



OFFICE OF PLANNING
55 Trinity Avenue S.W., Suite 3350
Atlanta, Georgia 30303
(404) 330-6145

APPLICATION #: **V-16-205**
DATE ACCEPTED: **08/03/2016**

NOTICE TO APPLICANT

Address of Property:
1025 North Virginia AVE NE

City Council District: 6 Neighborhood Planning Unit (NPU): F

Board of Zoning Adjustment (BZA) Hearing Date:

Thursday, October 6, 2016 at 12:00 p.m.

Council Chambers, 2nd Floor, City Hall
55 Trinity Avenue, S.W.

The contact person for NPU F is:

Charles Nalbone
404-376-3230
zoning@npufatlanta.org

Contact info for adjacent NPUs is provided below if necessary:

Additional Contacts:

Please contact the person(s) listed above within two days to find out which meetings you will be required to attend before the next NPU meeting. If you are unable to reach the contact person, please call the city's NPU Coordinator at 404-330-6145.

Signed,



TT, for Director, Bureau of Planning



Nina Gentry



City of Atlanta
 Office of Buildings – Zoning Division
 55 Trinity Avenue, Suite 3900
 Atlanta, Georgia 30303
 Phone: 404-330-6175



REFERRAL CERTIFICATE

COUNCIL DISTRICT 6 APPLICATION NUMBER V-16-205
 NPU F DATE FILED 8-3-2016

Nina Gentry
 Name of Applicant

**BUILDING PERMIT AUTHORIZING
 New Detached Garage Structure**

at 1025 North Virginia AVE NE 17th/1
 Street Address Quadrant District & Land Lot

to be used for Residential purposes

The property is zoned R-4 District

2. The Building Permit Was Denied For The Following Reasons:

Applicant seeks a variance from the zoning regulation to reduce the southern side yard setback from 7 feet to 1.82 feet for a newly constructed detached garage.

Applicant seeks no other variances at this time.

1982 ZONING ORDINANCE, AS AMENDED

Chapter 6 Section 16-06.008 Paragraph (2)

Chapter _____ Section _____ Paragraph _____

Chapter _____ Section _____ Paragraph _____

Chapter _____ Section _____ Paragraph _____

[Signature]
 Plan Reviewer Date

Nina E Gentry 8/3/16
 Applicant Date



APPLICATION FOR VARIANCE
City of Atlanta

Date Filed 8-3-2016 Application Number V-16-205
Name of Applicant Nina Gentry Daytime Phone 404-218-5730
Company Name Gentry Planning Services, LLC e-mail gps2015@comcast.net
Address 992 Eden Avenue Atlanta GA 30316
street city state zip code

Name of Property Owner Alfred Greene Eskridge, III
Julie Ann Eskridge Phone 678-773-5300
Address 1025 North Virginia Avenue Atlanta GA 30306
street city state zip code

Description of Property

Address of Property 1025 North Virginia Avenue, NE **OR**
the subject property fronts 50 feet on the east side of North Virginia Ave
southeast, and begins 400 feet from the
corner of Stillwood Drive.
Depth: 150' Area: 7500SF approx Land Lot: 1 District: 17, Fulton County, GA.
Property is zoned: R-4, Council District: 6, Neighborhood Planning Unit: F

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 Office 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 Office 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 3rd Day Of August, 2016.

Angela Newborn
NOTARY PUBLIC

Nina E Gentry
Owner or Agent for Owner (Applicant)
Nina E Gentry
APPLICANT'S NAME IN PRINTED LETTERS

V-16-205



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: Request a reduction in the south side yard setback from 4 feet to 1.82 feet for a recently constructed detached garage. Homeowner proposes to meet all fire wall requirements of the Building code along the south side of the garage.

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.

3717 covered square feet / 7501 total lot square feet = 49.5 % 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 Office of Planning serves as staff to the BZA. Approximately one week after each closing date, a planner is assigned to review your application. All inquires 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 Office 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 Office 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:

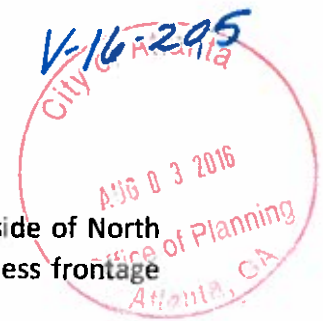
- by sending written notice of your application to all property owners whose property is within 300 feet of the subject property, and
- by causing public notice to be placed in the newspaper.

