

# APPLICATION FOR VARIANCE

## City of Atlanta

Date Filed: 12/08/10

Application Number \_\_\_\_\_

Name of Applicant: Mark F. Arnold

Daytime Phone: 404-939-3690

Company Name: Mark Arnold, Architect

e-mail: markarnoldarchitect@gmail.com

Address: 1126 N. Highland Avenue, NE  
street

Atlanta  
city

GA  
state

30306  
zip code

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Name of Property Owners: Todd & Teresa Williams

Phone: (404) 788-9876

Address 991 McLynn Avenue  
street

Atlanta  
city

GA  
state

30306  
zip code

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### Description of Property

Address of Property: 991 McLynn Avenue, Atlanta, GA 30306 **OR**

the subject property fronts \_\_\_\_\_ feet on the \_\_\_\_\_ side of \_\_\_\_\_  
\_\_\_\_\_, and begins \_\_\_\_\_ feet from the  
\_\_\_\_\_ corner of \_\_\_\_\_.

Depth: 168.14' Area: 7,962 SF Land Lot: 02 District: 17 Fulton County, GA

Property is zoned: R4 Council District: 06 Neighborhood Planning Unit: 'F'

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TO THE BOARD OF ZONING ADJUSTMENT: Applicant, having received an adverse order or requirement from the administrative officer in seeking a building permit or certificate of occupancy, hereby requests that the Board of Zoning Adjustment grant variance(s).

I hereby authorize the staff of the Bureau of Planning to inspect the premises of the above-described property. I understand that it is my responsibility to post a public notice sign on the property according to the instructions given to me by the Bureau of Planning upon filing this application. I swear that all statements herein and attached hereto are true and correct to the best of my knowledge and belief.

Sworn To And Subscribed Before Me This \_\_\_\_ Day Of \_\_\_\_, 20\_\_.

\_\_\_\_\_  
Owner or Agent for Owner (Applicant)

Mark F. Arnold

\_\_\_\_\_  
APPLICANT'S NAME IN PRINTED LETTERS

\_\_\_\_\_  
NOTARY PUBLIC

**Summary of proposed changes to buildings or site** (example: “Construct a 10-foot by 10-foot, one-story room addition on the first floor of the house.”) Include square footages and stories: *The proposed project includes the construction of a one story, detached garage. The footprint of the proposed garage is 348 sf and it will be built in approximately the same location as the existing garage slab.*

*The existing 1,717 square foot driveway will be removed and a new 1,627 square foot driveway will be re-poured with a planting strip and overall smaller footprint. The overall site coverage will be increased slightly from 47% to 48%.*

**Proposed Lot Coverage (After Construction):** Calculate total square footage of all lot coverage on the entire property after construction would be finished, including existing and proposed buildings and other structures, sidewalks, driveways, parking pads, patios, gravel, etc; everything except natural planted or undisturbed areas.

**3,859** covered square feet / **7,962** total lot square feet = **48%** proposed lot coverage  
**50%** maximum allowed lot coverage

### **Variance Procedures**

Variance applications are heard and decided at a regularly-scheduled public hearing by the five member City of Atlanta Board of Zoning Adjustment (“BZA”). The Bureau of Planning serves as staff to the BZA. Approximately one week after each closing date, a planner is assigned to review your application. All inquiries regarding your application should be directed to this office at (404) 330-6145. The rules of the BZA prevent BZA members from discussing the merits of any case except during the public hearing for that case.

**Schedule.** There are two closing dates and two public hearings per month. The schedule allows time for neighborhood and NPU meetings to occur throughout the City prior to each public hearing. The schedule of closing and public hearing dates is attached (Page 9).

**Neighborhood and NPU Recommendations.** The City is divided into 24 Neighborhood Planning Units (NPU's), each of which has a volunteer citizen advisory committee that makes a recommendation to the BZA on variances. When you file your application, you will be notified of the NPU contact person and that you must schedule a meeting with that NPU in order to explain what you wish to do. You may be requested to attend additional neighborhood meetings; inquire about the time and place of those meetings. The applicant is expected to contact the NPU as soon as possible after the application is filed. The Bureau of Planning will send a copy of your application to the appropriate NPU during the week after the closing date for your application.

