



Variance Petition No. V09-040

HEARING & MEETING DATES

Board of Appeals Hearing

February 11, 2010

March 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner

Darnell Sutton

Petitioner

Darnell Sutton

Representative

Glenn Messner

PROPERTY INFORMATION

Address, Land 760 Londonberry Road

Lot(s), and District Land Lot 163, District 17

Council District 6

Frontage 345 feet of frontage along the southeast side of Londonberry Road.

Area The subject property has a total area of approximately 0.964 acres.

Existing Zoning and Use The lot is zoned R-2(Single-family Dwelling District). The property is currently developed with a residence.

Overlay District N/A

2027

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

INTENT

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

- 1) Variance from Section 6.2.3.B to reduce the required front yard setback from 60 feet to 20 feet.
- 2) Variance from Section 6.2.3.I to allow for an existing accessory structure within the front yard.

At the February 11, 2010 BOA meeting the Board deferred the application to the March 11, 2010 BOA meeting, to allow the applicant to meet with staff and discuss the totality of the plans for the property, including the following information: height of the structure, landscape plan, and location of the fence and the gate.

The applicant met with Staff on February 24, 2010 to discuss the concerns of the Board. The following items have been addresses.

- The applicant revised the site plan to show the location and details of the proposed fence and gate. The wrought iron fence will be placed in the existing wall between the

stone columns. One section of the fence (detail A) will be placed next to the gazebo and run approximately one hundred twenty seven (127) feet along the front of the property. A second section (detail B) of fence is proposed to be placed on the south east side of the gate and run along the front before arcing towards the south to the side property line. The gate will be located at the south side of the gazebo across the driveway. The gate will be sixty-eight (68) feet from Londonberry Road. The gate location is in compliance with the Development Regulation standards

- The applicant is also proposing to plant three (3) Leland Cypresses for screening in front of the gazebo.
- The height of the accessory structure (gazebo) is fifteen (15) feet.

ENFORCEMENT

The applicant constructed an accessory structure (gazebo) in the front yard without obtaining a variance. The applicant submitted an incomplete application for a variance on August 4, 2009. Several attempts were made to contact the applicant regarding the missing requirements. A Code Enforcement Officer made contact with Mr. Sutton on September 22, 2009. Mr. Sutton informed the officer he would submit the necessary materials. After failure to submit the required materials, a citation was issued to Mr. Darnel Sutton on October 27, 2009 for the above referenced property for an accessory structure being constructed in the front yard and encroaching into the required front yard setback. Mr. Sutton appeared in court November 19, 2009. His case was reset to February 4, 2010 and has since been adjudicated, and his fines have been paid.

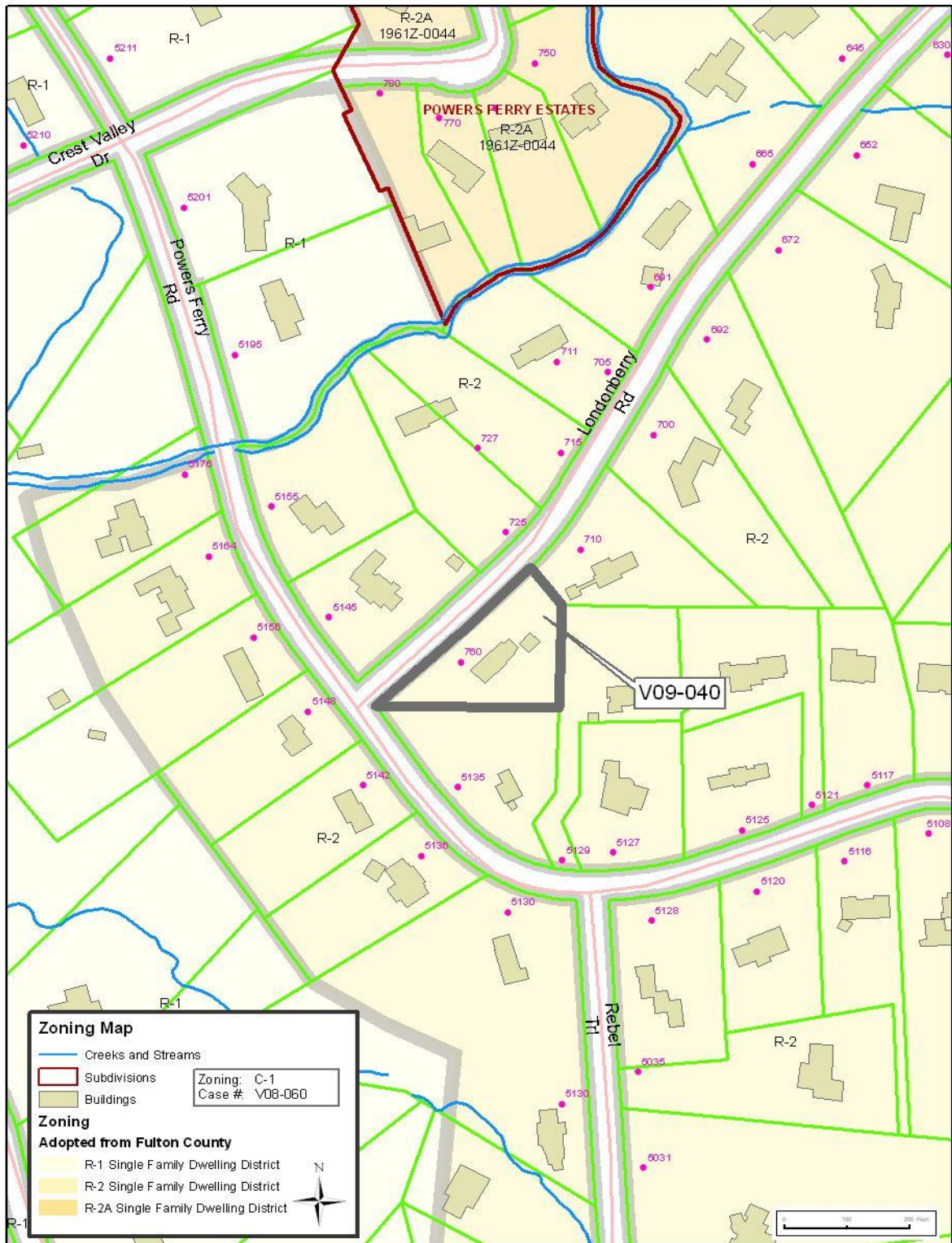
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-040 - 1)APPROVAL CONDITIONAL

V09-040 - 2)APPROVAL CONDITIONAL

Parcel Map

760 Londonberry Road



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

CASE NUMBER: V09-040

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: linda.abaray@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 6.2.3.B to reduce the required front yard setback from 60 feet to 20 feet and variance from Section 6.2.3.I to allow for an existing accessory structure within the front yard.

