



Variance Petition No. V09-040

HEARING & MEETING DATES

Board of Appeals Hearing

February 11, 2010

March 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Darnell Sutton	Darnell Sutton	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



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Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R0-1Residential (0-1 units per acre)

INTENT

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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.

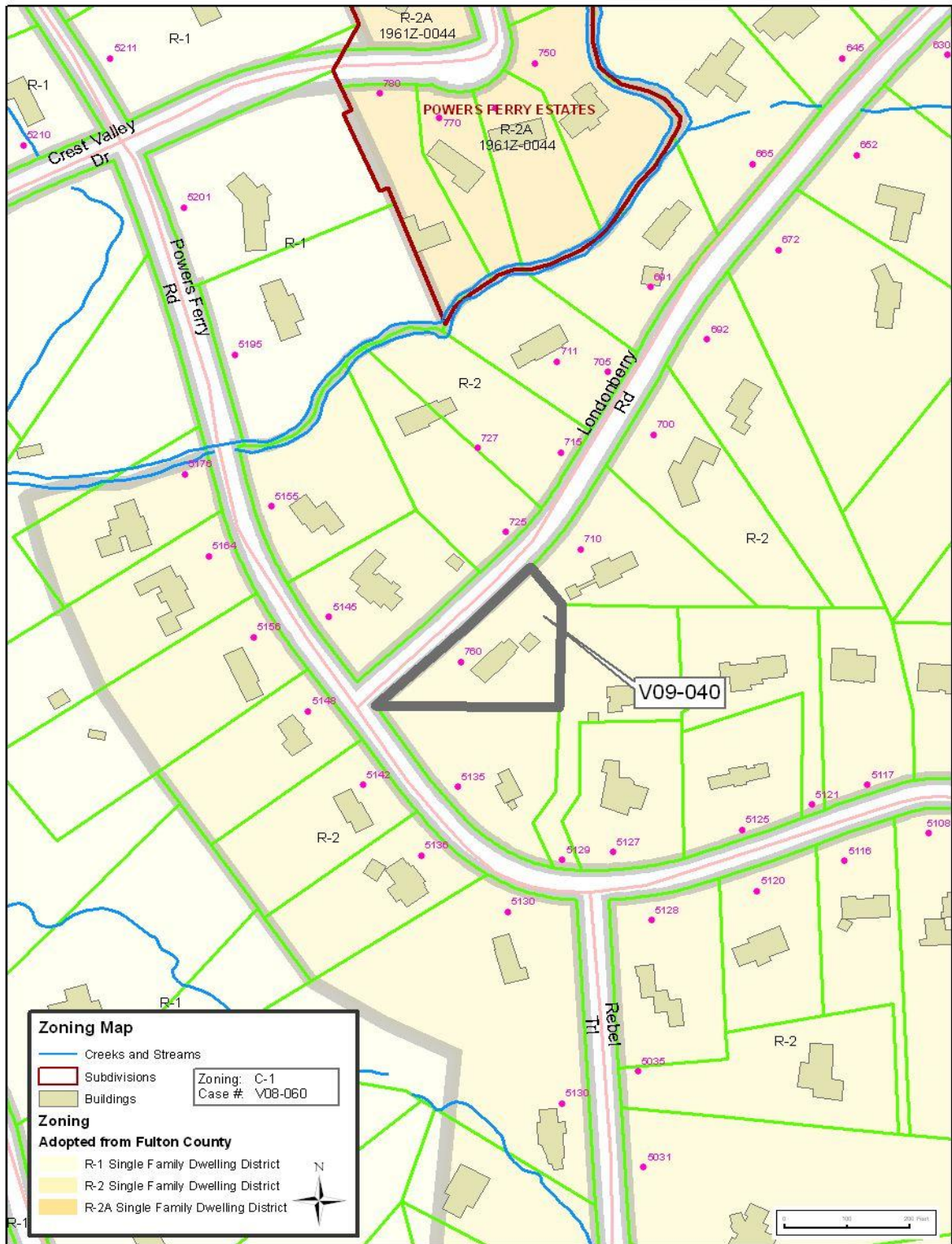
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

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. V10-001

HEARING & MEETING DATES

Design Review Board
February 9, 2010

Board of Appeals hearing
March 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
Virgil Beddingfield

Petitioner
Henry Signs

Representative
Danny Lankford

PROPERTY INFORMATION

Address, Land Lot, and District
8600 Roswell Road (SR 9)
Land Lot 363 of the 6 District

Council District
2

Frontage
Approximately 263 feet of frontage along the West side of Roswell Road (SR 9) and 218 feet of frontage along the Northeast side of Hightower Trail.

Area
The subject property has a total area of 0.6397 acres.

