



Variance Petition No. V08-066

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

January 8, 2008

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Vinings Building Group, Inc.	East Conway, LLC	Nathan V. Hendricks III

PROPERTY INFORMATION

Address, Land Lot(s), and District	450 Conway Point Drive Land Lot(s) 137, District 17
Council District	6
Frontage and Area	215 feet of frontage along the south side of Conway Point Drive. The subject property has a total area of approximately 0.47 acres.
Existing Zoning and Use	The lot is zoned R-3 (Single-family Dwelling District). The property is undeveloped.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R1-2 Residential (1 to 2 units per acre)

INTENT

The applicant is requesting two (2) primary variances from the Zoning Ordinance:

- 1) Variance from Section 6.4.3.B to reduce the required fifty (50) foot minimum front yard setback to forty-five (45) feet and
- 2) Variance from Section 6.4.3.C to reduce the required twenty (20) foot minimum side yard adjacent to street to eighteen (18) feet.

Both variances are to construct a single-family house.

Parcel Map



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on January 8, 2009

**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

CASE NUMBER: V08-066

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 6.4.3.B of the Zoning Ordinance to reduce the required fifty (50) foot minimum front yard setback to forty-five (45) feet and from Section 6.4.3.C of the Zoning Ordinance to reduce the required twenty (20) foot minimum side yard adjacent to street to eighteen (18) feet. Both variances are to allow construction of a single-family house.

ANALYSIS:

The applicant has provided a site plan/topographical map indicating the subject property has an irregular shape. A stream is located adjacent to the south side property line. Because the aforementioned stream is actually located within the City of Atlanta, only the twenty-five (25) foot State Buffer is imposed by Sandy Springs. The lot slopes from the Conway Point Drive right-of-way toward the stream located adjacent to the side south property line.

Staff notes the surrounding lots in the immediate vicinity have the same R-3 zoning as the subject property. The houses on the surrounding lots, fronting on Conway Drive, appear to be setback at least fifty (50) feet. Some of the aforementioned houses appear to be setback further than fifty (50) feet and appear staggered to each other in relation to Conway Drive.

The applicant states the following:

The property is known as Lot 1 on the Final Plat for East Conway, LLC in a single family residential development being developed under the name Conway Commons at Chastain (the "Property"). The Property is zoned to the R-3 Classification.

The Applicant requests a two part variance in order to overcome the hardship unique to the Property. The aforementioned hardship is a result of the shape and irregular and confining configuration of the Property. Accordingly, the Applicant requests the front yard setback be reduced from the required 50 feet to 45 feet and requests the side yard, along Conway Point Drive, be reduced from the required 20 feet to 18 feet. As stated, the hardship of the shape of the lot, as above described, is unique to the Property; requiring compliance with the referenced development standards would create an unnecessary hardship for the Applicant, and the approval of this two part variance would not cause any detriment to the public. Furthermore, relief, if granted, would be in harmony with, or could be made to be in harmony with the general purpose and intent of the Zoning Ordinance. Accordingly, this variance application is entirely appropriate and the appropriateness of this variance application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this variance application be approved as submitted in order that the Applicant be able to proceed with the lawful use and development the Property.

Department Comments

The staff held a Focus Meeting on December 3, 2008 at which the following departmental comments were provided:

LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ No comments
BUILDING AND PERMITTING	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ No comments
	Georgia Department of Transportation	▪ No comments

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance;*

Staff notes the surrounding lots in the immediate vicinity have the same R-3 zoning as the subject property. The houses on the surrounding lots, fronting on Conway Drive, appear to be setback at least fifty (50) feet. Some of the aforementioned houses appear to be setback further than fifty (50) feet and appear staggered to each other in relation to Conway Drive.

The applicant states relief, if granted, would be in harmony with, or could be made to be in harmony with the general purpose and intent of the Zoning Ordinance. Accordingly, this variance application is entirely appropriate.

2. *The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public;*

The applicant has provided a site plan/topographical map indicating the subject property has an irregular shape. A stream is located adjacent to the south side property line. Because the aforementioned stream is actually located within the City of Atlanta, only the twenty-five (25) foot State Buffer is imposed by Sandy Springs. The lot slopes from the Conway Point Drive right-of-way toward the stream located adjacent to the side south property line.

The Applicant states a two part variance is requested in order to overcome the hardship unique to the Property. The aforementioned hardship is a result of the shape and irregular and confining configuration of the Property. Accordingly, the Applicant requests the front yard setback be reduced from the required 50 feet to 45 feet and requests the side yard, along Conway Point Drive, be reduced from the required 20 feet to 18 feet. As stated, the hardship of the shape of the lot, as above described, is unique to the Property; requiring compliance with the referenced development standards would create an unnecessary hardship for the Applicant, and the approval of this two part variance would not cause any detriment to the public.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

- 1) The new residence shall be constructed in accordance with the proposed site plan, provided by the applicant dated received November 5, 2008 by the Department of Community Development, for the variance(s) herein, showing a reduction in the required fifty (50) foot minimum front yard setback to forty-five (45) feet and showing a reduction in the required twenty (20) foot minimum side yard adjacent to street to eighteen (18) feet where necessary to accommodate the portion of the encroachment(s) only.

ATTACHMENTS: Letter of appeal, site plan/topographical map, floor plans, and elevation drawings.



Variance Petition No. V08-067

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

January 8, 2008 (deferred)

March 12, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Kathryn Smith	Kathryn Smith	Nathan V. Hendricks III

PROPERTY INFORMATION

Address, Land Lot(s), and District	4632 Dalmer Road Land Lot(s) 66, District 17
Council District	5
Frontage and Area	175 feet of frontage along the south side of Windsor Parkway and 240 feet of frontage along the west side of Dalmer Road. The subject property has a total area of approximately 0.69 acres.
Existing Zoning and Use	The lot is zoned R-4 (Single-family Dwelling District). The property is developed with a single-family home.
Overlay District	N/A

2027

Comprehensive Future Land Use Map Designation	R2-3 Residential (2 to 3 units per acre)
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INTENT

At the January 8, 2009 Board of Zoning Appeals (BZA) meeting, the Board voted to defer the subject application (V08-067) until the March 12, 2009 meeting to allow the applicant to explore alternate designs. The applicant has submitted a revised site plan.

Originally, the applicant was seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a 37.35 foot undisturbed natural buffer (tract A) and to a 47.27 foot undisturbed natural buffer (tract B). The original intent of the applicant was to subdivide the existing lot into two (2) lots and to construct two (2) single-family houses.

