



Michael L. Thurmond

Chief Executive Officer

DeKalb County Zoning Board of Appeals
Department of Planning & Sustainability
178 Sams Street,
Decatur, GA 30030

Wednesday, December 11, 2024

Planning Department Staff Analysis



Cedric Hudson

Interim Director

D1. Case No: A-24-1247193

Parcel ID(s): 18 286 04 045

Commission District 01 Super District 07

Applicant: **Jesus Arroyo/Alfredo Jose**
3992 Evans Road
Atlanta, GA 30340

Owner: **Jesus Arroyo/Alfredo Jose**
3992 Evans Road
Atlanta, GA 30340

Project Name: **3992 Evans – Home Expansion**

Location: 3992 Evans Road, Atlanta, GA 30340

Request: Variance from Section 27-2.1.1 of the DeKalb County Zoning Ordinance to reduce rear yard setback to facilitate construction of home addition within the R-60 (Residential Medium Lot-60) zoning district.

Staff Recommendation: Approval with conditions

Condition: Applicant must list the case number, approval date, type of variance and all conditions on any site plans submitted for this property.

STAFF FINDINGS:

The applicant, Jesus Arroyo, is requesting a variance from Section 27-2.1.1 of the DeKalb County Zoning Ordinance to reduce the rear yard setback from 30 feet to 18 feet for his property located at 3992 Evans Rd, Atlanta, GA. The purpose of this request is to facilitate the construction of a sunroom addition.

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.

The property at 3992 Evans Rd presents extraordinary physical conditions that complicate compliance with the 30-foot rear yard setback requirement. Specifically, the parcel's limited size and configuration, as established by the Southwinds subdivision plat, significantly restrict the available buildable area. This constraint was not created by the current or previous owners but is inherent to the property itself. The strict application of the setback requirement would prevent Mr. Arroyo from expanding his home in a manner that aligns with the rights and privileges typically enjoyed by other property owners in the same zoning district. Therefore, while the applicant acknowledges the difficulty in meeting the rear yard setback, the unique characteristics of the lot substantiate the need for the requested variance.

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 to reduce the rear yard setback from 30 feet to 22 feet is not excessive and seeks to address the applicant's need for a functional living space. While the proposed 12x28 sunroom addition is intended to accommodate family gatherings and provide additional living space, the necessity of its size remains subjective. The applicant's goal of creating a multi-functional area for play and learning underscores the practical needs of his family.

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 grant of the variance for the reduced rear yard setback will not be materially detrimental to the public welfare or injurious to surrounding properties within the R-60 zoning district. The proposed sunroom addition is designed to be a modern and tasteful enhancement to the property, which is expected to positively impact the neighborhood's aesthetic without compromising privacy or community values. Additionally, letters of support from neighboring properties at 3998 Evans Rd, 3938 Kendall Cove, and 3932 Kendall Cove, along with backing from the Southwinds Owners Association (HOA), underscore that the community perceives the addition as beneficial. This strong local support indicates that the variance would not adversely affect the public welfare or the integrity of the surrounding area.

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

A literal interpretation and strict application of the applicable zoning provisions would cause undue and unnecessary hardship for the applicant, Mr. Arroyo. The unique characteristics of the property have effectively maxed out the buildable area, limiting opportunities for meaningful improvements. Strict adherence to the 30-foot rear yard setback would preclude the addition of a sunroom, which is essential for enhancing the living space and accommodating the applicant's growing family. Thus, the inability to construct the sunroom would significantly hinder the property's functionality and overall value, illustrating the need for the requested variance to allow for reasonable improvements.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

The requested variance is consistent with the spirit and purpose of the DeKalb County Zoning Ordinance and the Comprehensive Plan Text. Specifically, it aligns with the intent of the Suburban Character Area, which emphasizes traditional suburban land use patterns while promoting connectivity and accessibility. The proposed sunroom addition supports these broader goals by allowing for reasonable adaptation of the property without undermining the zoning laws' fundamental objectives. Additionally, the land survey demonstrates how the additional square footage will not only accommodate Mr. Arroyo's growing family but also address the housing shortage in the area, all while preserving and enhancing the property's greenspace. This approach underscores a commitment to balanced development that respects community standards.

FINAL STAFF ANALYSIS:

Staff acknowledges the unique physical constraints of the property and the potential benefits of the proposed sunroom addition. Analysis reveals that the request fully meets the criteria for minimal relief and may not constitute a special privilege inconsistent with the limitations imposed on other properties in the zoning district. Furthermore, while the proposed addition has ample community support. Therefore, staff recommends approval with our standard condition of the application.