Existing Zoning and Use
C-1 (Community Business District) conditional under Fulton County zoning case Z64-035. The property is currently developed with a Car Care center

Overlay District
Suburban District.

Interim 2025 Comprehensive Future Land Use Map Designation
C (Commercial)

INTENT

Primary variance from Section 33.22.C of the Zoning Ordinance to reduce the required ten (10) foot minimum sign setback from the right-of-way to one (1) foot.

DESIGN REVIEW BOARD RECOMMENDATION

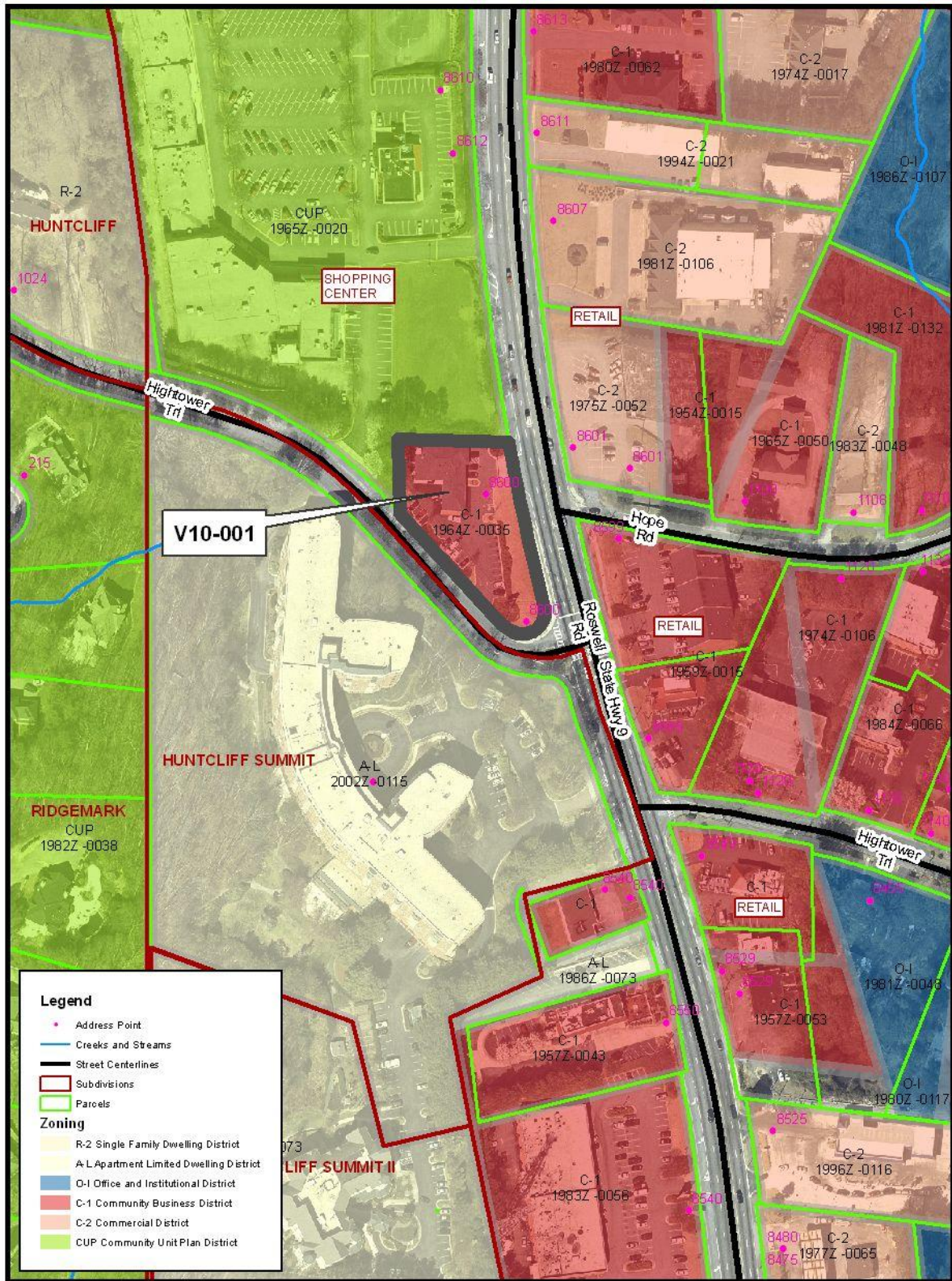
The application was heard at the February 9, 2010 DRB meeting. The request was recommended for APPROVAL as presented (5-0, Porter, Gregory, Landeck, Richard and Mobley for; Westmoreland absent; Lichtenstein not voting).