Currently, with the revised site plan, the applicant is seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a thirty-five (35) foot undisturbed natural buffer. The revised intent of the applicant is to utilize the existing lot and redevelop it with one (1) single-family

house. Additionally, the applicant states upon closer inspection of the property, it was determined there were 164 sq. ft. of additional existing impervious surface encroaching into the seventy-five (75) foot stream buffer not included on the original proposed site plan.

Parcel Map

4632 Dalmer Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on March 12, 2009

**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

CASE NUMBER: V08-067

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a thirty-five (35) foot undisturbed natural buffer having 1,214 sq. ft. of land disturbance within the fifty (50) foot undisturbed natural buffer to allow for the redevelopment of one existing single-family lot.

ANALYSIS:

At the January 8, 2009 Board of Zoning Appeals (BZA) meeting, the Board voted to defer the subject application (V08-067) until the March 12, 2009 meeting to allow the applicant to explore alternate designs. The applicant has submitted a revised site plan.

Originally, the applicant was seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a 37.35 foot undisturbed natural buffer (tract A) and to a 47.27 foot undisturbed natural buffer (tract B) to allow for the subdivision of the existing lot into two (2) lots and the construction of two (2) single-family houses.

Currently, with the revised site plan, the applicant is seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a thirty-five (35) foot undisturbed natural buffer having 1,214 sq. ft. of land disturbance within the fifty (50) foot undisturbed natural buffer to allow for the redevelopment of one (1) existing single-family lot. The applicant states upon closer inspection of the property, it was determined there were 164 sq. ft. of additional existing impervious surface encroaching into the seventy-five (75) foot stream buffer not included on the original proposed site plan.

The applicant has provided site plans and photographs indicating the subject property to have a trapezoidal shape. A stream runs north-south, through the property, adjacent to the western property line. An easement is located at the northeast corner of the lot. Primarily, the lot slopes from the Dalmer Road right-of-way toward the stream located adjacent to the western property line.

Staff notes the subject property is currently platted as one parcel, numbered 4632 Dalmer Road.

Staff notes the original/old site plans provided by the applicant indicate the following:

- 119 S.F. of existing impervious surface in the twenty-five (25) foot State Buffer.
- 1,185 S.F. of existing impervious surface in the fifty (50) foot undisturbed natural buffer.
- 1,895 S.F. of existing impervious surface in the twenty-five (25) foot impervious surface setback.
- Total existing impervious surface within the seventy-five (75) foot stream buffer for the current lot: 3,199 S.F.
- Proposed Lot "A": 564 S.F. of proposed impervious surface in the fifty (50) foot undisturbed natural buffer having 975 S.F. of Land Disturbance.
- Proposed Lot "A": 1,219 S.F. of proposed impervious surface in the twenty-five (25) foot impervious surface setback.
- Proposed Lot "B": 22 S.F. of proposed impervious surface in the fifty (50) foot undisturbed natural buffer having 180 S.F. of Land Disturbance.
- Proposed Lot "B": 1,151 S.F. of proposed impervious surface in the twenty-five (25) foot impervious surface setback.
- Total proposed impervious surface within the seventy-five (75) foot stream buffer for proposed lots "A" and "B": 2,956 S.F. (None within the State Buffer).

Staff notes the revised/new site plans provided by the applicant indicate the following:

- 142 S.F. of existing impervious surface in the twenty-five (25) foot State Buffer.
- 1,595 S.F. of existing impervious surface in the fifty (50) foot undisturbed natural buffer.
- 1,768 S.F. of existing impervious surface in the twenty-five (25) foot impervious surface setback.
- Total existing impervious surface within the seventy-five (75) foot stream buffer for the current lot: 3,363 S.F.
- 746 S.F. of proposed impervious surface in the fifty (50) foot undisturbed natural buffer having 1,214 S.F. of Land Disturbance.
- 1,726 S.F. of proposed impervious surface in the twenty-five (25) foot impervious surface setback.
- Total proposed impervious surface within the seventy-five (75) foot stream buffer: 2,472 S.F. (None within the State Buffer).
- Total proposed footprint 4,050 S.F.

The applicant states the following:

The property contains approximately 0.69 acres and is located at the southwest corner of the intersection of Windsor Parkway and Dalmer Road and is known as 4632 Dalmer Road (the "Property"). The Property is zoned to the R-4 Classification which provides for a minimum lot size of 9,000 square feet.

The revised/new site plan reflects the total existing impervious surface on the subject property to be 4,350 square feet. The revised/new site plan reflects total proposed impervious surface on the subject property to be 4,050 square feet, or 300 square feet less than the total existing impervious surface on the subject property. Additionally, there is no impervious surface proposed to be within the twenty-five (25) foot State Buffer. Further, the proposed footprint is located appreciably in the area of the existing footprint.

The Property has been improved with a single family residence, and it is to be noted that a stream crosses the westerly portion of the Property. The existing dwelling is 4.79' into the 25' State Stream Buffer and has a total encroachment of 3,363 square feet into the 75' Stream Buffer. The hardship of the stream along the westerly side of the Property is unique to the Property. Requiring the Owner/ Applicant to comply with the Stream Buffer Ordinance would create an unnecessary hardship for the Owner/ Applicant, and the approval of this Variance would not cause any detriment to the public. Accordingly, this variance application is entirely appropriate and the appropriateness of this variance application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this variance application as modified be approved in order that the Applicant be able to proceed with the lawful use and development the Property.

