



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



**Wednesday, July 14, 2021 at 1:00 PM**

**Planning Department Staff Analysis**

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**D4 Case No: A-21-1244917 Parcel ID(s): 18-106-10-002**

**Commission District: 02 Super District 06**

**Applicant:** Mel & Daliah Cohen  
1016 Burton Drive Northeast  
Atlanta, GA 30329

**Owner:** Same as the applicant

**Project Name:** 1016 Burton Drive

**Location:** The property is located west of Burton Drive, at 1016 Burton Drive Atlanta, GA 30329.

**REQUEST:** Variance from Chapter 27- 2.2.1. - Dimensional requirements of the DeKalb County Zoning Ordinance increase the maximum allowed lot coverage from 35% to 44% for a proposed rear addition, relating the R-85 zoning district.

**Staff Recommendation:** "Denial"

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## **STAFF FINDINGS:**

### **Variance Analysis:**

The subject property is currently developed with a detached, two-story, single-family structure. The property is located within the R-85 zoning district. Per Chapter 27-2.2 Division 2- Residential Zoning Districts: Dimensional Requirements of the *DeKalb County Zoning Ordinance*, the minimum lot area for R-85 zoned properties is 12,000 square feet, and the minimum lot width is 85 feet. Based on the submitted site plan, the subject property has a lot size of approximately 12,096 square feet, a lot width of approximately 60 feet which appears to be legal non-conforming due to its lot width.

The applicant is requesting a variance to increase the maximum allowed lot coverage from 35% to 44%. Per Chapter 27- 2.2.1. - Dimensional requirements of the *DeKalb County Zoning Ordinance*, the maximum allowed lot coverage for lots within the R-85 zoning district is 35%. The applicant is proposing to construct a sunroom and wooden deck addition over a portion of an existing concrete pad.

Based on the submitted materials, the existing two-story home contains a basement. The main floor (1<sup>st</sup> Level) contains two sliding glass doors leading to a deck. The applicant would like to tear down the existing deck and rip up a portion of the existing concrete pad as well as extend the basement out towards the backyard and build a patio on top of that extension. This proposed renovation will maintain its current lot coverage of 44%.

Based on the submitted materials, it appears that the request variance may not meet the criteria 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 in the same zoning district since the property contains a significant number of impervious surfaces.

**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:**

It appears granting this variance may go beyond the minimum necessary to afford 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. While other lots along the street maybe narrow, the majority of them conform to the lot area requirement per the R-85 zoning district.

**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:**

The requested variance may 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 since there was no plan to reduce potential stormwater run-off.

**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 and unnecessary hardship.

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

It appears that the requested variance may be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan.

**FINAL STAFF ANALYSIS:**

The strict application of the requirements of this chapter may not deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district since the property contains a significant number of impervious surfaces.. Therefore, the Department of Planning and Sustainability recommends that this application be denied.



DeKalb County  
GEORGIA

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 MEL & DALIAH COHEN

Mailing Address: 1016 Burton Dr NE

City/State/Zip Code: Atlanta, GA 30329

Email: RABBI COHEN@GMAIL.COM

Telephone Home: (904) 655-7809 Business: (404) 982-0800 Fax No.: \_\_\_\_\_

**OWNER OF RECORD OF SUBJECT PROPERTY**

Owner: \_\_\_\_\_

Address (Mailing): \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone Home: \_\_\_\_\_ Business: \_\_\_\_\_ Fax No.: \_\_\_\_\_

**ADDRESS/LOCATION OF SUBJECT PROPERTY**

Address: 1016 Burton Dr, NE City: Atlanta State: GA Zip: 30329

District(s): 18 Land Lot(s): 10610 Block: 002 Parcel: 18 106 10 002

District(s): \_\_\_\_\_ Land Lot(s): \_\_\_\_\_ Block: \_\_\_\_\_ Parcel: \_\_\_\_\_

District(s): \_\_\_\_\_ Land Lot(s): \_\_\_\_\_ Block: \_\_\_\_\_ Parcel: \_\_\_\_\_

Zoning Classification: R-85 Commission District & Super District: 2-6

**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.)
- OFFICIALS APPEALS OF ADMINISTRATIVE DECISIONS.

**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: 5/3/21

Applicant:   
Signature

DATE: 5/3/21

Applicant:   
Signature

Mel (aka Meir) and Daliah Cohen  
1016 Burton Dr. NE  
Atlanta, GA 30329

Dear Dekalb County Zoning Board of Appeals,

This letter serves as the letter of intent towards our VARIANCE request for the property we own and live on in Dekalb County: 1016 Burton Dr., Atlanta, GA 30329. We are requesting to do a renovation that would keep the current impervious percentage at 44%, which is an increase of 9% from the allowable 35%.

This property is a two-story home with a basement. The main floor contains two sliding glass doors leading to a deck. Due to our property being set on a hill sloping down from the front of the property to the backyard, the main floor deck is suspended one story high. The hill slope also means that the basement on the property opens into the back of the house with a sliding glass door directly to the backyard, under the main floor deck. There is a concrete block and a retention wall in this area outside the basement back door.

