

**RECEIVED**

By Howard Johnson at 4:42 pm, Feb 21, 2023



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 Robert Gunnison

Mailing Address: 702 Highland Ave NE

City/State/Zip Code: Atlanta GA 30312

Email: Bob@stoneyriverhomes.com

Telephone Home: \_\_\_\_\_ Business: 770 616 1356

**OWNER OF RECORD OF SUBJECT PROPERTY**

Owner: Stoney River Construction S.E. Inc.

Address (Mailing): PO Box 2507 Decatur GA 30031

Email: Bob@stoneyriverhomes.com

Telephone Home: \_\_\_\_\_ Business: 770 616 1356

**ADDRESS/LOCATION OF SUBJECT PROPERTY**

Address: 3214 McHenry Ave City: Scottdale State: GA Zip: 30079

District(s): 18 Land Lot(s): 046 Block: 02 Parcel: 031

Zoning Classification: R75-Tier 2 Scottdale Overlay Commission District & Super District: 4/6

**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.)
- ☐ **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: 2/20/23

Applicant:   
Signature Robert Cavanis

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: 2/20/23

Applicant/Agent: Robert Annison  
Signature

TO WHOM IT MAY CONCERN:

(I)/ (WE) [Signature]  
(Name of Owners)

Robert Annison / Stacy River Construction LLC

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

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner

## Letter of Intent

### Introduction to Variance Request for 3214 McHenry Ave., Scottsdale 30079

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We are requesting a variance to the Scottsdale Overlay ordinance Sec. 3.36.11. B.2 - Landscaping Requirements:

*Collector and local streets:* Five-foot-wide landscape strip located between the curb and sidewalk

The landscape and sidewalk ordinances require two items between the back of the curb and the property line on any lot in the Scottsdale Overlay Tier 2:

- 1) a five foot landscape strip
- 2) a five foot sidewalk

The right-of-way in front of the subject property, 3214 McHenry Ave., is 7.985 feet (back of the curb to the front property line).

As the right-of-way is only 7.985 feet between the back of the curb and the property line at the subject property, it is impossible to meet both the landscape strip and sidewalk requirements. We will fulfill the sidewalk requirement with a new sidewalk that is the full five feet. Hence, we will request a variance from the required five foot landscape strip of 2.015 feet so the resulting landscape strip will be 2.985 feet.

It is important to note we did not create this situation as the right-of-way has been in existence since McHenry Ave. was established many years ago. If the right-of-way was ten feet, we would gladly install both a five foot sidewalk and five foot landscape strip.

Few streets in the Scottsdale neighborhood have a sufficient right-of-way to successfully accommodate both the five foot landscape strip and the five foot sidewalk. If the area was a new subdivision, both five foot requirements would not be an issue. However, laying an ordinance such as Sec.3.36.11.B.2 over an older established neighborhood that was not built with sufficient right-of-ways for the five and five ordinance creates a situation where we cannot achieve what the ordinance requires. There simply is not enough land in the right-of-way at the subject property.

We recently identified seventeen newly constructed homes in Tier 2 in which do not meet both of the landscape and sidewalk requirements (see list on page 2). These homes have sidewalks (either four or five feet wide) which makes the neighborhood better off because there are now sidewalks where there had not been previously.

1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), 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, as distinguished from a special privilege or convenience sought by the property owner.

We did not create the design, nor did we install in any way shape or form the street/right-of-way layout in this Tier 2 area of the Scottdale neighborhood. We had nothing to do with any of the right-of-way construction or design as it was done before “our time” as this is an older Neighborhood.

This variance has nothing to do with the actual lot located at 3214 McHenry Ave. It has to do with the right-of-way infrastructure where we have no ownership interest. The strict application of the above mentioned ordinance to which this variance applies will certainly deprive us of rights and privileges of any other property owner who has an existing home and therefore is not required to install a sidewalk or landscape strip. That is because if the variance is not approved we would either (1) not be able to build on the lot or (2) we would have to deed part of the lot to DeKalb County to be able to accommodate both the five foot landscape strip and sidewalk.

We can and will supply the required five foot sidewalk which will benefit the neighborhood. We can only supply a landscape strip of 2.985 feet which is not extraordinary from the list of new home landscape strips we have identified below. All homes listed below were approved and permitted by DeKalb County.

ADDRESS	WIDTH OF LANDSCAPE STRIP	WIDTH OF SIDEWALK
3197 Cedar St	2'3"	4'
3191 Cedar St	2'2"	4'
3183 Cedar St	1'9"	4'
334 3rd Ave	3'1"	5'
3232 Cedar St	0' (sidewalk at curb)	5'
3238 Cedar St	0' (sidewalk at curb)	5'
330 7th Ave	4'7"	5'
321 7th Ave	3'	4'
320 7th Ave	2' (on Walnut St)	5'
353 Marigna	0' (sidewalk at curb)	5'
364 7th Ave	5'	4'
360 7th Ave	5'	4'
356 7th Ave	5'	4'
352 7th Ave	4'	4'
Kelly St (under construction)	3'	5'
3228 Robinson Ave	2'	5'
3234 Robinson Ave	3'	5'

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 does not go beyond the minimum necessary to afford relief and does not grant any special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.

