# Variance Petition No. V11-053

| HEARING & MEETING DATES |
|---|
| **Board of Appeals Hearing** |
| February 9, 2012 |
| March 8, 2012 |
| April 12, 1012 |

| APPLICANT/PETITIONER INFORMATION | | |
|---|---|---|
| **Property Owner** | **Petitioner** | **Representative** |
| K. Morgan Varner III | K. Morgan Varner III | Charles Moore |

| PROPERTY INFORMATION | |
|---|---|
| **Address, Land Lot(s), and District** | 1340 West Garmon Road<br>Land Lots 202, District 17 |
| **Council District** | 6 |
| **Frontage** | 300.77 feet of frontage along the south side of West Garmon Road and 93.78 feet of frontage along the east side of Harris Trail. |
| **Area** | 2.030 acres |
| **Existing Zoning and Use** | The lot is zoned R-1 (Single Family Dwelling District). The property is currently vacant. |
| **Overlay District** | N/A |
| **2027 Comprehensive Future Land Use Map Designation** | R0-0.5 Residential (0-0.5 units per acre) |

## INTENT

The applicant is proposing to construct a new single family residence on the property. The applicant is requesting two (2) primary variances:

1) Primary variance from Sections 109-225(a)(b) 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 the construction of a new single family residence in accordance with the proposed site plan, provided by the applicant dated received March 23, 2012 by the Department of Community Development

2) Primary variance from Section 6.1.3.C of the Zoning Ordinance to reduce the twenty-five (25) foot side setback to thirteen (13) feet to allow construction of a of a new single family residence.

At the **March 8, 2012 Board of Appeals meeting** the Board deferred the application to the April 12, 2012 Board of Appeals meeting to give the applicant the opportunity to provide the Board with additional information regarding the total amount of impervious surface existing and proposed. The Board also requested the specific areas of impasse between the applicant and the neighbors and Watershed Alliance of Sandy Springs.

A meeting was held on **March 19, 2012**. The applicant revised the site plan to reduce the square footage of the house and change the location of the pool to removing them completely outside the 50 foot buffer. The neighbors and the Watershed Alliance of Sandy Springs approved of the changes to the site plan, but could not support the application without a private agreement (Exhibit 3) between the

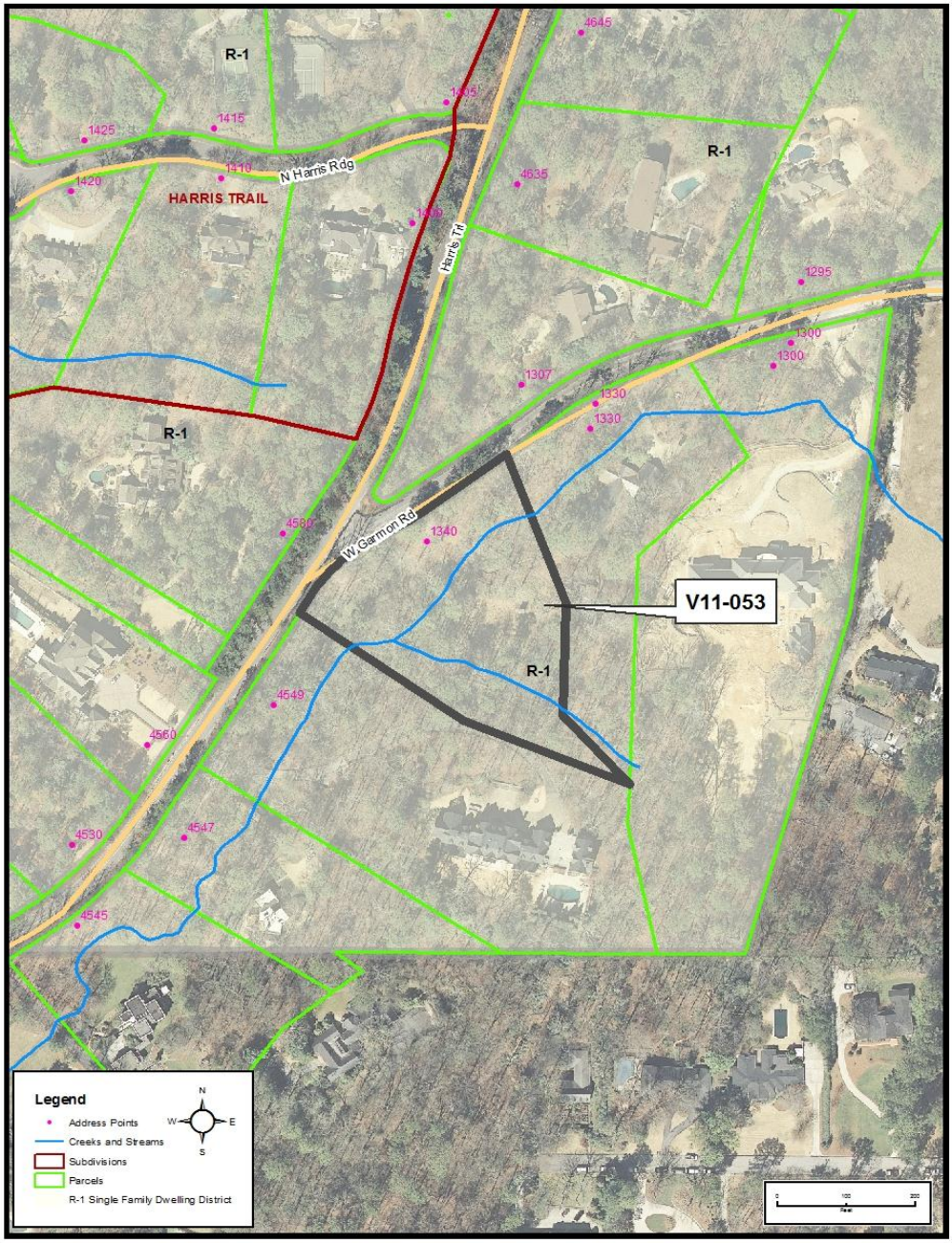
parties. The applicant has not agreed to sign the proposed private agreement and has sent a written responds (Exhibit 4) to the neighbors and Sandy Springs Watershed Alliance.