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V10-001- APPROVAL CONDITIONAL

Parcel

8600 Roswell Road



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

CASE NUMBER: V10-001

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

REQUEST:

Variance from Section 33.22.C of the Zoning Ordinance to reduce the required ten (10) foot minimum sign setback from the right-of-way to one (1) foot.

ANALYSIS:

The applicant is requesting relief from Article 33.22.C SIGN LOCATION SETBACK of the Sandy Springs Zoning Ordinance, that states "*Unless a more restrictive setback is specified in conditions of zoning, all signs shall be setback at least 10 feet from the right-of-way*", to allow for a monument identification sign on property which has a total area of approximately 27,865.33 square feet (.6397 acres), to be [one (1) foot setback] from the right-of-way.

The property has an existing lollipop sign which is approximately twenty (20) feet tall, not in compliance with the current sign ordinance. The applicant would like to replace the existing sign with a sign that complies with the ordinance.

The Sandy Springs ordinance provides:

Section 33.26.H.

1. Monument Signs (amended 04/21/09, TA09-002, Ord. 2009-04-19).
 1. One (1) maximum thirty-two (32) square foot, monument sign shall be permitted for each street on which the lot has up to and including five hundred (500) feet of frontage. The sign shall have a maximum height of six (6) feet. Except for gas stations, changeable copy shall not be permitted.

As required by the ordinance the new sign must not exceed six (6) feet height. If the new sign is located at the same location of the existing free standing sign it will be obscured by the existing vegetation in the surrounding area. Additionally the trees on the adjacent property (to the south) will block most of the northbound traffic visibility. The applicant would like to locate the new sign in the middle of the lot frontage on Roswell Road. To achieve this, a variance is needed to reduce the required setback from the right-of-way. Placing the sign ten (10) feet from the right-of-way would place the sign in the parking lot. The proposed location will place the sign approximately forty (40) feet from the edge of Roswell Road as the right-of-way is 150 feet as per the site plan provided by the applicant and dated

received January 5, 2010 by the Community Development Department. The applicant has indicated that the primary reason for the petition is for visibility.

The proposed sign area is thirty-two (32) square feet. The sign will be internally illuminated cabinet measuring 4'H 8'L, 6' high with Polycarbonate faces.

Department Comments

The staff held a Focus Meeting on February 3, 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	▪ The proposed sign location is outside of the existing right-of-way and required clear zone, therefore Public Works has no comment on the case.
	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.**

Staff is of the opinion that the topography of the lot does not impact visibility of the sign from the adjoining public roads. Therefore, this criterion is not applicable.

- 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 purpose of the sign ordinance is to encourage the effective use of signs as a means of communication; to improve traffic and pedestrian safety as it may be affected by distracting signs. To comply with the sign ordinance the high of the sign can be no more than six (6) feet. A six (6) foot height sign at the location of the existing sign would be in most part obscured by the vegetation that is in his property and adjacent properties, limiting the visibility of the sign. To provide ease identification to the business, Meineke proposes to install a sign, monument style, six (6) feet tall, and thirty-two (32) square feet of sign area, at one (1) foot from the right-of-way. Staff notices that the right-of-way at this location is approximately 150 feet, as shown on the site plan provided by the applicant, which position the proposed sign location outside the required clear zone.

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 Meineke's sign if located at ten (10) feet from the right-of-way would be in the parking area and considerable further back from the northbound and southbound traffic; if located where the existing sign is, would not serve the purpose of the sign ordinance, which is to provide an ease identification of their premise. Therefore, based on these reasons the staff recommends **APPROVAL CONDITIONAL** of this variance.

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

1. Allow the monument sign to be located at the proposed location, one (1) foot from the right-of-way, pursuant to the site plan submitted by the applicant, and dated received January 5, 2010 by the Department of Community Development.
2. The monument sign shall comply with all the standards of the Sandy Springs Overlay as provided for in Article 33.26.H.

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



Variance Petition No. V10-002

HEARING & MEETING DATES

Board of Appeals Hearing

March 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Finger-FSC Perimeter, Ltd	Wayne Edy	Wayne Edy

PROPERTY INFORMATION

Address, Land Lot, and District	6355 Peachtree Dunwoody Road Land Lot 19 of the 17 District
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Council District	5
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Frontage	Approximately 3105 feet of frontage along the East side of Peachtree Dunwoody Road.
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Area	The subject property has a total area of 4.7 acres.
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Existing Zoning and Use	C-1 (Community Business District) conditional under Fulton County zoning case Z05-076. The property is currently been developed with residential and retail buildings.
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Overlay District	PCID (Perimeter Community Improvement District)
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Interim 2025 Comprehensive Future Land Use Map Designation	LWR (Living-Working Regional)
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INTENT

The applicant is requesting two primary variances from Section 33.26.F.6 of the Zoning Ordinance to allow for:

1. An additional sign during construction and
2. To allow the two (2) temporary construction signs to remain for a year after the issuance of a Certificate of Occupancy.

