



Variance Petition No. 201403132

HEARING & MEETING DATES

Board of Appeals Hearing

January 8, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner

Mohammad Salehi

Petitioner

Mohammad Salehi

Representative

Mohammad Salehi

PROPERTY INFORMATION

Address, Land Lot(s), and District 8212 Hewlett Road
Land Lot 356, 6th District

Council District 1 (John Paulson)

Frontage Approximately 35 feet of frontage along the south side of Hewlett Road.

Area Approximately 1.33 acres

Existing Zoning AG-1 (Agricultural district)

Existing Use Undeveloped property

Overlay District N/A

2027 Comprehensive Future Land Use Map Designation Residential 0 to 1 units per acre (R0-1)

INTENT

The applicant is proposing the construction of a single family residence. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the 75 foot impervious surface setback for construction of a single family residence.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403132 – 1) DENIAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer for construction of a single family residence.

Standards for Consideration

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	0 sf	0 sf	0 sf
25' – 50' City Stream Buffer	0 sf	0 sf	0 sf
50' – 75' Impervious Surface Setback	0 sf	2,895* sf	2,895* sf
Total Impervious Surface encroaching in Stream Buffer	0 sf	2,895* sf	2,895* sf

*Includes 1,835 sf of impervious pavers

Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance provides the following:

Sec. 109-225. Land development requirements.

(b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:

(3) Variances will be considered only in the following cases:

a. *When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.*

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes that the stream buffers cover upwards of 50% of the buildable area on the subject property. Additionally, the topography slopes toward the east side of the property. Based on these reasons, staff is of the opinion that land development would be prevented unless a variance is granted and that this condition has been satisfied.

b. *Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.*

Finding:

Due to the location of the stream, a majority of the subject property has been covered by the stream buffers, leaving the only buildable area in the western and southwestern portions of the lot. In order for the applicant to construct a house that is in harmony with surrounding properties, whose homeowner's association requires a minimum of 2,000 square feet of first floor area, encroachment is necessary. Based on these reasons, staff is of the opinion that this condition has been satisfied.

(5) The following factors will be considered in determining whether to issue a variance:

a. *The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;*

Finding:

The property is long and narrow in shape and slopes from west to east. A majority of the subject property is located within the stream buffers, which restricts the buildable area of the lot to the western and southwestern portion of the property. When the stream buffers are combined with the topographical challenges on the site the location of a single family dwelling unit is severely limited. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

b. *The locations of all streams on the property, including along property boundaries;*

Finding:

The locations of all streams and property boundaries are shown on the attached site plans. Staff is of the opinion this condition has been satisfied.

c. *The location and extent of the proposed buffer or setback intrusion;*

Findings:

The location and extent of the stream buffer intrusions are identified on the attached site plan and are included in the table above. Staff is of the opinion this condition has been satisfied.

d. *Whether alternative designs are possible which require less intrusion or no intrusion;*

Findings:

Following the November 2014 Board of Appeals meeting, alternative designs were discussed with staff. The construction of the home is now limited to encroachment within the 75 foot stream buffer as opposed to the previous site plan which included encroachment into the 50 foot undisturbed buffer. Therefore, staff is of the opinion this condition has been satisfied.

e. The long-term and construction water quality impacts of the proposed variance;

Findings:

The applicant will be required to use Best Management Practices (BMPs) during the construction of the house. The City will monitor the sites BMPs.

f. Whether issuance of the variance is at least as protective of natural resources and the environment.

Findings:

The applicant has modified the site plan for the home to now lie outside both the 25 foot and 50 foot undisturbed buffers. The applicant proposes using pervious surfaces for the driveway, 1,835 square feet of which encroach into the 75 impervious surface setback. Of the home's 2,600 first floor square footage, 1,060 square feet will still lie within the 75 foot impervious surface setback. Staff believes the house could be moved toward the western property line, moving a large portion of its square footage outside of this setback. The floorplan and shape of the home could be modified to accommodate this as well. Staff is of the opinion that issuance of the variance is not as protective of the natural resources and environment as the existing site conditions.

Department Comments

Focus Meeting held on Wednesday, October 1, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance and Stream Buffer Protection Ordinance. Based upon this review, staff recommends **DENIAL** of the variance request to allow construction of a single family residence.

Recommended Condition(s)

Should the Board of Appeals choose to approve the request, staff recommends the following conditions:

- 1) To allow for construction of a single family residence as shown on the site plan dated received December 12, 2014 by the Department of Community Development.
- 2) Pervious pavers shall be used on portions of the driveway lying within the 75 foot buffer impervious surface setback.
- 3) Allow for a 10 foot encroachment into the 50 foot undisturbed during construction to be replanted to buffer standards upon completion of construction.
- 4) Perform a siltation study on the lake prior to and after construction of the house.
- 5) Install turbidity fence subject to agreement submitted by the Lake Northridge Association.