Department Comments

The staff held a Focus Meeting on December 3, 2008 at which the following departmental comments were provided:

LAND DEVELOPMENT	Engineering Plan Reviewer	No comment; however, applicant should be advised of the following: 1. In accordance with Development Regulation 11.11.1 a building permit for a new house on the proposed Tract A (the proposed corner lot) shall include installation of sidewalk and curb & gutter along the Windsor Parkway frontage. The building permit site plan shall fully detail the sidewalk and C&G installation including all grading necessary to install sidewalk. 2. FEMA FIRM Panel 13121C0163E shows shaded zone X on property. Prior to plat approval applicant shall provide flood study to determine elevation and limits of 100 year base flood within property and shall delineate limits and elevation on the plat. Flood study shall be prepared by Georgia P.E. Any plat and building permit shall comply with Sandy Springs flood ordinances, including but not limited to requirements that the lowest finished floor of the proposed dwellings shall be at least 3ft above the 100 year base flood elevation, that, if the proposed dwelling(s) is/are placed on a filled building site the nearest wall of the proposed dwelling shall be at least 10ft back from the flood boundary, and that there shall be no net fill placed within the flood boundary.
	Arborist/Landscape Architect	Standard stream buffer comments. There are also several Landmark and significant trees that would be impacted.
BUILDING AND PERMITTING	Building Plan Reviewer	No comments
FIRE DEPT.	Fire Protection Engineer	No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	No comments
	Georgia Department of Transportation	No comments

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance;*

Staff notes the original/old site plans provided by the applicant indicate the following:

-) 119 S.F. of existing impervious surface in the twenty-five (25) foot State Buffer.
-) 1,185 S.F. of existing impervious surface in the fifty (50) foot undisturbed natural buffer.
-) 1,895 S.F. of existing impervious surface in the twenty-five (25) foot impervious surface setback.
-) Total existing impervious surface within the seventy-five (75) foot stream buffer for the current lot: 3,199 S.F.
-) Proposed Lot "A": 564 S.F. of proposed impervious surface in the fifty (50) foot undisturbed natural buffer having 975 S.F. of Land Disturbance.
-) Proposed Lot "A": 1,219 S.F. of proposed impervious surface in the twenty-five (25) foot impervious surface setback.
-) Proposed Lot "B": 22 S.F. of proposed impervious surface in the fifty (50) foot undisturbed natural buffer having 180 S.F. of Land Disturbance.
-) Proposed Lot "B": 1,151 S.F. of proposed impervious surface in the twenty-five (25) foot impervious surface setback.
-) Total proposed impervious surface within the seventy-five (75) foot stream buffer for proposed lots "A" and "B": 2,956 S.F. (None within the State Buffer).

Staff notes the revised/new site plans provided by the applicant indicate the following:

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-) 1,768 S.F. of existing impervious surface in the twenty-five (25) foot impervious surface setback.
-) Total existing impervious surface within the seventy-five (75) foot stream buffer for the current lot: 3,363 S.F.
-) 746 S.F. of proposed impervious surface in the fifty (50) foot undisturbed natural buffer having 1,214 S.F. of Land Disturbance.
-) 1,726 S.F. of proposed impervious surface in the twenty-five (25) foot impervious surface setback.
-) Total proposed impervious surface within the seventy-five (75) foot stream buffer: 2,472 S.F. (None within the State Buffer).
-) Total proposed footprint 4,050 S.F.

Originally, the applicant was seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a 37.35 foot undisturbed natural buffer (tract A) and to a 47.27 foot undisturbed natural buffer (tract B) to allow for the subdivision of the existing lot into two (2) lots and the construction of two (2) single-family houses.

Currently, with the revised site plan, the applicant is seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a thirty-five (35) foot undisturbed natural buffer having 1,214 sq. ft. of land disturbance within the fifty (50) foot undisturbed natural buffer to allow for the redevelopment of one (1) existing single-family lot. The applicant states upon closer inspection of the property, it was determined there were 164 sq. ft. of additional existing impervious surface encroaching into the seventy-five (75) foot stream buffer not included on the original proposed site plan.

The revised/new site plan reflects the total existing impervious surface on the subject property to be 4,350 square feet. The revised/new site plan reflects total proposed impervious surface on the subject property to be 4,050 square feet, or 300 square feet less than the total existing impervious surface on the subject property. Additionally, there is no impervious surface proposed to be within the twenty-five (25) foot State Buffer. Further, the proposed footprint is located appreciably in the area of the existing footprint.

The Property has been improved with a single family residence, and it is to be noted that a stream crosses the westerly portion of the Property. The existing dwelling is 4.79' into the 25' State Stream Buffer and has a total encroachment of 3,363 square feet into the 75' Stream Buffer. Accordingly, this variance application is entirely appropriate and the appropriateness of this variance application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof.

2. *The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public;*

The applicant has provided site plans and photographs indicating the subject property to have a trapezoidal shape. A stream runs north-south, through the property, adjacent to the western property line. An easement is located at the northeast corner of the lot. Primarily, the lot slopes from the Dalmer Road right-of-way toward the stream located adjacent to the western property line.

The hardship of the stream along the westerly side of the Property is unique to the Property. Requiring the Owner/ Applicant to comply with the Stream Buffer Ordinance would create an unnecessary hardship for the Owner/ Applicant, and the approval of this Variance would not cause any detriment to the public.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

- 1) The new residence shall be constructed in accordance with the revised/new proposed site plan, provided by the applicant dated received February 5, 2008 by the Department of Community Development, for the variance herein, showing a reduction in the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a thirty-five (35) foot undisturbed natural buffer having 1,214 sq. ft. of land disturbance within the fifty (50) foot undisturbed natural buffer where necessary to accommodate the portion of the encroachment only.
- 2) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, all driveways, paths, and patios shall be constructed of pervious material.
- 3) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, downspouts shall be directed away from the structure directly into a Best Management Practices (BMP) filtration detention device.
- 4) When garages or parking pads are located in areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either soil for filtration before entering the stream or artificial filtration with proof of maintenance required.
- 5) Stream crossings shall be as narrow as possible and shall be pervious.
- 6) Streams shall not be channelized or straightened. Small-unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.
- 7) The remaining fifty (50) foot undisturbed natural buffer shall remain untouched in its current state; grass shall not be planted in the fifty (50) foot undisturbed natural buffer.
- 8) All footings for bridges crossing streams and all pipes located under such bridges shall not be located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.

- 9) Stream bank restoration shall be installed as required by the Director of the Community Development Department.
- 10) The owner/developer shall provide for swimming pool water overflow to discharge in a manner that is compliant with the Department of Community Development Pool Discharge Policy.
- 11) All approved encroachments into the fifty (50) foot undisturbed stream buffer shall be clearly delineated both on the approved site plan and on site by use of tree save fence and two (2) rows of type-C silt fence. Additionally, the limits of encroachment into the buffer must be field-verified by staff during a pre-construction meeting before issuance of the applicable permit(s) for the site.

ATTACHMENTS: Letter of appeal, site plans, and photographs.



