



Lorraine Cochran-Johnson

Chief Executive Officer

DeKalb County Zoning Board of Appeals

Department of Planning & Sustainability

178 Sams Street,
Decatur, GA 30030

Wednesday, June 10, 2025

Planning Department Staff Analysis



Juliana Njoku

Director

D1. Case No: A-25-1247717

Parcel ID(s): 18 193 06 015

Commission District 02 Super District 07

Applicant: Frederick Andrien
2478 Greenglade Road
Atlanta, GA 30345

Owner: Frederick Andrien
2478 Greenglade Road
Atlanta, GA 30345

Project Name: 2478 Greenglade Road – Second-Story Addition

Location: 2478 Greenglade Road, Atlanta, GA 30345

Requests: Variance request from Section 27-2.2.1 of the DeKalb County Zoning Ordinance to:

- Allow a detached garage in the side yard
- Reduce the required side yard setback from 10 feet to 4 feet
- Increase the maximum lot coverage from 35 percent to 39 percent

to facilitate construction of a second-story addition above a detached garage in the R-100 (Residential Medium Lot-100) zoning district.

Staff Recommendation: Approval with Conditions

Conditions:

1. The following information about this variance shall be noted on any site plan prepared for the subject property: case number, approval date, type of variance, and conditions of approval.
2. The variance shall apply only to the detached garage shown on the submitted site plan/survey for the subject property.
3. The detached garage shall be limited to one story. No second story shall be permitted.
4. The detached garage shall not be used as a separate dwelling unit, accessory dwelling unit, short-term rental, or other independent residential occupancy.
5. Any future expansion, conversion, or change in use shall require compliance with all applicable zoning, building, and permitting requirements.

STAFF FINDINGS:

The applicant requests variances to allow a detached garage in the side yard, reduce the required side yard setback from 10 feet to 4 feet, and increase the maximum lot coverage from 35 percent to 39 percent. The subject property is zoned R-100 and is developed with an existing single-family detached residence. Surrounding land uses are single-family residential and are also generally zoned R-100. The property lies within the Suburban (SUB) Character Area.

- 1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of 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 has an unusual triangular shape that materially affects the location and configuration of buildable area on the lot. Unlike a typical rectangular residential lot, the property does not provide a conventional rear yard area that can accommodate a detached garage in the standard manner. The lot is widest along Greenglade Road and narrows toward the rear, creating extended side-yard conditions and limiting the practical placement of accessory structures.

The existing residence was also established with a deeper front setback than is required under the current zoning ordinance. This existing condition further reduces the amount of usable space available behind or beside the residence for a detached garage. These conditions are associated with the lot's original configuration and existing development pattern and were not created by the current variance request.

- 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 variances are limited to allowing a detached garage in the side yard, reducing the side yard setback from 10 feet to 4 feet, and increasing maximum lot coverage from 35 percent to 39 percent. The requested setback reduction is tied to the unusual shape of the lot and the limited practical area available for accessory structure placement.

The increase in lot coverage from 35 percent to 39 percent is modest and would remain within the general residential character of the surrounding neighborhood. Detached garages are not unusual in the R-100 district or in the surrounding residential area. The request would allow the subject property to enjoy a similar accessory residential use while responding to the lot's irregular configuration.

- 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 requested variances would allow construction of a detached garage accessory to an existing single-family residence. The proposed use is residential in character and compatible with the surrounding R-100 residential district. The primary physical impact of the request is the reduced side yard setback of 4 feet, which places the garage closer to the adjacent property line than would otherwise be permitted.

Staff finds that potential impacts can be appropriately limited through conditions of approval. In particular, limiting the garage to one story reduces the potential visual and privacy impacts on adjacent properties. Prohibiting use of the garage as a separate dwelling unit or short-term rental further ensures that the structure remains accessory to the principal residential use of the property.

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

Strict application of the ordinance would require the detached garage to comply with standard accessory structure placement and setback requirements that are difficult to apply to this irregular triangular lot. Because the subject property lacks a conventional rear yard and is constrained by the existing placement of the residence, the ordinance would significantly limit the applicant's ability to construct a detached garage comparable to those available to similarly situated residential properties.

