



City of Stone Mountain  
875 Main Street  
Stone Mountain, GA 30083

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## STAFF ANALYSIS AND REPORT

**OWNER/APPLICANT:** Jairo de Jesus Silva Torres

**LOCATION:** 844 Sheppard Way  
(Parcel ID: 18 073 01 135)

**CURRENT ZONING/USE:** R-2: Traditional Residential

**PROPOSED ZONING/USE:** R-2: Traditional Residential

**REQUEST:** Variance from Section 6-11 to allow a fence in the front yard to exceed 4-feet in height.

**ZONING/ADJACENT LAND USE:**

North	R-2: Traditional Residential – Single-Family
South	R-2: Traditional Residential – Single-Family
West	R-1: Single-family Residential – Townhomes
East	R-2: Traditional Residential – Single-Family

**MEETING INFORMATION:**

Planning & Zoning Commission:	09/16/2024 – 6:30 P.M.
Mayor & City Council 1 <sup>st</sup> Read:	10/15/2024 – 6:30 P.M.
Mayor & City Council Public Hearing:	11/06/2024 – 6:30 P.M.

**RECOMMENDATION:**  
Staff recommends denial of this request.

**BACKGROUND:**

**October 15 2024**

**To: City of Stone Mountain Planning Commission**

**From: Richard Edwards, AICP**

**Subject: The applicant is requesting a variance from Section 6-11 to allow a fence in the front yard to exceed 4-feet in height.**

**Background:**

The applicant purchased the property in June of 2024 and wants to install a 6-foot wooden panel fence. Section 6-11 of the zoning ordinance only allows fences in the front yard to be a maximum of 4-feet in height. This section of the zoning ordinance was amended to include this regulation in July of 2023.

The existing single-family home was constructed in 1982 and a stream buffer takes up all the side and front yard on the southern portion of the lot (left side of the house). The applicant is stating that the stream takes up a large portion of the side and rear yard and they wish to have a 6-foot fence in front yard to make up for the usable space lost to the stream buffer.

**Analysis:** Pursuant to Article II of the City of Stone Mountain Zoning Ordinance, Staff has reviewed the variance requests in accordance with the required review criteria.

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

This request is not directly related to the size, shape, or topography of this particular property.

**B. The application of the zoning ordinance to the particular piece of property would create an unnecessary hardship.**

The strict application of the zoning ordinance would not create an unnecessary hardship, as a 4-foot fence would be allowed with an approved stream buffer variance. The neighboring property at 850 Sheppard Way has a chain link fence in the front yard that is only 4-feet in height. The property at 850 Betty Lane does have a 6-foot wooden fence along Sheppard Way that appears to have been constructed prior to the 2023 code amendments.

**C. Such conditions are peculiar to the particular property involved.**

These conditions are not peculiar to this particular property, as all properties within the city would only be allowed to construct a 4-foot fence in the front yard.

**D. Such conditions are not the result of any actions of the property owner.**

This is a direct result of the property owner's desire to have a 6-foot fence in their front yard.

**E. Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.**

It is not anticipated that the proposed fence would cause detriment to the public good. This request does not meet the intent of the zoning ordinance.

**Recommendation:**

Pursuant to Article II of the City of Stone Mountain Zoning Ordinance, Staff has reviewed the request in accordance with the required review criteria and recommends **DENIAL** of the variance from Section 6-11 to allow a fence in the front yard to exceed 4-feet in height.

The Planning Commission recommended **DENIAL** of this request at their September 16, 2024 regularly scheduled meeting.









## APPLICATION FOR VARIANCE

City of Stone Mountain  
875 Main Street  
Stone Mountain, GA 30083

Date Received: \_\_\_\_\_

PERMIT#: \_\_\_\_\_  
(Office Use Only)

### APPLICANT INFORMATION

Applicant Name: <u>Jairo de Jesus Silva Torres</u>		
Address: <u>689 Garden Walk Dr</u>		
Phone: <u>4044213374</u>	Cell: <u>4044760119</u>	Fax: _____
Email Address: <u>almagiron7@gmail.com</u>		

### OWNER INFORMATION (If different from Applicant)

Owner Name: <u>T.I.S. FLOORING, INC.</u>		
Address: <u>689 Garden Walk Dr</u>		
Phone: <u>4044213374</u>	Cell: <u>4044760119</u>	Fax: _____
Email Address: <u>jairo_.silva@hotmail.com</u>		

### PROPERTY INFORMATION

Address: <u>844 Sheppard Way</u>		
Parcel ID#: <u>1807301135</u>	Land Lot: _____	District: _____

Office use only: CASE # _____
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Applicant signature: 

Date: 08/05/2024



## VARIANCE REQUEST CONSIDERATIONS

Applicant: Jairo De Jesus silva Torres

*Analyze the impact of the variance request with the following questions:*

1. There are extraordinary and exceptional conditions pertaining to the particular property in questions because of size, shape, and/or topography. there is a river bank crossing the middle of the land and the house is located at the left back side of the land. we dont have any back yard, we are proposing this front side fence to be able to have some private yard space
2. The application of the zoning ordinance would create an unnecessary hardship. no. since we are trying to respect the right of way at the street line pulling back the front side fence 3 more feet were it is now, for a total of 10 feet from street line to the the fence
3. Such conditions are peculiar to the particular piece of property involved. no. since there is more properties in this area similar to the fence we are proposing
4. Such conditions are not the result of any actions of the property owner. no
5. Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance? no. we are trying to respect the right of way at the street line and the river bank that is crossing our land