ANALYSIS:

The applicant has provided a site plan indicating the subject property to have 345 street frontages along Londonberry Road. The property is a triangular shape. The property is currently developed with a single-family residence. The site plan also shows the proposed detached structure (gazebo) located in the front yard and encroaching approximately forty (40) feet into the required sixty (60) front yard setback. The structure is located twenty (20) feet from the back of the right-of-way. The height of the accessory structure (gazebo) is fifteen (15) feet. The site plan also shows the location and details of the proposed fence and gate. The gate will be located at the south side of the gazebo across the driveway. The gate will be sixty-eight (68) feet from Londonberry Road. The gate location is in compliance with the Development Regulation standards. The wrought iron fence (detail A) will be placed in the existing wall between the stone columns and will be placed next to the gazebo and run approximately one hundred twenty seven (127) feet along the front of the property. A second section (detail B) of fence is proposed to be placed on the south east side of the gate and run along the front before arcing towards the south to the side property line. The applicant is also proposing to plant three (3) Leland Cypresses for screening in front of the gazebo.

Staff notes the property has a significant topographic change from the house to the street. The triangular shape of the lot also restricts the buildable area. The Zoning Ordinance requires accessory structures to be located in the rear or side yards only but not within a minimum yard.

Staff notes the surrounding lots in the immediate vicinity are zoned R-2, the same zoning as the subject property. On a site visit staff did not find surrounding properties to have accessory structures located in the front yards.

The applicant constructed an accessory structure (gazebo) in the front yard without obtaining a variance. The applicant submitted an incomplete application for a variance on August 4, 2009. Several attempts were made to contact the applicant regarding the missing requirements. A Code Enforcement Officer made contact with Mr. Sutton on September 22, 2009. Mr. Sutton informed the officer he would submit the necessary materials. After failure to submit required documents a citation was issued to Mr. Darnel Sutton on October 27, 2009 for the above referenced property for an accessory structure being constructed in the front yard and

encroaching into the required front yard setback. Mr. Sutton appeared in court November 19, 2009. His case was reset to February 4, 2010 and has since been adjudicated, and his fines have been paid.

Department Comments

The staff held a Focus Meeting on January 6, 2010 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ No comments.
	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ Per section 11.3.7 of the Development Regulation Ordinance, the proposed gate should be approved as it is in excess of 30' from a local roadway and serves a single family residence. Please let me know if you have any additional questions.
	Georgia Department of Transportation	▪ No comments

Standards for Consideration

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. The remainder of this portion of the memorandum provides each these variance criteria followed by an analysis by staff:

Section 22.3.1.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,

Other properties in the area do not have gazebos located in the front yard. Additionally, the zoning ordinance requires them to be located in the rear or side yard. Staff is of the opinion that relief from this requirement is not in harmony with the intent of the Zoning Ordinance. Therefore, staff is of the opinion this condition has not been satisfied.

Section 22.3.1.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,

The property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography. The subject parcel topography significantly changes from the front of the house to the street. Due to the topography change the driveway access has a steep grade. The triangular shape of lot with the longest property line being the property frontage which requires a sixty (60) foot setback reducing the buildable area. Due to the topography of the lot and the location of the buildable area of the property an extraordinary and exceptional condition is created resulting in a hardship for the owner of the property as defined by the City's Zoning Ordinance. Staff is of the opinion that the subject parcel is similar to the other residential properties in the City. Therefore, staff is of the opinion this condition is satisfied.

Section 22.3.1.C – Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from an adjoining public road.

Not Applicable.

Conclusion

Staff reviewed the request relative to the variance standards contained in Section 22.3.1 of the Zoning Ordinance. Based upon this review and staff conclusions, staff recommends **APPROVAL CONDITIONAL** of the variance request.

Recommended Condition(s)

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

1. The proposed lot shall be in accordance with the proposed site plan, provided by the applicant dated received February 25, 2010 by the Department of Community Development, for the variance(s) herein, showing the accessory structure (gazebo).
2. To allow an accessory structure (gazebo) to be located in the front yard as shown on the site plan, provided by the applicant dated received August 4, 2009 by the Department of Community Development.
3. To reduce the required sixty (60) foot minimum front yard setback to twenty (20) feet, where necessary, to accommodate the portion of the encroachment (s) only.

ATTACHMENTS: Letter of appeal, site plan, topographic site plan, fence details, photographs, enforcement documentation, and letters of support.



Variance Petition No. V09-052

HEARING & MEETING DATES

Board of Appeals Hearing

December 10, 2009

February 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Scott & Mary Ellen Garrett	Scott & Mary Ellen Garrett	Kevin Medendorp

PROPERTY INFORMATION

Address, Land Lot(s), and District	210 Wilderglen Court Land Lot(s) 85 & 128, District 17
Council District	2
Frontage	70.10 feet of frontage along the northwesterly side of Wilderglen Court.
Area	The subject property has a total area of approximately 4 acres.
Existing Zoning and Use	The lot is zoned R-2(Single-family Dwelling District) under Fulton County zoning case Z58-0022. The property is currently developed with a residence.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R0-1Residential (0-1 units per acre)

INTENT

The applicants propose to subdivide the property into two (2) flag lots and are seeking four (4) primary variances:

- 1) Variance from Section 4.2.10 to allow the required lot width of a proposed flag lot to be achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback.
- 2) Variance from Section 6.2.3.B to reduce the required front yard setback from 60 feet to 15 feet for existing house and to 15 feet for proposed second lot.
- 3) Variance from Section 6.2.3.D to reduce the required rear yard setback from 40 feet to 15 feet for proposed second lot.
- 4) Variance from Section 19.3.12.B.1 to allow for an existing pool in the front yard. All variances to allow for the subdivision of a single-family lot into 2 flag lots.