Variance Petition No. V08-068

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

January 8, 2008

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Kristina & Benjamin Simon	Kristina & Benjamin Simon	Kristina & Benjamin Simon

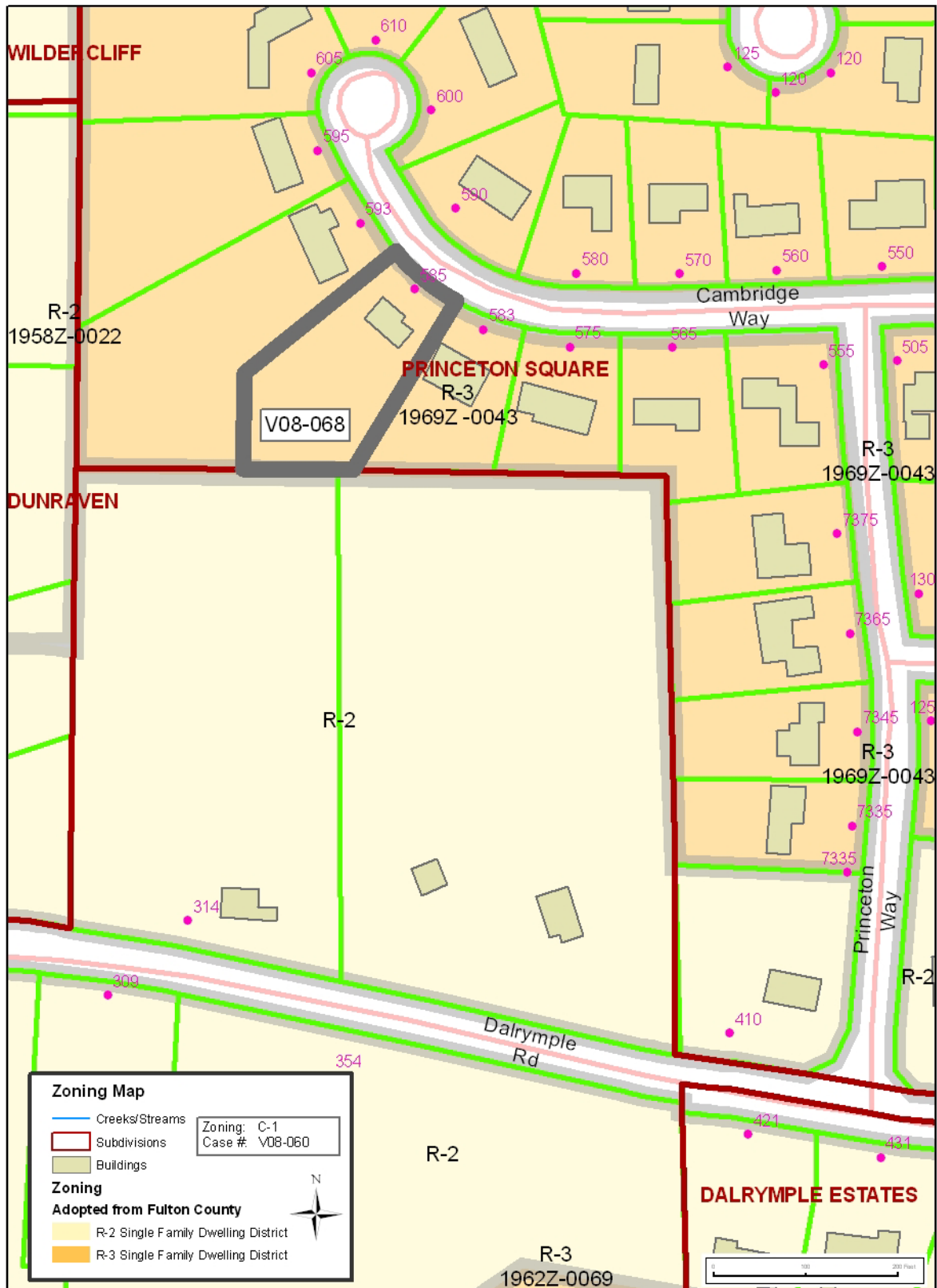
PROPERTY INFORMATION

Address, Land Lot(s), and District	585 Cambridge Way Land Lot(s) 75, District 17
Council District	2
Frontage and Area	85 feet of frontage along the south side of Cambridge Way. The subject property has a total area of approximately 0.72 acres.
Existing Zoning and Use	The lot is zoned R-3 (Single-family Dwelling District) under zoning case Z69-043. The property is developed with a single-family home.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R1-2 Residential (1 to 2 units per acre)
INTENT	

The applicant is seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a twenty-eight (28) foot undisturbed natural buffer for the proposed improvements and to allow for 252 square feet land disturbance within the required fifty (50) foot undisturbed natural buffer involved with constructing additions to the single-family house.

Parcel Map

585 Cambridge Way



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on January 8, 2009

**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

CASE NUMBER: V08-068

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a twenty-eight (28) foot undisturbed natural buffer for the proposed structure and to allow for 252 square feet land disturbance within the required fifty (50) foot undisturbed natural buffer involved with constructing additions to the single-family house.

ANALYSIS:

The applicant has provided site plans and photographs indicating the subject property to have an irregular shape. A stream and drainage easement runs diagonally (east to west) through the middle of the property. Primarily, the lot slopes from the Cambridge Way right-of-way toward the stream located at the middle of the lot. The existing house encroaches into the required fifty (50) foot front setback and into the fifty (50) undisturbed natural buffer portion of the seventy-five (75) foot Stream Buffer.

Staff notes the site plan provided by the applicant clearly defines the limits and amounts of land disturbance within the (50) foot undisturbed natural buffer. The site plan indicates the following:

- 132 S.F. of proposed additional concrete slab having support footings for foundation posts within the fifty (50) foot undisturbed natural buffer.
- 252 S.F. of proposed land disturbance within the fifty (50) foot undisturbed natural buffer.
- A proposed new rain garden located within the twenty-five (25) foot impervious surface setback.

The applicant states the following:

Due to hardship, the applicant is requesting a variance for 585 Cambridge Way, N.E. in Sandy Springs. The home was built in 1972 on an irregularly shaped lot with a severe slope of land in the backyard (see pictures 1 & 2). The home was purchased in 2004 from the original owner. At that time, the house was in disrepair and has been steadily worked on to make improvements. Now that the inside has been completely renovated, the applicant started looking at what repairs are needed to the outside and to the basement area.

