



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

APPLICATION #: **V-17-127**
DATE ACCEPTED: **05/03/2017**

NOTICE TO APPLICANT

Address of Property:
940 Los Angeles AVE NE

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

Board of Zoning Adjustment (BZA) Hearing Date:

Thursday, July 6, 2017 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,



RG, for Director, Bureau of Planning



Nina E. Gentry, ACIP

Office of Planning

MAY - 3 2017

55 Trinity Ave. S.W.
Ste. 3350
Atlanta, GA



MAY - 3 2017

CITY OF ATLANTA

Office of Buildings - Zoning Division
55 TRINITY AVENUE, SUITE 3900
Atlanta, Georgia 30303
404-330-6175

55 Trinity Ave. S.W.
Ste. 3350
Atlanta, GA

REFERRAL CERTIFICATE

COUNCIL DISTRICT 6 APPLICATION NUMBER V-17-127

NPU F DATE FILED _____

1. _____
Nina E. Gentry, ACIP
Name of Applicant

BUILDING PERMIT AUTHORIZING New single family dwelling

at 940 Los Angeles 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 required front yard setback from 35 feet to 18.3 feet in order to construct a new single family dwelling.

Applicant seeks no other variances at this time.

Complete plan review not conducted
(No proposed site plan or elevations)

1982 ZONING ORDINANCE, AS AMENDED

Chapter 6 Section 16-06.008 Paragraph (1)

Chapter _____ Section _____ Paragraph _____

Chapter _____ Section _____ Paragraph _____

Chapter _____ Section _____ Paragraph _____

Nathan Carson 5/3/17
Plan Reviewer Date

Nina E Gentry 5/3/17
Applicant Date

APPLICATION FOR BOARD OF ZONING ADJUSTMENT - 3 2017

Please mark "X" next to the type of application(s) you are submitting:

55 Trinity Ave. S.W.
Ste. 3350
Atlanta, GA

Variance	
Special Exception	
Variance & Special Exception	

Date Filed _____

Application Number V-17-127

Name of Applicant Nina E. Gentry, AICP

Daytime Phone 404-218-5730

Company Name (if applicable) Gentry Planning Services, LLC email gps2015@comcast.net

Address 992 Eden Avenue, SE Atlanta GA 30316
street city state zip code

Name of Property Owner Shea Meddin Phone 404-558-0175

Address 940 Los Angeles Avenue, NE Atlanta GA 30306
street city state zip code

Description of Property

Address of Property 940 Los Angeles Avenue, NE Atlanta GA 30306
street city state zip code

Approx.

Area: 7,453 SF Land Lot: 1 District: 17, Fulton County, GA.

Property is zoned: R-4, Council District: 6, Neighborhood Planning Unit (NPU): 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 a Variance or Special Exception.

I hereby authorize the staff of the Office of Zoning and Development 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 Zoning and Development 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.

Nina E. Gentry
Owner or Agent for Owner (Applicant)

Shea Meddin
Print Name of Owner

Sworn To And Subscribed Before Me This 3 Day Of Mar, 2017.

NOTARY PUBLIC



SUMMARY & JUSTIFICATION FOR VARIANCES

Directions: Complete responses must be provided for ALL questions. Incomplete applications will not be accepted. The space below may be utilized or responses may be submitted as a separate attachment. Specific criteria for Board approval of variances may be found on page 7. The justification must address these criteria. Please submit a typewritten or legible justification.

State whether the property described in this application is subject to a pending application or ordinance for a Rezoning or Special Use Permit. YES X NO. (If yes, the variance/special exception request will be rescheduled to a hearing following the final approval by City Council & the Mayor.)

Summary of proposed construction changes to buildings or site (shall not replace submittal of written criteria). (Examples: "Convert a 100' x 200' retail space into a restaurant." "Install a 6-foot high opaque wooden wall ('privacy fence' with 6-foot high opaque wall gates.").

Demolish the existing dwelling to construct new 2-story dwelling with a front yard setback of 18' 3.6". The facade of the structure will be 26' 6" which is 4' 2 4" more than the existing facade. All other setbacks will be met

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

3,713 covered square feet / 7,453 total lot square feet = 49.8 % proposed lot coverage

50 % maximum allowed lot coverage

Variance Criteria (see page 6 for detailed criteria): SEE ATTACHED

- 1) What are the extraordinary and exceptional conditions pertaining to the particular piece of property in question (size, shape or topography)? _____
- 2) How would the application of the Zoning Ordinance of the City of Atlanta to this particular piece of property create an unnecessary hardship? _____
- 3) What conditions are peculiar to this particular piece of property? _____
- 4) Submit facts to show that 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. _____

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VARIANCE REQUEST
940 Los Angeles Avenue, NE

940 Los Angeles Avenue is a nonconforming lot of record having 7,453 SF of land area and 49.76 feet of street frontage. It is located on the north side of Los Angeles Avenue in the Virginia Highland neighborhood of NPU-F, Council District 6. Zoned R-4 the parcel has less frontage and land area than required for R-4 properties in the City of Atlanta.

The property owners propose to demolish the existing dwelling and build a new two-story single family dwelling of approximately 2,146 SF including the attached garage and deck. An 8' front porch will be along the width of the new dwelling. The existing dwelling, measured from the front façade, is 22.5' from the front property line and the proposed dwelling façade would be 26.3' from the front property line. Several other dwellings along the north side of Los Angeles Avenue have similar front yard setbacks, particularly the adjacent dwellings on either side of the subject property. All other requirements found in the R-4 zoning district will be met.