At the December 10, 2009 BOA meeting the Board deferred the application to the February 11, 2010 BOA meeting to determine the buildable area of the lot, show the footprint of a

Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on February 11, 2010

proposed house, impervious surface calculations for the river corridor, and obtain square footages of adjacent homes

The applicant submitted the following documents on January 21, 2010 an aerial view with a conceptual house, a conceptual site plan showing location of a house within the requested setbacks and a river corridor impervious surface calculation.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-052 - 1) DENIAL

V09-052 - 2) DENIAL

V09-052 - 3) DENIAL

V09-052 - 4) DENIAL

210 Wilderglen Court



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

CASE NUMBER: V09-052

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: linda.abaray@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 4.2.10 of the Zoning Ordinance to subdivide the property into two (2) lots and to allow the required lot width of the two (2) proposed flag lots to be achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback. A variance from Section 6.2.3.B to reduce the required front yard setback from 60 feet to 15 feet for existing house and to 15 feet for proposed second lot. A variance from Section 6.2.3.D to reduce the required rear yard setback from 40 feet to 15 feet for proposed second lot and a variance from Section 19.3.12.B.1 to allow for an existing pool in the front yard. All variances to allow for the subdivision of a single-family lot into 2 flag lots.

ANALYSIS:

The applicant has provided a site plan showing the subject properties subdivided into two (2) flag lots. Each lot would have thirty-five (35) feet of frontage along Wilderglen Court. The existing house will remain on the proposed northeast lot. The existing house is shown encroaching into the front setback and the existing pool is located in the front yard. The site plan shows a shared driveway and driveway easement for approximately one hundred twenty feet (120) from the right-of-way. The proposed lots do not meet the required lot width of 150 feet. The lot width is required to be achieved at a distance no greater than sum of the required minimum front yard/setback and minimum rear yard/setback. In addition, the minimum lot width shall be maintained through the depth of the buildable area. The required lot width would need to be met at 100 feet and continue through the buildable area. The site plan also shows the proposed lots are bordered by the Chattahoochee River to northwest.

The zoning ordinance identifies the front yard setback beginning at the point of intersection of the stem and the flag portion of a flag lot running along the property line the most perpendicular to the stem. The applicant is proposing the required sixty (60) foot front setback run parallel to the stem so the proposed lots setbacks will match the setbacks of the existing house on the developed lot. The applicant has provided a conceptual site plan showing the ability to constructed single family home on the proposed lot with the requested setback variances. The conceptual plan used the footprint of the applicants existing home.

Staff notes the original plat of the subdivision dated May 21, 1984 shows the subject property subdivided into two (2) flag lots. The property was combined to allow for the construction of the existing pool. The plat shows eight (8) additional flag lots in the Wildercliff Subdivision. The surrounding lots in the immediate vicinity are R-2 (Single Family Dwelling District) which is the same zoning as the subject property.

The ARC (Atlanta Regional Commission) river corridor allotment for this proposed property would be approximately 13,000 square feet towards impervious area and approximately 20,000 square feet of clearing. This information was derived from the original ARC approval engineering study and plan submitted by Goodman and Associates, Inc. for the ARC approval for 210 Wilderglen Court dated September 24, 2004

Department Comments

The staff held a Focus Meeting on November 4, 2009 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ The property is located in the river corridor, river corridor review will be done at time of building permit
	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

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. The remainder of this portion of the memorandum provides each these variance criteria followed by an analysis by staff:

Section 22.3.1.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,

Staff is of the opinion that relief from this requirement is not in harmony with the intent of the Zoning Ordinance. The intent of the Zoning Ordinance is to promote health and general welfare. The requirement of the width being met at a distance no greater than the sum of the front and rear setback prohibits the creation of a flag lot. Therefore, staff is of the opinion this condition has not been satisfied.

Section 22.3.1.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,

Staff is of the opinion that the subject parcel does exhibit extraordinary and exceptional conditions related to its shape and topography. However, the size, shape and topography do not create a hardship in relation to the requested variances. Also, the applicant creates a hardship with the subdivision of the lot. Therefore, staff is of the opinion this condition has not been satisfied.

Section 22.3.1.C – Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from an adjoining public road.

Not Applicable.

Conclusion

Staff reviewed the request relative to the variance standards contained in Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **DENIAL** of the variance request.

Recommended Condition(s)

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

1. The proposed lots shall be in accordance with the proposed site plan, provided by the applicant dated received October 6, 2009 by the Department of Community Development, for the variance(s) herein, showing the subdivision of 210 Wilderglen Court into 2 lots.
2. To allow for the existing swimming pool in the minimum front yard setback.
3. To reduce the required sixty (60) foot front yard setback to fifteen (15) feet for existing house.
4. To reduce the required sixty (60) foot front yard setback to fifteen (15) feet for proposed second lot.
5. To reduce the required forty (40) foot rear yard setback to fifteen (15) feet for proposed second lot.

ATTACHMENTS: Letter of appeal, site plan, Tree Survey, Topographic plan, Proposed setbacks vs. required setbacks, Original lot configuration, Aerial view of conceptual site plan, Conceptual site plan, Letter with ARC allotments, Square Footage of Surrounding lots, and photographs.



