



Michael L. Thurmond

Chief Executive Officer

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

Wednesday, December 11th, 2024

Planning Department Staff Analysis



Cedric Hudson

Interim Director

D2. Case No: A-24-1247100

Parcel ID(s): 18 047 21 017

Commission District 04 Super District 06

Applicant: **Alrick McIntyre**
1157 School Side Drive
Lithonia, GA 30083

Owner: **Alrick McIntyre**
1157 School Side Drive
Lithonia, GA 30083

Project Name: **3140 Kelly Street – Residential Construction**

Location: 3140 Kelly Street, Scottdale, GA 30079

Request: Variance from Section 27-2.1.1 of the DeKalb County Zoning Ordinance to reduce the front yard setback from 30 feet to 25 feet and the rear yard setback from 30 feet to 10 feet to facilitate construction of single-family residence within the R-75 (Residential Medium Lot-75) zoning district and Scottdale Tier II Overlay District.

Staff Recommendation: Denial

STAFF FINDINGS:

The applicant is seeking a variance from Section 27-3.36.10 pertaining to property located at 3140 Kelly St., Scottdale, Georgia 30079. The applicant seeks to construct a single-family residential dwelling within the Scottdale Tier II overlay district, requesting to reduce the front yard setback from 30 feet to 25 feet and the rear yard setback from 30 feet to 20 feet.

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 subject property exhibits an extraordinary physical condition due to its unusually small lot size, deviating from the Scottdale Tier II overlay district's minimum lot size requirements. With dimensions of 50 feet in depth and 75 feet in width, the total area of 3,750 square feet falls below the 5,000 square feet minimum required for this zoning district.

However, the absence of a detailed site plan, including updated dimensions and a certified survey, impedes the full evaluation of the claimed conditions. Additionally, the lack of this documentation and the need for a variance specific to the house size indicate that the application does not yet meet the completeness standards for further consideration.

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 request exceeds the minimum necessary to enable reasonable use of the lot. The absence of a detailed and complete site plan prevents staff from determining whether the requested variance is the least required to provide relief. Specifically, it remains unclear if the proposed structure adequately addresses setback reductions in a manner consistent with the limitations on similar properties within the zoning district.

Additionally, the proposed 960-square-foot structure fails to meet the Scottdale overlay's 1,000-square-foot minimum house size requirement, necessitating an additional variance. This deviation further demonstrates that the current request may constitute a special privilege rather than a reasonable accommodation.

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 lack of a proper site plan, as mandated by Section 27-7.7.5, hinders an accurate assessment of the variance's impact on public welfare or neighboring properties. The incomplete information leaves unresolved questions regarding buffer zones, open space, and compatibility with neighboring structures.

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

The property's small lot size and dimensions could result in an undue and unnecessary hardship if strict application of the 30-foot front and rear yard setbacks is enforced. However, without a complete and detailed site plan, it cannot be conclusively determined that the variance is necessary to mitigate this hardship.

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 has the potential to align with the intent of the Traditional Neighborhoods Character Area and the Scottdale Overlay District. However, the applicant's failure to submit required plans prevents staff from verifying that the proposal is consistent with the Comprehensive Plan and zoning ordinance objectives, such as promoting development that complements existing conditions..

FINAL STAFF ANALYSIS:

The proposed variance for 3140 Kelly Street fails to meet the criteria set forth in the DeKalb County Zoning Ordinance. The unique physical constraints of the lot may necessitate reductions in front and rear yard setbacks to enable residential development. The variance aligns with the intent of the Traditional Neighborhoods Character Area and the Scottdale Overlay District by supporting development that is consistent with the community's existing character. The impact on public welfare and neighboring properties is minimal. However, the proposed house size may confer an undue advantage. The lack of a proper site plan may also be of concern. Therefore, staff recommends denial with condition of the application.

