



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

APPLICATION #: **V-19-042**

DATE ACCEPTED **02/20/2019**

NOTICE TO APPLICANT

Address of Property:

600 Wimbledon RD NE

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

Board of Zoning Adjustment (BZA) Hearing Date:

Thursday, April 11, 2019 at 12:00 p.m.

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

The contact person for NPU F is:

Debbi Skopczynski
404-874-7483
zoning@npufatlanta.org

Contact info for adjacent NPUs is provided below if necessary:

Additional Contacts:

Please contact the person(s) listed above within five 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, Office of Zoning and
Development

Terry Bailey



V-19-042

Department of City Planning
Office of Zoning & Development

FEB 20 2019

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-19-042

NPU F DATE FILED 02/20/2019

Terry Bailey
Name of Applicant

BUILDING PERMIT AUTHORIZING

Service Station/Convenience Store

at 600 Wimbledon Road NE 17th/50
Street Address Quadrant District & Land Lot

to be used for Residential purposes

The property is zoned C-2 (Commercial Service District)/Beltline District

Applicant seeks a variance from the zoning regulation to (1). Reduce the transitional use distance requirement from 100 feet to 20 feet to allow a service station on a lot that abuts RG-3 where the use is prohibited within the first 100 feet of a lot (wider than 100 feet) that abuts the RG zoning district.

Applicant seeks no other variance at this time.
Lot is not consistent with City records.
Complete review not conducted.

1982 ZONING ORDINANCE, AS AMENDED

Chapter 14 Section 16-14.006 Paragraph (1)

Chapter _____ Section _____ Paragraph _____

Tamaria Letang 02/14/19
Plan Reviewer Date

[Signature] 2/20/19
Applicant Date

APPLICATION FOR BOARD OF ZONING ADJUSTMENT

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

Department of City Planning
Office of Zoning & Development

Variance	X
Special Exception	
Variance & Special Exception	

FEB 20 2019

Date Filed _____

Application Number V-19-042

65 Trinity Ave. SW
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Name of Applicant Terry Bailey Daytime Phone 404-969-5401

Company Name (if applicable) The T.S. Bailey Law Firm email Terry@tsbaileylaw.com

Address 2221 Peachtree Rd. NE Suite X13 Atlanta GA 30309
street city state zip code

Name of Property Owner 1856 Piedmont, LLC Phone 404-819-2182

Address 600 Wimbledon Rd. NE Atlanta GA 30324
street city state zip code

Description of Property

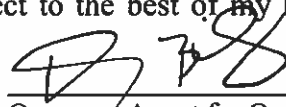
Address of Property 600 Wimbledon Rd. NE Atlanta GA 30324
street city state zip code

Area: .41 Acres Land Lot: 50 District: 17th, Fulton County, GA.

Property is zoned: C2, Beltline Overlay, Council District: 6, Neighborhood Planning Unit (NPU): F

TO THE BOARD OF ZONING ADJUSTMENT: Applicant, having received a preliminary plan review from the Office of Zoning and Development prior to 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.



 Owner or Agent for Owner (Applicant)

PARIS L STEWART
 NOTARY PUBLIC
 DeKalb County, Georgia
 My Commission Expires 7/30/2022

Terry Bailey

 Print Name of Owner

Sworn To And Subscribed Before Me This 15 Day Of Feb, 20 19.



 NOTARY PUBLIC

PARIS L STEWART
 Notary Public
 DeKalb County, Georgia
 My Commission Expires 7/30/2022

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 NO. (If yes, the variance/special exception request will be rescheduled to a hearing following the final approval by City Council & the Mayor). Please provide the relevant zoning number associated with the subject property: _____

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Is the proposal subject to Inclusionary Zoning? YES NO

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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.").

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To demolish the existing 1,056 square foot building, existing pumps and existing canopies and replace with new 2,140 square foot building with new pumps and canopies.

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.