Variance Petition No. V09-056

HEARING & MEETING DATES

Board of Appeals Hearing

February 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
Olivia Lebedev

Petitioner
Olivia Lebedev

Representative
Olivia Lebedev

PROPERTY INFORMATION

Address, Land Lot(s), and District
397 Carriage Drive
Land Lot 71, District 17

Council District
4

Frontage and Area
142.33 feet of frontage along the south side of Carriage Drive. The subject property has a total area of approximately 0.634 acres.

Existing Zoning and Use
The lot is zoned R-3 (Single Family Dwelling District). The property is currently developed with a residence.

Overlay District
N/A

2027

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

INTENT

The applicant is requesting to rebuild the existing structure in the original footprint. The west side of the existing structure encroaches into the side setback and the east side encroaches into the twenty-five (25) foot impervious setback. The applicant is seeking two (2) primary variances from the Zoning Ordinance.

- 1) Variance from Section 6.4.3.C of the Zoning Ordinance to reduce the required side yard setback from 10 feet to 0.8 feet for the construction a new house.
- 2) Variance from Section 109-225.a 2 of the Stream Buffer Protection Ordinance to reduce the 25 foot impervious surface setback to fifteen (15) feet to allow for new house.

ENFORCEMENT

On October 22, 2010 Officer Lyon posted a stop work at 397 Carriage Drive for exceeding the scope of the building permit, building in the side setback and stream buffer, not having the permits posted, not having a site plan on site, and improperly installed BMP's. The site is currently under a stop work notice.

V09-056 - 2) APPROVAL CONDITIONAL

397 Carriage Drive



Page 2 of 7

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

CASE NUMBER: V09-056

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: linda.abaray@sandyspringsga.org

REQUEST:

The applicant is requesting relief from Section 109-225.a 2 of the Stream Buffer Protection Ordinance to reduce the 25 foot impervious surface setback to fifteen (15) feet to allow for the construction of a new house and a variance from Section 6.4.3.C of the Zoning Ordinance to reduce the required side yard setback from 10 feet to 0.8 feet for the construction of a new house.

ANALYSIS:

The applicant has submitted a site plan indicating the subject property to have 142.33 feet of frontage along Carriage Drive. The property is trapezoidal in shape, and slopes from the west to the east. The centerline of the stream runs north to south along the outside of the eastern property line. The stream bisects the south east corner of the lot. The stream runs approximately one hundred twenty-one (121) feet across the property.

The applicant applied for a building permit on March 16, 2009 to remodel and add an addition to the existing house which did not enlarge or alter the nonconformity. During the construction the entire house was demolished. According to the Zoning Ordinance Section 4.3.1.D. Nonconforming Structures. When a structure exists on the effective date of the adoption of the Ordinance or it's amendments that could be build under the terms of this Ordinance because of the restrictions on the building area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may remain as long as it complies with all other zoning regulations, subject to destruction, by any means, of more than sixty (60) percent of the gross square footage of a structure shall require that the structure be reconstructed in conformity with the provisions of the Ordinance. Because of the demolition of more than sixty (60) percent of the house, the structure lost its legal nonconforming status and it is considered a new structure. Therefore, the applicant is required to seek a variance to construct a new house. The applicant is proposing to complete construction on a new house in the same footprint as the demolished house. However, during a site visit it appears that there has been a new foundation poured except for the area encroaching into the side setback which has the original foundation. The existing house footprint was slightly changed according to a previous code enforcement case concerning the stream buffer. The footprint of the demolished house is set on the west side of the lot reducing the encroachment into the buffer. The new house would encroach into the twenty-five (25) foot impervious setback by ten (10) feet. There is also a sanitary sewer easement that runs parallel to the stream along the eastern side of the property.

Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot. There is also a sanitary sewer easement that runs parallel to the stream along the eastern side of the property which also restricts the buildable area of the property.

Staff notes the surrounding lots in the immediate vicinity are zoned R-3 (Single Family Dwelling District). The properties to the southwest of the subject property are zoned R-5A (Single Family Dwelling District).

On October 22, 2010 Officer Lyon posted a stop work at 397 Carriage Drive for exceeding the scope of the build permit, building in the side setback and stream buffer, not having the permits posted, not having a site plan on site, and improperly installed BMP's. The site is currently under a stop work notice.

Department Comments

The staff held a Focus Meeting on January 6, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	No comments
	Arborist/Landscape Architect	The footprint of the existing house was slightly changed. There was a previous code enforcement case concerning the stream buffer.
	Building Plan Reviewer	No comments
FIRE DEPT.	Fire Protection Engineer	If this residence is constructed closer than 20 feet to another residential structure or other outbuilding larger than 300 sf, automatic sprinklers shall be required in the kitchen and fuel fired equipment room pursuant the City of Sandy Springs fire ordinance 2006-11-86: Chapter 15, Health and Public Safety, which became effective on November 8, 2006. See enclosed Minimum Design Guidelines for the City of Sandy Springs Fire Department.
TRANSPORTATION	Public Works Dept., Transportation Planner	No comments
	Georgia Department of Transportation	No comments

Standards for Consideration

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. The remainder of this portion of the memorandum provides each these variance criteria followed by an analysis by staff:

Section 22.3.1.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,

Staff is of the opinion that relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public as adjacent property's have encroachments into the side yard setback. Additionally, the footprint of the existing house currently encroaches in to the side setback and the reconstruction will match the existing encroachment. Therefore, staff is of the opinion this condition has been satisfied.

Section 22.3.1.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,

Staff is of the opinion that the subject parcel is similar to other residential properties in the City. However, the property does exhibit extraordinary and exceptional conditions related to its topography. The subject parcel has a change in topography on the west side of the property. The grade changes sixteen (16) feet from the northwestern corner to the southeastern corner of the property. Due to the topography of the lot and approximately seventy-five (75) percent of the buildable area be covered by stream buffers an extraordinary and exceptional condition is created resulting in a hardship for the owner of the property as defined by the City's Zoning Ordinance. Therefore, staff is of the opinion this condition is satisfied.

Section 22.3.1.C – Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from an adjoining public road.

Not Applicable.