At the **February 9, 2012 Board of Appeals** meeting the Board deferred the application to the March 8, 2012 Board of Appeals meeting to give the applicant and the citizen an opportunity to discuss possible alternative designs. A meeting was held on February 27, 2012.

## DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION
## V11-053 – 1) APPROVAL CONDITIONAL
## V11-053 – 2) APPROVAL CONDITIONAL

### Parcel Map

1340 West Garmon Road



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

CASE NUMBER: V11-053

STAFF CONTACT: Linda Abaray, Senior Planning 770-206-1577
E-mail: labaray@sandyspringsga.gov

**Finding of Fact:**

| | Previous Home (Demolished) | Proposed Plan | Percent Difference of Previous Home vs. Proposed Plan |
|---|---|---|---|
| **0'-25' Stream Buffer** | 1,073 sf | 0 sf | 100% Reduction |
| **25' – 50' Stream Buffer** | 2,731 sf | 482 sf | 82.3 % Reduction |
| **50' – 75' Stream Buffer** | 3,228 sf | 3,725 sf | 15.4 % Increase |
| **Total Impervious Surface** | 13,664 sf | 14,816 sf (includes pervious pavers) | 8.4% Increase |
| **Total Proposed Pervious Pavers** | N/A | 3,372 sf | N/A |

**Enforcement**
A citation was issued on December 3, 2011 for the following violations:

1. Land Disturbance without a permit
2. Encroachment into the critical root zone of a landmark tree
3. Disturbance into a stream buffer
4. Failure to install and maintain Best Management Practices (BMP)

The case was heard in Municipal Court on January 20, 2012. Fines for the violation totaled $8423.

**Standards for Consideration**

**VARIANCE #1**

Section 109-225(a)(b) 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 twenty-five (25) feet and limits of disturbance of twenty-five (25) feet)

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

> Sec. 109-225. Land development requirements.
>
> (b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:
>
> **(3) Variances will be considered only in the following cases:**
>
> *a. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.*

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes the stream buffers cover approximately eighty (80) percent of the buildable area of the lot. The lot slopes downward thirty-five (35) feet from the south corner (elevation 870) to the creek (elevation 835) then upward thirty-nine (39) from the creek to West Garmon (elevation 874). The stream running approximately 345 feet through the front yard (northwest property line) and 272 feet through the side yard (south property line). 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 property has an unusual circumstance when the minimum buffer requirement is strictly applied. Staff notes the stream buffers cover approximately eighty (80) percent of the buildable area of the lot. 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 2.030 acre lot is trapezoidal in shape, slopes downward thirty-five (35) feet from the south corner (elevation 870) to the creek (elevation 835) then upward thirty-nine (39) from the creek to West Garmon (elevation 874). The stream running approximately 345 feet through the front yard (northwest property line) and 272 feet through the side yard (south property line).The stream buffers cover approximately eighty (80) percent of the buildable area of the lot. Therefore, staff is of the opinion this condition has been satisfied.