The requested variance requests the maximum available land for the proposed landscape strip within the existing right-of-way for the subject property. As stated previously there is only 7.985 feet within the existing right-of-way and there is no way any additional land can be created to widen this existing right-of-way. We can install the five foot sidewalk, thereby complying with the sidewalk ordinance and bettering the neighborhood where a sidewalk did not previously exist but we can only make the landscape strip 2.985 feet as that maximizes the total use of the existing right-of-way.

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 granting of the variance will not be detrimental to the neighborhood in any way. In fact, it will allow a 2.985 foot landscape strip and five foot sidewalk where now there are only weeds. The granting of the variance will be a benefit to the neighborhood.

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

Yes, the literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause significant undue and unnecessary hardship to us as the owners and developers of this proposed project to construct a new single family home. We would have to either deed property over to DeKalb County which would not only diminish the size of this legal lot of record, but it would force us to adversely alter the design of our house plan.

If the variance is not approved, it would render the lot unbuildable or we would have to deed part of the lot to DeKalb County to accommodate both the five foot landscape strip and five foot sidewalk. Either solution, not being able to build or deeding property to the County, creates an unnecessary hardship due to the application of this ordinance.

5. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

This area of Scottdale is designated as Traditional Neighborhood land use in the 2050 DeKalb County Comprehensive Plan. We are proposing a new single family home which is consistent with the Comprehensive Plan and Traditional Neighborhood land use. This variance request, if granted, has no adverse effect on the proposed house plan for the subject property and complies with the installation of a five foot sidewalk thereby enhancing the beauty of the neighborhood.

Debra DeBerry  
Clerk of Superior Court  
DeKalb County, Georgia

**EXHIBIT "A"**

Legal Description

All that tract or parcel of land lying and being in Land Lot 46 of the 18th District of DeKalb County, Georgia, being Lots 7 and 8 in Block 16 of the Meadowbrook Subdivision, and more particularly described as follows:

Beginning at a point on the north side of McHenry Avenue one hundred fifty (150) feet, more or less, east of the northeast corner of McHenry Avenue and Reed Street; running thence east along the north side of McHenry Avenue fifty (50) feet, more or less; thence north one hundred five (105) feet more or less; thence west fifty (50) feet, more or less; thence south one hundred five (105) feet, more or less, to the north side of McHenry Avenue and the point of beginning.

Address (for information only): 3214 McHenry Avenue, Scottdale, GA 30079



TREE SAVE STATUS:

INDICATES TREE  
TO BE REMOVED

BMP W.Q. DEVICE

NEW DOWNSPOUT  
COLLECTORS (TYP) AS  
NEEDED TO DIRECT ROOF  
RUNOFF TO UNDERGROUND  
CHAMBER SYSTEM

\*LESS THAN 60% OF OTHER LOTS ON  
THE SAME BLOCK FACE ARE OCCUPIED  
BY SINGLE FAMILY DETACHED DWELLINGS,  
FRONT AVERAGING DOESN'T APPLY

INDICATES Sd1 TYPE S SILT FENCE  
INDICATES Sd1 TYPE Hb HAYBALES  
INDICATES TREE PROTECTION FENCE  
INDICATES Sd2 TYPE F SEDIMENT CONTROL  
A TEMPORARY PROTECTIVE DEVICE  
FORMED AT OR AROUND AN INLET TO  
A STORM DRAIN TO TRAP SEDIMENT.

EXISTING HOUSE  
FFE MAIN N/A

WATERS OF THE STATE DO  
EXIST WITHIN 200' OF THE  
PROJECT SITE  
INDIAN CREEK BASIN

INDICATES PROPOSED CONTOURS

INDICATES EXISTING CONTOURS

PARCEL ID 18 046 02 031

SSMH1  
TOP=973.24  
SSMH2  
TOP=965.05  
INV IN=956.45  
INV OUT=955.45  
SSMH3  
TOP=961.76  
INV IN=953.16  
INV OUT=953.06  
SSMH4  
TOP=949.82  
INV IN=941.22  
INV OUT=941.12  
MH1  
TOP=964.87  
INV IN=959.27  
INV OUT=959.17  
MH2  
TOP=964.60  
INV IN=957.90  
INV OUT=957.70

GRADE TO DRAIN AWAY FROM  
FOUNDATION - 2% AND GRADING  
CANNOT ADVERSELY AFFECT EXISTING  
DRAINAGE PATTERNS AT PROPERTY LINE