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

The Comprehensive Plan designates the subject property within the Suburban (SUB) Character Area, which supports established residential neighborhoods, reinvestment in existing housing stock, and maintenance of residential quality. The proposed detached garage is accessory to an existing single-family residence and is consistent with the residential use and character of the surrounding neighborhood.

The purpose of setback and lot coverage standards is to preserve adequate separation between structures, protect neighboring properties, and prevent excessive development intensity. In this case, the requested relief is limited and can be conditioned to maintain neighborhood compatibility. Limiting the detached garage to one story, prohibiting separate residential occupancy, and capping lot coverage at 39 percent ensure that the approval remains narrow and tied to the specific hardship presented by the property. Staff finds that the requested variance is consistent with the spirit and purpose of the zoning ordinance and the Comprehensive Plan.

FINAL STAFF ANALYSIS:

The applicant requests variances to allow a detached garage in the side yard, reduce the required side yard setback from 10 feet to 4 feet, and increase maximum lot coverage from 35 percent to 39 percent. The subject property is an irregular triangular lot in the R-100 zoning district. Due to the lot shape, the property does not function like a typical rectangular residential lot with a conventional rear yard area for accessory structure placement. The existing residence is also positioned with a deeper front setback than required under the current zoning ordinance, further limiting the practical buildable area available for a detached garage.

Staff finds that the property's triangular shape and existing development pattern create an exceptional physical condition that supports variance relief. The requested variances would allow a common accessory residential structure while maintaining the single-family character of the property and surrounding neighborhood. The requested lot coverage increase from 35 percent to 39 percent is limited, and the reduced side setback can be appropriately mitigated through conditions.

To ensure that the relief remains the minimum necessary and does not create adverse impacts on adjacent properties, staff recommends conditions limiting the variance to the detached garage shown on the submitted plans, prohibiting a second story, prohibiting separate residential occupancy, and requiring compliance with all other applicable zoning and permitting requirements.

Staff Recommendation: Approval with Conditions

Conditions:

1. The following information about this variance shall be noted on any site plan prepared for the subject property: case number, approval date, type of variance, and conditions of approval.
2. The variance shall apply only to the detached garage shown on the submitted site plan/survey for the subject property.
3. The detached garage shall be limited to one story. No second story shall be permitted.
4. The detached garage shall not be used as a separate dwelling unit, accessory dwelling unit, short-term rental, or other independent residential occupancy.
5. Any future expansion, conversion, or change in use shall require compliance with all applicable zoning, building, and permitting requirements.



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: FREDERICK P. ANDRIENI;

Mailing Address: 2478 GREENGLADE RD

City/State/Zip Code: ATLANTA, GA 30345

Email: 
Telephone:

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: FREDERICK M. ANDRIENI & WENDY S. ANDRIENI

Address (Mailing): 2478 GREENGLADE RD ATLANTA, GA 30345

Email: 

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 2478 GREENGLADE RD City: ATLANTA State: GA Zip: 30345

District(s): 18th Land Lot(s): 193 Block: B Parcel: 1819306015

Zoning Classification: R-100 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: 4-24-25

Applicant Signature: 

DATE: 6-28-25

Applicant Signature: Wade A. Adams

DEPARTMENT OF PLANNING & SUSTAINABILITY

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: 6/27/25 Applicant/Agent Signature: [Signature]

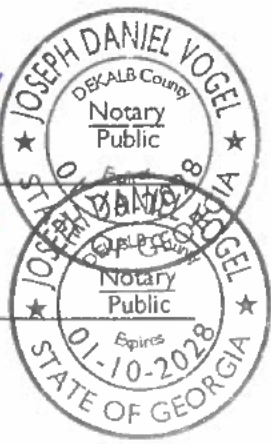
TO WHOM IT MAY CONCERN:

(I)/ (WE): Frederick P. Andriewi & Wanda S. Andriewi
(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



[Signature]
Owner Signature

Wanda Andriewi
Owner Signature

Notary Public

Owner Signature

SURVEYOR'S CERTIFICATE

THIS PLAT 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, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATES HEREON. RECORDATION OF THIS PLAT DOES NOT APPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, 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 REGULATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-8-67

Gerald M. Bernhardt

GERALD M. BERNHARDT GEORGIA RLS NO. 2688

FLOOD HAZARD STATEMENT

I HAVE THIS DATE, EXAMINED THE "FIA FLOOD HAZARD MAP" AND FOUND IN MY OPINION REFERENCED PARCEL IS NOT IN AN AREA HAVING SPECIAL FLOOD HAZARDS.