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

Finding:

The locations of all streams and buffers on the property have been identified on the site plan (exhibit 1). The stream running approximately 345 feet through the front yard (northwest property line) and 272 feet through the side yard (south property line).The stream buffers cover approximately eighty (80) percent of the buildable area of the lot.

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

Findings:

The location and extent of the stream buffer intrusions are identified on the site plan (exhibit 1). The proposed construction would encroach fifty (50) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of twenty-five (25) feet). The proposed structure would have a total of 14,816 square feet of impervious surface. Therefore, staff is of the opinion this condition has been satisfied.

*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 resubmitted plans (Exhibit 1) removing the structures from the fifty (50) foot undisturbed buffer and reducing the footprint. The original submittal (Exhibit 2) is attached. Therefore, staff is of the opinion this condition has been satisfied.

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

Findings:

The applicant will be required to use Best Management 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 variance is as protective of the natural resources and environment as the existing site condition. The site previously had 13,664 square feet of impervious surface with no water quality devices. The proposed 14,816 square feet of impervious surface includes pervious pavers and will drain into three (3) rain gardens to mitigate the impact of storm water run-off.

**VARIANCE #2**

Primary variance from Section 6.1.3.C of the Zoning Ordinance to reduce the twenty-five (25) foot side setback to thirteen (13) feet to allow construction of a of a new single family residence.

**Standards for Consideration**

***Zoning Ordinance***

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

Section 22.3.1. Variance Considerations.

*A. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or,*

Finding:

Relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public. The reduction of the twenty-five (25) foot side setback to thirteen (13) feet would allow the encroachment of a portion of the proposed house/ garage along the northeast property line. The proposed encroachment would be approximately fifty (50) feet from the nearest structure (shed) and one-hundred-fifteen (115) feet from the nearest dwelling unit. The encroachment also pulls the proposed house further out of the stream buffer. Also, the 6,409 square foot house is consistent with other homes in the surrounding area. Therefore, staff is of the opinion this condition has been satisfied.

*B. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,*

Finding:

The 2.030 acre lot is trapezoidal in shape. The lot slopes downward thirty-five (35) feet from the south corner (elevation 870) to the creek (elevation 835) then upward thirty-nine (39) feet from the creek to West Garmon (elevation 874). Although the stream buffers significantly reduces the buildable area of the lot it does not create an unnecessary hardship relating to size, shape or topography. Therefore, staff is of the opinion this condition has not been satisfied.

*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.

**Department Comments**

The staff held a Focus Meeting with Transportation, Building and Permitting, Fire, Code Enforcement, Site Development, and the Arborist on January 11, 2011 at which the following departmental comments were provided:

| | |
|---|---|
| Sandy Springs Development Plan Review Engineer | ▪ Direct runoff from roof area and impervious areas adjacent to house to stormwater storage facilities that provide capacity for 1.2 inches of runoff from these impervious areas to infiltrate into soil subject to approval of Community Development. |
| Sandy Springs Landscape Architect/Arborist | ▪ The site is currently under enforcement action for encroachment into the stream buffer, failure to install and maintain BMPs and encroachment into the critical root zone of a landmark tree. Part of the adjudication of the case is the requirement of replanting the buffer to riparian standards. |

**Conclusion**

Staff reviewed the request relative to the variance standards contained in Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance and Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of variance #1 and **APPROVAL CONDITIONAL** of variance #2.

**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 23, 2012 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 twenty –five (25) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of twenty-five (25) feet) to allow a single family house, garage, retaining walls, and rain gardens, where necessary to accommodate the portion of the encroachment only.

2. To reduce the twenty-five (25) foot side setback to thirteen (13) feet to allow construction of a single family house.

3. Direct runoff from roof area and impervious areas adjacent to house to stormwater storage facilities that provide capacity for 1.2 inches of runoff from these impervious areas to infiltrate into soil subject to approval of Community Development.

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. Underground rainwater storage devices shall not be installed on the site.