First, when the applicant started investigating what would be allowed in repairing the outside of the house, it was discovered that in 2005, when Sandy Springs became a city, buffers were made that needed to be respected. Currently, the house is in violation of the front setback requirement and in violation of the Stream Buffer Ordinance that are currently in place. The property is severely restricted due to the front setback and Stream Buffer. The applicant also explored looking at the side yards as options, but the Stream Buffer that must be respected comes half way into the existing house. In addition, one side of the house is brick and is where the chimney has been placed. The other side is a drive under garage, which would make any deck or extension impossible. Because of the severe slope of the back yard area, the applicant has had multiple issues with the existing structure (see picture 6). For example, the family room floor is bowing where it meets the deck. The applicant had a contractor come look at replacing the wood flooring, however; upon inspection, the contractor determined that it is not the flooring. It is the pressure of the deck pulling on the house due to the lack of stability. The concrete slab underneath the deck (at the level of the basement) had dirt erosion to the point that you could look underneath the concrete. The applicant had some dirt and mulch put down in order to be able to have a very small walk area (see pictures 3 and 4).

Secondly, most of the neighbors, who have owned their homes since the beginning, have made improvements, such as extensions, new and larger decks, and etc., during the time since the 1970s up until before 2005. In fact, one of the neighbors built a complete second wing, almost doubling the size of their house in the back yard where the stream runs. Unfortunately, the previous owner had family and social problems and as a result, the house was not only in bad shape, but no improvements were made whatsoever during that time.

When the house was purchased in 2004, the applicant's family was only two people (husband and wife). Now, the family has a third new person and hopes to have several more. The applicant purchased the house with the intent of staying and raising the family here. In addition, in January 2008, Mrs. Simon began working from home full-time in order to be able to keep the baby at home with her. This has required conversion of a bedroom into an office space. Also, starting in January 2009, Mr. Simon will begin working from home at least on a part-time basis. Both of the telecommuting jobs help the Simons keep pollution down and preserve air quality. If the applicant would have been able to do all of the renovations all at once at the time of purchase, that would have been ideal. However, applicant has had to tackle these projects one at a time. Due to these circumstances, the applicant has begun to see the need for more space. The applicant has explored lots of different options, as the applicant understands the need to respect the environment and preserve green space.

The current plan that the applicant asks you to consider involves using the existing structure as much as possible with as little additional work as possible. The proposal asks for an additional 6 ft x 22 ft concrete slab as well as new foundation posts and footings underneath the new concrete slab to stop sliding of the house structure. With this small additional slab, the applicant would be able to convert the existing deck into a screened porch, enclose the area underneath to make an additional bedroom and/or office, as well as build a new small deck. The applicant loves the property and the fact that it feels like it is in the middle of the woods. The screened porch would allow the applicant to enjoy it more months out of the year. The enclosure underneath the proposed screened porch/breakfast area would allow the applicant to make an access to the basement without going through the garage (see pictures 7, 8, and 9). As you know, most enclosed basements have access in air conditioned space. The applicant feels it

would not be a good use of funds to enclose the basement only to have to enter and exit through the garage where our air conditioning ducts are hanging low. Adding this extension would allow the applicant to move the current laundry room out of the kitchen area, where it shakes all of the dishes and glasses, as well as enclose this area underneath to help with heating and cooling of this area.

The applicant feels the proposal would add value to the home, increasing its value in the Sandy Springs area. The applicant also feels this is the best way to add space for the growing family needs with minimal impact to the stream and least amount of land disturbance. In addition, the applicant feels the proposal would improve the water quality and drainage with use of a rain garden since, currently, water drainage has no catch devise whatsoever. Also, the applicant would replace all of the gutters on the house with new gutters and a guard system to maintain better water drainage.

In summary, the applicant asks that you consider the application for a variance due to hardship. If the variance were granted, the applicant feels the growing needs would be met and it would still be harmonious to the City of Sandy Springs as well as to the environment.

Department Comments

The staff held a Focus Meeting on December 3, 2008 at which the following departmental comments were provided:

LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comment; however, applicant should review site plan and determine if limits of disturbance shown adequately consider the area of disturbance that will be necessary outside of the finished footprint of the addition to allow for all aspects of disturbance associated with construction including silt fence installation.
	Arborist/Landscape Architect	▪ Standard stream buffer comments. Due to the proximity to the feature add this comment: No disturbance or destruction of vegetation shall occur in the 25' State stream buffer.
BUILDING AND PERMITTING	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ No comments
	Georgia Department of Transportation	▪ No comments

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance;*

Staff notes the existing house encroaches into the required fifty (50) foot front setback and into the fifty (50) undisturbed natural buffer portion of the seventy-five (75) foot Stream Buffer.

The applicant states while investigating what would be allowed in repairing the outside of the house, it was discovered that in 2005, when Sandy Springs became a city, buffers were made that needed to be respected. Currently, the house is in violation of the front setback requirement and in violation of the Stream Buffer Ordinance that are currently in place.

The applicant also explored looking at the side yards as options, but the Stream Buffer that must be respected comes half way into the existing house. In addition, one side of the house is brick and is where the chimney has been placed. The other side is a drive under garage, which would make any deck or extension impossible.

The applicant states most of the neighbors, who have owned their homes since the beginning, have made improvements, such as extensions, new and larger decks, and etc., during the time since the 1970s up until before 2005. In fact, one of the neighbors built a complete second wing, almost doubling the size of their house in the back yard where the stream runs. Unfortunately, the previous owner had family and social problems and as a result, the house was not only in bad shape, but no improvements were made whatsoever during that time.

The applicant states when the house was purchased in 2004, the applicant's family was only two people (husband and wife). Now, the family has a third new person and hopes to have several more. The applicant purchased the house with the intent of staying and raising the family here. In addition, in January 2008, Mrs. Simon began working from home full-time in order to be able to keep the baby at home with her. This has required conversion of a bedroom into an office space. Also, starting in January 2009, Mr. Simon will begin working from home at least on a part-time basis. Both of the telecommuting jobs help the Simons keep pollution down and preserve air quality. If the applicant would have been able to do all of the renovations all at once at the time of purchase, that would have been ideal. However, applicant has had to tackle these projects one at a time. Due to these circumstances, the applicant has begun to see the need for more space. The applicant has explored lots of different options, as the applicant understands the need to respect the environment and preserve green space.

The current plan that the applicant asks you to consider involves using the existing structure as much as possible with as little additional work as possible. The proposal asks for an additional 6 ft x 22 ft concrete slab as well as new foundation posts and footings underneath the new concrete slab to stop sliding of the house structure.

The applicant feels the proposal would add value to the home, increasing its value in the Sandy Springs area. The applicant also feels this is the best way to add space for the growing family needs with minimal impact to the stream and least amount of land disturbance. In addition, the applicant feels the proposal would improve the water quality and drainage with use of a rain garden since, currently, water drainage has no catch devise whatsoever. Also, the applicant would replace all of the gutters on the house with new gutters and a guard system to maintain better water drainage.