PANEL 13089C0058K EFFECTIVE DATE: 08/15/2019
ZONE 'X'

*** LEGEND ***

NOTE: ALL ITEMS IN THIS LEGEND MAY NOT APPEAR ON THIS PLAT.
AKA ALSO KNOWN AS
APP AS PER DEED
APP AS PER PLAT
BSL BUILDING (SETBACK) LINE
CP COMPUTED POINT
CTP CRAMP TOP PIPE FOUND
OTP OPEN TOP PIPE FOUND
D DEED (BOOK/PAGE)
DW DRIVEWAY
EP EDGE OF PAVEMENT
FFE FINISH FLOOR ELEVATION
FKA FORMERLY KNOWN AS
IPF IRON PIN FOUND
L ARC LENGTH
LL LAND LOT
LLL LAND LOT LINE
N NEIGHBOR'S

N/F NOW OR FORMERLY
NAIL NAIL FOUND
P PLAT (BOOK/PAGE)
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT
R RADIUS LENGTH
R/W RIGHT-OF-WAY
RBF REINFORCING BAR FOUND (1/2" UNO)
RBS 1/2" REINFORCING BAR SET
SW SIDEWALK
SSE SANITARY SEWER EASEMENT
SSCO SANITARY SEWER CLEANOUT
-X- FENCE LINE
CB CATCH BASIN
SWCB STORM WATER CATCH BASIN
WALL

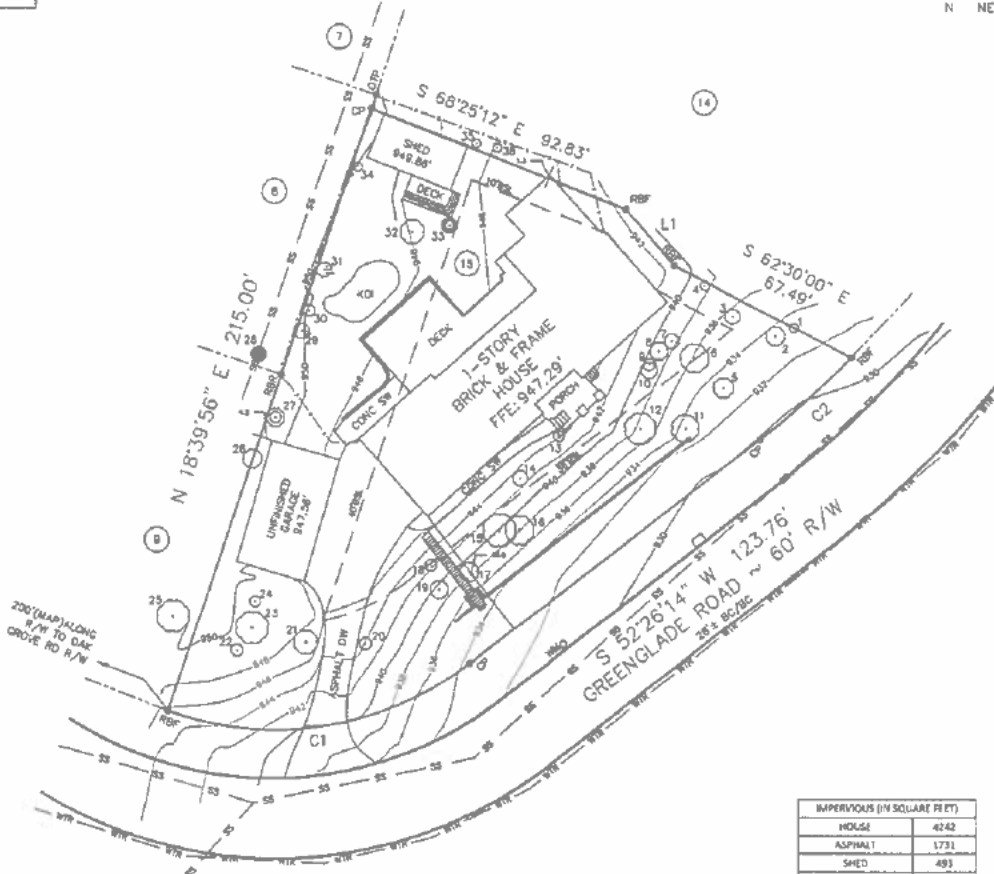
CURVE RADIUS LENGTH CHORD CH.BEARING
C1 107.74' 107.86' 103.41' S 81°06'57"W
C2 270.62' 41.82' 41.78' S 48°00'38"W
LINE LENGTH BEARING
L1 25.06' S 40°38'15"E