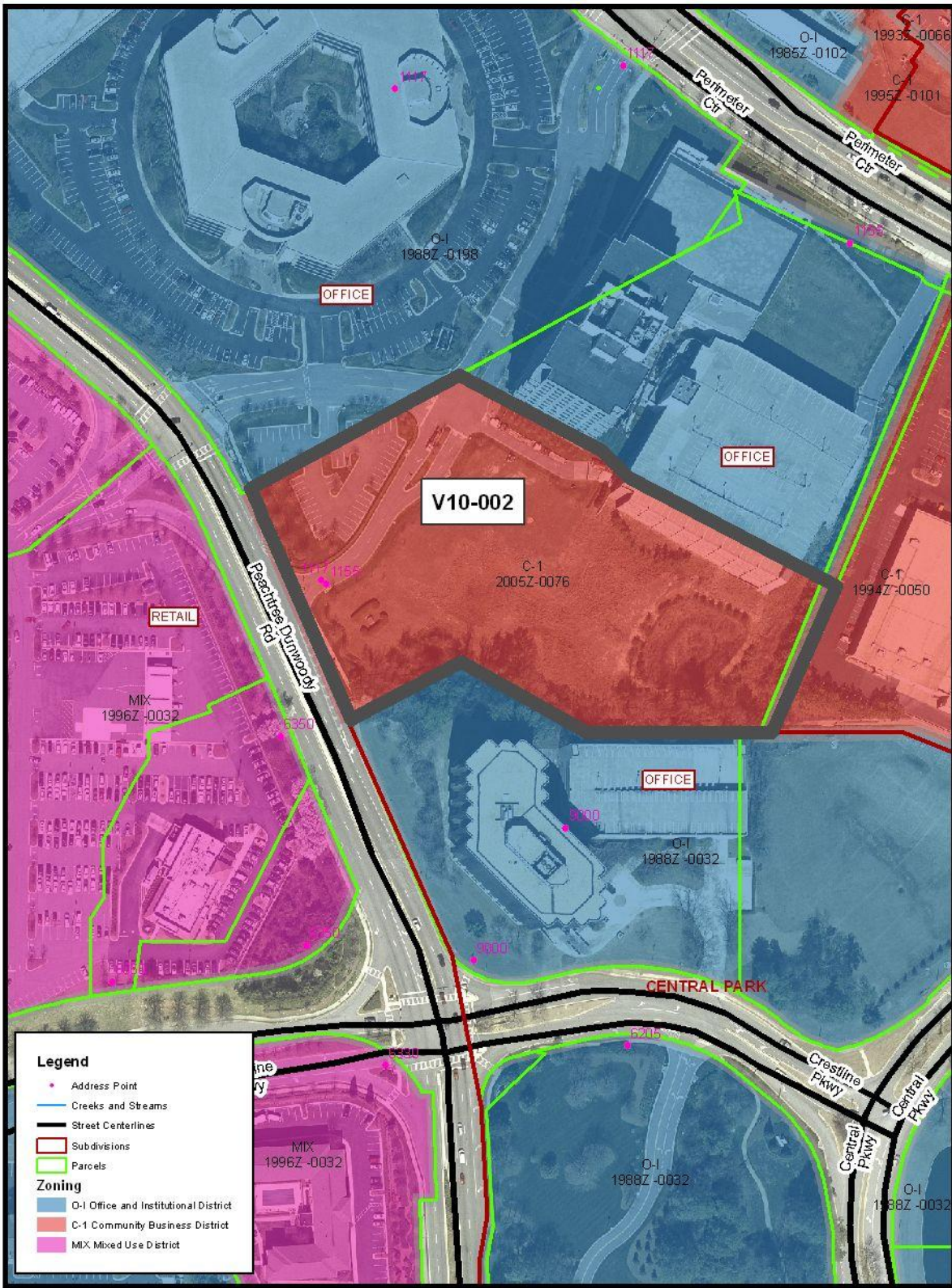
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V10-002- 1. DENIAL

2. DENIAL

Parcel

6355 Peachtree Dunwoody Road



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

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

CASE NUMBER:

V10-002

STAFF CONTACT:

Cristina Nelson, City Planner 770-206-1516

E-mail: cristina.nelson@sandyspringsga.org

REQUEST:

The applicant is requesting a primary variance from Section 33.26.F.6 of the Zoning Ordinance to allow for an additional sign during construction and for the two (2) temporary signs allowed during construction to remain for a year after the issuance of a Certificate of Occupancy.