ATTACHMENTS:

Parcel Map

Original Site Plan – Dated received December 12, 2014

Revised Site Plan – Dated received September 2, 2014

Fulton County Health Department Septic Permit Documents – Dated received December 16, 2014

Letters of Opposition – Dated received November 3, 2014; November 6, 2014; November 10, 2014; November 14, 2014; December 30, 2014

Lake Northridge Association Draft Conditions– Dated received December 30, 2014

8212 Hewlett Road





Variance Petition No. 201403955

HEARING & MEETING DATES

Board of Appeals Hearing
January 8, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
Joshua Ratner

Petitioner
Joshua Ratner

Representative
Joshua Ratner

PROPERTY INFORMATION

Address, Land Lot(s), and District	4715 Kitty Hawk Drive Land Lot 94, 17 th District
Council District	6 (Andy Bauman)
Frontage	Approximately 127.26 feet of frontage along the north side of Kitty Hawk Drive Approximately 163.35 feet of frontage along the west side of Mystic Drive
Area	Approximately 0.463 acres
Existing Zoning	R-3 (Single family dwelling district)
Existing Use	Single family dwelling unit
Overlay District	N/A

2027 Comprehensive Future Land Use Map Designation Residential 1 to 2 units per acre (R1-2)

INTENT

The applicant is proposing placement of mechanical units within the minimum side yard. The applicant is requesting one primary variance(s) as follows:

- 1) One primary variance from Section 6.4.3(C) of the Zoning Ordinance to reduce the required minimum side yard to allow for mechanical units.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403955 – 1) DENIAL

STANDARDS FOR CONSIDERATION

Variance #1

- 1) One primary variance from Section 6.4.3(C) of the Zoning Ordinance to reduce the required minimum side yard to allow for mechanical units.

Zoning Ordinance

Section 22.3.1 of the City's Zoning Ordinance includes one or more criteria which must be met before a variance can be approved by the Board of Appeals:

Section 22.3.1. Variance Considerations.

A. 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; or,

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. The applicant indicates the mechanical units would need to be located in the minimum yard due to significant topographical issues as the rear of the property where building plans indicated the units would be located. These units would be located entirely outside of the non-buildable area, encroaching approximately 5 feet into the minimum side yard. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

B. 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; or,

Finding:

The property's shape, topography, and physical conditions existed after the adoption of the ordinance. Building permits for construction of the current house were issued in late 2013. After reviewing the survey and visiting the property, staff believes the above conditions of the property do not significantly limit the buildable area for mechanical units and therefore do not create a hardship. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

Department Comments

Focus Meeting held on Wednesday, December 3, 2014, and no comments were provided from the following departments: Transportation, Fire, Arborist, or Site Development. The following comments were made by Building:

A comment made concerning AC units and generators on August 5, 2013. The site plan revision from August 14, 2013 addressed this comment and added this verbatim to the comment. The units and generator were moved to the rear of the property, outside of the minimum side yard, after a site visit by a building inspector. After moving the units, the property passed its final site and building inspection on July 28, 2014. A building inspector noticed several weeks after the Certificate of Occupancy was issued that the units had been moved back to the side of the house. Additional documentation from Building is attached.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance. These units were also placed in the side yard setback prior to receiving a variance. Based upon this review, staff recommends **DENIAL** of the variance request to allow a recreational court in the minimum yard.

Recommended Condition(s)

Should the Board of Appeals choose to approve the request, staff recommends the following condition:

- 1) To allow for placement of mechanical units within the minimum side yard as shown on the site plan dated received October 30, 2014 by the Department of Community Development.
- 2) Mechanical units be screened from adjacent property and Kitty Hawk Drive.

ATTACHMENTS:

Parcel Map

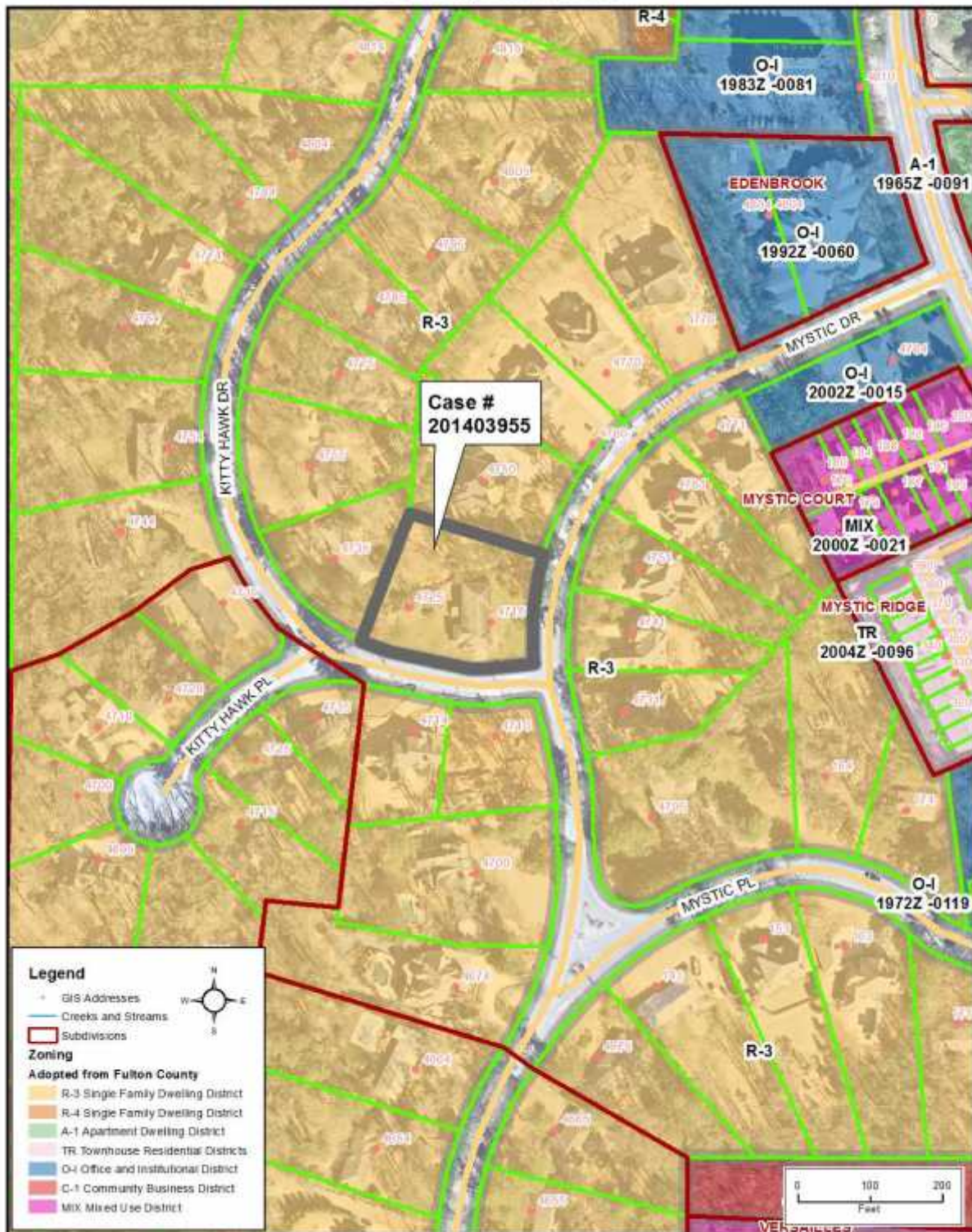
Proposed Site Plan – Dated received October 30, 2014