100 YEAR FLOOD LINE AT  
ELEVATION - 949.00  
AS PER FEMA MAPS

PROPOSED SL, CO, WL & GL  
TO BE INSTALLED

PROPOSED CONC  
DRIVEWAY WITH 3' WIDE  
27.5' LONG GRASS STRIP  
SLOPE 7.3%

LIMITS OF  
DISTURBANCE

NEW 4" UNDERGROUND ROOF  
DRAIN PIPING (TYP) INSTALLED  
AT 2% MINIMAL SLOPE

ALL DISTURBED AREAS

PARCEL ID 18 046 02 036

LIMITS OF  
DISTURBANCE

Williams Elizabeth  
PARCEL ID  
18 046 02 030  
ZONING R-75

PROPOSED  
2-STORY HOUSE  
FFE MAIN 968.00  
BLDG. HEIGHT 26.50'  
ONE CAR GARAGE  
GARAGE FACADE IS 29%  
OF HOUSE FACADE

PARCEL ID 18 046 02 032  
ZONING R-75

288.86' ALONG R/W TO R/W  
OF NORTH DECATUR ROAD  
(IF R/W EXTENDED)

PROPOSED 2.985'  
LANDSCAPE STRIP  
AND 5' SIDEWALK

28"HW TREE 28'R  
NET CRZ Area: 2463.01 SF  
IMPACTED Area: 60.88 SF  
PERCENT OF IMPACT =2.5%  
OF NET CRITICAL ROOT ZONE  
TREE TO BE SAVED

40"POND CYPRESS TREE 32'R  
NET CRZ Area: 3216.99 SF  
IMPACTED Area: 27.92 SF  
PERCENT OF IMPACT =0.8%  
OF NET CRITICAL ROOT ZONE  
TREE TO BE SAVED

13"SUGARBERRY TREE 13'R  
NET CRZ Area: 530.93 SF  
IMPACTED Area: 18.03 SF  
PERCENT OF IMPACT =3.4%  
OF NET CRITICAL ROOT ZONE  
TREE TO BE SAVED

40"PN TREE 40'R  
NET CRZ Area: 4406.65 SF  
IMPACTED Area: 854.89 SF  
PERCENT OF IMPACT =19.4%  
OF NET CRITICAL ROOT ZONE  
TREE TO BE SAVED



IF YOU DIG GEORGIA...  
CALL US FIRST  
1-800-282-7411  
770-623-4344  
(METRO ATLANTA ONLY)  
UTILITY PROTECTION CENTER  
IT'S THE LAW

0 20  
SCALE 1" = 20'

TOTAL LAND AREA  
5250.00 SF / 0.120 AC  
LOT SIZE VERIFIED PER TITLE WORK  
ALLOWABLE IMPERVIOUS AREA  
1837.50 SF / 0.042 AC / 35%  
PROPOSED IMPERVIOUS AREA  
1821.44 SF / 0.042 AC / 34.69%  
(SEE PAGE 3 FOR BREAKDOWN)  
HOUSE SIZE  
2356 SF  
DISTURBED AREA  
3790.52 SF / 0.087 AC

NOTE A  
UNABLE TO FIELD VERIFY AT THE  
TIME OF SURVEY EXACT PIPE  
LOCATION WITHOUT EXCAVATION

FOR IMPERVIOUS CALCULATION  
NOTE - THIS IS A TWO STORY  
HOUSE SO IMPERVIOUS FOR THE  
FOOTPRINT WILL BE DIFFERENT  
THAN THE SQUARE FOOTAGE  
SHOWN FOR THE HOUSE

LOT 7, 8	BLOCK 16
MEADOWBROOK SUBDIVISION	UNIT
LAND LOT 46	18TH DISTRICT SECTION
DEKALB COUNTY, GEORGIA	DB.29312/PG.222 DB.29298/PG.514
FIELD WORK DATE AUGUST 02, 2022	PRINTED/SIGNED AUGUST 28, 2022
ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED	PAPER SIZE: 17" x 22"

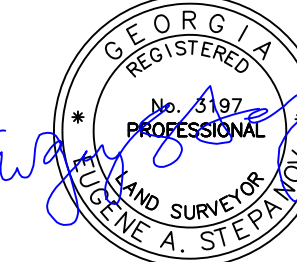
AM  
COORD #20221455  
DWG #20221455

SURVEY LAND EXPRESS, INC  
LAND SURVEYING SERVICES

24 LENOX POINTE  
ATLANTA, GA 30324  
FAX 404-601-0941  
TEL 404-252-5747  
INFO@SURVEYLANDEXPRESS.COM

VARIANCE PLAN PREPARED FOR: SHEET 1 OF 1  
STONEY RIVER CONSTRUCTION

PROPERTY ADDRESS:  
3214 MCHENRY AVENUE  
SCOTSDALE, GA 30079



IN MY OPINION, THIS PLAN IS A CORRECT REPRESENTATION  
OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY  
WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.



2/15/23

To: Dekalb County Zoning Review Board

Project: 3214 McHenry Ave.

Ref: Variance to reduce the required landscape strip in the ROW

I support Stoney River Homes in their application to reduce the landscape strip from 5 feet to 2.985 feet so that the required 5 foot sidewalk and this amount of landscaping will fit within the existing County ROW since its clearly impossible for the 5 foot sidewalk and 5 foot landscape strip required by the ordinance to fit into less than 10 feet of space.

See attached site plan. Thank you.

Margaret Hund

3210 McHenry St