Because the dwelling is not proposed at the 35' required front yard setback the property owner cannot take advantage of the code section that allows porches to encroach 10' into the front yard setback and rather than the front yard setback being determined based on the façade of the structure the front porch must be counted in determining the front yard setback. The proposed front yard setback would actually be 18.3' when the front porch is considered. The location has been chosen to align with other dwellings on the street and to allow a larger and useable rear yard area. Please refer to the setbacks of other structures on the block face for similar setbacks.

JUSTIFICATION

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** 940 Los Angeles Avenue has less the frontage and land area required for properties zoned R-4. It has 49.76 feet of frontage and 7,453 SF of land area. These are extraordinary and exceptional conditions based on 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 size and shape which results in the lot's nonconforming status. Adherence to the zoning regulations would also cause a hardship by preventing the property owner from constructing a reasonable, commonly found dwelling in this area of the City. The location of the new dwelling will align with others on the block face and allow the property owner a larger and more useable rear yard. 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 size and shape of the lot are not unique to the subject property as other properties in the nearby area have similar conditions. However, the existence of similar conditions on adjoining neighborhood properties should not negate the desirability of the proposal.

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- 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 would not cause substantial detriment to the public good or impair the purposes and intent of the zoning ordinance by allowing the construction of a detached accessory structure. There is no evidence that the new dwelling would impede the quality of life of adjacent neighbors as the side yard setbacks will be met and the dwelling will align with other dwellings on the block face. The proposal promotes desirable living conditions and reinforces the stability of the surrounding neighborhood by making improvements on an existing property. The proposal does not appear to pose a detriment to the public and there are no negative impacts resulting from the proposed dwelling.

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V-17-12t

AUTHORIZATION BY PROPERTY OWNER

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

(Please Print Clearly)

I, Shea Meddin (OWNER'S NAME) SWEAR AND AFFIRM THAT I AM THE OWNER OF THE PROPERTY AT 940 Los Angeles 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 FILE THIS APPLICATION AS MY AGENT.

NAME OF APPLICANT:

LAST NAME Gentry FIRST NAME Nina

ADDRESS 992 Eden Avenue, SE SUITE _____

CITY Atlanta STATE GA ZIP CODE 30316

OWNER'S TELEPHONE NUMBER: ~~404-644-8247~~
404-558-0928

Shea Meddin
SIGNATURE OF OWNER

SHEA MEDDIN
PRINT NAME OF OWNER

PERSONALLY APPEARED BEFORE ME THE ABOVE NAMES, WHO SWEARS THAT THE INFORMATION CONTAINED IN THIS AUTHORIZATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Heidi West
NOTARY PUBLIC

4/28/17
DATE



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65 Trinity Ave. S.W.
Ste 3350
Atlanta, GA

V-17-127

CONSTITUTIONAL CHALLENGE

To Application seeking a reduction in the required front yard setbacks
filed by Nina E. Gentry
pertaining to property located at 940 Los Angeles Avenue, NE Atlanta Georgia

The purpose of this attachment is to provide notice to the City of Atlanta, Georgia of the Applicant's intention to challenge a denial of this variance application on constitutional grounds, among other grounds. This notice is given to comply with mandate of the Georgia Supreme Court that constitutional issues be raised as a condition precedent to seeking judicial relief on constitutional grounds.

Applicant submits respectfully that the Zoning Ordinance of the City of Atlanta, Georgia, as originally enacted and as amended from time-to-time, and known as the "City of Atlanta Zoning Ordinance," is unconstitutional to the extent that it restricts arbitrarily and without good cause the Applicant and property owner from using the subject property for the proposed residence use of the type being proposed in the subject site plan. The application of the City of Atlanta Zoning Ordinance to the subject property is further unconstitutional because it deprives the owner of a reasonable use and development of the property, and renders the property unusable and unmarketable, and also because it is confiscatory.

Applicant submits respectfully the restrictions imposed on the property, and any intervening restrictions that permit less or different development from that proposed by Applicant, constitute an arbitrary and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare and substantially harm the property owner. Further, the restrictions in the City of Atlanta Zoning Ordinance, and a failure to approve this request, constitute a taking of the owner's private property without just and adequate compensation and without due process in violation of the 5th and 14th Amendments of the Constitution of the United States of America, and in violation of Article 1, Section 1, Paragraph 1 and Article 1, Section 3, Paragraph 1, Article 3, Section 6, Paragraph 2, and Article 2, Section 3, Paragraph 1 of the Constitution of the State of Georgia. Application of the present zoning restrictions and rejection of this application would also deny the property owner and Applicant equal protection of the laws. Applicant submits respectfully that the City of Atlanta's failure to approve this request will be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the property owner and owners of similarly situated property in violation of Article 1, Section 2, Paragraph 3 of the Constitution of the State of Georgia and the Equal protection Clause of the 14th Amendment of the Constitution of the United States of America.

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Ste. 3350
Atlanta, GA

RECEIPT

CITY OF ATLANTA
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
55 TRINITY AVE SW, ATLANTA GA 30303
404-330-6070

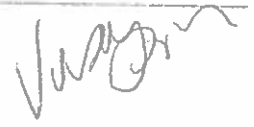
PAID
CITY OF ATLANTA

MAY 03 2017

EX OFFICIO MUNICIPAL
REVENUE COLLECTOR

Application: V-17-127
Application Type: Planning/BZA/Variance/NA
Address: 940 LOS ANGELES AVE NE, ATLANTA, GA 30306
Owner Name: HALLETT ANDREW & JEFFREY J
Owner Address:
Application Name:

Receipt No.	Ref Number	Amount Paid	Payment Date	Cashier ID	Received	Comments
520780		\$100.00	05/03/2017	PAMITCHELL		



Owner Info.: HALLETT ANDREW & JEFFREY J

Work Description: Variance to reduce the required front yard setback from 35 feet to 18.3 feet in order to construct a new single family dwelling.