Section 109-225 of the Sandy Springs Code of Ordinances which includes one or more criteria which must be met before a variance can be approved by the Board of Appeals. The remainder of this portion of the memorandum provides each of these variance criteria followed by an analysis by staff:

Section 109-225(b)(3)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 is granted.

Staff is of the opinion that the property shape, topography, or physical conditions existed at the time of the adoption of the ordinance. Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot. The land would be unable to be re-developed without relief from the stream buffer requirements. Therefore, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(3)b. – Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.

Staff is of the opinion that the property has an unusual circumstance when strict adherence to the minimal buffer requirement would create an extreme hardship. Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot. The land would be unable to be re-developed without relief from the stream buffer requirements. Therefore, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(5)a. – The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; The shape size and topography and other physical characteristics of the property have been identified. This condition has been satisfied.

Section 109-225(b)(5)b. – The location of all streams on the property, including along property boundaries; All streams on the property have been identified on the site plan. This condition has been satisfied.

Section 109-225(b)(5)c. – The location and extent of the proposed buffer or setback intrusion; All buffer and setback intrusions have been identified on the site plan. This condition has been satisfied.

Section 109-225(b)(5)d. – Whether alternative designs are possible which require less intrusion or no intrusion;

Alternative designs have not been discussed with staff regarding this property. The applicant has indicated the new house will be constructed in the same footprint as the demolished house. However, intrusion into the stream buffer would occur at any location within the buildable area of the lot. Therefore, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(5)e. – The long-term and construction water quality impacts of the proposed variance; and

The applicant will be required to use Best Management Practice (BMP) during the construction of the house. The City will monitor the sites BMPs. Therefore, staff is of the opinion this condition is satisfied.

Section 109-225(b)(5)f. – Whether issuance of the variance is at least as protective of natural resources and the environment.

Staff is of the opinion that the issuance of the variance is as protective of natural resources and the environment as the existing house which encroached into the buffer in the same location. The construction of a new house would not remove any new natural resources or add additional impervious surfaces to the area. Therefore, staff is of the opinion this condition has been satisfied.

Conclusion

Staff reviewed the request relative to the variance standards contained in Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request.

Recommended Condition(s)

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

- 1) The subject house shall be constructed in accordance with the proposed site plan, provided by the applicant dated received December 29, 2009 by the Department of Community Development, for the variance herein, showing a reduction in the 25 foot impervious set back to fifteen (15) feet to allow for a new house where necessary to accommodate the portion of the encroachment only.
- 2) The lowest floor elevation of the new house, including basement shall be elevated to at least the higher of the following two elevations:
 - a. three feet above the 100 year water surface elevation at the inlet of the pipe (new pipe if installed, or existing pipe if new pipe not installed);
 - b. two feet higher than the elevation of the ground surface at the threshold over which water would flow to continue downstream if the water level upstream of the pipe were to rise such that overland flow downstream were to occur.
- 3) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced for building additions and/or other improvements, downspouts shall be directed into a rain garden or a Best Management Practices (BMP) filtration detention device and such facility shall be maintained.
- 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 vegetation for filtration before entering the stream or artificial filtration with proof of maintenance required at time of Land Disturbance Permit, subject to the approval of the Sandy Springs City Engineer.
- 5) The area of the fifty (50) foot undisturbed natural buffer outside the area of this approved variance shall be maintained and any modification to the buffer (e.g. replanting or restoration) shall be subject to the approval of the Sandy Springs Arborist.
- 6) To reduce the required ten (10) foot minimum side yard setback to (0.8) feet, where necessary, to accommodate the portion of the encroachment (s) only.

ATTACHMENTS: Letter of appeal, site plan, letters of support, letter of opposition, building permit application and photographs.



Variance Petition No. V09-057

HEARING & MEETING DATES

Board of Appeals Hearing

February 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
Isador Mitzner

Petitioner
Isador Mitzner

Representative
Gary Unell

PROPERTY INFORMATION

Address, Land Lot(s), and District
5445 North Powers Ferry Road
Land Lot 165, District 17

Council District
6

Frontage and Area
50.00 feet of frontage along the east side North Powers Ferry Road.
The subject property has a total area of approximately 0.743 acres.

Existing Zoning and Use
The lot is zoned R-1(Single Family Dwelling District). The property is currently developed with a residence.

Overlay District
N/A

2027

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

INTENT

The applicant is proposing to construct a detached garage with in the front yard and to construct a new addition which will encroach into the twenty-five (25) foot impervious setback. The applicant is requesting two (2) primary variances from the Zoning Ordinance:

- 1) Variance from Section 6.1.3.I of the Zoning Ordinance to allow for a detached garage within the front yard.
- 2) Variance from Section 109-225. 2 of the Stream Buffer Protection Ordinance to reduce the 25 foot impervious surface setback to five (5) feet to allow for new additions to an existing house.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-057 - 1)APPROVAL CONDITIONAL

V09-057 - 2)APPROVAL CONDITIONAL

5445 North Powers Ferry Road



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

CASE NUMBER: V09-057

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: linda.abaray@sandyspringsga.org

REQUEST:

The applicant is proposing to construct a detached garage with in the front yard and to construct a new addition which will encroach into the twenty-five (25) foot impervious setback. The applicant is requesting relief from Section 6.1.3.I of the Zoning Ordinance to allow for a detached garage within the front yard and relief from Section 109-225. 2 of the Stream Buffer Protection Ordinance to reduce the 25 foot impervious surface setback to five (5) feet to allow for new additions.

ANALYSIS:

The applicant has submitted a site plan indicating the subject property to have 50.00 feet of frontage along North Powers Ferry Road via a 375.06 feet narrow strip of land forming a pole or stem to the buildable area creating a flag lots. There is a significant topographic change from North Powers Ferry Road to the subject property. There is a lake located in the center of the lot. The existing house is located on the north side of the flag potion of the lot. The remaining portion of the lot is heavily wooded. The site plan also shows the proposed addition and garage. The proposed addition to the existing house is shown to be encroaching into the twenty-five (25) foot impervious setback. Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot.

