor should it be construed or used as a legal description. The areas depicted by maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.





Western side of the 1352 Chapel St. along 3rd Avenue



Southern side of 1352 Chapel St. along Chapel Street

Staff site visit to 1352 Chapel Street



Nearby corner lot developed to comply with the setbacks,
375 Creighton Avenue



Nearby corner lot developed to comply with the setbacks,
374 Creighton Avenue

Staff site visit to 1352 Chapel Street