Both the wooden deck/stairs and the concrete pad are in desperate need of replacement due to their current condition. We would like to tear down the deck and rip up the concrete pad. In their stead, we would like to extend the basement out towards the backyard and build a patio on top of that extension. The basement extension will be totally enclosed. The patio will have half of it covered by a roof and walled with screens. The other half will be open. This renovation will add 3 ft<sup>2</sup> to the total impervious area on our property, keeping it at 44% of impervious area.

This addition would be incredibly helpful and useful to our family. We have 5 children and are expecting our first grandchild this year. We would like to make our home a central place for family gatherings. The extended basement would allow for a playroom for our grandchildren and comfort when our family visits (which often includes our parents as well). The covered patio would allow us to enjoy the beautiful outdoors of Atlanta, GA the entire year, regardless of weather conditions.

Enclosed in this application are the following documents:

- Photos showing the overview of the deck/stairs, concrete pad, and backyard.
- Photos showing the condition of the deck/stairs and concrete pad.
- GeoTerra USA land survey.
- One Point site plan for the new project showing the impervious calculations and the overlay of the new project.
- Renderings of what the new structure will look like.

We feel we are justified in asking for this variance for the following reasons:

1. We have a narrow-shaped lot that slopes downward. Based on research we conducted, there have been no previous variances. We bought the house and moved in 3 years ago with all current structures in place. We need to replace the current structures due to their condition. The proposed renovation will keep this space useful, aesthetically pleasing and in-line with how our neighborhood looks.
2. The house was built in 1997. There have been no issues as relates to flooding, water flow, etc. As the site plan attests, the replacement structure will not cause any issues, nor is it a grant of special privilege.

3. The structure we are proposing will make the area useful to us and beautiful to our neighborhood. It will not be detrimental or injurious – in fact, quite the opposite.
4. Based on the narrow shape and slope of our property, and the fact that all structures already existed at the time of our purchase, there are very few options available to us for this space, and it would cause undue hardship to apply the strictest implementation of the allowable impervious amount.
5. Our neighbor has a similar plan. All homes in our immediate sightline have a deck coming off the main floor. This request is consistent with spirit and purpose of this chapter and DeKalb County Comprehensive Plan.

We thank you in advance for your consideration. Allowing this variance would enable our family to enjoy the beauty of DeKalb County for many years to come.

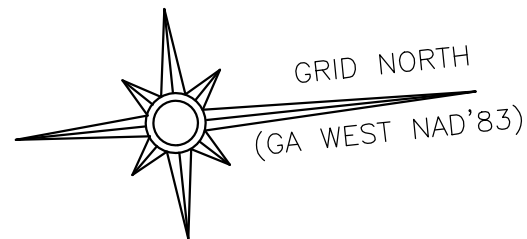
Sincerely,

Mel (aka Meir) Cohen

Daliah Cohen

**NOTES:**

1. The public records referenced on this plat were used for the establishment of the boundary of this property. They are not and do not constitute a title search. This plat is subject to all legal easements, right-of-ways, and covenants public and private.
2. This plat or survey is intended for the sole use of the parties listed hereon, any other use is strictly prohibited.
3. The basis of bearing is Georgia State Plane, North American Datum 1983 (NAD'83), Georgia West Zone.



AREA RESERVED FOR CLERK OF SUPERIOR COURT STAMP

**ZONING NOTES:**

PER THE DEKALB COUNTY GIS ZONING MAP THIS PROPERTY IS ZONED "R-85" (RESIDENTIAL MEDIUM LOT DISTRICT).

**SETBACKS:**

FRONT YARD: 35 FEET.  
SIDE YARD: 8.5 FEET.  
REAR YARD: 40 FEET.