Staff notes the surrounding lots in the immediate vicinity are zoned R-2A (Single Family Dwelling District) to the north, CUP (Community Unit Plan District) to the east and south, and R-1(Single Family Dwelling District), R-2 (Single Family Dwelling District) and R-2A (Single Family Dwelling District) to the west.

Department Comments

The staff held a Focus Meeting on January 6, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No Comments
	Arborist/Landscape Architect	▪ The existing house is in the undisturbed natural buffer and impervious setback.
	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

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. The remainder of this portion of the memorandum provides each these variance criteria followed by an analysis by staff:

Section 22.3.1.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,

The garage will be approximately five hundred twenty five (525) feet from the street and one hundred sixteen (116) feet from the closest home. The existing house is located at the lowest point in the surrounding area according to the surrounding elevations. Staff is of the opinion that relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public. Therefore, staff finds this condition has been satisfied.

Section 22.3.1.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,

The subject parcel is similar to other residential properties in the City. The lot has a 375.06 feet narrow strip of land forming a pole or stem leading to the buildable area

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on February 11, 2010

creating a flag lots. The flag lot is an irregular shape which also reduces the buildable area of the lot. The subject parcel has a significant change in topography from the street to the location of the existing house. Due to the topography of the lot and approximately seventy-five (75) percent of the buildable area be covered by stream buffers an extraordinary and exceptional condition is created resulting in a hardship. Therefore, staff finds this condition is satisfied.

Section 22.3.1.C - Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from an adjoining public road.

Not Applicable.

Section 109-225 of the Sandy Springs Code of Ordinances which includes one or more criteria which must be met before a variance can be approved by the Board of Appeals. The remainder of this portion of the memorandum provides each of these variance criteria followed by an analysis by staff:

Section 109-225(b)(3)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 is granted.

Staff notes the lot is a flag lot with a significant topographic change from the street to the location of the existing house. The stream buffers from the lake covers approximately three fourths of the buildable area of the lot. Staff is of the opinion that the property shape, topography, or physical conditions existed at the time of the adoption of the ordinance. Therefore, staff finds this condition has been satisfied.

Section 109-225(b)(3)b. - Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.

Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot. The land would be unable to be developed without relief from the stream buffer requirements. Staff is of the opinion that the property has an unusual circumstance when strict adherence to the minimal buffer requirement would create an extreme hardship. Therefore, staff finds this condition has been satisfied.

Section 109-225(b)(5)a. - The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; The shape size and topography and other physical characteristics of the property have been identified. This condition has been satisfied.

Section 109-225(b)(5)b. - The location of all streams on the property, including along property boundaries; All streams on the property have been identified on the site plan. This condition has been satisfied.

Section 109-225(b)(5)c. - The location and extent of the proposed buffer or setback intrusion; All buffer and setback intrusions have been identified on the site plan. This condition has been satisfied.

Section 109-225(b)(5)d. – Whether alternative designs are possible which require less intrusion or no intrusion;

Alternative designs have not been discussed with staff regarding this property. The applicant has designed the proposed garage to not encroach in the buffer. However, intrusion into the stream buffer would occur at any location within the buildable area of the lot for the proposed addition. Therefore, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(5)e. – The long-term and construction water quality impacts of the proposed variance; and

The applicant will be required to use Best Management Practice (BMP) during the construction of the house. The City will monitor the sites BMPs. Therefore, staff is of the opinion this condition is satisfied.

Section 109-225(b)(5)f. – Whether issuance of the variance is at least as protective of natural resources and the environment.

Staff is of the opinion that the issuance of the variance is not as protective of natural resources and the environment because the proposed addition would create more impervious surface in twenty-five (25) foot impervious setback. Therefore, staff is of the opinion this condition has not been satisfied.

Conclusion

Staff reviewed the request relative to the variance standards contained in Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request.

Recommended Condition(s)

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

- 1) The subject house shall be constructed in accordance with the proposed site plan, provided by the applicant dated received December 29, 2009 by the Department of Community Development, for the variance herein, showing a reduction in the 25 foot impervious set back to five (5) feet to allow for a new house where necessary to accommodate the portion of the encroachment only.
- 2) The lowest floor elevation of the new house, including basement shall be elevated to at least the higher of the following two elevations:
 - a. three feet above the 100 year water surface elevation at the inlet of the pipe (new pipe if installed, or existing pipe if new pipe not installed);
 - b. two feet higher than the elevation of the ground surface at the threshold over which water would flow to continue downstream if the water level upstream of the pipe were to rise such that overland flow downstream were to occur.
- 3) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced for building additions and/or other improvements, downspouts shall be directed into a rain garden or a Best Management Practices (BMP) filtration detention device and such facility shall be maintained.
- 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 vegetation for filtration before entering the stream or artificial filtration with proof of maintenance required at time of Land Disturbance Permit, subject to the approval of the Sandy Springs City Engineer.
- 5) The area of the fifty (50) foot undisturbed natural buffer outside the area of this approved variance shall be maintained and any modification to the buffer (e.g. replanting or restoration) shall be subject to the approval of the Sandy Springs Arborist.
- 6) To allow an accessory structure (Garage) to be located in the front yard.

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



Variance Petition No. V09-055

HEARING & MEETING DATES

Board of Appeals Hearing

February 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
Northside Hospital, Inc.

Petitioner
John Cummings

Representative
JBP/ Arthur McIntyre

PROPERTY INFORMATION

Address, Land Lot, and District
960 Johnson Ferry Road
Land Lots 16 of the 17 District

Council District
5

Frontage
Approximately 519.65 feet of frontage along the North side of Johnson Ferry Road and 1182.12 feet of frontage along the East side of Georgia Highway 400.

Area
The subject property has a total area of 8.403 acres.

Existing Zoning and Use
O & I (Office & Institutional District) conditional under Fulton County zoning case Z88-101. The property is currently developed with Office Buildings.

