



Variance Petition No. V10-005

HEARING & MEETING DATES

Board of Appeals Hearing

April 8, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Kawika and Billie Mitchell	Kawika and Billie Mitchell	Nathan V. Hendricks

PROPERTY INFORMATION

Address, Land Lot(s), and District	516 Londonberry Road Land Lot 135, District 17
Council District	6
Frontage and Area	155.84 feet of frontage along the south side of Londonberry Road and 239.49 feet of frontage along the east side of Marbury Circle. The subject property has a total area of approximately 1.0169 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	R0-1 Residential (0-1 units per acre)

INTENT

The applicant is proposing to construct a 375 square foot sunroom on to the existing house, a retaining wall, and bluestone walkway 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 two (2) primary variances from the Floodplain Management Ordinance and one (1) primary variance from the Stream Buffer Protection Ordinance:

- 1) Primary variance from Section 109-113.1 of the Floodplain Management Ordinance to allow new construction within the limits of the future-conditions floodplain.
- 2) Primary variance from Section 109-114.a.1 of the Floodplain Management Ordinance to allow new construction within the limits of the future-conditions floodplain.
- 3) Primary 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 twenty-five (25) feet (proposed structure encroachment of forty (40) feet and limits of disturbance of ten (10) feet for a total encroachment of fifty (50) feet) to allow for construction of a 375 square foot sunroom, retaining wall, bluestone walkway and to allow for the existing house.

At the October 8, 2009 BOA meeting the Board denied variance application V09-038. The applicant requested 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 25 feet to allow for construction of a pool, pool deck, fence, concrete walkway and wood steps and to allow for the existing house.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

