



P&Z STAFF REPORT

Board of Appeals Hearing; January 12, 2017

Case: **V16-0152 – 190 Colewood Way**

Staff Contact: Paul Leonhardt (pleonhardt@sandyspringsga.gov)

Report Date: January 5, 2017

REQUEST

- (1) Variance from Section 109-225 of the Development Regulations to allow a recently constructed carport to remain in the 75-foot impervious surface setback associated with a stream buffer.
- (2) Variance from Section 6.4.3C of the Zoning Ordinance to allow a recently constructed carport to remain with an encroachment of approximately 6 feet into the minimum side yard setback.

APPLICANT

Property Owners: Esperanza & Daniel Tolosa	Petitioner: Esperanza Tolosa	Representative: -
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PROPERTY INFORMATION

Location:	190 Colewood Way
Council District:	3 – Burnett
Road frontage:	Approximately 100 feet
Acreage:	Approximately 17,400 sf
Existing Zoning:	R-3 (Residential District)
Existing Land Use:	Single-family dwelling
Overlay District:	N/A
Special Planning Area:	-
Future Land Use Designation:	R1-2 (1-2 units per acre)

PROPOSED DEVELOPMENT

The applicant recently started construction of a two-vehicle carport without applying for a building permit. Due to a noise complaint, City Code Enforcement staff conducted a site visit that resulted in a stop-work order. To this point, the applicant constructed a retaining wall and the majority of the carport, with finishing elements such as painting to remain.

In its current location, the carport is four feet away from the neighboring property, while the Zoning Ordinance requires a minimum side yard setback of ten feet. In addition, the carport is fully located within the 25-foot additional impervious surface setback associated with a stream buffer. In its present form, the structure includes no water quality treatment or stormwater retention.

The encroachments into the different regulated areas are as follows for the proposed project:

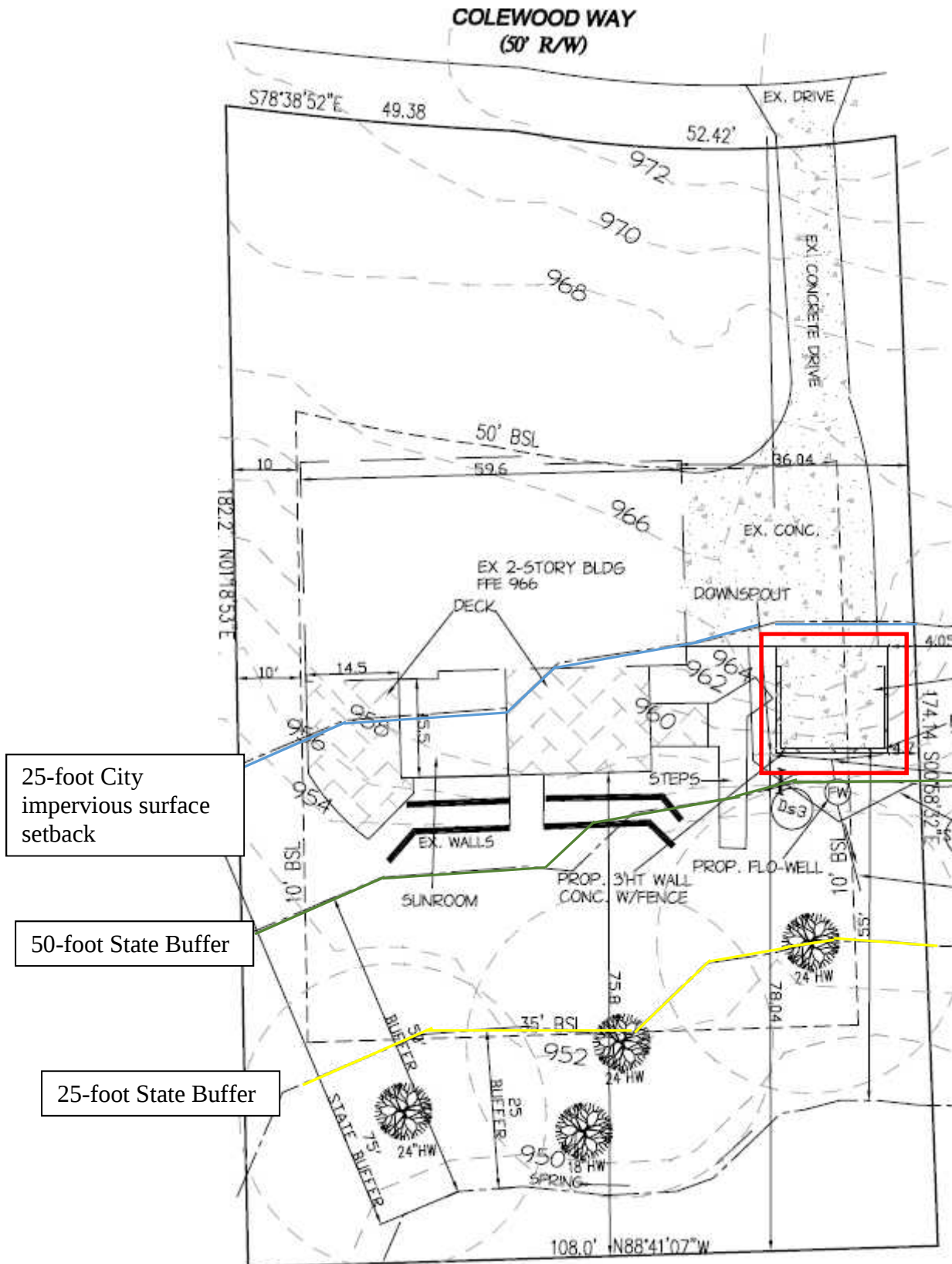
Buffer	Existing residence and improvements (without carport) (sf)	Existing residence and improvements (with carport) (sf)	Difference (sf)	Difference %
25-foot State	0	0	0	-
50-foot City	32	32	0	-
25-foot City Setback	1,040	1,335	295	+ 28.4%
Total	3,842	3,122	1,694	+ 57.4%

