



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, December 12, 2018 at 1:00 PM**

**Planning Department Staff Analysis**

**N.3 Case No: A-18-1242969 Parcel ID(s): 18-105-02-120**

**Commission District: 02 Super District 06**

**Applicant:** Jason Patsios C/O Julie Sellers  
Pursley Friese Torgrimson, LLP  
1230 Peachtree Street Northeast, Suite 1200  
Atlanta, GA 30309

**Owner:** Gretchen Patsios  
2381 Drew Valley Road  
Brookhaven, GA 30319

**Project Name:** 1169 Biltmore Drive

**Location:** The property is located on the eastside of Biltmore Drive, approximately 199 feet west of Rogeretta Drive, at 1169 Biltmore Drive Northeast, Atlanta, Georgia.

**REQUEST:** Variance from Section 27-5.2.1 of the DeKalb County Zoning Ordinance to reduce the average front yard setback from 35.79 feet to 15 feet, relating to the R-85 zoning district.

**Staff Recommendation:** **“APPROVAL” based on the submitted site plan received on November 8, 2018 with condition that the proposed garage shall not comprise more than forty-five (45) percent of the total width of the proposed single family detached residence's front façade, and shall be at least two (2) feet behind the primary front façade plane of the proposed single-family detached residence.**

**STAFF FINDINGS:**

**Table 1: Surround Zoning and Land Use**

	<b>Adjacent Zoning</b>	<b>Adjacent Land Use</b>
North	R-85	Detached single family homes
East	R-85	Detached single family homes
South	R-85	Detached single family homes
West	R-85	Detached single family homes
Northeast	R-85	Detached single family homes
Northwest	R-85	Detached single family homes
Southeast	R-85	Detached single family homes
Southwest	R-85	Detached single family homes
Street Type		Local Street

Site Location: The property is located on the eastside of Biltmore Drive, approximately 199 feet west of Rogeretta Drive, at 1169 Biltmore Drive Northeast, Atlanta, Georgia. The site is zoned R-100 and is currently vacant. The property Biltmore Drive and is classified as a local street.

Variance request: The applicant is requesting a variance request from Section 27-5.2.1 of the DeKalb County Zoning Ordinance to reduce the average front yard setback from 35.79 feet to 15 feet, relating to the R-85 zoning district.

Variance Analysis: Based on the submitted survey, the site has 96.69-feet of street frontage along Biltmore Drive. The total lot area is 11,959 square feet. The R-85 zoning district requires 85-feet of frontage along a public street and a minimum lot area of 12,000 square feet which does not meet the requirements but appears to be legal non-conforming. In addition, the applicant is proposing a 1,258.345 square foot home however the required minimum unit size for the R-85 zoning district is 1,800 square feet (this was observed by staff after legal advisement and will require its' own separate variance) which does not comply with the minimum standards.

Based on the submitted site plan, the applicant seeks to improve the property by building a single-family home. Per the applicant, the property remains vacant due to multiple site constraints that limit the total buildable area on the property. First, the lot is essentially bisected by a 10-foot sanitary sewer easement. Second, the Southfork Peachtree Creek tributary creek is located towards the rear of the property. Therefore, when applied together, these issues will make the property unbuildable with only 22,506 square feet available for building.

Base on the submitted materials and site visit, it appears due to the severe restrictions and limited buildable area, the applicant requests pose a significant hardship therefore meets the criteria for approval, based on the following findings.

**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:**

Based on the submitted materials, it appears 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 since this lot is legal non-conforming and is smaller than other surrounding lots with a creek, resulting the uniqueness of design constraints.

**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 materials, it appears that 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 since the applicant is proposing a smaller home (1,258 square feet) and the minimum necessary to afford relief from a hardship caused by the stream buffers, and sanitary sewer easements.

**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, 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:**

Based on the submitted materials, it appears that the literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an undue and unnecessary hardship due to the location of the 10-foot sanitary sewer easement and the Southfork Peachtree Creek located toward the rear of the property.

**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 would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

**FINAL STAFF ANALYSIS:**

Based on the submitted materials, it appears that the literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an undue and unnecessary hardship due to the location of the 10-foot sanitary sewer easement and the Southfork Peachtree Creek tributary creek located towards the rear of the property. Therefore, the Department of Planning and Sustainability recommends that the application be "Approved".

**STAFF RECOMMENDATION:** "APPROVAL" based on the submitted site plan received on November 8, 2018 with condition that the proposed garage shall not comprise more than forty-five (45) percent of the total width of the proposed single family detached residence's front façade, and shall be at least two (2) feet behind the primary front façade plane of the proposed single-family detached residence.