You are responsible for obtaining a public notice sign when you file your application with the Office 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. Office of Planning staff reviews and makes written recommendations to the BZA on each variance application. You may contact your assigned planner at (404) 330-6145 on the day of the public hearing if you wish to know staff's recommendation.

VARIANCE REQUEST
1025 North Virginia Avenue, NE



1025 North Virginia Avenue is a legal nonconforming parcel located on the east side of North Virginia Avenue in the Virginia Highland neighborhood. It is zoned R-4 and has less frontage and land area as required for R-4 properties in the City of Atlanta.

June 11, 2015 a variance (V-15-110) was approved for the subject property to allow an addition to the main structure at a 0.9 foot north side yard setback and construction of a detached garage at 4 feet from the south property line. Construction commenced the beginning of 2016 (BB-201500078). The project slab was poured and per information in the Accela permit tracking system, passed City Building inspection 1/19/2016 and framing began. The next inspection noted in Accela was 2/25/16 and notations indicate the garage was 99% complete but lacked "strap LVL-to-jack stud at vehicle openings. Add 4 ea straps.". 2/29/16 records indicate the addition and detached garage passed inspection by City Building inspection. At some point the neighbor adjacent on the south and next to the detached garage questioned the location of the garage and placed a call to City Zoning Inspection. It was found the garage had been built closer than the allowed 4 feet. The actual setback on the south side of the garage is 1.82 feet.

The cause of the incorrect location is a multitude of mistakes by the homeowner, construction manager, site subcontractors, and weather complications. Of particular note is the resignation of the construction manager due to workload. The homeowner's termination of two site subcontractors due to incompetence and damages incurred. And, site conditions that were complicated by an unusually wet winter. Also, confusion was incurred by 3 previous incorrect surveys that delayed the homeowner response.

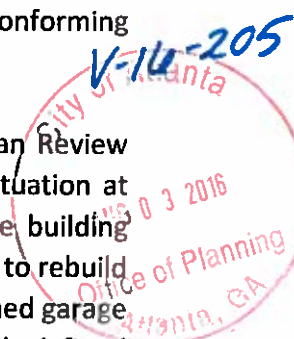
The homeowner accepts responsibility for the mistake and is willing to provide corrective measures as directed by the authority having jurisdiction. While the homeowner accepts responsibility for the error in setback, it also begs the question how did the City of Atlanta Building Inspectors miss such an error for 4 feet vs. 1.82 feet? It should also be noted that the north side yard setback had been approved at 0.9 feet although the as built survey prepared in 2016 indicates the north side yard setback is actually 2.98.

We accept the notation in the variance application about concern of maintaining structures closer than 3 feet from a setback. However, there is evidence that the Board of Zoning Adjustment in the past has granted setbacks of less than 3 feet:

- V-09-105 Planning recommendation approval; approved by the BZA 8/13/09
- V-15-106 Planning recommendation approval; approved by the BZA 7/16/15
- V-15-180 Planning recommendation approval; approved by the BZA 9/3/15
- V-15-339 Planning recommendation approval; approved by the BZA 12/3/2015
- V-15-379 Planning recommendation approval; approved by the BZA 1/4/16

Although the above referenced cases do not mirror the situation for 1025 North Virginia Avenue they do show that setbacks of less than 3 feet have been granted for nonconforming parcels. Research into this precedent is continuing.

Furthermore, the homeowner has researched and discussed with a member of Plan Review Staff in the Office of Buildings what the fire wall requirements would be in the situation at hand. Disappointingly, the original design, approved by the city, does not meet the building code for structures built closer than 5' to the property line. The homeowner is willing to rebuild the south wall and eave to meet the building code requirements. Because the detached garage was able to be constructed 1.82 feet from the south property line that is approximately defined by a 6' tall wooden fence, the homeowner is of the opinion that maintenance of the structure will not be an issue because all construction occurred on the subject property. Further, the homeowner will be able to rebuild the wall to meet the building code in its existing location without an easement for construction or maintenance from the adjacent property owner.