Letter of Support – Dated received October 30, 2014

Site Photographs – Dated received October 30, 2014

Building Department Comments – Dated August 5, 2014

4715 Kitty Hawk Drive





Variance Petition No. 201403960

HEARING & MEETING DATES

Board of Appeals Hearing
January 8, 2015 - DEFERRED
February 12, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
Melanie Born

Petitioner
Paul Marotte

Representative
Paul Marotte

PROPERTY INFORMATION

Address, Land Lot(s), and District	1122 Kingston Drive Land Lot 15, 17 th District
Council District	5 Tiberio 'Tibby' DeJulio
Frontage	Approximately 70.9 feet of frontage along the northeasterly side of Kingston Drive
Area	Approximately 1.0 acres
Existing Zoning	R-2 (Single Family Dwelling District)
Existing Use	Currently undeveloped
Overlay District	N/A

2027 Comprehensive Future Land Use Map Designation Residential 0 to 1 units per acre

INTENT

The applicant is proposing to reduce the front yard setback for the construction of a single-family residence. The applicant is requesting two (2) primary variance(s) from the Zoning Ordinance:

1. One (1) primary variance from Section 4.2.10 of the Zoning Ordinance to increase distance at which minimum lot width is measured to allow construction of a new single family home.
2. One (1) primary variance from Section 6.2.3(f) of the Zoning Ordinance to reduce minimum lot width to one hundred and eight (108) feet to allow construction of a new single family home.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403960 – 1) APPROVAL CONDITIONAL
2) APPROVAL CONDITIONAL

Standards for Consideration

VARIANCE #1

A primary variance from Section 4.2.10 of the Zoning Ordinance to increase distance at which minimum lot width is measured to allow construction of a new single family home.

Zoning Ordinance

Section 22.3.1 of the City's Zoning Ordinance includes one or more criteria which must be met before a variance can be approved by the Board of Appeals:

Section 22.3.1. Variance Considerations.

A. 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; or,

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. Based on the shape of the lot, narrowing towards Kingston Drive, the applicant is requesting relief from the distance at which minimum lot width is measured. Minimum lot width is measured between the front setback and the sum of the front and rear setbacks. For the R-2 zoning district, this would be between 60 feet and 100 feet from the right-of-way. The site plan provided shows the new house would sit approximately 157 feet from the Kingston Drive right-of-way. Adjacent homes sit approximately the same distance from the right-of-way, supporting the Protected Neighborhoods provision of the Comprehensive Plan:

Land Use Policies – Protected Neighborhoods (2027 Comprehensive Plan, Chapter 5: Policies – Page 100)

The following policies apply to all properties within the boundary of protected neighborhoods as shown on the future land use plan map. Where consistent with the context, such policies may be determined appropriate in transitional areas.

- 6) Residential infill development in protected neighborhoods should maintain the existing dwelling setback pattern in relation to the street.

Based on these considerations, staff is of the opinion that this condition has been satisfied.

B. 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; or,

Finding:

Presently, a home could be constructed at the rear of the property. The topography of the property increases in elevation to the mid-point of the lot, then decreasing in elevation toward the rear of the property. The variance would allow a buildable area in front of this steep topography. The proposed home would be in line with adjacent properties as well as others along Kingston Drive. Based on these considerations, staff is of the opinion that this condition has been satisfied.

VARIANCE #2

A primary variance from Section 6.2.3(f) of the Zoning Ordinance to reduce minimum lot width to one hundred and eight (108) feet to allow construction of a new single family home.

Zoning Ordinance

Section 22.3.1 of the City's Zoning Ordinance includes one or more criteria which must be met before a variance can be approved by the Board of Appeals:

Section 22.3.1. Variance Considerations.

A. 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; or,

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. Based on the shape of the lot, narrowing towards Kingston Drive, the applicant is requesting relief from minimum lot width. The site plan submitted shows the lot width would be decreased to 108 feet. While many surrounding lots are wider, 1122 Kingston Drive has a similar width as the adjacent lot which also lies on the outside of a curve on Kingston Drive. Minimum side and rear yard setbacks on the property would be met. Based on these considerations, staff is of the opinion that this condition has been satisfied.