**Public Notice.** When you file your application, it will be scheduled for a public hearing. The Bureau of Planning will initiate posting of public notice (“an advertisement”, “a legal ad”) for this public hearing so that the public is informed at least 15 days before the date of the public hearing:

- by sending written notice of your application to all property owners whose property is within 300 feet of the subject property, and
- by causing public notice to be placed in the newspaper.

***You are responsible for obtaining a public notice sign when you file your application with the Bureau of Planning, and for posting it in a visible location on your property, at least 15 days prior to your public hearing. Failure to properly post the sign will make it necessary for the BZA to defer your case to another public hearing. The BZA may defer the case to a hearing that has been scheduled 30 or more days after the original hearing.***

**Refunds on Withdrawn Cases.** Requests for withdrawal received 18 days prior to the public hearing will enable a refund of the application fee.

**Staff Recommendation.** The staff of Bureau of Planning reviews and makes written recommendations to the BZA on each variance application. You may call the Current Planning Division of the Bureau of Planning at (404) 330-6145 on the Monday before the public hearing if you wish the Planning staff's recommendation.

**Public Hearing Presentation.** Each applicant or representative of the applicant must appear and present the case before the BZA at the scheduled public hearing, or request a deferral in writing prior to the public hearing. The party representing the application is allowed a total of ten minutes to present the application. A portion of this time may be saved for rebuttal to any objections to the variance. You may choose to bring exhibits such as enlarged site plans; this is not required but is purely at your discretion. Any exhibits that are filed with the City at the hearing should be capable of being stored in the 11"x17" City file, so please do not permanently affix exhibits to a stiff backing.

**BZA Decision.** Before granting any application for a variance, the BZA must enter the facts of the case into the record at the public hearing, and must base the decision on applicable criteria listed in the Zoning Ordinance. The City Council does not make decisions regarding applications that come before the BZA.

### **Variance Application Instructions**

1. Information on your variance application should be clearly printed and all signatures on the application must be notarized.
2. If you do not own the subject property, the owner must sign the Notarized Authorization by Property Owner (See Page 6), which authorizes you to file this application. If more than one property owner is involved, each owner should sign a separate affidavit. The person who files the application with the City is considered the applicant.
3. Your application must contain a legal description of the property involved (in the form of either a legal description in metes and bounds from the title to the property, or an accurate survey).
4. Site plan(s) of your property must be submitted. All site plans must be to a scale no smaller than 1 inch = 30 feet. If the "to scale" site plan is 8 ½" x 11, submit 1 copy. If it is larger than 8 ½" x 11", submit 8 copies. The site plan must show all existing conditions and proposed improvements, including existing trees within 100 feet of any new construction. If you make any changes ("amendments") to the design of any proposed construction on the property, submit folded site plans (in the same number as previously submitted) that show the change. Direct the new site plans to the Secretary of the BZA or the planner assigned to review the application. Sample site plans and site plan specifications are attached.
5. You must submit a written justification for any variance that is requested. It is recommended that you address the same criteria that are the basis for the BZA decision (see Criteria for Variances, pages 4-5). If you are also applying for any special exceptions, add a justification based on criteria that are included in the special exception application form. Please submit typewritten justifications.
6. If you choose to be represented by an attorney, the attorney should sign the Authorization of Attorney (See page 7.)
7. The proper fee must accompany your application at the time of filing. Checks must be made payable to City of Atlanta. The application fee schedule is attached for your information (See Page 8). Any combination of two or more variances and special exceptions on one lot may be combined into one application with one fee.
8. Each variance application must be accompanied by a Referral Certificate before it is filed with the Bureau of Planning. This Referral Certificate describes the variance(s)/special exception(s) you are requesting and is obtained from the Zoning Enforcement Division, Bureau of Buildings, Suite 3900, 3rd Floor City Hall, Atlanta, GA, (404) 330-6175.

