



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2009-11

Board of Zoning Appeals Hearing: Monday, May 18, 2009

**Applicant:** Maurice L. Deprey, AIA  
2610 Ballew Court  
Marietta, GA 30062

**Property Owner:** Robert and Susan Underwood  
437 Saint Mary's Lane  
Marietta, GA 30064

**Address:** 437 Saint Mary's Lane

**Land Lot:** 10820      **District:** 16      **Parcel:** 012

**Council Ward:** 4      **Existing Zoning:** R-2 (Single Family Residential; 2 units/acre)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to increase maximum building height from 35 feet to 39.3 feet. [Section 708.02.H]
2. Variance to allow accessory structure in front yard. [Section 708.02.F.1]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

### **Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



View of property from Saint Mary's Lane



Proposed location of new structure



Adjacent property to the west



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**Recommended Action:**

**APPROVAL.** Maurice Deprey, on behalf of Robert and Susan Underwood, is requesting variances in order to construct a new single family home on the property located at 437 Saint Mary's Lane. The subject property and all surrounding properties are zoned R-2, including the Keeler Woods subdivision to the south.

The applicant is proposing to construct a new single family home on the property behind the existing single family structure. Once the new home is finished, the owners intend to live in the new home, and eventually demolish the existing structure, leaving the existing chimney as a focal point for a future patio space. The applicants are proposing to build an environmentally sustainable structure that will support the future installation of a green roof. The structure would be designed to accommodate a twelve-inch layer of wet earth and a low maintenance three-inch high grass, and an elevator would provide access to the roof. The applicant has stated that the owners intend to install the vegetation layer at a later date.

Since the property contains a moderate slope, the new structure will be 44 feet in height at the front grade, and 34 feet 7 inches at the rear grade. The mean building height is approximately 39.3 feet, or 4.3 feet higher than the maximum building height of 35 feet. Once the existing structure is removed, the remaining chimney will become an accessory structure, and as such is not permitted within a front yard.

The subject property contains several mitigating factors that address the applicant's request. The property is heavily wooded, buffering both the chimney from the street and the proposed dwelling from adjacent properties. Properties to the south in the Keeler Woods subdivision are approximately 10-20 feet higher in elevation, reducing any impact from a higher building height. In addition, the building height only exceeds the 35 foot standard due to the elevator structure providing access to the roof. Benefits from green roofs include reduced stormwater runoff and higher energy efficiency.

*Staff recommends approval of these variance requests.* The applicant would be under a hardship to move the existing chimney from its current location, and sustainable building practices should be encouraged within Marietta. Mitigating factors such as tree coverage and topology prevent this proposal from being detrimental or injurious to adjacent property owners.