Staff Recommendation: Denial



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: Alrick McIntyre
Mailing Address: 1157 school side dt
City/State/Zip Code: Lithonia Georgia 30083
Email: alrickm@gmail.com
Telephone Home: 6505375303 Business: _____

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: Alrick McIntyre
Address (Mailing): 1157 school side dr, Lithonia, Georgia 30083
Email: alrickm@gmail.com Telephone Home: 6505375303 Business: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 3140 Kelly st City: Scottdale State: GA Zip: 30079
District(s): 04 Land Lot(s): 24 Block: 42 Parcel: 1804721017
Zoning Classification: R-75 Tier-2 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.



DEPARTMENT OF PLANNING & SUSTAINABILITY

ZONING BOARD OF APPEALS APPLICATION

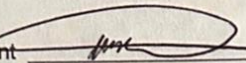
AUTHORIZATION OF THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.

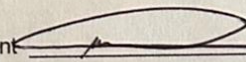
I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

DATE: 07/05/24

Applicant Signature: 

DATE: 07/05/24

Applicant Signature: 

Subject:Variance request from Section 27-3.36.10 to reduce front yard setback from 30' to 25' and reduce rear yard setback from 30' to 16'.

Dear Members of the Zoning Board of Appeals,

My name is Alrick McIntyre, and I am writing to formally request a variance from Section 27-3.36.10 of the DeKalb County Zoning Ordinance. My request pertains to the reduction of the front yard setback from 30' to 25' and reduce rear yard setback from 30' to 16'.

my property located at 3140 Kelly St. Scottdale Georgia. The purpose of this variance is to facilitate the construction of Single Family Residential House Minimally sized for the effective use of same lot.

1. Physical Conditions of the Site:

The Unusual Small sized lot renders it impossible to construct a home with the current setbacks for DEKALB county Zone R75. The lot has a narrow dept of 50' with 10' buffer between the lot and the front street, combined to give a total of 60 feet from the front street to the back of the lot.

2. Minimum Variance Necessary:

This request is solely for the minimum variance necessary to render my property usable for the construction of a single family home. My request is supported by requisite Site plan and Surveys which illustrates this unique request, to reduce front yard setback from 30' to 25' and reduce rear yard setback from 30' to 10'. This request provides no special advantage that is not afforded to other members of this community.

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 or neighboring properties. This new construction will add to the development of the community zone in a traditional neighborhood, tier11 overlay.

- Majority of setback reduction taken from rear to minimize impact on neighbors.
- This Construction will provide more housing facilities for the community.
- No variance is been requested for the sides, which have adequate vegetation for privacy of adjacent properties.

4. Ordinance Hardship:

A strict interpretation of the zoning laws, in this case, would cause undue hardship for me.

A front yard setback of 30' combined with rear yard setback of 30', renders it impossible to build on lot that is 50' long. This request is therefore, essential to prevent unnecessary hardship and allow for a reasonable use of this lot.

5. Alignment with the Spirit of the Law:

I firmly believe that my variance request aligns with the intent of the Suburban Character Area, as outlined in the

DeKalb County Comprehensive Plan. The proposed construction of the Bird's Nest is in line with the goals of

recognizing traditional suburban land use patterns while encouraging increased connectivity and accessibility. The

development aims to enhance community connectivity, preserve and improve existing greenspace, and align with the

proposed density of up to 8 dwelling units per acre for areas of this type.

In conclusion, I appreciate your time and consideration of my variance request. I am committed to working