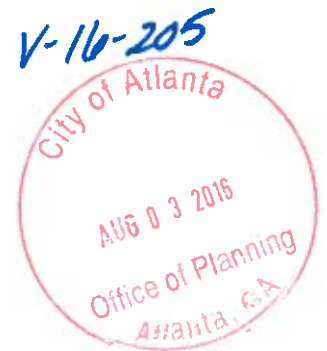
JUSTIFICATION

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** 1025 North Virginia has less frontage and land area than required for properties zoned R-4. It has 50 feet (28.5%) of street frontage rather than the required 70 feet and 7501 square feet (16.6%) of land area rather than the required 9,000 square feet. These are extraordinary and exceptional conditions because of the size and shape of the property.
- b. **The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.** Application of the zoning regulations would cause an unnecessary hardship because of the irregularities of the lot with regard to width and size which results in the lot's nonconforming status. There is evidence of other construction in the City and Virginia Highland neighborhood where setbacks less than 3 feet have been granted for nonconforming lots. Furthermore, although the homeowner accepts responsibility for the error in setback based on the previous granted variance the City of Atlanta Building Inspectors passed the detached garage during construction at the existing setback and never noted the garage was being built closer than permitted which should have been noted early on in the construction process and the project stopped. It appears they did not refer to the variance granted to 4 feet. Considering the required setback without a variance is 7 feet the Inspector should have seen the error when inspecting the slab. Also, the homeowner proposes to install the necessary fire walls to protect the subject property and adjacent property on the south. It should not be necessary to impose this hardship to protect the public good.
- c. **Such conditions are peculiar to the particular piece of property involved.** The lot shape and size are not unique to the subject property. However, the existence of similar conditions on adjoining neighborhood properties should not negate the desirability of the proposal.

- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta. The requested variance to reduce the south property line setback to 1.82' would not cause substantial detriment to the public good or impair the purposes and intent of the zoning ordinance by allowing the proposed setback reduction to allow the existing detached garage to remain. Furthermore, the BZA has approved side yard setbacks at less than 3 feet for other nonconforming properties as evidenced by the record. The variance would allow a typical improvement to the property.

Alternative solutions to the requested 1.82' setback which were considered as less favorable to the homeowner and arguably less favorable to the public follow:

1. Moving the south wall of the garage to a 3' setback is possible, but will extend the construction schedule being a greater detriment to the public good. This would be accomplished by building a wall in the correct location and "chopping off" the roof line and existing wall. The architectural look of the chopped roof line will also be of lesser value.
2. Accomplishing the 4' setback variance will require significantly more demolition and reconstruction causing a substantial detriment to the public good.



V-16-205



NOTARIZED AUTHORIZATION BY PROPERTY OWNER

(Required only if applicant is not the owner of the property subject to the application.)

TYPE OF APPLICATION Variance

I, Alfred Greene Eskridge III and Julie Ann Eskridge (OWNER'S NAME)

SWEAR THAT I AM THE OWNER OF THE PROPERTY LOCATED AT 1025 North Virginia Avenue, NE (PROPERTY ADDRESS).

AS SHOWN IN THE RECORDS OF Fulton COUNTY, GEORGIA WHICH IS THE SUBJECT MATTER OF THE ATTACHED APPLICATION. I AUTHORIZE THE PERSON NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF THIS APPLICATION.

NAME OF APPLICANT Nina Gentry

ADDRESS OF APPLICANT 992 Eden Avenue, SE
Atlanta, GA 30316

TELEPHONE NUMBER 404-218-5730

Julie Ann Eskridge
Signature of Owner
J Eskridge

Personally Appeared Before Me:
Kalimah Ashby

Who Swears That The Information Contained In This Authorization Is True and Correct To The Best of His or Her Knowledge and Belief:
[Signature]
Notary Public
Date 5/23/16

8/3/201

Show Receipt Detail

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 CIT CITY OF ATL BLDG PERMI
 DEI 08/03/2016 11:07:58 DPMENT
 55 Merchant ID: 000000004009798
 404 Terminal ID: 06383358
 184191133992

PAID
CITY OF ATLANTA

AUG 03 2016

EX OFFICIO MUNICIPAL
REVENUE COLLECTOR

CREDIT CARD

VISA SALE

e/NA
 IA AVE NE, ATLANTA, GA 30306
 CARRIE

CARD # XXXXX1368
 INVOICE 0006
 Batch #: 000451
 Rec Approval Code: 003573
 Payr Entry Method: Swiped
 Cre Mode: Online
 Tax Amount: \$0.00
 Own SALE AMOUNT \$100.00

Cashier ID	Received	Comments
PAMITCHELL		

V16
gm

Work Desc CUSTOMER COPY n 7 ft to 1.82 ft for a newly constructed detached