B. 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; or,

Finding:

The topography of the property increases in elevation to the mid-point of the lot, then decreasing in elevation toward the rear of the property. The current buildable area of the lot is at the rear of the property. The variance would allow a buildable area closer to the street, in front of some of this steep topography. The shape of the lot, which narrows toward Kingston Drive, presently limits the buildable area to the rear of the property as well. The proposed home would be in line with adjacent properties as well as others along Kingston Drive. Based on these considerations, staff is of the opinion that this condition has been satisfied.

Department Comments

Focus Meeting held on Wednesday December 3, 2014, and no comments were provided from the following departments: Arborist, Fire, Code Enforcement, Transportation, Building and Permitting or Site Development.

Conclusion

After being granted deferral at the January 8, 2015 Board of Appeals hearing, the applicant provided a revised site plan to staff. The revised plan shows a reduced footprint for the house, moving further from the property line shared with 1120 Kingston Drive. The site plan also shows holly trees 6 feet in height planted along the property line shared with 1130 Kingston Drive. Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL** **CONDITIONAL** of the variance request from Section 4.2.10 of the Zoning Ordinance to increase distance at which minimum lot width is measured to allow construction of a new single family home, and **APPROVAL** **CONDITIONAL** of the variance request from Section 6.2.3(f) of the Zoning Ordinance to reduce minimum lot width to one hundred and eight (108) feet to allow construction of a new single family home.

Recommended Condition(s)

Should the Board of Appeals choose to approve the request in its entirety, staff recommends the following conditions:

1. To increase distance at which minimum lot width is measured to allow construction of a single family home, as shown on the site plan dated received January 20, 2015 by the Department of Community Development.
2. To reduce minimum lot width to one hundred and eight (108) feet to allow construction of a single family home, as shown on the site plan dated received January 20, 2015 by the Department of Community Development.

ATTACHMENTS:

Parcel Map

Letter of Appeal – Dated received October 31, 2014

Letter of Deferral – Dated received December 26, 2014

Letters of Opposition from Neighbors – Dated received December 16, 2014

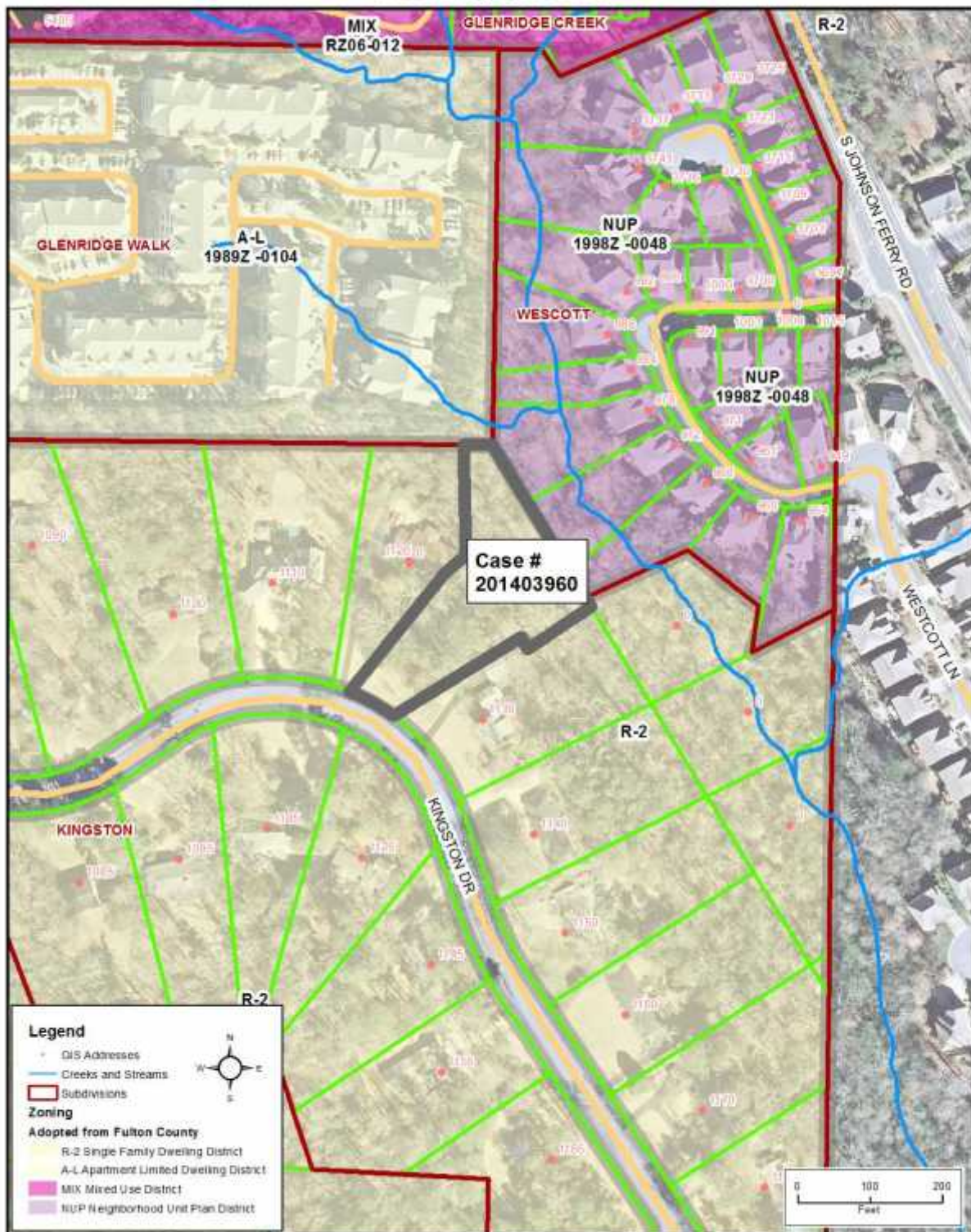
Petition from Neighbors – Dated received December 13, 2014