_____ covered square feet / _____ total lot square feet = _____ % proposed lot coverage
_____ % maximum allowed lot coverage

Variance Criteria (see page 6 for detailed criteria):

- 1) What are the extraordinary and exceptional conditions pertaining to the particular piece of property in question (size, shape or topography)? The existing gas station is currently legally non-conforming. Due to the small size of the lot, the existing building is currently positioned inside the 100 foot transitional buffer in which we are seeking a variance to for. Any renovations to the existing gas station would require the same variance request, due to the small shape of the property.
- 2) How would the application of the Zoning Ordinance of the City of Atlanta to this particular piece of property create an unnecessary hardship? Property owner cannot upgrade the site or improve the quality of the gas station use without applying for this variance. Any substantial upgrades to the existing convenience store or any newly designed store would require this variance.
- 3) What conditions are peculiar to this particular piece of property? This property is peculiar nature in that the property is smaller than many of the commercial properties in the area. Further, the required 100 foot buffered extends almost halfway through the 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. If relief is not granted then the property owner would not be able to upgrade the site. There is already an existing gas station at the site but the granting of this variance would allow for the site to be upgrade in order to provide the community with a quality gas station that is of consistent quality as the surrounding businesses and new developments.

LETTER OF INTENT

and

Other Material Required by
Zoning Ordinance of City of Atlanta

Application for Variance

for

± .41 Acres of land located at
600 WIMBLEDON RD
Atlanta, GA 30324
Land Lot 50, 17th District

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Atlanta, GA
City Planning
Office of Zoning & Development

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Atlanta, GA

Variance to reduce the 100 foot transitional buffer to 20 feet from a residential zoned property.

Submitted by:
Terry Bailey, Esq.
The T.S. Bailey Law Firm, LLC
2221 Peachtree Rd. NE Suite X-13
Atlanta, Georgia 30309
404.969-5401

SUMMARY OF PROPOSED USE

This is an application of 1856 Piedmont, LLC (hereinafter referred to as the "Owner") for variances from certain zoning regulations of the City of Atlanta for property located at **600 WIMBLEDON RD** NE Atlanta, GA 30324 (hereinafter referred to as the "Subject Property"). The Subject Property is zoned C-2 with a beltline overlay. The subject property is bordered by a street, Wimbledon Rd to the South. To the North of the subject project is a restaurant, a cycling store and other medium density commercial uses. To the East of the Property is Piedmont Road with a newer apartment complex on the opposite side of the street. To the West of the property is a another apartment complex that is directly adjacent the Subject Property

The Owner intends to redevelop the property by demolishing the existing 1,056 square foot convenience store and associated pumps. The Owner will construct a 2,140 square foot building to replace the existing store.

In order to continue implement its redevelopment plans, the Owner must first seek relief from the City of Atlanta from several of its zoning regulations.

Specifically, the Owner seeks the following variance from the zoning regulations for the Subject Property:

1. To reduce the transitional buffer zone requirement from 100 ft. to 20 ft.

Most importantly, the stated improvements have been constructed without substantial detriment to the public. Presently, the Owner intends to work closely with the immediate neighborhood to ensure that the variance requested does not frustrate the intent of the zoning and result in the development of a project which is aesthetically pleasing and functionally appropriate for the site. As such, the plan is in the public's best interest.

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JUSTIFICATION FOR VARIANCE

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The Zoning Ordinance specifically authorizes the Board of Zoning Adjustments (hereinafter referred to as the "BZA") to hear, grant or deny variances from applicable development standards of the Zoning Ordinance when the strict application of any regulation enacted under said chapters would result in exceptional and undue hardship upon the owner of such property.

According to Section 16-26.003 of the City of Atlanta Code of Ordinances, the BZA shall apply the following criteria to the types of application specified below as follows: (a) There are

extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; (b) the application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship; (c) such conditions are peculiar to the particular piece of property involved; and (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.

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A.

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There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.