RECOMMENDATION

Department of Community Development

Approval of variance request #1, **Denial** of variance request #2

SITE PLAN (FULL SITE PLAN AS ATTACHMENT)



AERIAL IMAGE



ZONING MAP



VARIANCE CONSIDERATION – REQUEST #1 (STREAM BUFFER VARIANCE)

Per Section 109-225 of the Development Regulations, 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 the article is derived prevents land development unless a buffer variance is granted.

B. Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship.

Variances will not be considered when, following adoption from this article is derived, actions of any property owner of a given property have created conditions of a hardship on that property.

Finding:

A stream runs east-west through the entire rear of the parcel, requiring a stream buffer and impervious surface setback that covers approximately 60% of the parcel's buildable area. The house was built in 1984, before the adoption of the City stream buffer requirements. Therefore, Staff finds that the property's physical conditions would hamper land development unless a buffer variance is granted.

Any alternative locations for the carport would also require a stream buffer variance. A location approximately 10 feet closer to the house, while preventing the side yard setback variance, would still encroach into the 25-foot impervious surface setback.

While the applicant currently does not have any water quality installations installed, they propose a flo-well installation that is sized to retain 100 percent of the anticipated runoff as per the City stormwater requirements. The flo-well will capture run-off from the roof of the carport. Therefore, allowing the carport to remain will likely not increase runoff into the stream.

VARIANCE CONSIDERATION – REQUEST #2 (SIDE YARD SETBACK VARIANCE)

Per Section 22.3.1. of the Zoning Ordinance, variances, administrative variances, and concurrent variances shall only be granted upon showing that:

For new development (including the expansion of an existing development):

- 1. The application of the Zoning Ordinance would create an unnecessary hardship, and not merely an inconvenience to the petitioner; or*
- 2. There are extraordinary and exceptional conditions due to the size, shape, or topography, which are specific to the subject property and not generally found in similar properties;*

Further, the application shall demonstrate that:

- 3. Such conditions are not the result of action or inaction of the current property owner; and*
- 4. The variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and*

5. The variance request would result in development that is consistent with the general intent of the Zoning Ordinance, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety, and welfare.

Finding:

Due to the stream running east-west through the entire rear of the parcel, the associated stream buffer and impervious surface setback cover approximately 60% of the parcel's buildable area. Therefore, Staff finds that there are extraordinary and exceptional conditions due to the topography of the site.

There is an alternative location approximately ten feet closer to the house that would allow for the installation of the carport without requiring any encroachment into the minimum side yard. While this would likely require the applicant to move a walkway or steps, Staff finds that this would not amount to an undue burden for the applicant and would not amount to hardship status. Due to available design alternatives, Staff finds that the applicant's request is for more than the minimum relief necessary to make possible the reasonable use of the property.

COMMENTS FROM OTHER PARTIES

Staff has received no comments.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

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** of variance request #1 to allow a recently constructed carport to remain in the 75-foot impervious surface setback associated with a stream buffer, and recommends **DENIAL** of variance requests #2 to allow a recently constructed carport to remain with an encroachment of approximately six feet into the minimum side yard setback,

Should the Board of Appeals choose to approve **only variance request #1 (stream buffer variance)**, staff recommends the following conditions:

1. To construct a 17.58' x 16.8' carport within the 25-foot City impervious surface setback.
2. Staff shall review and approve any future proposed location for said carport. No encroachments into the 50-foot City stream buffer shall be allowed.
3. The applicant must remove the existing carport prior to the issuance of any permits for said future carport.
4. The applicant shall install two flo-wells with sufficient capacity to treat 63.78 cubic feet, or equivalent water quality installations or mitigation measures as approved by the Department of Community Development.
5. A zoning inspection must be satisfactorily conducted and site conditions must adhere to all aforementioned conditions prior to issuance of a certificate of occupancy.
6. Prior to issuance of a certificate of occupancy, the applicant must provide an as-built survey.

Should the Board of Appeals choose to approve **both variance requests (stream buffer variance and side yard setback variance)**, staff recommends the following conditions:

1. To allow a recently constructed 17.58' x 16.8' carport to remain within the 25-foot City impervious surface setback as shown on the site plan prepared by Dawson Engineering Consultant, LLC, dated October 20, 2016, and received by the Department of Community Development December 5, 2016.
2. Any revisions of the submitted site plan must be reviewed and approved by Staff.
3. The applicant shall install two flo-wells with sufficient capacity to treat 63.78 cubic feet as shown on the site plan prepared by Dawson Engineering Consultant, LLC, dated October 20, 2016, and received by the Department of Community Development December 5, 2016., or equivalent water quality installations or mitigation measures as approved by the Department of Community Development.
4. A zoning inspection must be satisfactorily conducted and site conditions must adhere to all aforementioned conditions prior to issuance of a certificate of occupancy.
5. Prior to issuance of a certificate of occupancy, the applicant must provide an as-built survey.