Revised Site Plan – Dated received January 20, 2015

Original Site Plan – Dated received October 31, 2014

Site Photographs

1122 Kingston Drive





Variance Petition No. 201403999

HEARING & MEETING DATES

Board of Appeals Hearing
January 8, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Mark and Katherine McCormick	Mosaic Group	Jennifer Reed

PROPERTY INFORMATION

Address, Land Lot(s), and District	100 Crestwicke Trace Land Lot 13, 17 th District
Council District	5 (Tiberio "Tibby" DeJulio)
Frontage	Approximately 81.28 feet of frontage along the northeast side of Crestwicke Trace Approximately 81.07 feet of frontage along the southeast side of Crestwicke Pointe
Area	Approximately 0.256 acres
Existing Zoning	R-4 (1988Z-0122) (Single family dwelling district)
Existing Use	Single family dwelling unit
Overlay District	N/A

2027 Comprehensive Future Land Use Map Designation	Residential 2 to 3 units per acre (R2-3)
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INTENT

The applicant is proposing to construct a screened porch. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 6.6.3(D) of the Zoning Ordinance to reduce the required 25 foot rear setback for construction of a screened porch.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403999 – 1) APPROVAL CONDITIONAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 6.6.3(D) of the Zoning Ordinance to reduce the required 25 foot rear setback for construction of a screened porch.

Zoning Ordinance

Section 22.3.1 of the City's Zoning Ordinance includes one or more criteria which must be met before a variance can be approved by the Board of Appeals:

Section 22.3.1. Variance Considerations.

A. 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; or,

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. By right, an enclosed porch could encroach 10 feet into the minimum rear yard. The applicant would request an additional five feet of encroachment from this. The adjacent neighbor has provided a letter stating they have no objections to the variance request. A substantial evergreen buffer currently exists between these two properties, providing a visual screen from the existing deck. Based on these considerations, staff is of the opinion that this condition has been satisfied.

B. 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; or,

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. The home on the property was constructed prior to the adoption of the ordinance however its zoning, setbacks and related conditions have remained the same since the property's rezoning in 1988. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

Department Comments

Focus Meeting held on Wednesday, December 3, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request to reduce the required 25 foot rear setback for construction of a screened porch.

Recommended Condition(s)

Should the Board of Appeals choose to approve the request, staff recommends the following condition:

- 1) To construct a screened porch within the minimum rear yard as shown on the site plan dated received November 3, 2014 by the Department of Community Development.
- 2) Existing evergreen buffer be maintained

ATTACHMENTS:

Parcel Map

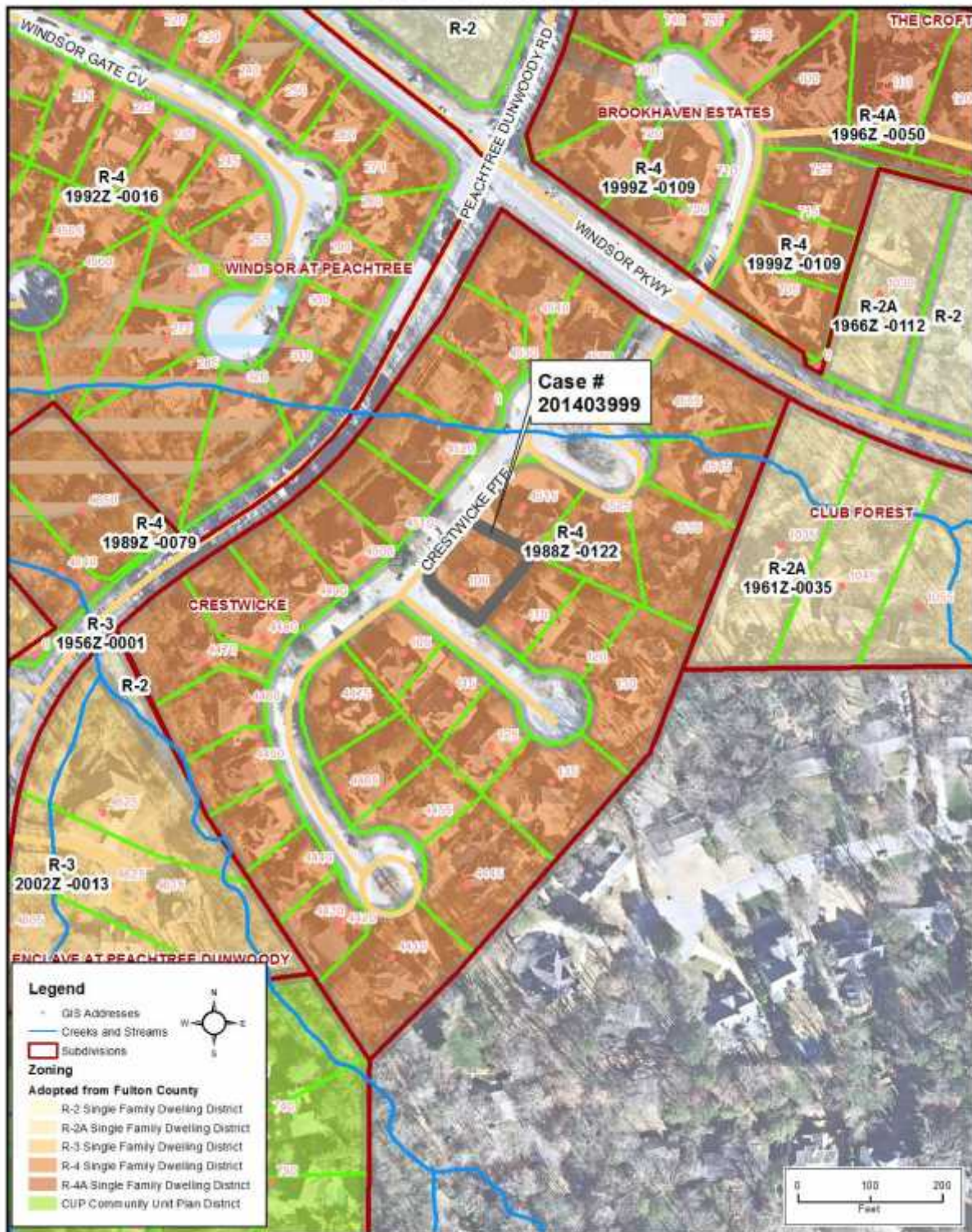
Proposed Site Plan – Dated received November 3, 2014