ANALYSIS:

The applicant is requesting relief from Article 33.26.F.6 SIGNS DURING CONSTRUCTION of Sandy Springs Zoning Ordinance that states: "One (1) additional sign shall be allowed during construction. The sign shall not be internally illuminated. The sign shall be allowed beginning with the commencement of construction and ending with the issuance of a Certificate of Occupancy or installation of a permanent sign, whichever occurs first. The sign shall not exceed the maximum monument sign allowed on the lot", to allow for two (2) construction signs where only one is allowed on a property which has a total area of approximately 204,732 square feet (4.7 acres), and to allow the signs to stay one year after the issuance of a Certificate of Occupancy.

The property is currently developed with a mixed use, residential and a retail development. According to the applicant the retail consists of five (5) street level tenant spaces totaling approximately 6,000 square feet. The residential component is comprised of 216 rental units (apartments) ranging from 750 to 1,500 square feet each. Because the target market for these two components is much different the applicant's contention is that there is a need to advertize each separately. Additionally, because marketing will continue until lease up, the applicant is requesting to extend the display of the signs up to one (1) year after the certificate of occupancy is issued. The proposed sign areas are thirty-two (32) square feet each, six (6) feet high with an opening of forty-five (45) degree between faces.

The Sandy Springs Ordinance provides:

Section 33.26.F. 13.

SIGNS DURING VACANCY (added 04/21/09, TA09-002, Ord. 2009-04-19). *Developments in which there are vacant lots, units, and/or tenant spaces shall be entitled to one such sign per access-providing street frontage of the development. Signs during Vacancy shall not exceed 16 square feet in area, shall have a maximum height of five (5) feet, and shall not be internally illuminated. Signs during Vacancy shall be allowed for a period not exceeding ninety (90) days with no more than two (2) such 90-day periods being permitted per calendar year per lot. Any development with a permit for a Sign during Vacancy shall be prohibited from having Standard Informational Signs and/or Banners during the 90-day permit period.*

Department Comments

The staff held a Focus Meeting on February 3, 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.**

Staff is of the opinion that the topography of the lot does not impact visibility of the sign from the adjoining public roads as the property is very flat. Therefore, this criterion is not applicable.

- 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 natural features of the lot do not present any challenges to justify the approval of these variances. Therefore, this criterion is not applicable.

Conclusion

The purpose of the sign ordinance is to encourage the effective use of signs as a means of communication; to improve traffic and pedestrian safety as it may be affected by distracting signs. Staff is concerned, with respect to traffic safety, about the proliferation of distracting signs along major roadways. The Staff notes that the signs will be located both at the entrance of the development with an opening between faces of 45 degree which will offer four (4) sign faces for the motorists to read at the high speed of a major road, while traveling less than 350 feet of road frontage. In addition, in 2009 The Mayor and City Council incorporated into the zoning ordinance a policy that allowed developments in which there are vacant lots, units, tenant spaces etc to have additional signage. The Staff is unaware of any hardship unique to the property advertised which would warrant special consideration to allow two construction signs and to be allowed for a period longer than what is established by the City's policy. Therefore, based on these reasons the staff recommends **DENIAL** of these variances.

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

1. The temporary constructions sign shall not exceed thirty-two (32) square feet of sign area; six (6) feet height pursuant to the sign design detail, submitted by the applicant, and dated received January 5, 2010 by the Department of Community Development.
2. Allow the temporary construction signs to be located at the proposed location, for not more than one (1) year from the date of the approval of the certificate of occupancy (CO).

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



Variance Petition No. V10-003

HEARING & MEETING DATES

Board of Appeals Hearing

March 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
Robert Levin

Petitioner
Robert Levin

Representative
Lovic Evans

PROPERTY INFORMATION

Address, Land Lot(s), and District
420 North Errol Court
Land Lot 134, District 17

Council District
6

Frontage
50.19 feet of frontage along the north side North Errol Court.

Area
The subject property has a total area of approximately 0.847 acres.

Existing Zoning and Use
The lot is zoned R-2A (Single Family Dwelling District) under Fulton County zoning case Z79-0032. 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)

