04- O -0756

AN ORDINANCE
BY COUNCILMEMBER CLAIR MULLER

AN ORDINANCE WAIVING THE REQUIREMENTS OF SECTION 18-39 (2) TO TEMPORARILY PERMIT THE KEEPING OF A HORSE WITHIN 150 FEET OF AN ADJACENT RESIDENCE; AND FOR OTHER PURPOSES.

WHEREAS, the residents of 919 Peachtree Battle Circle, Robin and Guillermo Valls, own a therapeutic horse; and

WHEREAS, the horse is used in conjunction with the therapy of their child; and

WHEREAS, the residents would like to keep the horse on their property to further facilitate the therapy of their child; and

WHEREAS, the resident at 871 Peachtree Battle Circle, Liz Ormsby, which is the adjacent property nearest to the proposed location for keeping the horse has granted her consent to a variance from requirements that would otherwise prohibit keeping a horse within one-hundred fifty feet of a residence; and

WHEREAS, the proposed location for keeping the horse is not within one-hundred fifty (150) feet of any residence other than the residence located at 871 Peachtree Battle Circle; and

WHEREAS, the City of Atlanta has the authority to waive the requirements of Section 18-39(2) that would otherwise prohibit keeping a horse at this location.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That Robin and Guillermo Valls, the current property owners at 919 Peachtree Battle Circle shall be granted a temporary variance from the requirements of Section 18-39 (2), to allow them to keep a horse within one-hundred fifty (150) feet of the nearest residence, located at 871 Peachtree Battle Circle.

SECTION 2: That the temporary variance from the requirements of Section 18-39(2) shall be conditioned on the approval of a variance from zoning regulations to reduce the north side yard setbacks from the required fifty (50) feet to ten (10) feet and the rear yard setbacks from the required fifty (50) feet to ten (10) feet to allow for the construction of an accessory building (barn).

SECTION 3: That the temporary variance shall be granted for a period of five (5) years from the date of approval of this legislation.

SECTION 4: That an extension of the initial five (5) year temporary variance from the Atlanta City Council cannot be requested before fifty-four (54) months following the approval of this legislation.

SECTION 5: That, in the event the property at 871 Peachtree Battle Circle, currently owned by Liz Ormsby, is sold prior to the expiration of this variance, and the new owner does not agree to the presence of the horse at 919 Peachtree Battle Circle, Robin and Guillermo Valls shall remove the horse from the property, or come into compliance with the requirements of Section 18-39(2) by another means, within sixty (60) days of receiving notice from the new property owners of 871 Peachtree Battle Circle.

SECTION 6: That the temporary variance to keep a horse on this property shall expire upon the sale of the property located at 919 Peachtree Battle Avenue and owned by Robin and Guillermo Valls, or following the above mentioned five (5) year period, whichever shall occur first.

SECTION 7: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Exhibit A

To: **Thomas Frolik**
Neighborhood planning unit
Fulton County

From: **Liz Ormsby**
871 Peachtree Battle Circle
Atlanta, Georgia 30327

Dear Mr Frolik,

My property is located adjacent to and behind the Valls' property.

I have discussed and reviewed their plans for a proposed barn to be built at 919 Peachtree Battle Circle.

It is my opinion that the barn would be better suited in the Valls' back yard than in the front yard. Therefore, I have no opposition to granting Dr and Mrs Valls a variance for the setback lines regarding structures housing a horse.

Sincerely,

Liz M. Ormsby

Liz Ormsby

Exhibit B

Request for seeking a variance

In accordance with Sec 16-26.003 subsection 1 of the City Of Atlanta Zoning Code, the following required findings are made in our request for a variance:

A- Because of the size, shape and layout of our piece of property (1.6 acres), approximately one acre of open land sits in front of our house. Current zoning code prohibits the building of accessory structures in front of the primary residence. Since our house sits at the back of the property, we are limited by the area behind the house. Creating a safe and comfortable shelter for this therapeutic pony for evenings and inclement weather is also best suited in the back of the house, where she is less likely to be tampered with.

B-Applying each and every zoning ordinance to this property creates an unnecessary hardship because we would be unable to provide adequate housing for the pony. This hardship would result in moving the pony to a distant boarding facility, depriving our autistic son of daily interactions with her, and the therapeutic and developmental benefits to his condition. These benefits have even been prescribed by his developmental pediatrician, Dr Linda Nathanson-Lippitt.

C-Such conditions are peculiar to this property because of the unique lay out of our primary residence in relation to the lot, and because of the special needs of our son.

D-Relief , if granted, would not cause substantial detriment to the public good. Indeed, we believe the pony has brought our neighborhood together in a way we haven't seen before. We have met neighbors (with and without children) who we didn't even know, who come by daily to feed carrots and apples to "Ireland" and to visit with her and with each other.
The tenants residing at 931 PBC, who we assume lease the property from The Benston Group, allege that this small pony and her future shelter would make it more difficult to sell the property. Both tenant and owner have unsuccessfully had the property on and off the market since 1999 with no buyers. We do not believe that their short-sightedness and difficulty in selling an investment property should supercede the relief sought by the parents of a special needs child, who have lived in the neighborhood for over 13 years.
Furthermore, we ask that you consider ALL the people in the neighborhood who, like ourselves, are planning on staying here for many years supporting this community, and weigh their desires against an owner and tenant who have no intentions of staying in the neighborhood at all.

Respectfully submitted,

Robin and Guillermo Valls
919 Peachtree Battle Circle

Attachment 1

CODE OF ORDINANCES City of ATLANTA, GEORGIA Codified through Ord. No. 2004-10, enacted Feb. 25, 2004. (Supplement No. 26) \ PART II CODE OF ORDINANCES—GENERAL ORDINANCES \ Chapter 18 ANIMALS* \ ARTICLE II. LIVESTOCK

Sec. 18-39. Keeping hoofed animals.

CODE OF ORDINANCES City of ATLANTA, GEORGIA Codified through Ord. No. 2004-10, enacted Feb. 25, 2004. (Supplement No. 26) \ PART II CODE OF ORDINANCES—GENERAL ORDINANCES \ Chapter 18 ANIMALS* \ ARTICLE II. LIVESTOCK \ Sec. 18-39. Keeping hoofed animals.

Hoofed animals, such as horses, cows, goats, sheep and the like, may be kept within the city limits, subject to the following:

(1) *Housing and enclosures.* All these animals must be provided with adequate housing, pens or enclosures. Floor space in such housing, pens or enclosures must have the following minima:

a. Horses, mules, asses or cows, 200 square feet per animal over four months of age.

b. Sheep or goats, 150 square feet per animal over four months of age.

(2) *Location.* Housing, pens or enclosures where such animals are kept shall be placed at the following minimum distances from any residence or any business establishment regularly used by large numbers of people:

a. Distance from any residence except that of owner, 150 feet.

b. Distance from nearest business establishment, 150 feet.

c. Distance from owner's residence, 25 feet.

(3) *Maximum number.* The maximum number of such animals which may be kept on a single premises shall not exceed the following:

a. Horses, mules, asses or cows, five.

b. Sheep or goats, ten.

(Code 1977, § 14-4009)

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- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☑ PERSONAL PAPER REFER

Date Referred 4/19/04
Referred To: CD HR
Date Referred
Refferred To:
Date Referred
Referred To:

First Reading
Committee
Date
Chair
Referred To

Committee	Committee
Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

Committee	Committee
Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

FINAL COUNCIL ACTION
☐ 2nd ☐ 1st & 2nd ☐ 3rd Readings
☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

MAYOR'S ACTION