



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 11, 2019 at 1:00 PM

Planning Department Staff Analysis

D.1 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 20 feet, relating to the R-85 zoning district.

Staff Recommendation: **"APPROVAL"** based on the revised site plan received on August 9, 2019 and July 8, 2019.

STAFF FINDINGS:

Table 1: Surround Zoning and Land Use

	Adjacent Zoning	Adjacent Land Use
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 from Section 27-5.2.1 of the DeKalb County Zoning Ordinance to reduce the average front yard setback from 35.79 feet to 20 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, as a lot within an approved subdivision platted in 1980.

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 square feet available for building.

This request was heard at multiple Zoning Board of Appeals meetings but was previously heard at the June 12, 2018 Zoning Board of Appeals Meeting and was deferred for 60-days. The applicant was working with the County to create a survey of the existing sewer access easement that runs east and west along the property as well as seek possibilities of relocating the sewer access easement. The applicant was unsuccessful with relocating the sewer access easement, however, the applicant was able redesigned the plan to push the house back additional 5 feet from what was initially requested (15 feet) in hopes of support from the surrounding neighbors.

Based on the submitted materials and site visit, it appears due to the severe restrictions and limited buildable area, strict application of zoning standards impose a significant hardship therefore, applicant 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, and has unique design constraints caused by existing creek and a sewer easement.

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 and the minimum necessary to afford relief from a hardship caused by the stream buffers, and sanitary sewer easements. To ask for less reduction in front setback, applicant would need to proposed, a structure that fails to meet the minimum size required by 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:

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 structure complies with all other setbacks and zoning district standards.

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 revised site plan received on August 9, 2019 and July 8, 2019.