In accordance with the conditions outlined in the Code of Ordinances, by reason of topographic conditions the strict compliance of the requirements of this Chapter would deprive the Owner of rights and privileges enjoyed by other property owners of the district. Accordingly, the topography of the property is uneven and creates unique challenges to creating a unified development project for the entire site. The existing lot is very small. Accordingly, the current building is already inside of the require 100 foot buffer. As such, it is legally non conforming. Any major renovations to the existing building would require the same variance. As such, the small size of the lot makes it difficult to design the project in a manner which achieves the intent of the rezoning while satisfying each of the development standards.

B.

The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship.

The requested variance is not a grant of special privileges. Instead, the requested variances afford the minimum relief necessary. The requested reduction of the traditional buffer zone does not further encroach upon the existing buffer that is currently in place. Accordingly, the Owner is not able to improve his property or upgrade it without requesting a variance. The only way he could redevelop the property would be to change the use of the business which is an unnecessary hardship.

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C.

Such conditions are peculiar to the particular piece of property involved.

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Atlanta GA

The property is peculiar in nature because it is small than many of the surrounding properties. Further an 100 foot buffer would extend approximately halfway into the property/

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 variances requested will not be materially detrimental to the public welfare. Instead, the proposed variances will benefit the public welfare while making a positive impact on the property as well as the zoning district in which it lies. In seeking the proposed variance, the Owner will replace an older, visually unappealing building with a modern building that benefit the community as a whole.

As per the site plan submitted with the foregoing application, appropriate attention has been paid to buffering and screening to alleviate any potential adverse effects created by the gas station. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of dissimilar uses of adjacent tracts of land by establishing a harmonious transition

between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. On-site transition, which might either supplement or replace offsite transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects.

Department of City Planning,
Office of Zoning & Development

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CONCLUSION

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Ste. 3350

Based upon the foregoing facts, the Owner contends that the application of the applicable development standards of the City of Atlanta Zoning Ordinance to this particular piece of property would create an unnecessary hardship and that the variances requested herein would do substantial justice while preserving the spirit of the chapter shall, securing the public welfare and safety and not causing substantial detriment to the public good or impair the purpose and intent of Zoning Ordinance of the City of Atlanta.

Further, the Owner respectfully submits that the Zoning Ordinance of the City of Atlanta, Georgia, as amended from time to time and known as the “City of Atlanta Zoning Ordinance,” is expressly intended to grant variances in instances such as these described herein. Further, to forbid the requested variances in this instance would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

For these reasons, we request the variances sought herein from the stated restrictions as set out in the City of Atlanta Code of Ordinances.

Owner respectfully submits that the Zoning Ordinance and maps of the City of Atlanta, Georgia, as amended from time to time, are unconstitutional to the extent that they do not allow

the requested variances for the construction of the proposed improvements on the Subject Property.

Accordingly, the Owner respectfully submits that the denial of the variances for the construction proposed herein on the Subject Property would constitute an arbitrary and unreasonable use of the zoning and police powers because it will bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Owner. Additionally, issuance of the requested variances is required because it fully satisfies all standards applicable to it. A denial would constitute a taking of the Owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Further, the Owner respectfully submits that the failure to approve the requested variances would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the Property owner and the owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power, Guhl v. Holcomb Bridge Road, 238 Ga. 322 (1977).

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Department of City Planning
Office of Zoning & Development

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For the foregoing reasons, we respectfully requests that the Variance Application be approved.

Respectfully submitted,



Terry Bailey

Attorney for Owner

V-19-042

Department of City Planning
Office of Zoning & Development

FEB 20 2019

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

ATTORNEY AUTHORIZATION

(Required only if the property owner or applicant is represented by an Attorney.)

(Please print clearly. Must be the original document. A copy will not be accepted.)

I SWEAR AND AFFIRM, AS AN ATTORNEY AT LAW, THAT I HAVE BEEN AUTHORIZED BY THE OWNER/APPLICANT OF THE PROPERTY SUBJECT TO THE PROPOSED VARIANCE/SPECIAL EXCEPTION TO FILE THIS APPLICATION.