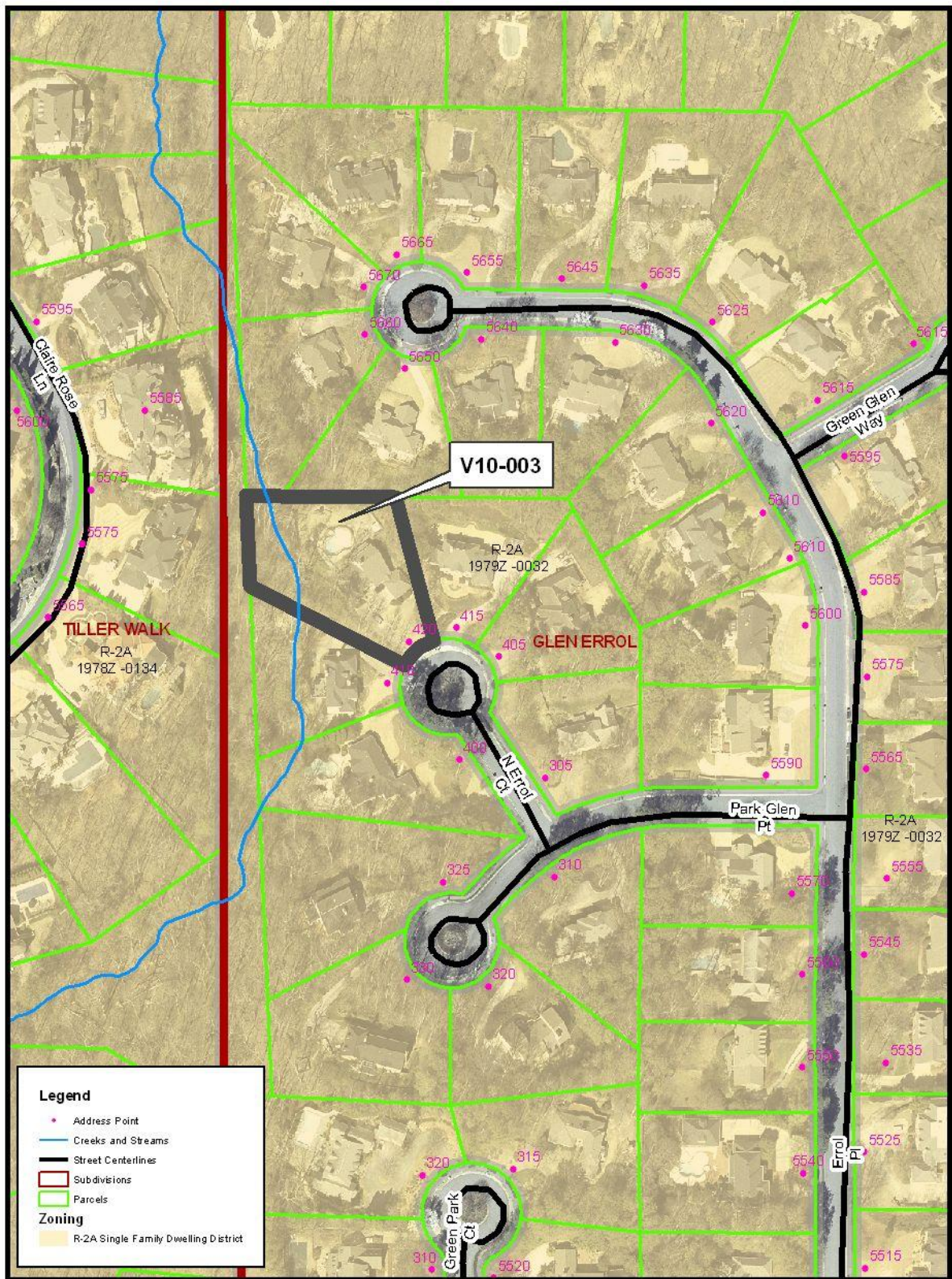
INTENT

The applicant is proposing to construct an addition to the existing house which will encroach into the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback). The applicant is requesting one (1) primary variance from the Stream Buffer Protection Ordinance:

- 1) Variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet) to allow for an addition.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V10-003 - 1)APPROVAL CONDITIONAL

420 North Errol Court



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

CASE NUMBER: V10-003

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

REQUEST:

The applicant is proposing to construct an addition to the existing house which will encroach into the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback). The applicant is requesting relief from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet) to allow for an addition.

ANALYSIS:

The applicant has submitted a site plan indicating the subject property to have 50.19 feet of frontage along North Errol Court. The property is trapezoidal in shape, and sloping to the western side of the lot toward the stream. The stream runs north to south bisecting the western portion of the lot. The stream runs approximately one hundred sixty (160) feet across the property. The proposed addition would encroach into the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) reducing it to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet). There is also a sanitary sewer easement that runs parallel to the stream through the western portion of the property.

Staff notes the stream buffer covers approximately three fourths of the buildable area of the lot. Three other lots in the Glen Errol Subdivision are also affected by the stream. The sanitary sewer easement also restricts the buildable area of the property.

Staff notes the surrounding lots in the immediate vicinity are zoned R-2A (Single Family Dwelling District).