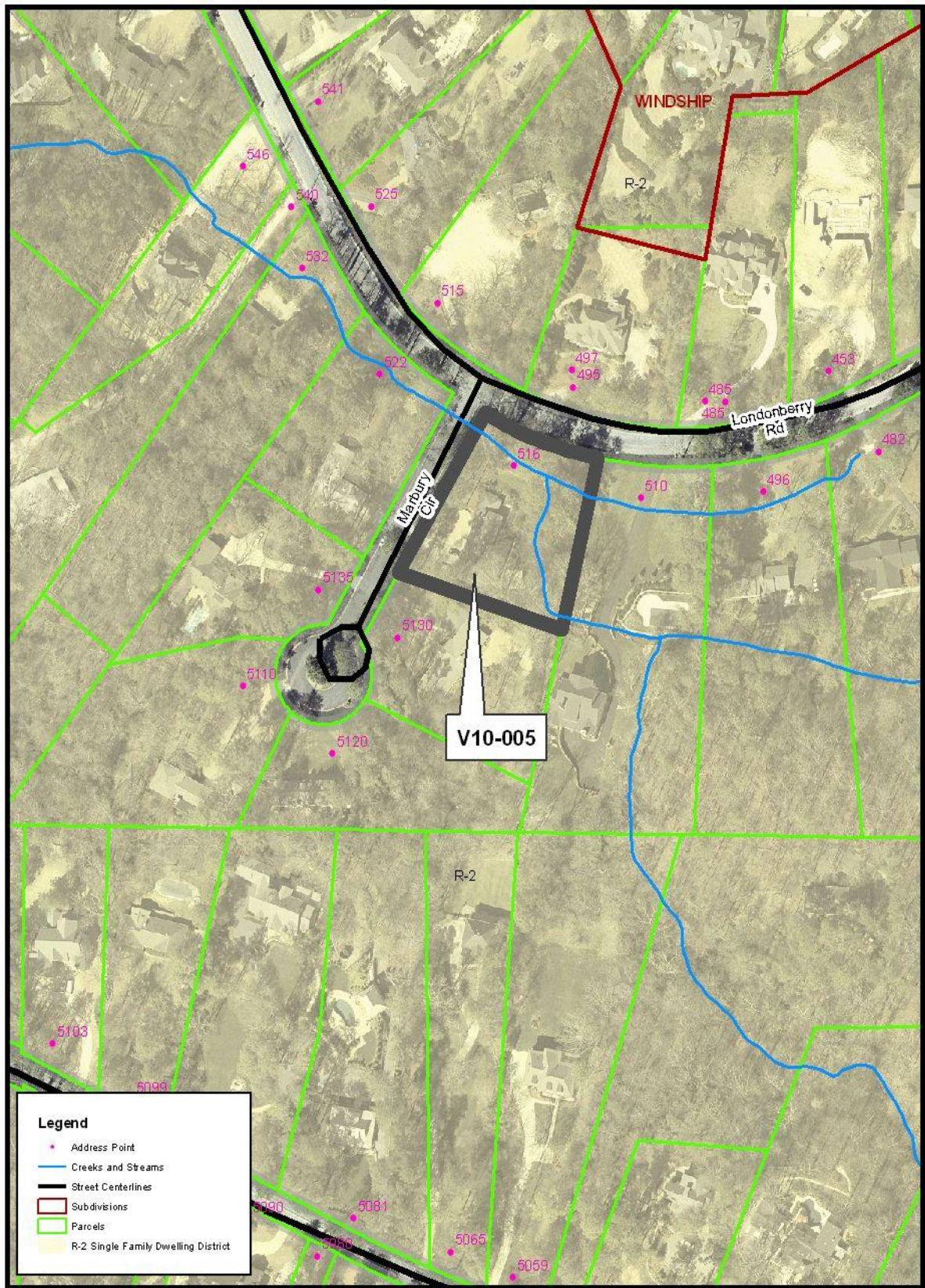
V10-005 - 1) APPROVAL CONDITIONAL

V10-005 - 2) APPROVAL CONDITIONAL

V10-005 - 3) APPROVAL CONDITIONAL

Parcel Map

516 Londonberry Road



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

CASE NUMBER: V10-005

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

Findings of Fact

The applicant is requesting relief from Section 109-113.1 and Section 109-114.a.1 of the Floodplain Management Ordinance to allow new construction within the limits of the future-conditions floodplain. The applicant is also requesting variances 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 twenty-five (25) feet (proposed structure encroachment of forty (40) feet and limits of disturbance of ten (10) feet for a total encroachment of fifty (50) feet) to allow for construction of a 375 square foot sunroom, retaining wall, bluestone walkway and to allow for the existing house.

The applicant has submitted a site plan indicating the subject property to have 156.50 feet of frontage along Londonberry Drive and 239.49 feet of frontage on Marbury Circle. The zoning ordinance identifies the front yard of a corner lot as the yard which abuts the street for the shortest distance. Therefore, the front of the lot would be along Londonberry Road. The existing house is oriented toward Marbury Circle.

The existing home is at an elevation of 851.96 feet (Exhibit 1). City flood maps indicate the existing and future-conditions base flood elevation on the property is at an elevation of 852. It appears likely the ground surface elevation at the location of the proposed addition is below the 852 elevation. The applicant will be required at the time of building permit to construct the sunroom in a manner which does not alter the existing flood plain encroachment and that the land disturbance associated with the proposed addition will not involve placement of fill within the floodplain; otherwise, the applicant will need to demonstrate that the proposed addition can occur in compliance with the Floodplain Management Ordinance.

The property is wooded, trapezoidal in shape. The centerline of a stream, runs from the southeast corner to the northern corner for approximately three hundred thirteen feet (313) feet before crossing under Marbury Circle. The stream runs along the eastern property line then joins a stream running along the north property line. The existing house is currently located in the fifty (50) foot buffer. The stream buffers occupy the majority of the buildable area of the lot. The property also has a significant topographic change from Londonberry Road to the location of the house on the north side of the property and then rises ten (10) feet within approximately fifteen (15) feet on the southeastern side of the property. The proposed 375 square foot sunroom, retaining wall, bluestone walkway and the existing house will be located outside the twenty five (25) foot buffer.

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

Standards for Consideration

Floodplain Management Ordinance

Section 109.56 of the Sandy Springs Floodplain Management Ordinance provides the following:

Sec. 109-56. Appeals and variances.

(g) Conditions for variances:

(1) A variance is issued only when there is:

a. A finding of good and sufficient cause;

Finding:

The exiting house was constructed prior to the completion of the City Flood Zone Maps (December 2009) and the adoption of the seventy-five (75) foot Stream Buffer Ordinance. Approximately three fourths of the lot is located in the stream buffer and the majority of the lot is located in the 100 year flood plain (exhibit 2). The City flood maps indicate the existing and future-conditions base flood elevation on the property is at elevation 852. The existing house is currently located at an elevation of 851.96 feet. The existing house is located .04 feet in to flood plain. The staff is of the opinion that there is a good and sufficient cause for a variance.

b. A determination that failure to grant the variance would result in exceptional hardship;

Finding:

The flood plain and stream buffers cover approximately three fourths of the buildable area of the lot. Without a variance the applicant could not expand the existing house and have full enjoyment of the property. The staff is of the opinion that failure to grant the variance would result in exceptional hardship.

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud on or victimization of the public.

Finding:

An existing deck occupies the location of the proposed sunroom. If the applicant constructs the sunroom in a manner which does not alter the existing flood plain encroachment then staff is of the opinion that granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud on or victimization of the public are not apparent.