Elevations and Rendering – Dated received November 3, 2014

Letter of Support – Dated received November 3, 2014

Site Photographs – Dated received November 3, 2014

100 Crestwicke Trace





Variance Petition No. 201404101

HEARING & MEETING DATES

Board of Appeals Hearing
January 8, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
Ashley Kotkin

Petitioner
Ashley Kotkin

Representative
Ashley Kotkin

PROPERTY INFORMATION

Address, Land Lot(s), and District	5180 Vernon Springs Trail Land Lot 4, 17 th District
Council District	6 (Andy Bauman)
Frontage	Approximately 163 feet of frontage along the west side of Vernon Springs Trail
Area	Approximately 0.619 acres
Existing Zoning	R-2A (Single family dwelling district)
Existing Use	Single family dwelling unit
Overlay District	N/A

2027 Comprehensive Future Land Use Map Designation Residential 1 to 2 units per acre (R1-2)

INTENT

The applicant is proposing to allow construction of a garage. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 109.225 (a) (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback to allow construction of a garage.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201404101 – 1) APPROVAL CONDITIONAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 109.225 (a) (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback to allow construction of a garage.

Standards for Consideration

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	0 sf	0 sf	0 sf
25' – 50' City Stream Buffer	0 sf	0 sf	0 sf
50' – 75' Impervious Surface Setback	0 sf	72 sf	72 sf
Total Impervious Surface encroaching in Stream Buffer	0 sf	72 sf	72 sf

Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance provides the following:

Sec. 109-225. Land development requirements.

(b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:

(3) Variances will be considered only in the following cases:

a. *When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.*

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes that the stream buffers covers over 33% of the property, including a large portion of the northern part of the property, adjacent to the existing dwelling. The proposed garage would be primarily within the seventy-five (75) foot impervious surface setback. The proposed addition would remain entirely outside of the 25 foot and 50 foot undisturbed buffers. Due to how the existing home is situated on the property, space to build a garage is limited to this portion of the property. Based on these reasons, staff is of the opinion that an addition to the home would be prevented unless a variance is granted and that this condition has been satisfied.

b. *Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.*

Finding:

Due to the location of the stream buffers and the existing dwelling, area for an accessory structure is limited. In order for the applicant to construct a garage on the property, a small encroachment into the stream buffers is necessary. Based on these reasons, staff is of the opinion that this condition has been satisfied.

(5) The following factors will be considered in determining whether to issue a variance:

a. *The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;*

Finding:

The property is not of an irregular shape and but does have some steep topography. When the stream buffers are combined with the location of the existing dwelling, opportunities for a garage without encroaching into the stream buffers are severely limited. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

b. *The locations of all streams on the property, including along property boundaries;*

Finding:

The locations of all streams and property boundaries are shown on the attached site plans. Staff is of the opinion this condition has been satisfied.

c. *The location and extent of the proposed buffer or setback intrusion;*

Findings:

The location and extent of the stream buffer intrusions are identified on the attached site plan and are included in the table above. Staff is of the opinion this condition has been satisfied.

d. *Whether alternative designs are possible which require less intrusion or no intrusion;*

Findings:

Due to the location of the existing home on the property, space to construct a new garage is limited to this portion of the property. The applicant is proposing to locate the garage outside the 25 foot and 50 foot undisturbed buffers. Encroachment into the 75 impervious surface setback would be increased by 72 feet. No additional driveway would be constructed, limiting the only new impervious surface to the garage area. Therefore, staff is of the opinion this condition has been satisfied.

e. The long-term and construction water quality impacts of the proposed variance;

Findings:

The applicant will be required to use Best Management Practices (BMPs) during the construction of the house. The City will monitor the sites BMPs.

f. Whether issuance of the variance is at least as protective of natural resources and the environment.