Department Comments

The staff held a Focus Meeting on February 3, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	▪ If the Board elects to approve the requested variance, it is suggested that, in the interest of minimizing proposed disturbance within the city stream buffer that the Board consider not requiring the “proposed water quality facility for future addition” within the stream buffer as shown on the site plan. The magnitude of the contemplated improvement does not appear to be significant enough to warrant such additional encroachment and disturbance.
	Arborist/Landscape Architect	▪ The stream buffer is the neighbor’s landscaped backyard. Riparian vegetation is virtually non-existent.
	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 109-225 of the Sandy Springs Code of Ordinances includes criteria, one or more of 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 stream buffer covers approximately three fourths of the buildable area of the lot. The land would be difficult to re-develop without relief from some stream buffer requirements. The subject parcel topography also restricts the buildable area of the lot. Relief from this requirement would not be a detriment to the public as the proposed

addition will be less intrusive in the stream buffer than the existing house and pool. Staff is of the opinion that the property shape, topography, or physical conditions existed at the time of the adoption of the ordinance. Based on these reasons, 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 notes the stream buffer covers approximately three fourths of the buildable area of the lot. The land would be difficult to re-develop 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. Based on these reasons, 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 property is trapezoidal in shape, and sloping to the western side of the lot toward the stream. Staff is of the opinion that the property shape, size, topography, and physical conditions have been identified on the site plan provided by the applicant. Based on these reasons, staff is of the opinion 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. The stream runs north to south bisecting the western portion of the lot. The stream runs approximately one hundred sixty (160) feet across the property. Based on these reasons, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(5)c. – The location and extent of the proposed buffer or setback intrusion;

The proposed addition to the existing house would reduce the required 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet). All buffer and setback intrusions have been identified on the site plan. Based on these reasons, staff is of the opinion 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 the proposed addition at this property. Therefore, staff is of the opinion this condition has not 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 Practices (BMP) during the construction of the addition. 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.

The existing house and pool currently encroached into the buffer and the riparian vegetation is virtually non-existent along the stream bank. Staff is of the opinion that the issuance of the variance is as protective of natural resources and the environment. Based on these reasons, 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 addition shall be constructed in accordance with the proposed site plan, provided by the applicant dated received February 8, 2010 by the Department of Community Development, for the variance herein, showing a reduction in the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet) to allow for new additions, 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) 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.

- 4) 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.

ATTACHMENTS: Letter of appeal, site plan, letter of support, and photographs.



Variance Petition No. V10-004

HEARING & MEETING DATES

Board of Appeals Hearing

March 11, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
David Herrigel

Petitioner
David Herrigel

Representative
David Herrigel

PROPERTY INFORMATION

Address, Land Lot(s), and District
275 Danbury Lane
Land Lot 119, District 17

Council District
6

Frontage
54.89 feet of frontage along the west side Danbury Lane.

Area
The subject property has a total area of approximately 0.538 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
R1-2 Residential (1-2 units per acre)