2. *The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public;*

The applicant has provided site plans and photographs indicating the subject property to have an irregular shape. A stream and drainage easement runs diagonally (east to west) through the middle of the property. Primarily, the lot slopes from the Cambridge Way right-of-way toward the stream located at the middle of the lot.

The applicant states, due to hardship, a variance is being requested for 585 Cambridge Way, N.E. in Sandy Springs. The home was built in 1972 on an irregularly shaped lot with a severe slope of land in the backyard. The property is severely restricted due to the front setback and Stream Buffer. Additionally, because of the severe slope of the back yard area, the applicant has had multiple issues with the existing structure (see picture 6). For example, the family room floor is bowing where it meets the deck. The applicant had a contractor come look at replacing the wood flooring, however; upon inspection, the contractor determined that it is not the flooring. It is the pressure of the deck pulling on the house due to the lack of stability. The concrete slab underneath the deck (at the level of the basement) had dirt erosion to the point that you could look underneath the concrete. The applicant had some dirt and mulch put down in order to be able to have a very small walk area.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

- 1) The new additions shall be constructed in accordance with the proposed site plan, provided by the applicant dated received November 4, 2008 by the Department of Community Development, for the variance herein, showing a reduction in the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a twenty-eight (28) foot undisturbed natural buffer for the proposed improvements and to allow for 252 square feet land disturbance within the required fifty (50) foot undisturbed natural buffer involved with constructing additions to the single-family house. No disturbance or destruction of vegetation shall occur in the twenty-five (25) foot State Stream Buffer.
- 2) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, all driveways, paths, and patios shall be constructed of pervious material.
- 3) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, downspouts shall be directed away from the structure directly into a Best Management Practices (BMP) filtration detention device.

- 4) When garages or parking pads are located in areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either soil for filtration before entering the stream or artificial filtration with proof of maintenance required.
- 5) Stream crossings shall be as narrow as possible and shall be pervious.
- 6) Streams shall not be channelized or straightened. Small-unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.
- 7) The remaining fifty (50) foot undisturbed natural buffer shall remain untouched in its current state; grass shall not be planted in the fifty (50) foot undisturbed natural buffer.
- 8) All footings for bridges crossing streams and all pipes located under such bridges shall not be located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.
- 9) Stream bank restoration shall be installed as required by the Director of the Community Development Department.
- 10) The owner/developer shall provide for swimming pool water overflow to discharge in a manner that is compliant with the Department of Community Development Pool Discharge Policy.
- 11) All approved encroachments into the fifty (50) foot undisturbed stream buffer shall be clearly delineated both on the approved site plan and on site by use of tree save fence and two (2) rows of type-C silt fence. Additionally, the limits of encroachment into the buffer must be field-verified by staff during a pre-construction meeting before issuance of the applicable permit(s) for the site.

ATTACHMENTS: Letter of appeal, site plans, letters of support, floor plans, elevation drawings, and photographs.



Variance Petition No. V08-069

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

January 8, 2008

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Sheila & Ron Whitfield	Sheila & Ron Whitfield	Sheila & Ron Whitfield

PROPERTY INFORMATION

Address, Land Lot(s), and District	140 Tamarisk Drive Land Lot(s) 38, District 17
Council District	5
Frontage and Area	110 feet of frontage along the north side of Tamarisk Drive and 220 feet of frontage along the east side of Highpoint Road. The subject property has a total area of approximately 0.52 acres.
Existing Zoning and Use	The lot is zoned R-3 (Single-family Dwelling District) under zoning case Z76-78. The property is developed with a single-family home.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R1-2 Residential (1 to 2 units per acre)

INTENT

The applicant is seeking a primary variance from Section 109-225.a 2 of the Stream Buffer Protection Ordinance to reduce the required twenty-five (25) foot impervious surface setback to twenty-three (23) feet to allow for a screened porch addition to a single-family house.

Parcel Map

140 Tamarisk Drive



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on January 8, 2009

**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

CASE NUMBER: V08-069

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 109-225.a 2 of the Stream Buffer Protection Ordinance to reduce the required twenty-five (25) foot impervious surface setback to twenty-three (23) feet to allow for a screened porch addition to a single-family house.

ANALYSIS:

The applicant has provided site plans and photographs indicating the subject property to be a corner lot and to have a rough trapezoidal shape. A stream and drainage easement adjoins the northern rear property line. Additionally, an easement is located adjacent to the side property line along Highpoint Road. Primarily, the lot slopes from the Tamarisk Drive right-of-way toward the stream located at the back of the lot. The existing house encroaches into the twenty-five (25) foot impervious surface portion of the seventy-five (75) foot Stream Buffer.

The applicant states the following:

It is the applicant's intention to improve the property value by adding an attractive architecturally designed screened porch on a section of the existing deck which sits approximately 14 feet above the ground with an existing drive under carport below.

The applicant's property is a corner lot (140 Tamarisk Drive) that was purchased in August of 1998. When it was purchased the driveway and drive under carport existed. Actually, the deck was larger than it is now.

Since the City of Sandy Springs was formed, a small creek on our north boundary was defined as a "State Waterway" and, therefore, subject to today's Stream Buffer Ordinances. The existing house and deck currently encroach into the Stream Buffer.

Several years ago the applicant actually reduced the size of the original deck which pulled it out of the creek buffer by 12 square feet.

On top of the existing deck, this request represents approximately 22 square feet (2x11 ft) of encroachment into the 25 foot impervious surface setback.

The applicant does not feel what exists or what is proposed will affect the health of the creek because what is proposed is a screened porch on an existing deck over a poured pad/carport.

Additionally, the applicant has increased the wrested vegetation by adding ground cover, shrubs, and trees. The applicant has also, installed a rock dry creek bed that runs parallel to the creek (see attached photos). Both of these harmonious improvements should increase the water quality as it heads downstream from the property. Further, the adjacent neighbors have no opposition to the screened porch addition.

Department Comments

The staff held a Focus Meeting on December 3, 2008 at which the following departmental comments were provided:

LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ Standard stream buffer comments.
BUILDING AND PERMITTING	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ No comments
	Georgia Department of Transportation	▪ No comments

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance;*

Staff notes the existing house encroaches into the twenty-five (25) foot impervious surface portion of the seventy-five (75) foot Stream Buffer.