Staff Recommendation: Approval with condition

Condition: Applicant must list the case number, approval date, type of variance and all conditions on any site plans submitted for this property.



DeKalb County
GEORGIA

Development Services Center
178 Sams Street
Decatur, GA 30030
www.dekalbcountyga.gov/planning
404-371-2155 (o); 404-371-4556 (f)

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING (VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)

Applicant and/or Authorized Representative: Jesus Arroyo / Alfredo Jase

Mailing Address: 3992 Evans Rd

City/State/Zip Code: Atlanta, GA 30340

Email: arroyojesus@live.com / Freddytiger09@gmail.com

Telephone Home: 770-572-6120 Business: _____

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: Jesus Arroyo / Vanessa Leon

Address (Mailing): 3992 Evans Rd Atlanta, GA 30340

Email: arroyojesus@live.com Telephone Home: 770-572-6120 Business: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 3992 Evans Rd City: Atlanta State: GA Zip: 30340

District(s): 1/7 Land Lot(s): _____ Block: _____ Parcel: 18 286 04045

Zoning Classification: R-60 Commission District & Super District: _____

CHECK 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.

Email plansustain@dekalbcountyga.gov with any questions.



DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

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: 8/23/24 Applicant Signature: [Signature]

DATE: 7/23/24 Applicant Signature: [Signature]

Address: _____
City: _____ State: _____ Zip: _____
District(s): _____ Land Lot(s): _____ Block: _____ Parcel: _____
Zoning Classification: _____ Commission District & Super District: _____

CHECK TYPE OF HEARING REQUESTED:

- VARIANCE (From Development Standards caused by the 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.

Email: development@dekalbcounty.gov with any questions.

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: 8/23/24 Applicant/Agent Signature: [Signature]

TO WHOM IT MAY CONCERN:

(I)/ (WE): Jesus Arroyo / Vanessa Leon
(Name of Owners)

being (owner/owners) of the property described below or attached hereby delegate authority to the above signed agent/applicant.

[Signature]
Notary Public

[Signature]
Notary Public

ALFREDO JOSE
NOTARY PUBLIC
DeKalb
State of Georgia
My Comm. Expires August 1, 2028

ALFREDO JOSE
NOTARY PUBLIC
DeKalb
State of Georgia
My Comm. Expires August 1, 2028

[Signature]
Owner Signature

Vanessa Leon
Owner Signature

Owner Signature

Notary Public

Dear Chairperson(s) of the DeKalb County Board of Zoning Appeals,

My name is Jesus Arroyo, and I am writing to formally request a variance from Section 27-2.1.1 of the DeKalb County Zoning Ordinance. My request pertains to the reduction of the 30-foot rear setback requirement for my property located at 3992 Evans Rd, Atlanta, GA 30340. The purpose of this variance is to facilitate the construction of a home addition, sunroom, for my growing family, which is crucial for the improvement and effective future use(s) of my property. I began planning and executing the variance application and building process with my father in early 2023, but unfortunately, in August of 2023, he passed away. I want to honor my father's legacy by accomplishing the goals we set when my first child was born. By completing this variance application process and remaining steadfast, I hope this is received with the best intention.

1. Physical Conditions of the Site:

The unique physical conditions and location of my property constitute a special case necessitating this variance. The parcel, characterized as a narrow and rectangle shape, was subdivided by the development company during the planning and construction process of this subdivision. The development company limited the parcel in nature, making compliance with the 30-foot rear yard setback particularly challenging. Additionally, the presence of a specimen tree and bushes, natural features of the land, and subdivision property fencing, further restricts the feasible location for constructing the home addition. The addition will reduce the amount of water damage caused to the current existing structure as noted in pictures and will further the beautification of the community. These conditions are inherent and not a result of any actions taken by me or previous property owners.

2. Minimum Variance Necessary:

I assure you that my request is solely for the minimum variance necessary to render my property usable. The land survey depicts the minimum size necessary for full enjoyment and utility of the home without providing any special advantages that are not available to other property owners in my zoning district. The Sunroom must be constructed at a specific parameter and size to accommodate family gatherings and provide resident housing for new addition(s) to our family. The 30-foot rear yard setback reduction is essential for the practical and reasonable placement of the Sunroom, ensuring that our family can enjoy full multi-functional uses such as a playroom/classroom for our kids without seeking advantages beyond those available to other property owners in the R-60 zoning district.