ALL MATTERS OF TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHTS-OF-WAY PUBLIC OR PRIVATE.
NOTE: PROPERTY LINES SHOWN ON THIS MAP/PLAT REPRESENT PHYSICAL FIELD CONDITIONS BY EVIDENCE OF APPARENT POSSESSION (IRON PINS FOUND, OLD & ESTABLISHED FENCE LINES, OLD WALL LINES, SHRUB & HEDGE LINE, HOUSE LOCATIONS, ETC.) THEY MAY DIFFER AND BE IN CONTENTION FROM EVIDENCE FOUND AT THE APPLICABLE COUNTY COURTHOUSE. THEY MAY ALSO DIFFER FROM OTHER SURVEYOR OPINIONS AND/OR NEIGHBORS SURVEYS/PLATS. A FULL LAND TITLE REPORT OPINION ON ALL PROPERTIES, INCLUDING ADJACENT AND CONTIGUOUS PROPERTIES MAY BE NEEDED TO RESOLVE ALL POSSIBLE PROPERTY LINE DISPUTES OR DISCREPANCIES.

THIS MAP/PLAT WAS MADE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. EASEMENTS AND ENCUMBRANCES MAY EXIST WHICH BENEFIT AND BURDEN THIS PROPERTY. THIS MAP/PLAT IS SUBJECT TO REVISIONS AND UPDATE UPON RECEIPT OF SAID TITLE COMMITMENT.

BUILDING LINES SHOWN HEREON DERIVED FROM VARIOUS ONLINE SOURCES. THEY MAY BE IN CONTENTION WITH OR DIFFER FROM INTERPRETATIONS OF GOVERNING AUTHORITIES. IT IS THE CLIENT'S OBLIGATION TO CONFIRM WITH PERMITTING AGENCIES BASED ON THEIR SPECIFIC CONSTRUCTION PROJECTS.
~ THIS MAP/PLAT HAS BEEN FIELD RUN WITH ASSUMED ELEVATIONS, THEN ADJUSTED TO NAVD 88 BASED ON MULTIPLE OBSERVATIONS FROM GOOGLE EARTH SATELLITE IMAGERY OR OTHER ONLINE SOURCES. THE ELEVATIONS SHOWN HEREON ARE +/- 1' (± ONE FOOT).

TREE SYMBOLS ARE NOT TO SCALE. TREE SYMBOLS REPRESENT POSITION OF TREE & ARE NOT THE CRITICAL ROOT ZONE (NOT DRIFLINE).
NOTE: ANY & ALL UNDERGROUND UTILITIES, I.E. SEWER, STORM, GAS, WATER, ETC., HAVE NOT BEEN FIELD LOCATED BY CONVENTIONAL SURVEY METHODS.



IMPERVIOUS (IN SQUARE FEET)	
HOUSE	4242
ASPHALT	1731
SHED	493
GARAGE	1006
CONC SW	455
PORCH	712
DECK	1135
STEPS	190
DOOR	350
COLUMN	29
WALL	149
TOTAL IMPERVIOUS	9946

TREE TABLE		
TR.N.O.	DIAMETER	TYPE
1	6	OAK
2	14	OAK
3	20	OAK
4	6	OAK
5	15	OAK
6	21	OAK
7	11	OAK
8	13	OAK
9	7	OAK
10	12	OAK
11	20	OAK
12	23	OAK
13	8	OAK
14	10	OAK
15	28	OAK
16	21	OAK
17	14	OAK
18	9	OAK