You may wish to submit other supporting documentation, such as signatures of support from neighbors, and photographs. Signatures of support are not required by the City, but may be requested by some NPU's.

**Note:**

**Yard setback reductions to less than 3 feet for construction of a structure** are discouraged because a) maintenance of side walls of structures is usually not possible without stepping on the adjoining property, and b) houses built less than 3 feet from the property line may not have windows in the affected side wall, in accordance with the fire safety building code.

**Pervious (porous) surfaces** are encouraged to allow rainwater to absorb into the ground, thereby reducing runoff and flooding. Groundwater absorption also purifies storm water runoff before it reaches our rivers and lakes. Please consider using the following pervious surfaces: pervious concrete, grasscrete, gravel, pervious medians in "ribbon" driveways, and sand-filled spaces between pavers. (Pervious surfaces are included in overall lot coverage calculations.)

**Criteria for Variances** (also see special exception application criteria if applicable)

Your variance application must be accompanied by a written justification for all variances requested. If you also have requested any special exceptions, add the special exception justification. It is advisable that you address each of the four criteria listed below. Notes are provided in regular type to explain and clarify the criteria. Section 16-26.003 of the City of Atlanta zoning ordinance requires that the BZA base its decision on satisfaction of all four of these criteria.

***(1) there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;***

- Explain why you believe your property has an extraordinary or exceptional condition. Is the width narrower, or is it smaller than the minimum that is required by the zoning regulations for its zoning classification? Does it have a shape that limits development in its buildable area, or topography that restricts it use? Does this condition relate directly to the requested variance? Minimum lot requirements for residential properties are available from the Bureau of Buildings or Bureau of Planning.
- Commercially zoned properties do not have minimum width and area requirements; therefore, those elements of this criterion are not strictly applicable. However, it is advisable to evaluate the size of the property in comparison to other nearby commercial properties.
- Location of a house on the property in a manner that instigates a variance request is not usually considered an extraordinary or exceptional condition. However, a hardship might be involved if the functional layout of an existing floor plan drives the request for the variance.
- If the variance is required to avoid destruction of any mature trees located in the buildable area of the property, contact the office of the City Arborist at (404)330-6874 to schedule an appointment for an arborist to inspect the property and document the location of the tree.

***(2) the application of the zoning ordinance of the City of Atlanta to this Particular piece of property would create an unnecessary hardship;***

- Describe why you believe the zoning regulations create an unnecessary hardship on you regarding the use of your property.
- For the purposes of granting a variance, the Bureau of Planning does not consider a hardship to be related to cost alone. Variances are not solely intended to enable the property owner to save money. For example, the property owner is not considered to have a hardship if the only reason for the variance is that it would cost more to construct, without a variance, a structure in the buildable area of a lot, versus getting a variance to be allowed to construct the same structure in a yard setback.

***(3) such conditions are peculiar to the particular piece of property involved; and***

- State how the relevant extraordinary and exceptional conditions identified as per (1), above, are unique to the property, not shared by the majority of other properties in the same zoning district.

***(4) relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance of the City of Atlanta.***

- Explain how the requested variance would not detract from people's use and enjoyment of adjoining and surrounding properties. Explain how it would be consistent with the purposes and intent of the zoning ordinance and/or would further these purposes and intent. The purposes and intent are stated in Section 16-01.003 of the ordinance, and include:
  - securing safety from fire, panic and other dangers,
  - providing adequate light and air,
  - encouraging . . . intensities of land development as will tend to facilitate . . . drainage . . . and other public requirements,
  - promoting desirable living conditions,
  - sustaining stability of neighborhoods,
  - providing for the orderly evolution of neighborhoods along lines responsive to public needs,
  - protecting against blight and depreciation.