N/F  
BAHRAM PANBEHCHI  
DB 16342 PG 535

N/F  
MEL A. COHEN  
& DALIAH M. COHEN  
DB 26959 PG 452

PART OF LOT 16  
BLOCK B  
BILTMORE ESTATES  
PB 22 PG 126

N/F  
CHRISTOPHER L GAYDOS  
AND LAURA M. GAYDOS  
DB 20987 PG 483

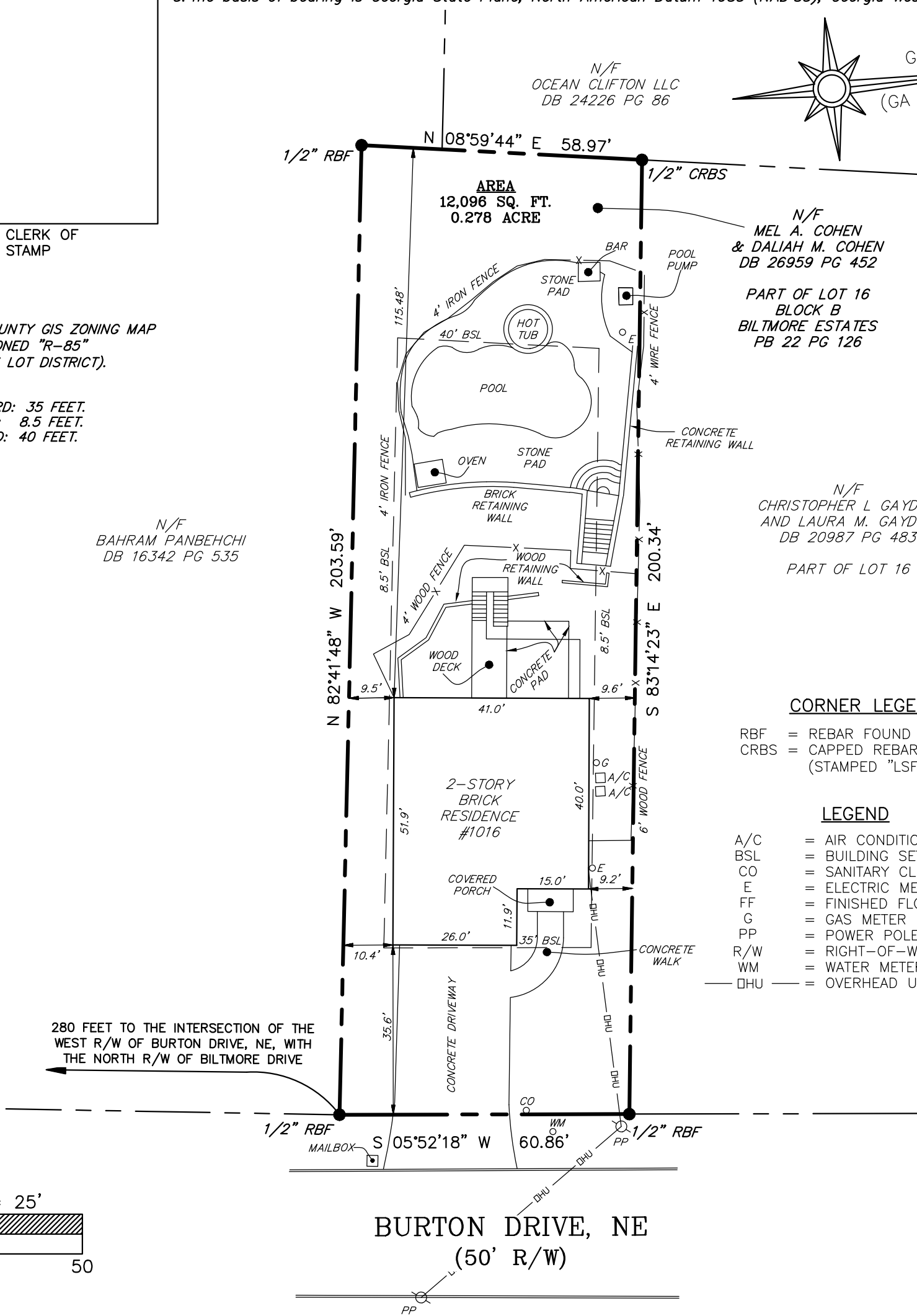
PART OF LOT 16

**CORNER LEGEND**

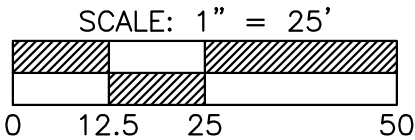
RBF = REBAR FOUND  
CRBS = CAPPED REBAR SET  
(STAMPED "LSF 1283")

**LEGEND**

A/C = AIR CONDITIONING UNIT  
BSL = BUILDING SETBACK LINE  
CO = SANITARY CLEANOUT  
E = ELECTRIC METER  
FF = FINISHED FLOOR ELEVATION  
G = GAS METER  
PP = POWER POLE  
R/W = RIGHT-OF-WAY  
WM = WATER METER  
DHU = OVERHEAD UTILITY LINE



280 FEET TO THE INTERSECTION OF THE WEST R/W OF BURTON DRIVE, NE, WITH THE NORTH R/W OF BILTMORE DRIVE



BURTON DRIVE, NE  
(50' R/W)

**CLOSURE:**

Error of Closure Plat: 1 / 143,543  
Error of Closure Field: 1 / 10,171  
Angular Error: 24.7"  
Adjusted by: Compass Rule  
Field Date: January 20, 2021  
Plat Date: February 17, 2021  
Rev. Plat Date: February 24, 2021  
(Add Impervious Areas)

**EQUIPMENT:**

- Trimble 5600 Total Station
- Trimble R10 GPS unit
- Trimble TSc3 Data Collector
- Trimble VRS Network

**CERTIFICATION:**

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

*Karie L. Colburn*  
KARIE L. COLBURN, GAPLS #2963

02/24/2021  
DATE



Boundary Survey  
for  
**MEL A. COHEN**

**PART OF LOT 16  
BLOCK B  
BILTMORE ESTATES  
PB 22, PG 126**

**Land Lot 106, 18th District  
DeKalb County, Georgia  
GeoTerra USA, LLC**

760 Old Roswell Road, Suite 240  
Roswell, Georgia 30076  
kcolburn@geoterrausa.net  
678-697-7044

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