TREE TABLE		
TR.NO.	DIAMETER	TYPE
19	13	OAK
20	9	OAK
21	18	OAK
22	9	OAK
23	25	OAK
24	9	OAK
25	36	OAK
26	14	OAK
27	13X18	OAK
28	16	PINE
29	10	CLUSTER
30	9	OAK
31	10	CLUSTER
32	18X18	OAK
33	10X7X6	OAK
34	6	OAK
35	6	OAK
36	6	OAK

PLAT PREPARED FOR: FRED ANDRIENI

LAND AREA: 0.15 AC

DATE: 08-15-2019

2019-08-15



Battle Law

STATEMENT OF INTENT

and

Other Material Required by
DeKalb County Zoning Ordinance
For

Variances from Section 5.2.1(A)(1) and Section 27-2.2.1 to
Allow a Detached Garage in the Side Yard and Reduce the Side Yard Setback from Ten (10)
Feet to Four (4) Feet

of

**Frederick Andrieni,
c/o Battle Law, P.C.**

for

+/-0.58 Acres of Land
Being 2478 Greenglade Road
DeKalb County, Georgia and
Parcel Nos. 18 193 06 015

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
Habersham at Northlake, Building J, Suite 100
Tucker, Georgia 300384
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com



Battle Law

I. LETTER OF INTENT

Frederick Andrieni, (the “Applicant”) is seeking to develop on +/- 0.58 acres of land being tax parcel number 18 193 06 015 having frontage on 2478 Greenglade Road (the “Subject Property”) with a detached garage. The Applicant is seeking variances of the Subject Property to allow a garage in the side yard and reduce the side yard setback from ten (10) feet to four (4) feet.

This document serves as a statement of intent, analysis of the criteria under the DeKalb County Code of Ordinances and contains notice of constitutional allegations as a reservation of the Applicant’s rights.

II. DEKALB COUNTY VARIANCE CRITERIA

- 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 is zoned R-100 and is triangular with the widest part fronting on Greenglade Road. This means the Subject Property does not have a rear yard like other similarly zoned properties. Instead, the Subject Property has two side yards that stretch from Greenglade Road all the way to the opposite side of the Subject Property. Ordinarily, a detached garage is required to be in the rear yard. However, due to the Subject Property’s irregular shape, it is not possible for the Applicant to place a garage in the rear yard and must place it in the side yard.

Furthermore, The Subject Property was platted and the home built the front setback was required to be fifty (50) feet from Greenglade Road. Today, the requirement is only thirty-five (35) feet. If the requirement had been thirty-five (35) feet at the time the home was built, the Applicant would not need a setback reduction. However, since the setback is fifteen (15) feet more than what is required under today’s Zoning Ordinance, the Applicant has very little space for the garage. As



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such, a setback reduction is called for. The required side setback is ten (10) feet. By reducing the setback from ten (10) feet to four (4) feet, the Applicant can have a detached garage, like other properties in the neighborhood.

- 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 variances are the minimum necessary to afford relief. Given the shape of the Subject Property, the larger than normal front setback, and the fact that the Subject Property does not have a rear yard, the two requested variances are both the minimum required to afford relief. Furthermore, several other properties in the neighborhood have detached garages.



This image highlights two properties very near the Subject Property that both have detached garages. Both properties are also zoned R-100. Thus, a detached garage is not a special privilege in this neighborhood because similarly zoned properties have detached garages. Rather, the requested variances will remedy an undue hardship that would otherwise prevent the Applicant from having a detached garage like other properties in the neighborhood.

- 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 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. Rather, the variances will allow the Applicant the same privileges afforded to other property owners in the same neighborhood and with similarly zoned property.

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



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The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship. Namely, the Zoning Ordinance as written would prevent the Applicant from enjoying the same privileges as other property owners in the same neighborhood. The triangular shape of the Subject Property is the cause of this hardship because it alone prevents the Applicant from building a detached garage like other property owners. This constitutes an undue hardship that requires remedy by granting the requested variances.

5. *The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.*

The requested variances are consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the application for a variances to allow a garage in the side yard and reduce the side yard setback from 10' to 4' be approved. The Applicant welcomes any questions and feedback from the planning staff.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The portions of the DeKalb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in



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violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the DeKalb County Zoning Board of Appeals to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any Variance of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A refusal to allow the land use amendment and/or variances in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or variances in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

Michele L. Battle, Esq.
Attorney for the Applicant