3. Public Welfare:

The proposed addition will provide a positive impact on the neighborhood and community. The reduced setback will not pose any harm to public welfare, neighboring properties, or the overall improvements in the R-60 zoning district. The Sunroom will be a modern build and tasteful addition, enhancing the property without imposing adverse effects on the surrounding area. I have received a letter of support from my neighbors, Elizabeth Harmon, who resides at 3998 Evans Rd, George Sage, who resides at 3938 Kendall Cove, and Nancy Lyford, who resides at 3932 Kendall Cove, and all have agreed that the sunroom addition would not impose on anyone's privacy concerns, or cause harm to their properties, neighboring properties, the public welfare, and overall improvements to the community in the R-60 zoning district. I also received a letter of support from Southwinds Owners Association (HOA), and they confirmed approval of the sunroom addition with the understanding that the above referenced neighbors approved it as well. My wife and I are in the process of having another baby, and the sunroom will serve as a multi-functional purpose room for family gatherings, new resident housing (growing family), and playroom/classroom uses for my children's education and development.

4. Ordinance Hardship:

A strict interpretation of the zoning laws, in this case, would cause undue hardship for me. If not earned, my family would have to endure undue hardships that would negatively affect our plans as we have another baby. This would have a lasting negative effect on my ability to house and raise my family as we would not be able to enjoy the full use of our property and its functionality. The impracticality of adhering strictly to the 30-foot rear yard setback requirement would limit my ability to build and render the existing greenspace as non-functional due to setback limitations (Section 27-2.1.1). The variance is, therefore, essential to prevent unnecessary hardship and allow for a reasonable use of my land.

5. Alignment with the Spirit of the Law:

It is my firm belief that my variance request aligns with the intent of the Suburban Character Area, as outlined in the DeKalb County Comprehensive Plan and does not look to undermine the broader goals and policies of the zoning laws, but rather strives for a reasonable adaptation to them. The proposed construction of the Sunroom is in line with the goals of

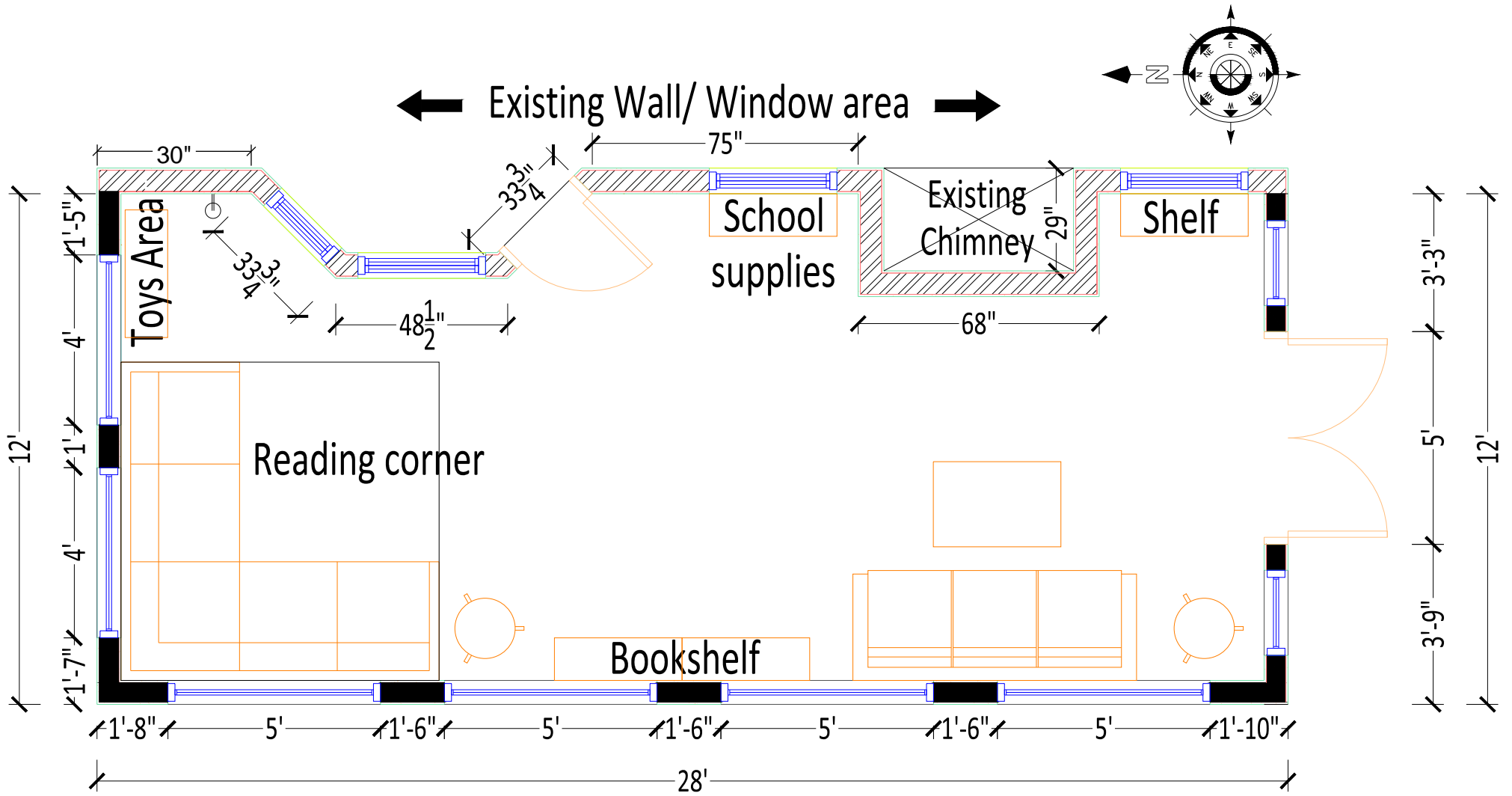
Subject: Variance Request for Rear Yard Setback Reduction - Section 27-2.1.1 – Facilitate Construction of Home Addition

