



DeKalb County Zoning Board of Appeals
Department of Planning & Sustainability
330 Ponce De Leon Avenue, Suite 300
Decatur, GA 30030



Michael L. Thurmond
Chief Executive Officer

Wednesday, November 13, 2019 at 2:00 PM

Planning Department Staff Analysis

N2 Case No: A-19-1243546 Parcel ID(s): 18-064-02-114

Commission District: 04 Super District 06

Applicant: Shea Embry
2221 Highview Road
Atlanta, GA 30311

Owner: Same as Applicant

Project Name: 3094 North Avenue

Location: The property is located on the north side of North Avenue, approximately 655 feet west of McLendon Drive, at 3094 North Avenue, Decatur, Georgia 30033.

REQUEST: Variance from section 27-8.1.4 of the DeKalb County Zoning Ordinance to allow a lot to be subdivided into three lots in compliance with the original 1946 Sunnyside Park Subdivision Plat..

Staff Recommendation: "Denial".

STAFF FINDINGS:

Table 1: Surround Zoning and Land Use

	Adjacent Zoning	Adjacent Land Use
North	R-75	Detached single family homes
East	R-75	Detached single family homes
South	R-75	Detached single family homes
West	MR-1	Multifamily
Northeast	R-75	Detached single family homes
Northwest	R-75	Detached single family homes
Southeast	R-75	Detached single family homes
Southwest	R-75	Detached single family homes
Street Type	Local Street	

Site Location: The property is located on the north side of North Avenue, approximately 655 feet west of McLendon Drive, at 3094 North Avenue, Decatur, Georgia 30033. The site is zoned R-75 and is surrounded by R-75 zoned properties to the north, east, and south. Directly west is MR-1. The subject property fronts North Avenue and is classified as a local street.

Variance request: The applicant is requesting a variance from section 27-8.1.4 of the DeKalb County Zoning Ordinance to allow a lot to be subdivided into three lots in compliance with the original 1946 Sunnyside Park Subdivision Plat.

Variance Analysis: Based on the submitted materials, The property is approximately 26, 988 square feet and is currently developed with a one-story frame house (approximately 1,148 square feet) with accessory sheds and driveway. The subject lot has approximately 150 feet of frontage along North Avenue and is approximately 180 feet deep. The subject lot was originally platted for three 50' X 180' lots per the 1946 Sunnyside Park Subdivision Plat.

Based on the submitted platted, lots that are located north of the Sunnyside Park subdivision (along North Avenue and Murphy Street) are platted with frontages from 50 to 65 feet. Lots along North Avenue were platted with 50 foot frontages. Currently, there are seven lots total that have frontage from 50 to 65 feet along North Avenue. Vast majority of lots within the Sunnyside Park subdivision do not comply with current street frontage and lot area requirements, per the R-75 zoning district.

Per section 8.1.4 of the DeKalb County Zoning Ordinance, if any contiguous lots of record held in common ownership do not meet the requirements established in this Code for street frontage, access requirements, lot width or lot size, then all of the contiguous lots of record held in common ownership shall be considered to be an undivided lot for the purpose of compliance with the provisions of this Code. However, due to the limitations of authority of the Zoning Board of Appeals this requested variance cannot be granted. Per section 7.5.5. of the DeKalb County zoning ordinance the Zoning Board of Appeals cannot reduce, waive or modify in any manner the minimum lot width unless the purpose is to reverse a lot merger. Also, the Zoning Board of Appeals cannot reduce, waive or modify in any manner the minimum lot area established by this chapter. The three platted lots will meet the lot width requirements of the Sunnyside Park subdivision however the area of each lot will need to conform to the minimum lot area

requirement of 10, 000 square feet as required per the R-75 zoning district. The three platted lots will have a total of 9,050 square feet each. Therefore, the requested variance does not 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:

As mentioned, the three platted lots will meet the lot width requirements of the Sunnyside Park subdivision however the area of the three subject lots will need to conform to the minimum lot area requirement of 10, 000 square feet as required per the R-75 zoning district. Therefore, the strict application of the requirements of this chapter would not deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.

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 and site visit, the requested variance does appear to go beyond the minimum necessary to afford relief since the applicant is seeking to restore the lots to their historic platted dimensions.

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:

Therefore, granting of the variance will be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property.

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 would no cause undue and unnecessary hardship for the applicant.

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:

As mentioned, the three platted lots will meet the lot width requirements of the Sunnyside Park subdivision however the area of the three subject lots will need to conform to the minimum lot area requirement of 10, 000 square feet as required per the R-75 zoning district. Therefore, the strict application of the requirements of this chapter would not deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district. Therefore, the Department of Planning and Sustainability recommends that the application be “denied”.

STAFF RECOMMENDATION: “Denied”