V-19-042

NAME OF ATTORNEY:

LAST NAME Bailey FIRST NAME Terry

ADDRESS 2221 Peachtree Rd. NE SUITE X-13

CITY Atlanta STATE GA ZIP CODE 30309

ATTORNEY'S TELEPHONE NUMBER: 404-969-5401

Department of City Planning
Office of Zoning & Development

ATTORNEY'S EMAIL ADDRESS: terry@tsbaileylaw.com

FEB 20 2019



SIGNATURE OF ATTORNEY

Terry Bailey

PRINT NAME OF ATTORNEY

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

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.



NOTARY PUBLIC

PARIS L STEWART
NOTARY PUBLIC
DeKalb County, Georgia
My Commission Expires 7/30/2022

2/15/19
DATE

AUTHORIZATION BY PROPERTY OWNER

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

(Please print clearly. Must be the original document. A copy will not be accepted.)

I, Imtiyaz Hajiyani (OWNER'S NAME) SWEAR AND AFFIRM THAT I AM THE OWNER OF THE PROPERTY AT 600 Wimbledon Rd. Atlanta, GA 30324 (PROPERTY ADDRESS). AS SHOWN IN THE RECORDS OF Fulton County COUNTY, GEORGIA, WHICH IS THE SUBJECT MATTER OF THE ATTACHED APPLICATION. I AUTHORIZE THE PERSON NAMED BELOW TO FILE THIS APPLICATION AS MY AGENT.

V-19-042

OWNER'S TELEPHONE NUMBER: 404-819-2182

Department of City Planning
Office of Zoning & Development

Imtiyaz Hajiyani
SIGNATURE OF OWNER

FEB 20 2019

Imtiyaz Hajiyani
PRINT NAME OF OWNER

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

NAME OF APPLICANT:

LAST NAME Bailey FIRST NAME Terry

ADDRESS 2221 Peachtree Rd. NE SUITE X-13

CITY Atlanta STATE GA ZIP CODE 30309

APPLICANT'S TELEPHONE NUMBER: 404-969-5401

APPLICANT'S EMAIL ADDRESS: terry@tsbaileylaw.com

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.

Paris Stewart
NOTARY PUBLIC

2/15/19
DATE

PARIS L STEWART
NOTARY PUBLIC
DeKalb County, Georgia
My Commission Expires 7/30/2022

EXHIBIT "A"

FEB 20 2019

All that tract or parcel of land lying and being in Land Lot 50, 17th District, City of Atlanta, Georgia and being more particularly described as follows:

Atlanta, Ga. S.W.
Site 3350
Atlanta, GA

BEGINNING at the intersection of the Northerly Right-of-Way of Wimbledon Road and the Westerly Right-of-Way of Piedmont Road; thence along the Northerly Right-of-Way of Wimbledon Road North 66 Degrees 54 Minutes 23 Seconds West 124.61 feet to a point; thence North 26 Degrees 03 Minutes 03 Seconds East 139.90 feet to a point; thence South 69 Degrees 58 Minutes 18 Seconds East 125.00 feet to a point on the Westerly Right-of-Way of Piedmont Road; thence along the Westerly Right-of-Way of Piedmont Road South 26 Degrees 00 Minutes 00 Seconds West 146.59 feet to the Point of Beginning containing 0.41 acres.

RECEIPT

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



Application: V-19-042
Application Type: Planning/BZA/Variance/NA
Address: 600 WIMBLEDON RD NE, ATLANTA, GA 00000
Owner Name: AMOCO OIL CO
Owner Address:
Application Name:

Rosalie P. Lewis
Rosalie P. Lewis

Receipt No.	Ref Number	Amount Paid	Payment Date	Cashier ID	Received	Comments
629952	1003	\$625.00	02/20/2019	RPLEWIS		

Owner Info.: AMOCO OIL CO

Work Description: Variance to reduce the transitional use distance requirement from 100 feet to 20 feet to allow a service station on a lot that abuts RG-3 where the use is prohibited within the first 100 feet of a lot (wider than 100 feet) that abuts the RG Zoning district.