Findings:

The proposed addition would not encroach into the 25 or 50 foot undisturbed buffers. The encroachment into the 75 foot impervious stream buffer would be approximately 72 square feet. The applicant indicates that outside of the garage itself, there will be no additional driveway or other impervious surfaces added within the 75 setback. Staff is of the opinion that issuance of the variance is as protective of the natural resources and environment as the existing site conditions.

Department Comments

Focus Meeting held on Wednesday, November 5, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance and Stream Buffer Protection Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance requests to allow construction of a garage.

Recommended Condition(s)

Should the Board of Appeals choose to approve the request, staff recommends the following condition:

- 1) To allow the construction of a garage as shown within the site plan dated received November 7, 2014 by the Department of Community Development.
- 2) Pervious pavers be used in construction of any new or reconstruction of existing driveway.

ATTACHMENTS:

Parcel Map

Proposed Site Plan – Dated received November 7, 2014

Site Photographs – Dated received December 23, 2014

5180 Vernon Springs Trail





Variance Petition No. 201403973

HEARING & MEETING DATES

Planning Commission Hearing
December 18, 2014

Board of Appeals Hearing
January 8, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner
Dantanna's Tavern, LLC

Petitioner
Dantanna's Tavern, LLC

Representative
Mike Rogers

PROPERTY INFORMATION

Address, Land Lot(s), and District 6649 Roswell Road
Land Lots 72, 73, 87, 88, District 17

Council District 4

Frontage Approximately 725 feet of frontage along the easterly side of Roswell Road (SR 9)) and 814 feet of frontage along the westerly side of Abernathy Road.

Area The subject property has a total area of 13.69 acres (596336.4 square feet).

Existing Zoning and Use C-1 (Community Business District) conditional under Fulton County zoning case 1967Z -152, currently developed with a shopping center.

Overlay District Main Street District

2027 Comprehensive Plan Future Land Use Map Designation Living-Working Community (LWC)

INTENT

The applicant is seeking a primary variance from Section 33.26.H.2.a of the Sandy Springs Zoning Ordinance to allow for:

1. Wall sign on the south elevation of the building, a non-street facing wall.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

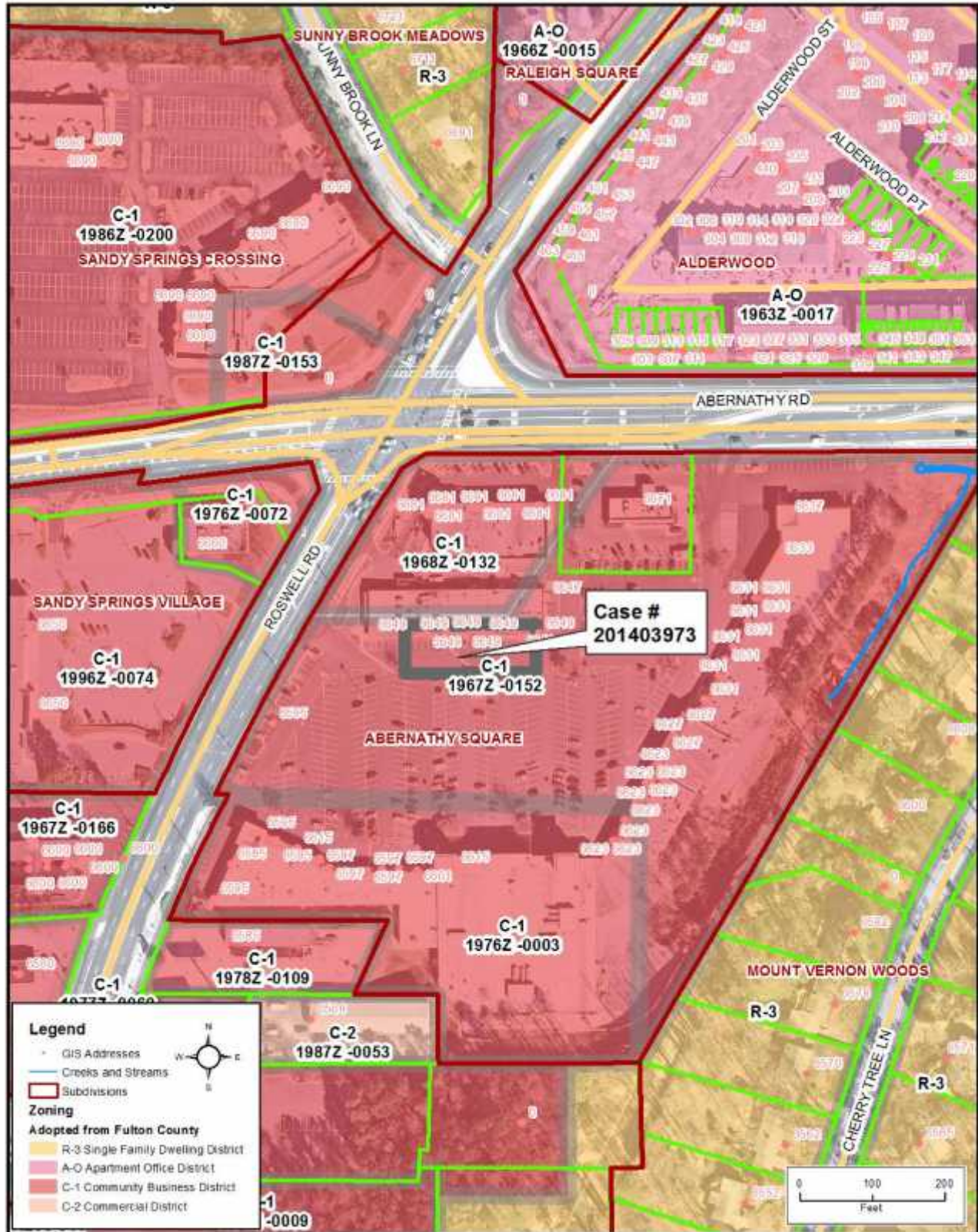
201403973- 1) Denial

PLANNING COMMISSION RECOMMENDATION

Recommend Approval (4-2, Tart, Squire, Maziar, and Nickles for; Porter and Frostbaum against; Duncan not voting), subject to staff conditions.