Overlay District
PCID (Perimeter Community Improvement Design District)

Interim 2025 Comprehensive Future Land Use Map Designation
LWR (Living-Working Regional)

INTENT

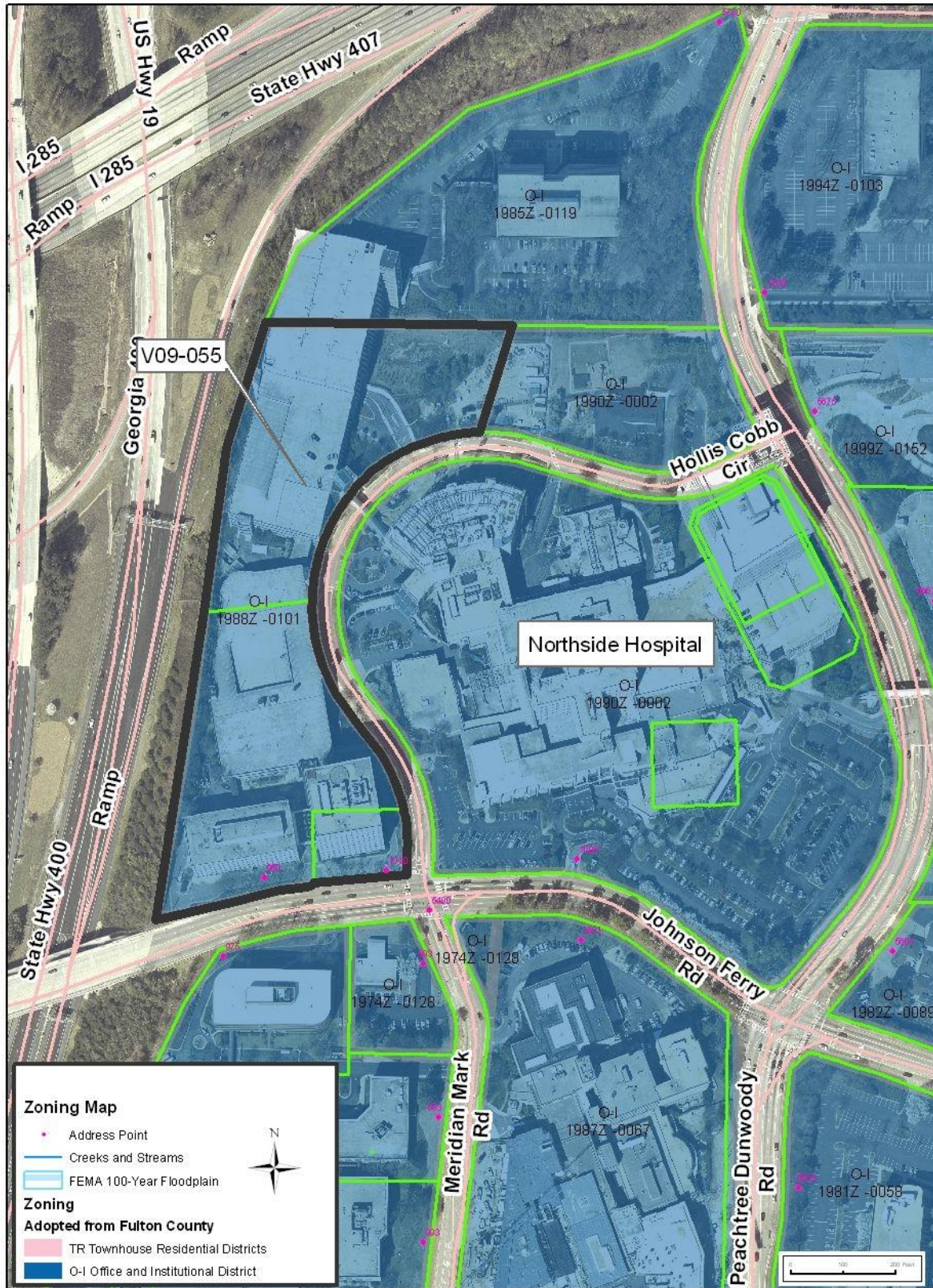
The applicant is seeking a primary variance from Section 33.26.D.2 of the Zoning Ordinance to allow a wall sign on a wall that does not have street frontage.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-055 - APPROVAL CONDITIONAL