The applicant states the intention is to improve the property value by adding an attractive architecturally designed screened porch on a section of the existing deck which sits approximately 14 feet above the ground with an existing drive under carport below.

The applicant's property is a corner lot (140 Tamarisk Drive) that was purchased in August of 1998. When it was purchased the driveway and drive under carport existed. Actually, the deck was larger than it is now.

Since the City of Sandy Springs was formed, a small creek on our north boundary was defined as a "State Waterway" and, therefore, subject to today's Stream Buffer Ordinances. The existing house and deck currently encroach into the Stream Buffer.

Several years ago the applicant actually reduced the size of the original deck which pulled it out of the creek buffer by 12 square feet.

On top of the existing deck, this request represents approximately 22 square feet (2x11 ft) of encroachment into the 25 foot impervious surface setback.

The applicant does not feel what exists or what is proposed will affect the health of the creek because what is proposed is a screened porch on an existing deck over a poured pad/carport.

Additionally, the applicant has increased the wretched vegetation by adding ground cover, shrubs, and trees. The applicant has also, installed a rock dry creek bed that runs parallel to the creek (see attached photos). Both of these harmonious improvements should increase the water quality as it heads downstream from the property. Further, the adjacent neighbors have no opposition to the screened porch addition.

2. *The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public;*

The applicant has provided site plans and photographs indicating the subject property to be a corner lot and to have a rough trapezoidal shape. A stream and drainage easement adjoins the northern rear property line. Additionally, an easement is located adjacent to the side property line along Highpoint Road. Primarily, the lot slopes from the Tamarisk Drive right-of-way toward the stream located at the back of the lot.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

- 1) The screened porch addition shall be constructed in accordance with the proposed site plan, provided by the applicant dated received November 12, 2008 by the Department of Community Development, for the variance herein, showing a the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) reduced to a twenty-three (23) foot impervious surface setback where necessary to accommodate the portion of the encroachment only.

- 2) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, all driveways, paths, and patios shall be constructed of pervious material.
- 3) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, downspouts shall be directed away from the structure directly into a Best Management Practices (BMP) filtration detention device.
- 4) When garages or parking pads are located in areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either soil for filtration before entering the stream or artificial filtration with proof of maintenance required.
- 5) Stream crossings shall be as narrow as possible and shall be pervious.
- 6) Streams shall not be channelized or straightened. Small-unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.
- 7) The remaining fifty (50) foot undisturbed natural buffer shall remain untouched in its current state; grass shall not be planted in the fifty (50) foot undisturbed natural buffer.
- 8) All footings for bridges crossing streams and all pipes located under such bridges shall not be located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.
- 9) Stream bank restoration shall be installed as required by the Director of the Community Development Department.
- 10) The owner/ developer shall provide for swimming pool water overflow to discharge in a manner that is compliant with the Department of Community Development Pool Discharge Policy.
- 11) All approved encroachments into the fifty (50) foot undisturbed stream buffer shall be clearly delineated both on the approved site plan and on site by use of tree save fence and two (2) rows of type-C silt fence. Additionally, the limits of encroachment into the buffer must be field-verified by staff during a pre-construction meeting before issuance of the applicable permit(s) for the site.

ATTACHMENTS: Letter of appeal, site plans, floor plans, elevation drawings, and photographs.



Variance Petition No. V08-070

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

January 8, 2009 (deferred)

February 12, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Vinings Building Group, Inc.	East Conway, LLC	Nathan V. Hendricks III

PROPERTY INFORMATION

Address, Land Lot(s), and District	435 Conway Point Drive Land Lot(s) 137, District 17
Council District	6
Frontage and Area	35 feet of frontage along the east side of the Conway Point Drive cul-de-sac. The subject property has a total area of approximately 0.50 acres.
Existing Zoning and Use	The lot is zoned R-3 (Single-family Dwelling District). The property is undeveloped.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R1-2 Residential (1 to 2 units per acre)

