



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-30 **Legistar #:** 20140800

Board of Zoning Appeals Hearing: Monday, July 28, 2014

Property Owner: Paragon Investors, Inc.
% Mark Jeanetta
11611 San Vicente Boulevard
Suite 550
Los Angeles, CA 90077

Applicant: Griffin Chalfant
560 Linden Lane
Marietta, GA 30008

Address: 245 Hunt Street

Land Lot: 11600 **District:** 16 **Parcel:** 0770

Council Ward: 3A **Existing Zoning:** R-4 (Single Family Residential)

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

1. Variance to reduce the side yard setback from 10' to 8' on either side. [§708.04 (H.)]
2. Variance to increase the allowable building height from 35' to 41'5." [§708.04 (H.)]

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.

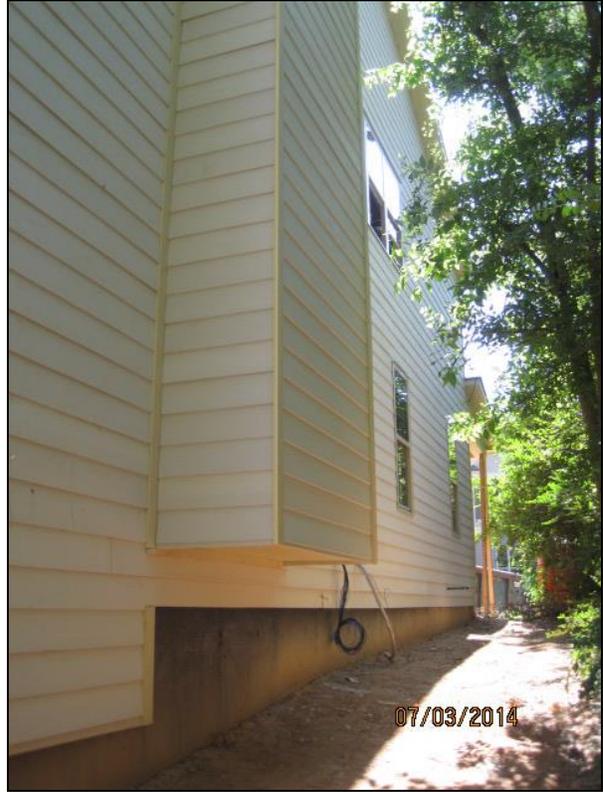
PICTURES



245 Hunt Street



Projection along northern property line



Projection along southern property line



View of Fireplace from rear (North Forest Avenue)

Recommended Action:

Approval, with stipulation. The applicant, Griffin Chalfant, is requesting variances for the property located at 245 Hunt Street. This property and all surrounding properties are zoned R-4 (Single Family Residential – 4 units per acre). Across the street to the east is Manor Park, a townhome and single family detached development that is zoned PRD-SF (Planned Residential Development – Single Family). The subject property contains a home that is currently being constructed. The applicant is requesting variances for setback encroachments on both sides of the home, as well as a variance for building height.

The two projections - one is a fireplace chase and the other a shower enclosure - extend two (2) feet into the required ten (10) foot side setback. Although the projections were shown in the building plans for the house, they were not shown on the site plan because they are cantilevered and do not meet the ground. Likely through miscommunication with City Staff, the applicant mistakenly thought that cantilevered projections were allowed to extend into the setback. However, only open, unenclosed structures such as porches, decks, stoops, stairs, or terraces may project halfway into the setback. The Fire Department will require the home to have a sprinkler system, which will reduce any hazards caused by the side setback encroachments. The side property lines contain thick vegetation that should keep the encroachments from being a visual nuisance.

The Board of Zoning Appeals granted variances in July 2010 (V2010-16) for setback reductions for the principal and accessory structures on the property directly to the north at 257 Hunt Street. As a result, staff recommends the approval of the side setback variance with the stipulation that the applicant apply for a building permit for the sprinkler installation.

The maximum building height for all single family zoning districts within the City of Marietta, including the R-4 district, is thirty-five (35) feet. At a height of thirty-five (35) feet, a house can typically be two to three stories tall. The detached homes in Manor Park, which is directly across Hunt Street and at the top of a hill, are between thirty (30) and thirty-five (35) feet in height. However, the Forest Hills neighborhood is an older, more historic area of the city, and the homes are predominately smaller, one-storied structures, and the introduction of a thirty-five (35) foot tall structure is more dramatic in comparison to the existing structures. This house also includes a basement, which partially below ground and is accessible at the rear of the house where the slope of the ground begins to proceed downhill.

The Zoning Ordinance defines “height” as “*The vertical distance measured from the mean elevation of the proposed finished grade to the highest point of a structure, sign or its supporting structure, whichever is higher.*” Section 710.11 allows cupolas, chimneys, smokestacks, elevator penthouses, water tanks, heating and air conditioning units, etc. to be exempted from height calculations in all zoning districts except single family residential districts. If the chimney and the basement level were excluded from the height measurement, the house would meet the thirty-five (35) foot height requirement, but it would still appear to be much larger than most of the surrounding homes.

Plans for this house show the height from the highest finished grade (at the front) to the top of the fireplace as being 36'9." The height from the lowest finished grade (at the rear) to the top of the fireplace is 46.' This yields an average height of 41'5." If the height of the fireplace was exempted, the height taken from the finished grade at the front to the ridgeline of the roof is 33,' from the rear to the ridgeline of the roof is 42.3,' averaging at 37.65.' Looking at the home from the front along Hunt Street, the fireplace is only visible on the left side, because it is located towards the rear of the house. However, looking at the home from the rear, along North Forest Avenue, the fireplace and roofline of the house is much more prominent because the homes along North Forest Avenue are at a much lower elevation than those along Hunt Street. The impact of the height of the structure as viewed from the rear is exacerbated by the topography.

In the absence of protective covenants or design guidelines attached to a locally designated historic district, neighbors look to the local Zoning Ordinance for protection. The applicant has not provided justification for a hardship for height and there is little evidence that adherence to the appropriate zoning regulations would prevent the reasonable use and development of the property.

In summary, even though the mass and height of the new house is substantially larger than neighboring homes in Forest Hills, the height of the main structure generally meets City requirements. **Staff recommends approval of the variance to increase the allowable height from 35' to 41'5" and of the variance to reduce the side setback from 10' to 8' for the two existing enclosed projections - with the stipulation that the applicant apply for a building permit for the sprinkler installation.** The rationale for granting this variance would be that it 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.