

GOVERNMENT OF THE CITY OF SOUTH FULTON

ODIE DONALD II
CITY MANAGER



SHAYLA REED
DIRECTOR
COMMUNITY DEVELOPMENT SERVICES

MEMORANDUM

TO: Zoning Board of Appeals
FROM: Planning & Zoning Division
SUBJECT: V-19-002 for 2909 Enon Rd
DATE: May 16, 2019

The applicant seeks a variance to reduce the side yard setback from 25 feet to 10 feet for a completed construction of a guest house.

STAFF RECOMMENDATION: DENIAL

cc: Diane White, City Clerk

APPLICATION INFORMATION

Applicant Information:	Willie Brittian
Status of Applicant:	Builder
City Council District(s):	1
Parcel ID Number:	14F 0093 LLO335
Area of Property:	The property is composed of approximately 12.56 acres.
Existing Zoning:	AG-1 (Agricultural District)
Current/Past Use of the Property:	The subject property is currently developed with a two story, single-family residential structure to the south east portion of the property and an in-law guest house to the northeast portion of the property.
Prior Zoning Cases/History:	In February 2015, a permit (B15-00073) was issued to the homeowner to construct a one-story guest house.

SPECIFIC INFORMATION

REQUEST: The applicant requests a variance to reduce the side yard setback from 25 feet to 10 feet for a finished guest house.

BACKGROUND

The subject property is currently developed with a two story, single family residential structure and a one-story in-law guest house. At the time of permitting the one-story structure (B15-00073), the approved site plan reflected the guest house within the minimum required side yard setback. During the construction phase, it was stated that a portion of this property was located within a FEMA (100 year) Flood Plain. The applicant provided that the builder built the guest house on the highest point of the property to prevent flood insurance for an accessory structure. Inadvertently, in positioning the house to be above the flood plain, the rear corner of the house was placed 10 feet in the side yard setback.

In staff's findings, the subject property is located outside the flood plain and is situated at least 10 feet above the flood plain.

ADJACENT ZONING AND LAND USES

The adjacent properties to the north and south are zoned AG-1 (Agricultural District), R-3 (Single Family Dwelling District), CUP (Community Unit Plan) and SUB-A (Single Family Dwelling) while the adjacent property to the south is consists of similar zoning categories including R-3A (Single Family Dwelling), but single-family homes only exist to the east and south.



APPLICABLE CODE REQUIREMENTS

5.1.3.B. Minimum Setbacks: Front yard: 60 feet; Side Yard: 25 feet adjacent to interior line; Rear yard: 50 feet

5.1.3 Minimum Accessory Structure Requirements. Accessory structures may be located in rear or side yards but shall not be located within a minimum yard

VARIANCE CONSIDERATIONS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Zoning Board of Appeals in considering the application and its merits. These considerations include:

- (i) Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the *Zoning Resolution*; or,
- (ii) The application of the particular provision of the *Zoning Resolution* to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,
- (iii) Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.

PUBLIC PARTICIPATION

The applicant held their own public meeting on April 30, 2019 at 7:00 p.m. at 2099 Enon Rd. Twelve members of the public attended this meeting and there were no reported oppositions.

STAFF COMMENTS

Engineering: No comments

Arborist: No comments

Environmental: No comments

Public Works: No comments

Transportation: No comments

MARTA: No comments

Fulton County Schools: No comments

Fire: No comments

Legal: No comments

STAFF RECOMMENDATION

The applicant has petitioned to reduce the required side yard setback from 25 ft to 10 ft in order to allow construction of an existing guest house in the minimum side yard. The initial site plan submitted for a building permit depicts the guest house situated 59 feet from the side yard setback. Although there is a 100-foot buffer setback (75 ft Undisturbed Buffer and 25 ft State Waters Buffer) and a flood plane that runs horizontal to the subject property, it is Staff's opinion there was adequate space on the property to build the guest house.

A hardship is not present in terms of size, shape and topography; however, if this variance is granted, it would remain in harmony with the general purpose and intent of the City of South Fulton Zoning Resolution and would not cause detriment to the public.

Staff recommends **DENIAL** on the basis that no hardship was found in terms of the size, shape and topography of the subject lot. The lot is a square shaped lot and approximately 13 acres in size with no outstanding topographical challenges.

PREPARED BY:

Keedra T. Jackson, Senior Planner

REVIEWED BY:

Shayla Reed, Director