recognizing traditional suburban land use patterns while encouraging increased connectivity and accessibility. In addition to this letter, the land survey outlines the additional square footage to be added to the home, which will help with the housing shortage by being able to accommodate more family members while preserving and enhancing the existing greenspace. The development aims to enrich community connectivity, preserve and improve existing greenspace (aesthetic improvement), and align with the proposed density of up to 8 dwelling units per acre for areas of this type.

In conclusion, I would like to take a moment to say thank you to all Chairperson(s) of the DeKalb County Board of Zoning Appeals for your time and consideration of my variance request. I am committed to working collaboratively to ensure that my proposed changes align with the broader goals and policies of DeKalb County. I humbly appreciate your attention to this matter.

Respectfully,

Jesus Arroyo



Date: 8/27/24

Letter of Support

Dear Chairperson(s) of the DeKalb County Board of Zoning Appeals,

My name is ELIZABETH HARMON, and I reside at property address: 3998 EVANS ROAD. I am a neighbor of JESUS ARROYO and would like to state that I have no problems with my neighbor, Jesus Arroyo, requesting a variance to reduce his property setback lines to complete a sunroom addition. The addition will not cause any harm to my property, neighboring properties, or public welfare.

Signed: Elizabeth Harmon

A handwritten signature in cursive script, appearing to read "Elizabeth Harmon", written over a horizontal line.

Date: 8/27/24

Letter of Support

Dear Chairperson(s) of the DeKalb County Board of Zoning Appeals,

I, George Sage, residing at property address: 3938 Kendall Cove Atlanta, GA 30340,
a neighbor of Jesus Arroyo, would like to express my support for a request for a
variance to reduce his property setback lines to complete a sunroom addition. I would like to state
that it will not pose any harm to my property, neighboring properties, or the overall improvements to
the community.

Signed:

G. Sage

Date: 8/27/24

Letter of Support

Dear Chairperson(s) of the DeKalb County Board of Zoning Appeals,

My name is Nancy Lyford, and I reside at property address 3932 Kendall Cove.
I am a neighbor of Jesus Arroyo and would like to state that I have no problems with my neighbor, Jesus Arroyo, requesting a variance to reduce his property setback lines to complete a sunroom addition. The addition will not cause any harm to my property, neighboring properties, or public welfare.

Signed: Nancy W. Lyford

Southwinds Owners Association

**Mailing Address:
3931 Kendall Cove
Atlanta, GA 30340**

404 790-3604

September 5, 2024

To the DeKalb County Board of Zoning Appeals:

The Southwinds Owners Association Board of Directors has approved Jesús Arroyo's sunroom addition according to the dimensions shown on the attached diagram. It is the Board's understanding that the sunroom addition has been approved by the following homeowners, as well: Beth Harmon, George Sage, and Nancy Lyford.

Sincerely,

The Southwinds Owners Association Board of Directors

Steve Won, President

Moensania Phillips, Vice President

Dagem Tsegaye, Treasurer

Debra Mines, Secretary



