**ATTACHMENTS:**
Letter of appeal
Site plan dated received March 23, 2012 by the Department of Community Development (Exhibit 1)
Site plan dated received February 29, 2012 by the Department of Community Development (Exhibit 2)
Application concerns and Action (Exhibit 4)
Impervious area comparison
Private covenants as recommended by the Neighborhood Association and Water Shed Alliance of Sandy Springs (Exhibit 3)
New letters of opposition

**The following previously submitted materials are part of the official file and will be made available at the meeting:**
Site plan dated received December 28, 2011 by the Department of Community Development
Original site plan dated received December 7, 2011 by the Department of Community Development
Landscape rendering
Executive Summary Update Submittal
Documentation of Efforts
Exhibits 1 – 4 (red writing) provided by the applicant outlining site changes
E-mail correspondence with Watershed Alliance of Sandy Springs
Surrounding Neighbor Lot Impervious Coverage
Letters of opposition
Photographs

# Variance Petition No. V12-002

## HEARING & MEETING DATES

**Board of Appeals Hearing**

April 12, 2012

## APPLICANT/PETITIONER INFORMATION

| Property Owner | Petitioner | Representative |
|---|---|---|
| Jim H. McClung | Jerry Warshaw | Jerry Warshaw |

## PROPERTY INFORMATION

| | |
|---|---|
| **Address, Land Lot(s), and District** | 5555 Glen Errol Road<br>Land Lot 122, District 17th |
| **Council District** | 6 |
| **Frontage** | Approximately 154.26 feet of frontage on the east side of Glen Errol Road |
| **Area** | The subject property has a total area of approximately 1.0160 acres |
| **Existing Zoning and Use** | The lot is zoned R-2 (Single Family Dwelling District) under Fulton County zoning case Z62-0050. The property is currently undeveloped. |
| **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 new single family home, which would encroach into the fifty (50) foot undisturbed buffer. The applicant is requesting two (2) primary variance from the Stream Buffer Protection Ordinance and the Zoning Ordinance:

1) 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 (40) feet (proposed house encroachment of thirty-two (32) feet and limits of disturbance of three (3) feet for a total encroachment of thirty-five (35) feet) to allow for the construction of a new single family home.

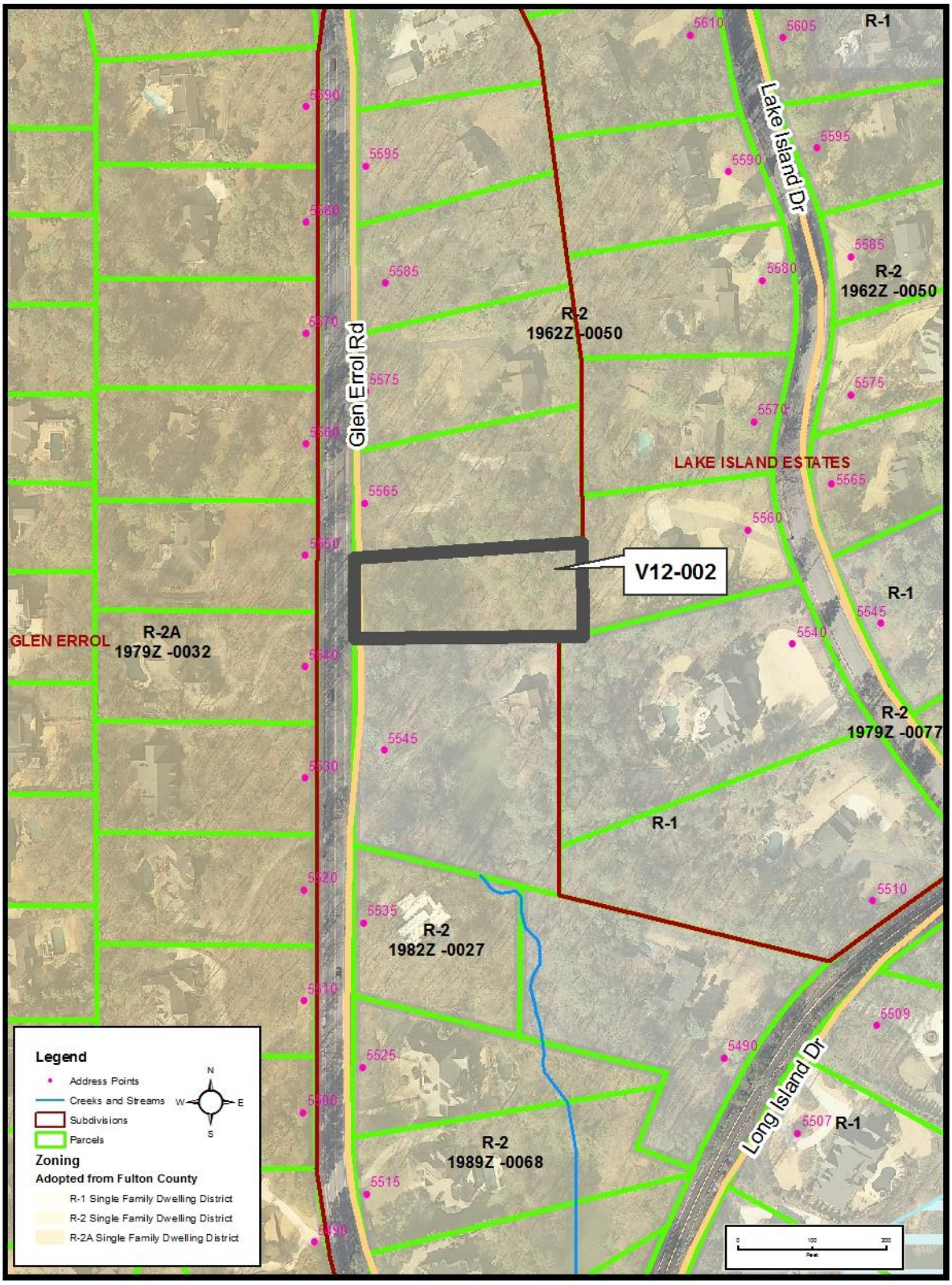
2) Section 6.2.3.B. of the Zoning Ordinance to reduce the sixty (60) foot front setback to forty (40) feet seven (7) inches to allow for the construction of an attached garage.

## DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**V12-002– 1) APPROVAL CONDITIONAL**
**V12-002– 2) APPROVAL CONDITIONAL**

## Parcel Map

5555 Glen Errol Rd




Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on April 12, 2012.

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

CASE NUMBER: V12-002

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: labaray@sandyspringsga.gov

**Findings of Fact**

| | Existing Site (undeveloped) | Proposed Plan |
|---|---|---|
| **0'-25' Stream Buffer** | 0 sf | 0 sf |
| **25' – 50' Stream Buffer** | 0 sf | 132.50 sf |
| **50' – 75' Stream Buffer** | 0 sf | 2,330 sf |
| **Total Impervious Surface encroaching in Stream Buffer** | 0 sf | 2,462.50 sf |
| **Total Impervious Surface on site** | 0 sf | 6,469 sf |

**Enforcement**

There is no history of code enforcement action or building permit activity on the property.

**Standards for Consideration**

**VARIANCE #1**

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 (40) feet (proposed house encroachment of thirty-two (32) feet and limits of disturbance of three (3) feet for a total encroachment of thirty-five (35) feet) to allow for the construction of a new single family home.

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

> Sec. 109-225. Land development requirements.
>
> (b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:
>
> **(3) Variances will be considered only in the following cases:**
>
> *a. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.*

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes the property is trapezoidal in shape, slopes from the west (Glen Errol

Road) to the stream with a change in elevation of twenty (20) feet. The property then rises from the stream to the east (rear of the property) with an elevation change of thirty-four (34) feet. A stream cuts through the center of the lot covering approximately eighty (80) percent of the buildable area with stream buffers. 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 property has an unusual circumstance when the minimum buffer requirement is strictly applied. Staff notes the stream buffers cover approximately eighty (80) percent of the buildable area of the lot. 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 1.016 acre lot is trapezoidal in shape, slopes from the west (Glen Errol Road) to the stream with a change in elevation of twenty (20) feet. The property then rises from the stream to the east (rear of the property) with an elevation change of thirty-four (34) feet. A stream cuts through the center of the lot covering approximately eighty (80) percent of the buildable area with stream buffers. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

The locations of all streams and buffers on the property have been identified on the site plan (exhibit 1). The stream runs through the center of the lot for approximately one hundred twenty-two (122) feet.

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

Findings:

The location and extent of the stream buffer intrusions are identified on the site plan (exhibit 1). Therefore, staff is of the opinion this condition has been satisfied.

*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 researched locating the house in both the front and rear of the lot. The applicant determined that constructing the house at the front of the lot would be the least intrusive into the stream buffer. Therefore, staff is of the opinion this condition has been satisfied.