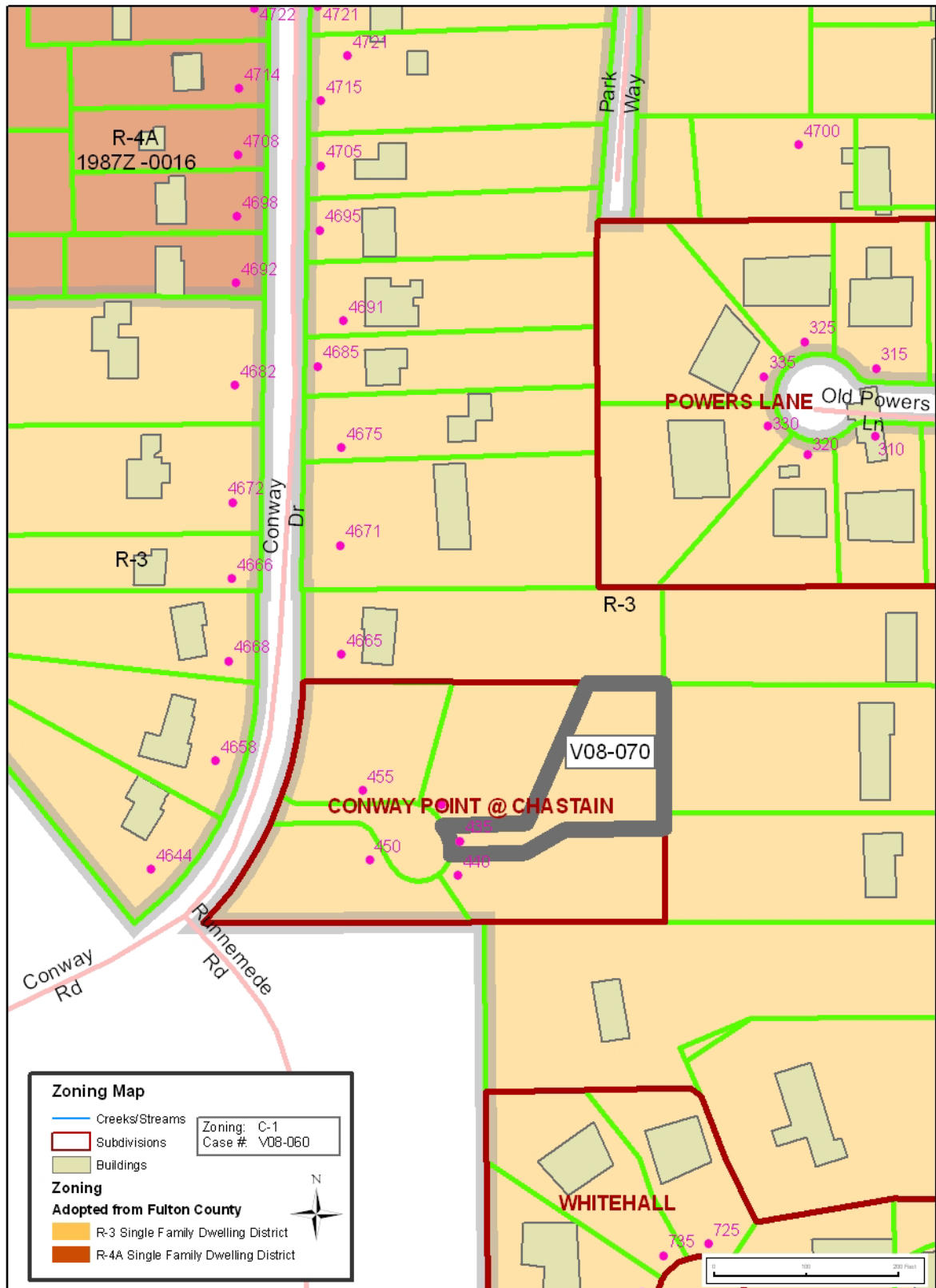
INTENT

The applicant is seeking a primary variance from Section 6.4.3.D of the Zoning Ordinance to reduce the required thirty-five (35) foot minimum rear yard setback to thirty (30) feet to allow for the construction of a single-family house.

At the January 8, 2009 Board of Zoning Appeals (BZA) meeting, the Board voted to defer the subject application (V08-070) until the February 12, 2009 meeting to allow the applicant time to address concerns, expressed by the community, over the full impact of the variance if relief was granted. To date, Staff is not aware of the results of the applicant's efforts to address the aforementioned concerns.

Parcel Map

435 Conway Point Drive



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on January 8, 2009

**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

CASE NUMBER: V08-070

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 6.4.3.D of the Zoning Ordinance to reduce the required thirty-five (35) foot minimum rear yard setback to thirty (30) feet to allow for the construction of a single-family house.

ANALYSIS:

At the January 8, 2009 Board of Zoning Appeals (BZA) meeting, the Board voted to defer the subject application (V08-070) until the February 12, 2009 meeting to allow the applicant time to address concerns, expressed by the community, over the full impact of the variance if relief was granted. To date, Staff is not aware of the results of the applicant's efforts to address the aforementioned concerns.

The applicant has provided a site plan/topographical map indicating the subject property to have an irregular shape. A stream, running north-south is located in the front yard. The aforementioned stream is "Grandfathered" to having a required twenty-five (25) foot State Buffer and a thirty-five (35) foot undisturbed natural buffer. The buildable area of the lot slopes up from the front yard stream towards the back of the lot. The property has easements along the south and east property lines.

Staff notes the surrounding lots in the immediate vicinity have the same R-3 zoning as the subject property. The houses on the surrounding lots appear have at least the required thirty-five (35) foot rear yard setback. Additionally, the requested thirty (30) rear setback of the proposed house would provide for approximately ninety (90) foot spacing from tennis court located on the rear adjoining property and would provide for approximately 220 foot spacing from house located on the rear adjoining property.

The applicant states the following:

The property is known as Lot 3 on the Final Plat for East Conway, LLC in a single family residential development being developed under the name Conway Commons at Chastain (the "property"). The Property is zoned to the R-3 Classification.

The Applicant requests a variance in order to overcome the hardship unique to the Property. The aforementioned hardship is a result of the irregular shape and confining configuration of the Property compounded by the stream running along the westerly side of the lot.

Accordingly, the Applicant requests that the rear yard setback be reduced from the required 35 feet to 30 feet. As stated, the hardship of the shape of the lot, as above described, is unique to the Property; requiring compliance with the referenced development standards would create an unnecessary hardship for the Applicant, and the approval of this variance would not cause any detriment to the public. Furthermore, relief, if granted, would be in harmony with, or could be made to be in harmony with the general purpose and intent of the Zoning Ordinance. Accordingly, this variance application is entirely appropriate and the appropriateness of this variance application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this variance application be approved as submitted in order that the Applicant be able to proceed with the lawful use and development the Property.

Department Comments

The staff held a Focus Meeting on December 3, 2008 at which the following departmental comments were provided:

LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ Standard stream buffer comments
BUILDING AND PERMITTING	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ No comments
	Georgia Department of Transportation	▪ No comments

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance;*

Staff notes the surrounding lots in the immediate vicinity have the same R-3 zoning as the subject property. The houses on the surrounding lots appear have at least the required thirty-five (35) foot rear yard setback. Additionally, the requested thirty (30) rear setback of the proposed house would provide for approximately ninety (90) foot spacing from tennis court located on the rear adjoining property and would provide for approximately 220 foot spacing from house located on the rear adjoining property.

The applicant states relief, if granted, would be in harmony with, or could be made to be in harmony with the general purpose and intent of the Zoning Ordinance. Accordingly, this variance application is entirely appropriate.

2. *The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public;*

The applicant has provided a site plan/topographical map indicating the subject property to have an irregular shape. A stream, running north-south is located in the front yard. The aforementioned stream is "Grandfathered" to having a required twenty-five (25) foot State Buffer and a thirty-five (35) foot undisturbed natural buffer. The buildable area of the lot slopes up from the front yard stream towards the back of the lot. The property has easements along the south and east property lines.

The Applicant states a variance is requested in order to overcome the hardship unique to the Property. The aforementioned hardship is a result of the irregular shape and confining configuration of the Property compounded by the stream running along the westerly side of the lot. Accordingly, the Applicant requests that the rear yard setback be reduced from the required 35 feet to 30 feet. As stated, the hardship of the shape of the lot, as above described, is unique to the Property; requiring compliance with the referenced development standards would create an unnecessary hardship for the Applicant, and the approval of this variance would not cause any detriment to the public.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

- 1) The new residence shall be constructed in accordance with the proposed site plan, provided by the applicant dated received December 2, 2008 by the Department of Community Development, for the variance(s) herein, showing a reduction in the required thirty-five (35) rear setback to no less than thirty (30) feet where necessary to accommodate the portion of the encroachment(s) only.

ATTACHMENTS: Letter of appeal, site plan/topographical map, and photographs.