Stream Buffer Protection Ordinance

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

Sec. 109-225. Land development requirements.

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

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

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

Finding:

The stream buffer covers approximately three fourths of the buildable area of the lot (exhibit 1). The subject parcel has a significant topographical change from Londonberry Road and Marbury Circle to the location of the stream. Also, there is a rise in topography on the southeastern side of the property. Relief from this requirement would not be a detriment to the public as the proposed addition will replace an existing deck currently located in the stream buffer. 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.

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

Finding:

The stream buffers covers approximately three fourths of the buildable area of the lot (exhibit 1). The property would be unable to be re-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 minimum buffer requirement would create an extreme hardship. Based on these reasons, staff is of the opinion this condition has been satisfied.

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

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

Finding:

The property is trapezoidal in shape with a topographic change from Londonberry Road to the location of the house on the north side of the property and then rises ten (10) feet within approximately fifteen (15) feet on the southeastern side of the property (exhibit

4). Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

All stream buffers on the property have been identified (exhibit 1). The centerline of a stream, runs from the southeast corner to the northern corner for approximately three hundred and thirteen feet (313) feet before crossing under Marbury Circle. The stream runs along the eastern property line then joins another stream running along the north property line.

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

Findings:

The streams are located on the eastern and northern property lines. The stream buffer covers approximately three fourths of the buildable area of the lot. The proposed intrusion of the 375 square foot sunroom would be located in the same location as the existing deck. The location and extent of the proposed buffer and setback intrusions have been identified on the site plan (exhibit 1).

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

Findings:

Alternative designs have been discussed with staff regarding this property. The applicant proposed a pool and pool deck at the October 8, 2009 Board of Appeals meeting (V09-038). The application was denied. The applicant has completely redesigned the application from a of approximately 1100 square feet pool and pool deck (exhibit 3) to a 375 square foot sunroom, retaining wall, bluestone walkway and the existing house with the limits of disturbance not encroaching into the twenty-five (25) foot stream buffer.

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

Findings:

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

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

Findings:

Staff is of the opinion that issuance of the variances is at least as protective of the natural resources and environment as the existing site conditions.

Department Comments

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

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	No Comments
	Sandy Springs Development Plan Review Engineer	- City Flood Zone Maps indicate that proposed addition is likely within a flood hazard area. City flood maps indicate the existing and future-conditions base flood elevation on the property is at elevation 852. It appears likely the ground surface elevation at the location of the proposed addition is below 852. Applicant shall demonstrate that the proposed addition will not encroach into the floodplain and that the land disturbance associated with the proposed addition will not involve placement of fill within the floodplain; otherwise, the applicant will need to demonstrate that the proposed addition can occur in compliance with the Floodplain Management Ordinance or the applicant will need to obtain variances to the Floodplain Ordinance that would allow for the proposed addition. It appears likely that at least the following variances to the Floodplain Ordinance will be necessary for the addition to be eligible for permitting: 109-113.1 and 109-114.a.1 - New construction of principal buildings...shall not be allowed within the limits of the future-conditions floodplain. - If the applicant applies for variances to the Floodplain Management Ordinance, any variance approval should include a condition that the lowest finished floor of the addition be at least one foot above the base flood elevation.
	Sandy Springs Landscape Architect/Arborist	- There will be four trees removed for the new retaining wall and proposed lawn area. The trees to be removed include an 8" Maple, 18" Pine, 10", and 16" Maple. The critical root zone of a 20" Tulip Poplar will be disturbed. - The area where the lawn is being extended is currently pine strawed and the ground is very wet. - In the area where the applicant is proposing a sunroom there is already an existing wood deck.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	There are no Fire Department requirements that need to be addressed at this time.
TRANSPORTATION	Sandy Springs Transportation Planner	There are no Transportation requirements that need to be addressed at this time.
	Georgia Department of Transportation	There are no GDOT requirements that need to be addressed at this time.

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:

V10-005 - 1) APPROVAL CONDITIONAL

V10-005 - 2) APPROVAL CONDITIONAL

V10-005 - 3) APPROVAL CONDITIONAL

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 March 10, 2010 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) 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.
- 3) 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.
- 4) The lowest finished floor of the addition shall be at least one (1) foot above the base flood elevation of eight hundred fifty two (852) feet.

ATTACHMENTS:

Letter of appeal- dated received February 1, 2010

Letter of appeal- dated received March 18, 2010

Site plans - dated received March 10, 2010 (exhibit 1)

Flood plain map (exhibit 2)

Site plan dated received September 8, 2009 (variance case V09-038) (exhibit 3)

Existing condition site plans - dated August 3, 2009 (exhibit 4)

Photographs