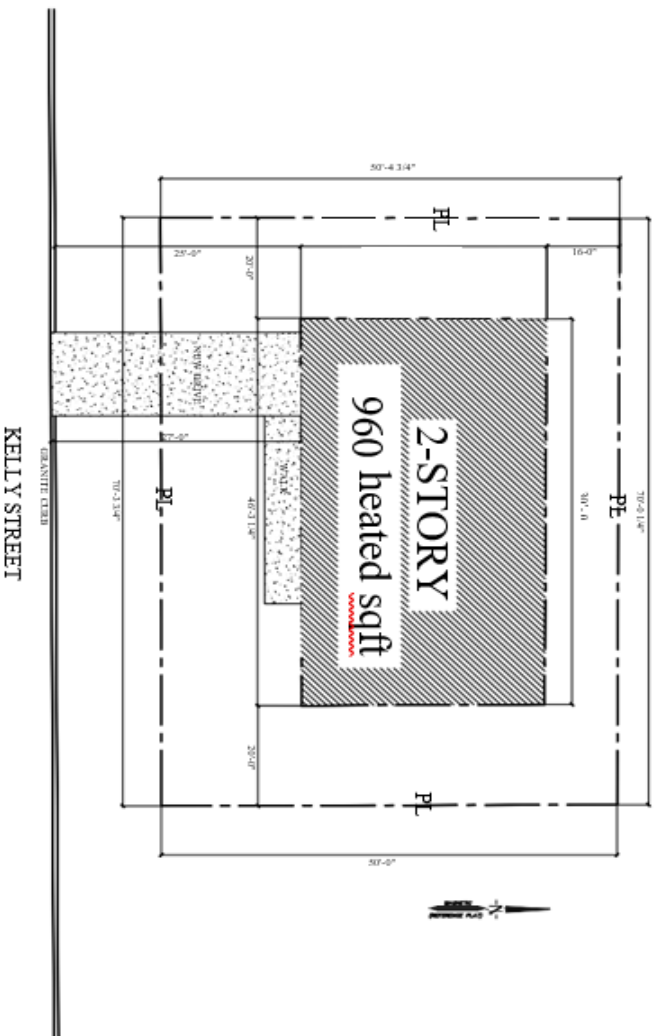
collaboratively to ensure that my proposed changes align with the broader goals and policies of DeKalb County.

Thank you for your attention to this matter.

Sincerely,

Alrick McIntyre.

3140 KELLY STREET SCOTDALE GA 30079



DEKALB COUNTY
 ZONING: R-75
 MINIMUM FRONT SETBACK - 45'
 THOROUGHFARES, 35' ARTERIAL, 30'
 COLLECTOR AND ALL OTHER STREETS AND
 25' W/ALLEY ACCESS
 MINIMUM SIDE SETBACK - 7.5'
 MINIMUM REAR SETBACK - 30'
 FIELD DATA, 30'
 DATE OF FIELD SURVEY 9-13-23.
 THE CALCULATED POSITIONAL
 TOLERANCE BASED ON REDUNDANT
 LINEAR MEASUREMENTS OF
 OBSERVED POSITIONS WAS FOUND
 TO BE 0.00 FEET.
 EQUIPMENT:
 ELECTRONIC TOTAL STATION AND NETWORK GPS
 GPS RECEIVER: SP 85
 SN: 6129520077
 NETWORK: TRIVALE VRS New RTK GNSS
 TOTAL AREA: 3,522 SQ FT, 0.081 AC
 CALCULATED PLAT CLOSURE: 1 FOOT IN 52,987 FEET
 SURVEY DATA:
 TYPE OF SURVEY: RETRACEMENT
 SOURCE OF TITLE DESCRIPTION FOR SUBJECT
 PROPERTY: DB 30891 PG 222-224
 PROPERTY OWNER AT TIME OF SURVEY:
 CAVALIER RECOVERY LLC
 PARCEL NUMBER: 18 047 21 017
 REFERENCE: DEED BOOK 30891 PG 222-224
 DEED BOOK 29286 PG 322-323
 FLOOD HAZARD NOTE: THIS PROPERTY IS
 NOT LOCATED IN A FLOOD HAZARD AREA
 AS DEFINED BY FIRM MAP OF DEKALB
 COUNTY, GEORGIA 13089C0057K EFFECTIVE
 DATE AUGUST 15, 2019

THIS BOX RESERVED FOR THE CLERK OF THE SUPERIOR COURT

GENERAL NOTES:
 1. This Plot has been prepared without the benefit of a current title report. Easements or encumbrances may exist that are not shown on this plot.
 2. This plot is subject to any restrictions, easements, covenants or restrictions that may exist either written or unwritten.
 3. Underground utilities not shown hereon may exist. The Surveyor does not take responsibility for absence or presence of any such utilities.
 4. No Geodetic monuments were found within 500 feet of this site.
 5. This Plot has been prepared for the exclusive use of the person(s) or entities named hereon.