Parcel Map

6649 Roswell Road (SR9) #30



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

CASE NUMBER: 201403973

STAFF CONTACT: Cristina Nelson, Senior Planner 770-206-1516
E-mail: cnelson@sandyspringsga.gov

Staff Analysis:

The subject site is located at 6649 Roswell Road (SR 9) at the intersection of Roswell Road (SR 9) and Abernathy Road. The property is zoned C-1 (Community Business District) Conditional pursuant to Fulton County zoning case 1967Z -152. Is currently developed with a shopping center. Additionally, this project is located within the Main Street District of the Sandy Springs Overlay District.

The subject of this variance is the Dantanna's Tavern building that was previously occupied by Applebee's in the Abernathy square, located on the south-east quadrant of the intersection of Roswell Road and Abernathy Road at an approximately 40' from the Roswell Road right of way.

The applicant is seeking a primary variance from Section 33.26.H.2 of the Zoning Ordinance to allow for a wall sign on a non-street facing wall.

The Sandy Springs Zoning Ordinance provides:

Section 33.26.H.Sandy Springs Overlay District

2. Wall Signs (amended 04/21/09, TA09-002, Ord. 2009-04-19).

- a. *Wall signs are permitted on street-facing walls (including windows and doors). Businesses without a street on which there is frontage, but which have exterior entrances to the building, are entitled to one wall sign on the exterior wall of the business. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred eighty (180) square feet, confined to the upper thirty (30) feet of the facade. Wall signs shall not have changeable copy unless approved as a marquee sign.*

Because the location of this property at the intersection of Roswell Road and Abernathy Road the building is allowed to have wall signs on two (2) frontages, north and west. Currently Dantanna's Tavern has wall signs on the north and west elevations of the building.

The applicant propose to add a wall sign to the south elevation of the building, that elevation is facing the parking lot. To be able to add this sign a variance is required. The proposed wall sign measures 37.5sqft and is internally illuminated.

The applicant offers the following in support of the application:

"During the design and development phase of Dantanna's Tavern - Sandy Springs we felt very strongly that to be successful we needed to be visible. As the old adage goes in restaurants: location, location, location. We have a wonderful location when it comes to traffic counts and population, but are struggling with people knowing where we are due to the fact that we continue to look like a closed business to anyone looking at us from the heavily trafficked parking lot of Abernathy Square shopping

center, as well as anyone who enters by turning into the only entrance to the shopping center when traveling westbound on Abernathy. We have fielded dozens of complaints from guests who said that even when they found their way into the shopping center, they struggled to figure out where we were located.

During our permitting stage, the Sandy Springs Architectural Review Board twice denied our renderings, stating that Dantanna's Tavern needed to present a very positively visible image, being that it sits at the Gateway to Sandy Springs. After working very cooperatively with them to ensure that this was addressed, they approved the design (images included as part of the package), as is presented with this appeal. As noted, the design included a sign on this south-facing wall of our building. During the sign permitting process, we were denied permit for this south facing sign. The explanation was that code only allowed signage on building walls facing streets, if they have them. As the project had already been repeatedly delayed, I chose not to dispute this as I wanted to get open, and was unaware that it would be such a detriment to people's awareness of us".

The applicant states that a third sign would help advertise the store presence to the patrons of the Abernathy Square and better able the restaurant to continue its business in the community".

History

No Code Enforcement issues have been reported.

Standards for Consideration

Standards for Consideration

Zoning Ordinance

Section 33.26.H. 2 Sandy Springs Overlay District to allow a wall sign on a non-street facing wall.

Section 33.12.D. Standards

The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

1. *The topography of the lot on which the sign is located or to be located renders it impossible to comport with the strict standards of this Article.*

Findings:

The lot does not present any topographical challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has not been satisfied.

2. *The natural features of the lot on which the sign is located or to be located, or of the land immediately adjacent to the lot, impairs the visibility of the sign such that it cannot be seen.*

Findings:

The natural features of the lot do not present any challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has not been satisfied.

Department Comments

The staff held a Focus Meeting on November 5, 2014 at which time the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ No Comments
	Sandy Springs Development Plan Review Engineer	▪ No Comments
	Sandy Springs Landscape Architect/ Arborist	▪ No Comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Department of Transportation	▪ No Comments

Recommendation

Staff reviewed the request relative to the variance standards contained in Section 33.12.D. of the Zoning Ordinance. Based upon this review, staff recommends **DENIAL** of the variance request.

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

- 1) To allow for a wall sign on non-street facing wall on the south elevation of the building pursuant to the sign location and design, submitted by the applicant, and dated received November 4, 2014 by the Department of Community Development.

Attachments

Letter of Appeal, Property Survey, Sign Detail and Photographs.