Parcel

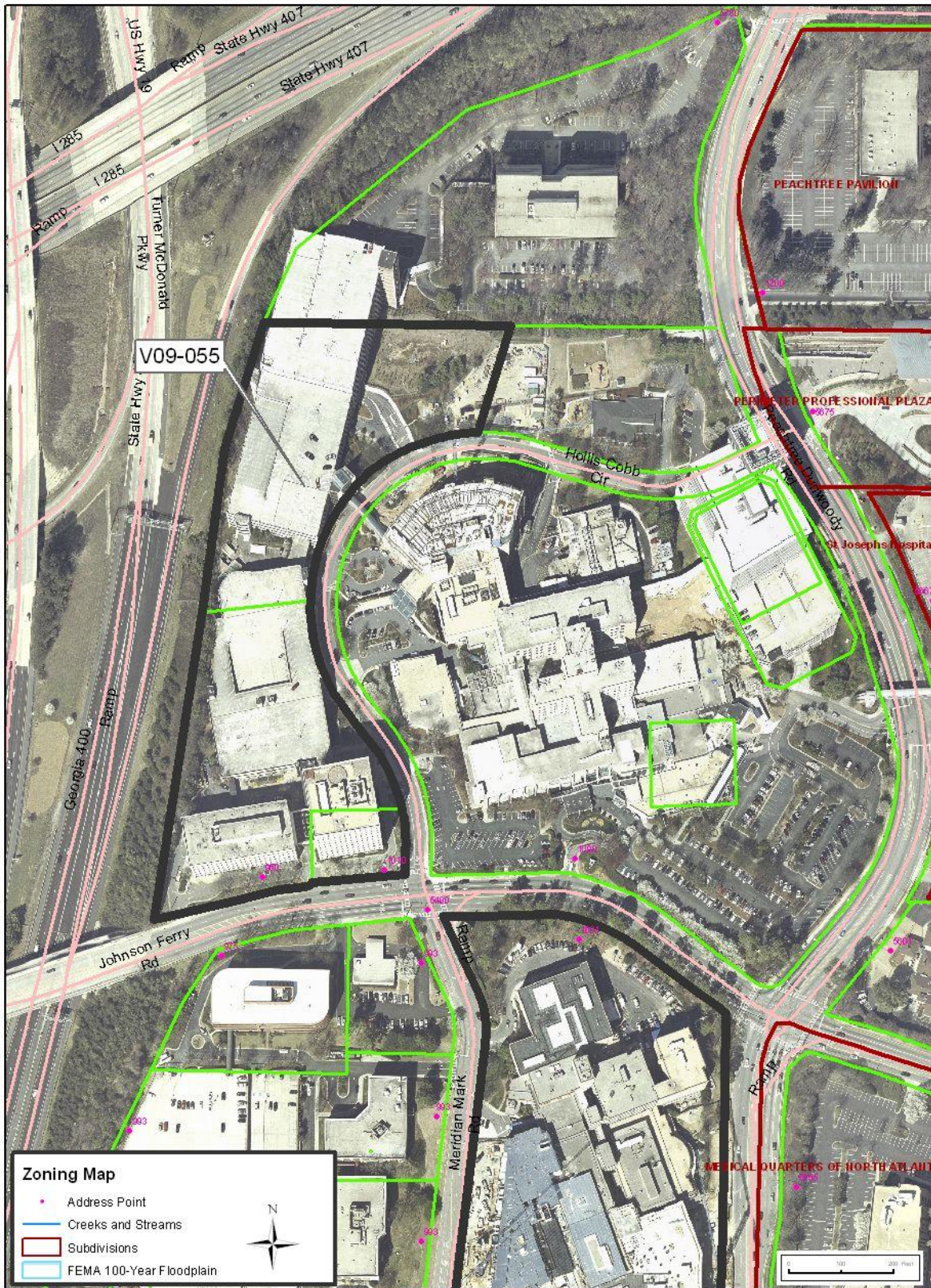
960 Johnson Ferry Road NE Variance Area



Parcel

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on February 11, 2009

960 Johnson Ferry Road NE Variance Area



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on February 11, 2010

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

CASE NUMBER: V09-055

STAFF CONTACT: Cristina Nelson, City Planner 770-206-1516
E-mail: cristina.nelson@sandyspringsga.org

REQUEST:

Variance from Section 33.26.D.2 of the Zoning Ordinance to allow for wall sign on a wall that does not have street frontage.

ANALYSIS:

The property identified as Northside Hospital is approximately 36.8286 acres, comprised of three (3) parcels zoned O & I (Office & Institutional District) conditional under three (3) Fulton County zoning cases. The parcel subject of this variance is the parcel located on the southwest side of the property, adjacent to Johnson Ferry Road and Expressway GA 400. The property contain approximately 8.403 acres as per site plan dated received May 3, 1988 by the Fulton County Zoning Department and part of zoning case file Z88-101 (See Exhibit 1). The parcel for which this variance is sought is developed with office and parking buildings.

The staff of the Planning and Zoning Division reviewed a sign permit application package to remove an existing wall sign from a parking building and relocate it on an adjacent parking building. The purpose of the sign relocation is that at the present location the sign is not longer effective as the sign is obscured by the overgrown vegetation along the GA 400. To capture visibility the applicant proposed a wall sign on a wall that is not street facing wall as the street facing wall of the parking building is also obscured by the overgrown vegetation along the Georgia 400 expressway right of way.

The zoning ordinance provides: 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.

It was determined that a variance was needed to allow the wall sign on a wall that does not have street frontage.

The applicant stated that prior to consideration of this variance he contacted the Georgia Department of Transportation, seeking approval to trim the trees along the Georgia 400 right of way, to provide sign visibility. The request was denied.

The applicant proposes to install a channel letter wall sign, internally illuminated. The sign is to be 169.45 square feet in area.

Department Comments

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on February 11, 2009

The staff held a Focus Meeting on January 6, 2010 at which the following departmental comments were provided:

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

Standards for Consideration

Section 33.12.D. of the City's Zoning Sign Ordinance includes one or more criteria which must be met before a sign variance can be approved by the Board of Appeals. The remainder of this portion of the memorandum provides each these variance criteria followed by an analysis by staff:

- 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.**

Not applicable. Staff is of the opinion that the topography of the lot does not impact visibility of the sign from the adjoining public roads.

- 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.**

The Ordinance provides for signs to be on street facing walls. The existing parking deck has street facing wall that now is obscured by the overgrown tress in the GA DOT right of way. To provide quick visibility to ambulances and patients who require urgent care, Northside Hospital installed a sign on the women's Center Parking Deck visible from GA 400 and Route 285. The sign has vanished from sight. In an effort to maintain visibility and preserve the natural barrier of the trees, Northside Hospital has selected to relocate the sign to the adjacent parking deck on a wall that is visible from GA 400 but it is not facing the street.

Conclusion

Staff is of opinion this variance request will not cause a detriment to the public, but will convey information to the general public, as Northside Hospital located behind the parking decks, has limited exposure to GA 400 and Route 285. Therefore, based on these reasons the staff recommends **APPROVAL CONDITIONAL** of this variance.

Recommended Condition(s)

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

1. The sign and sign installation shall be consistent with the design details received on December 18, 2009 and the site plan dated received December 1, 2009 by the Department of Community Development.

ATTACHMENTS: Site Plans, Photos, Detail Drawings and Letters of Appeal.

VARIANCE TABLE

Variance Request	DRB Action	Proposed Conditions	Comments
The applicant is seeking a primary variance from Section 33.26.D.2 of the Zoning Ordinance to allow for a wall sign on a wall that does not have street frontage.	NA.	The sign and sign installation shall be consistent with the design details received on December 18, 2009 and the site plan dated received December 1, 2009 by the Department of Community Development.	No comments