DEKALB COUNTY
 ZONING: R-75
 MINIMUM FRONT SETBACK - 45'
 THROUGHFARES, 35' ARTERIAL, 30'
 COLLECTOR AND ALL OTHER STREETS AND
 25' WALLEY ACCESS
 MINIMUM SIDE SETBACK - 7.5'
 MINIMUM REAR SETBACK - 40'
 FIELD DATA:
 DATE OF FIELD SURVEY 9-13-23
 THE CALCULATED POSITIONAL
 TOLERANCE BASED ON REDUNDANT
 LINEAR MEASUREMENTS OF
 OBSERVED POSITIONS WAS FOUND
 TO BE 0.00 FEET.
 EQUIPMENT:
 ELECTRONIC TOTAL STATION AND NETWORK GPS
 GPS RECEIVER: SP 85
 SN: 6129500077
 NETWORK: TRIMBLE VRS Now RTK GNSS

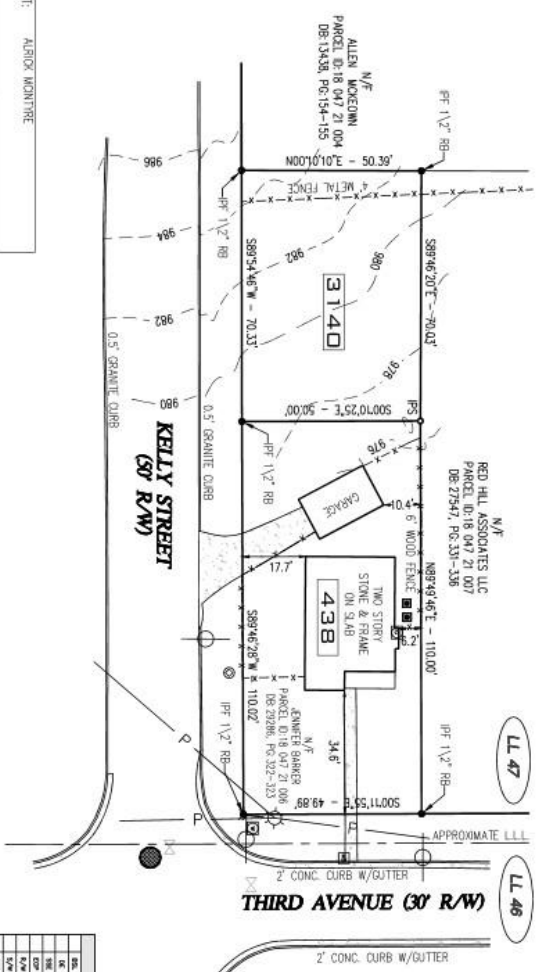
SCALE: 1" = 30'
 DESIGNED BY: JTF
 SHEET NUMBER: 1 of 1
 FILE NAME: 3140 KELLY STREET.LIN
 DATE: 9-27-2023
 CLIENT: ALIENOR MONTRE
 JOB NUMBER: SURV-1893

FLOOD HAZARD NOTE: THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS DEFINED BY FIRM MAP OF DEKALB COUNTY, GEORGIA 13089C0067X EFFECTIVE DATE AUGUST 15, 2019
 REFERENCE: DEED BOOK 30891 PG 222-224 DEED BOOK 29286 PG 322-323

KEYSTONE LAND SURVEYING, INC.
 262 WEST COGAN STREET
 LAWRENCEVILLE, GEORGIA 30046
 770.545.8700
 www.keystonelandsurveying.com

THE ARTHUR GRESHAM SUBDIVISION
LOT 24, BLOCK 42
3140 KELLY STREET
 LAND LOT 47 - 18TH DISTRICT
 DEKALB COUNTY, GEORGIA 30079
 REVISIONS

1	
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5	



9-27-2023
 REGISTERED
 LAND SURVEYOR
 ALIENOR MONTRE
 No. 3077
 P. RYAN F. CAREY

This plot is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plat, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF FEMAS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

LEGEND

1	PROPOSED 30' RIGHT-OF-WAY
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