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

Findings:

The applicant will be required to use Best Management 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 variance is not as protective of the natural resources and environment as the existing site condition. The site is currently undeveloped and any construction activity would disturb the natural resources and environment. However, the applicant has proposed to keep the major of the encroachment outside the fifty (50) foot buffer and is also proposing to install two (2) water quality devices and a rain garden along the back of the house to mitigate storm water run-off caused by the proposed construction.

**VARIANCE #2**

Primary variance from Section 6.2.3.B. of the Zoning Ordinance to reduce the sixty (60) foot front setback to forty (40) feet seven (7) inches to allow for the construction of an attached garage.

**Standards for Consideration**

***Zoning Ordinance***

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

Section 22.3.1. Variance Considerations.

*A. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or,*

Finding:

Relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public. The reduction of the sixty (60) foot setback to forty (40) feet seven (7) inches would allow for the encroachment of a portion of the proposed garage along the west property line. The proposed encroachment would create less encroachment into the stream buffer. Also, the topography of the site will screen a portion of the garage from the street. The location of the proposed house is in front of the houses on the north and south side of the property. Therefore, staff is of the opinion this condition has been satisfied.

*B. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,*

Finding:

The 1.016 acre lot is trapezoidal in shape, slopes from the west (Glen Errol Road) to the stream with a change in elevation of twenty (20) feet. The property then rises from the stream to the east (rear of the property) with an elevation change of thirty-four (34) feet. A stream cuts through the center of the lot covering approximately eighty (80) percent of the buildable area with stream

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

The 1.016 acre lot is trapezoidal in shape and meets the size requirements of the zoning district. The lot slopes from the west (Glen Errol Road) to the stream with a change in elevation of twenty (20) feet. The property then rises from the stream to the east (rear of the property) with an elevation change of thirty-four (34) feet. The change in elevation does create an unnecessary hardship relating to topography. Therefore, staff is of the opinion this condition has not been satisfied.

*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.

**Department Comments**

The staff held a Focus Meeting with Transportation, Building and Permitting, Fire, Code Enforcement, Site Development, and the Arborist on March 7, 2012 at which the following departmental comments were provided:

| | |
|---|---|
| Sandy Springs Development Plan Review Engineer | ▪ Impervious areas shall drain to stormwater storage facilities that have storage capacity to capture 1.2 inches of runoff from impervious areas. The facilities shall be designed to discharge the stored runoff over at least a 24 hour duration and to provide infiltration capability. |
| Sandy Springs Landscape Architect/Arborist | ▪ The Site is fully wooded with a mature hardwood forest. Applicant is working to lessen the impact to the stream by reducing the front setback. |

**Conclusion**

Staff reviewed the request relative to the variance standards contained in Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance and Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of variance #1 and **APPROVAL CONDITIONAL** of variance #2.

**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 6, 2012 by the Department of Community Development, for the variance herein, showing a reduction of the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty (40) feet (proposed house encroachment of thirty-two (32) feet and limits of disturbance of three (3) feet for a total encroachment of thirty-five (35) feet) to allow for the construction of a new single family home, where necessary to accommodate the portion of the encroachment only.

2) To reduce the sixty (60) foot front setback to forty (40) feet seven (7) inches to allow for the construction of an attached garage.

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 (exhibit 1)
Photographs
Letters of Opposition

# Variance Petition No. V12-003

## HEARING & MEETING DATES

**Board of Appeals Hearing**

April 12, 2012

## APPLICANT/PETITIONER INFORMATION

| Property Owner | Petitioner | Representative |
|---|---|---|
| Joshua Hanna/Sharon Funk | Joshua Hanna/Sharon Funk | John Albanese |

## PROPERTY INFORMATION

| | |
|---|---|
| **Address, Land Lot(s), and District** | 4912 Carol Lane<br>Land Lot 136, District 17th |
| **Council District** | 6 |
| **Frontage** | Approximately 159.67 feet of frontage on the west side of Carol Lane. |
| **Area** | The subject property has a total area of approximately 42,950.16 (.986 acres) |
| **Existing Zoning and Use** | The lot is zoned R-2 (Single Family Dwelling District) The property is currently developed with a single family resident. |
| **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 remove an existing pool and construct a retaining wall (4' to 7'), which would encroach into the twenty-five (25) foot impervious setback. The applicant is requesting one (1) primary variance from the Stream Buffer Protection Ordinance:

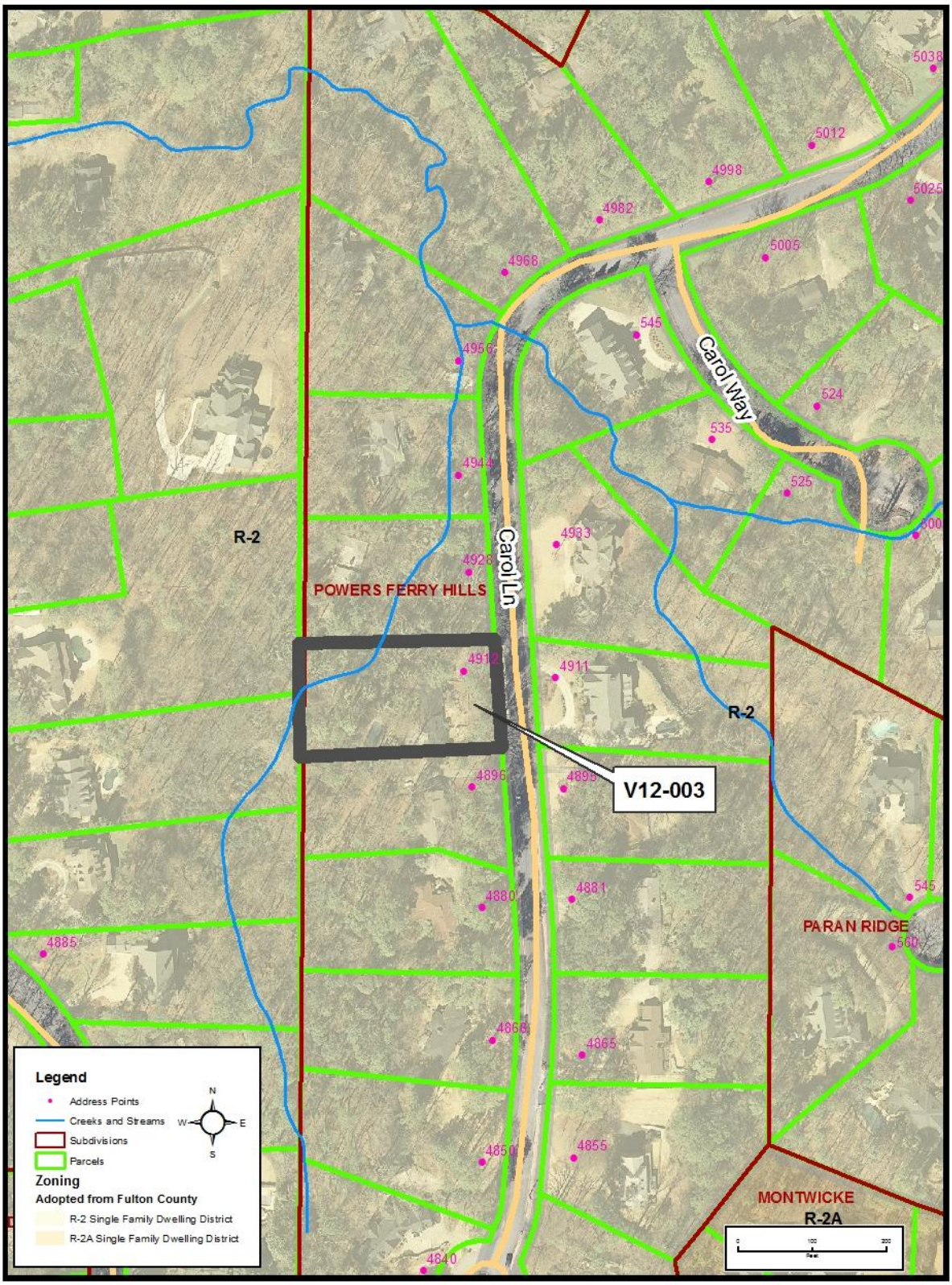
1. Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the twenty-five (25) foot impervious surface setback) to zero (0) feet (proposed addition encroachment of twenty-three (23) feet and limits of disturbance of two (2) feet for a total encroachment of twenty-five (25) feet) to allow for the removal of existing pool and the construct of a retaining wall (4' to 7').

## DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**V12-003 – 1) APPROVAL CONDITIONAL**

## Parcel Map

4912 Carol Lane



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

CASE NUMBER: V12-003

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: labaray@sandyspringsga.gov

**Findings of Fact**

| | Existing Site | Proposed Plan |
|---|---|---|
| **0'-25' Stream Buffer** | 0 sf | 0 sf |
| **25' – 50' Stream Buffer** | 0 sf | 0 sf |
| **50' – 75' Stream Buffer** | 573 sf | 100 sf |
| **Total Impervious Surface encroaching in Stream Buffer** | 573 sf | 100 sf |
| **Total Impervious Surface on site** | 7,493 sf | 6,887 sf |

**Enforcement**

There is no history of code enforcement action or building permit activity on the property.