INTENT

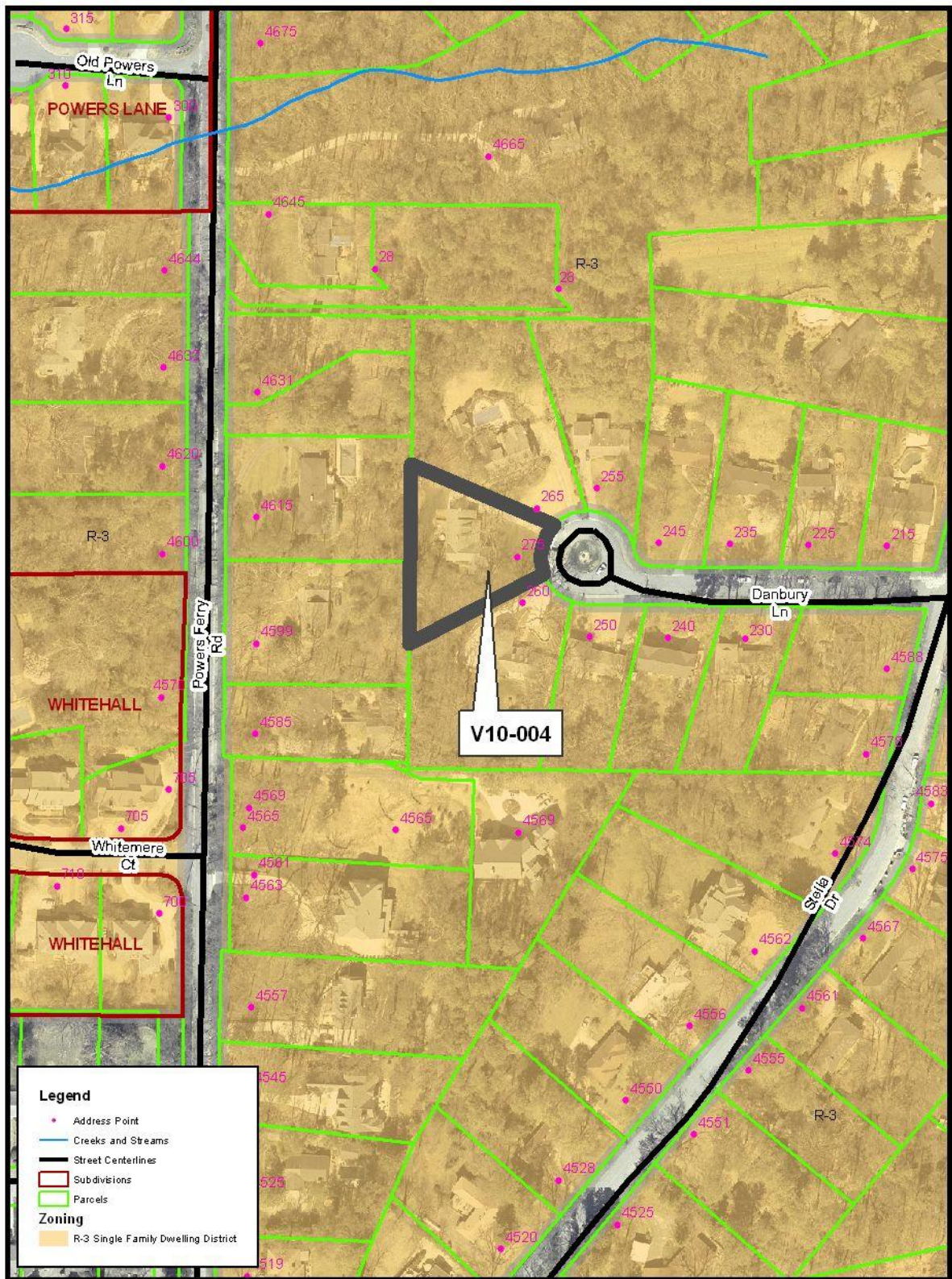
The applicant is proposing to construct a detached garage accessory to the existing house which will encroach into the required thirty-five (35) foot rear yard setback. The applicant is requesting one (1) primary variance:

- 1) Variance from Section 6.4.3.D of the Zoning Ordinance to reduce the required rear yard setback from 35 feet to 10 feet to allow for the construction of a detached garage.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V10-004 - 1) APPROVED CONDITIONAL

Parcel Map

275 Danbury Lane



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

CASE NUMBER: V10-004

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 accessory to the existing house which will encroach into the required thirty-five (35) foot rear yard setback. The applicant is requesting relief from Section 6.4.3.D of the Zoning Ordinance to reduce the required rear yard setback from 35 feet to 10 feet to allow for the construction of a detached garage at the end of the existing driveway.

ANALYSIS:

The applicant has provided a site plan indicating the subject property has 54.89 feet of frontage along Danbury Lane. The lot has a triangular shape. The lot slopes from north to south with a change in topography of twenty (20) feet. The slope becomes steeper towards the southwest portion of the property. The existing driveway runs along the north property line. The property is currently developed with a single-family residence. The house is approximately eighty (80) feet from Danbury Lane. The house is set to the north side of the property.

Staff notes the proposed garage would be located ten (10) feet two (2) inches from the property line. The proposed garage would be approximately one hundred four (104) feet from the house of the most affected neighboring residence to the west of the subject property. The property currently does not have a garage.

Staff notes the surrounding lots in the immediate vicinity are developed with single family homes and zoned R-3 (Single Family Dwelling District).

Department Comments

The staff held a Focus Meeting on February 3, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ Proposed construction appears to not negatively impact any protected trees.
	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 is proposed to be approximately one hundred four (104) feet from the closest house in the rear. The properties are separated by trees in the rear. The applicant has received letters of support from adjacent property owners. Adjacent homes have garages located at the end of the driveways. However, they are not detached and do not encroach into the rear setbacks. Staff is of the opinion that relief from this requirement is in 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 subject parcel is similar to other residential properties in the City. The lot goes from a width of two-hundred thirty (230) feet in the rear to fifty-four (54) feet in the front. Staff is of the opinion that because of the subject parcel's triangular shape the buildable area along the front of the lot is significantly reduced. Also, the slope becomes steeper towards the southwest portion of the property is creating an extraordinary and exceptional condition 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.

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 proposed lot shall be in accordance with the proposed site plan, provided by the applicant dated received January 5, 2010 by the Department of Community Development, for the variance(s) herein, showing a reduction of the required thirty-five (35) foot minimum rear yard setback to ten (10) feet to allow a detached garage, where necessary, to accommodate the portion of the encroachment (s) only.

ATTACHMENTS: Letter of appeal, site plan, elevations, letter of support and photographs.