



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, September 12, 2018 at 1:00 PM

Planning Department Staff Analysis

N.7 Case No: A-18-1235150 Parcel ID(s): 16-016-05-005

Commission District: 02 Super District 06

Applicant: Gail Mooney or Stacey Rainwater
2156 West Park Court, Suite D
Stone Mountain, GA 30087

Owner: Theory Homes LLC, Peter MacMaster
3324 Peachtree Road Northeast, Unit 2710
Atlanta, GA 30326

Project Name: 2661 Clairmont Road

Location: The property is located on the eastside of Clairmont Road, about 100-feet north of Audubon Drive at 2661 Clairmont Road.

REQUEST: Variance request from Section 27-2.2.1 of the DeKalb County Zoning Ordinance to reduce the front yard setback from 35-feet to 26-feet and side yard setback from 10-feet to 6.5-feet for a second story addition to an existing legal non-conforming residential structure, relating to the R-100 zoning district.

Staff Recommendation: **“APPROVAL” based on the submitted site plan received on August 2, 2018**

STAFF FINDINGS:

Table 1: Surround Zoning and Land Use

	Adjacent Zoning	Adjacent Land Use
North	R-100	Detached single family homes
East	R-100	Detached single family homes
South	R-100	Detached single family homes
West	R-100	Detached single family homes
Northeast	R-100	Detached single family homes
Northwest	R-85	Undeveloped
Southeast	R-100	Detached single family homes
Southwest	R-85	Detached single family homes
Street Type	Major Arterial & Local Street	

Site Location: The property is located on the eastside of Clairmont Road, about 100-feet north of Audubon Drive at 2661 Clairmont Road. The site is zoned R-100 and is currently developed. The property fronts Clairmont Road and is classified as a Major Arterial street and Audubon Drive which is classified a local street.

Variance request: The applicant is requesting a variance request from Section 27-2.2.1 of the DeKalb County Zoning Ordinance to reduce the front yard setback from 35-feet to 26-feet (fronting Audubon Drive) and side yard setback from 10-feet to 6.5-feet for a second story addition, relating to the R-100 zoning district.

Variance Analysis: Based on the submitted materials, the applicant is requesting to reduce the front yard setback from 35-feet to 26-feet (fronting Audubon Drive) and side yard setback from 10-feet to 6.5-feet to add a second story an existing legal non-conforming residential structure. Per the tax records, the existing house was constructed in 1956; the same year DeKalb County adopted its first zoning ordinance in. The footprint of the first floor currently encroaches approximately 6.5-foot into the side yard setback.

The applicant has provided a detailed site plan showing the proposed second level structure being added to the existing legal non-conforming structure. The subject property currently has a front width of 100-feet along Clairmont Road and 190-feet along Audubon Drive. Based on the submitted materials, it appears that the requested variances meet 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, by reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions, which were not created by the owner or applicant, 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 the property is legal non-conforming. The house was originally constructed at an odd angle in relation to the property lines whereby home encroaching into side and front yard.

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 requested variances do not go beyond the minimum necessary to afford relief as the base footprint is not further expanding. Based on the submitted materials, it appears that the request does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district since proposed second story will meet all other applicable 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 variances would not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district since the subject property is surrounded by other legal non-conforming lots and residential structures.

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 since the proposed second story addition is being built on a legal non-conforming structure that does not meet the side and front yard setback requirements per the R-100 zoning district.

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 since the proposed second story addition is being built on a legal non-conforming structure which does not meet the side yard setback requirements per the R-100 zoning district. Therefore, the Department of Planning and Sustainability recommends that the application be "Approve".

STAFF RECOMMENDATION: "APPROVAL" based on the submitted site plan received on August 2, 2018