**Standards for Consideration**

**VARIANCE #1**

Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the twenty-five (25) foot impervious surface setback) to zero (0) feet (proposed addition encroachment of twenty-three (23) feet and limits of disturbance of two (2) feet for a total encroachment of twenty-five (25) feet) to allow for the removal of existing pool and the construct of a retaining wall (4' to 7').

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

> Sec. 109-225. Land development requirements.
>
> (b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:
>
> **(3) Variances will be considered only in the following cases:**
>
> *a. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.*
>
> Finding:
>
> The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes the 42,950.16 square foot property is trapezoidal in shape, slopes rises from the northeast corner (Carol Lane) to the existing house with a change in elevation of thirty

(30) feet. The property then falls from the house to the northwest (rear of the property/ stream) with an elevation change of fifty (50) feet. A stream runs approximately one hundred thirty-two (132) feet through the northwest corner of the lot covering approximately fifty (50) percent of the buildable area with stream buffers. 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 property has an unusual circumstance when the minimum buffer requirement is strictly applied. The strict enforcement of the buffer requirements would not allow the removal of the pool and pool deck or the installation of the (4' to 7') to stabilize the slope. Removal of the pool and pool deck would reduce the impervious surface by 473 square feet. Staff notes the stream buffers cover approximately fifty (50) percent of the buildable area of the lot. 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's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes the 42,950.16 square foot property is trapezoidal in shape, slopes rises from the northeast corner (Carol Lane) to the existing house with a change in elevation of thirty (30) feet. The property then falls from the house to the northwest (rear of the property/ stream) with an elevation change of fifty (50) feet. A stream runs approximately one hundred thirty-two (132) feet through the northwest corner of the lot covering approximately fifty (50) percent of the buildable area with stream buffers. Based on these reasons, staff is of the opinion this condition has been satisfied.

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

Finding:

The locations of all streams and buffers on the property have been identified on the site plan (exhibit 1). A stream runs approximately one hundred thirty-two (132) feet through the northwest corner of the lot covering approximately fifty (50) percent of the buildable area with stream buffers. Based on these reasons, staff is of the opinion this condition has been satisfied.

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

Findings:

The location and extent of the stream buffer intrusions are identified on the site plan (exhibit 1). Therefore, staff is of the opinion this condition has been satisfied.

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

Findings:

Alternative designs have been discussed with staff regarding the proposed encroachments for the retaining wall to keep the wall and limits of disturbance outside the 50 foot buffer. However, there is not a design alternative for the removal of the pool and pool deck. The Therefore, staff is of the opinion this condition has been satisfied.

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

Findings:

The applicant will be required to use Best Management 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 variance is as protective of the natural resources and environment as the existing site condition. The proposed removal of the pool and pool deck would decrease the existing impervious surface by 473 square feet. The proposed construction of the retaining wall (4' to 7') will stabilize the existing slope and allow for stormwater run-off to controls and absorbed through the ground.

**Department Comments**

The staff held a Focus Meeting with Transportation, Building and Permitting, Fire, Code Enforcement, Site Development, and the Arborist on March 7, 2012 at which the following departmental comments were provided:

| | |
|---|---|
| Sandy Springs Landscape Architect/Arborist | ▪ The leveling of the back yard could be used to mitigate the runoff into the stream due to the steep topography |

**Conclusion**

Staff has reviewed the request relative to the variance standards contained in Section 109-225 of the Sandy Springs Code of Ordinances. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance requests to encroach into the stream buffer.

**Recommended Condition(s)**

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

1) The subject retaining wall, pool and pool deck shall be constructed in accordance with the proposed site plan, provided by the applicant dated received February 7, 2012 by the Department of Community Development, for the variance herein, showing a reduction in the twenty-five (25) foot impervious surface setback) to zero (0) feet (proposed addition encroachment of twenty-three (23) feet and limits of disturbance of two (2) feet for a total encroachment of twenty-five (25) feet) to allow for the removal of existing pool and the construct of a retaining wall (4' to 7'), 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.

**ATTACHMENTS:**
Letter of appeal
Proposed site plan (exhibit 1)
Retaining wall specifications
Photographs