



Variance Petition No. V10-006

HEARING & MEETING DATES

Board of Appeals Hearing

May 13, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Ronald and Wendy Bell	Ronald and Wendy Bell	Taino Enterprises, LLC

PROPERTY INFORMATION

Address, Land Lot(s), and District	10 Quarry Lake Court Land Lot 91, District 17
Council District	6
Frontage	139.88 feet of frontage along the east side of Lake Forrest Drive and 121.26 feet of frontage along the north side of Quarry Lake Court.
Area	The subject property has a total area of approximately 1.2498 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)
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INTENT

The applicant is proposing to complete construction of a driveway, decorative wall and berm 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 twenty-five (25) feet (proposed berm encroachment of forty -eight (48) feet and limits of disturbance of two (2) feet for a total encroachment of fifty (50) feet) to allow for a driveway, existing decorative wall and existing berm.

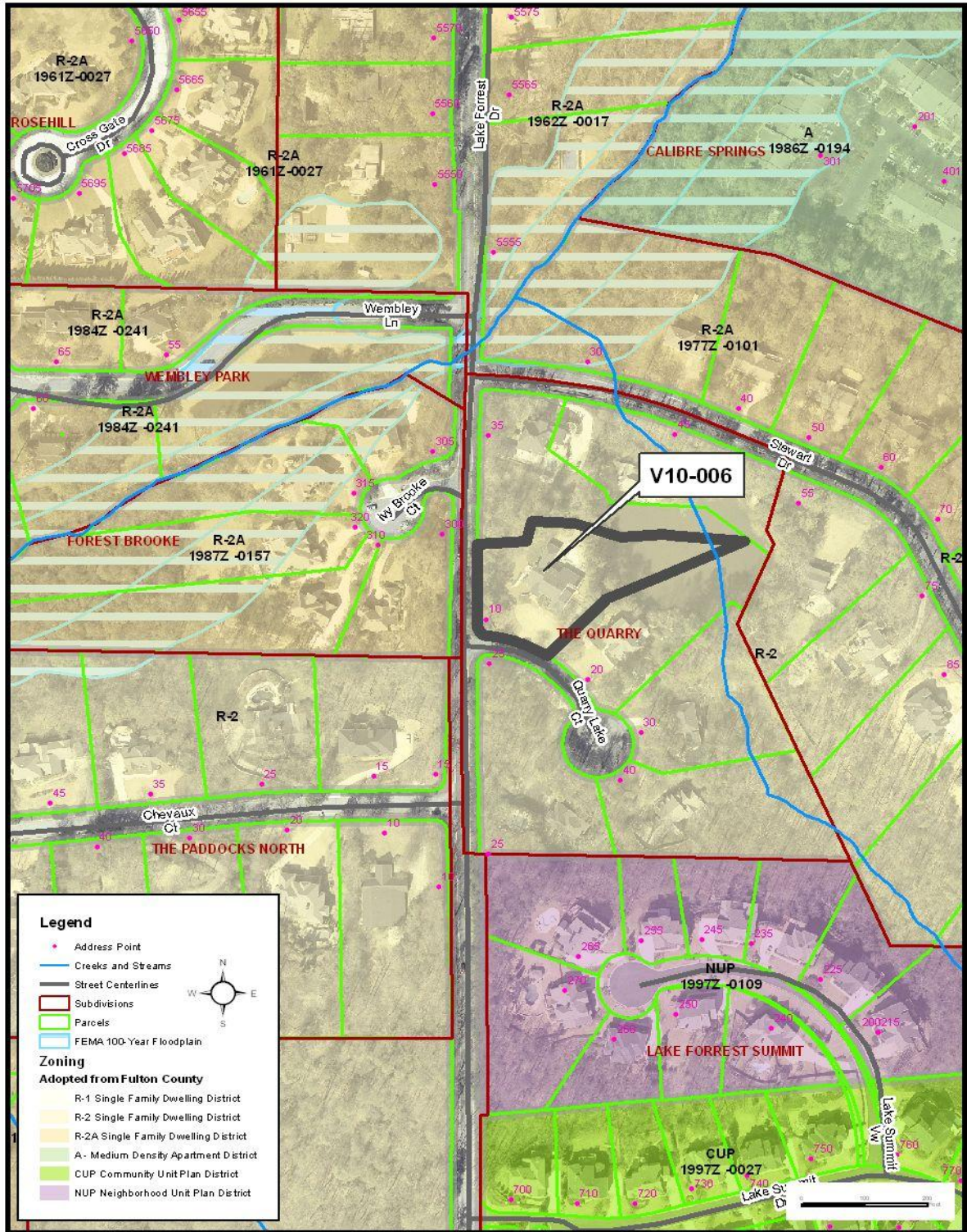
ENFORCEMENT

On February 18, 2010 a stop work was posted for encroaching into the seventy-five (75) stream buffer to construct a driveway, decorative wall and berm. The site is currently under a stop work notice.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION
V10-006 - 1) APPROVAL CONDITIONAL

Parcel Map

10 Quarry Lake Court



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

CASE NUMBER: V10-006

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

Finding of Fact:

The applicant is requesting relief from Section 109-225.a 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 berm encroachment of forty-eight (48) feet and limits of disturbance of two (2) feet for a total encroachment of fifty (50) feet) to allow for a driveway, decorative wall and berm.

The applicant has submitted a site plan indicating the subject property to have 119.80 feet of frontage along Quarry Lake Court and 138.02 feet of frontage along Lake Forrest Drive. The property is trapezoidal in shape, and slopes from south west corner up to the house. The lot then has a sheer drop of approximately twenty-five (25) feet within twenty-five (25) feet (exhibit 2) to the water on the eastern side of the house. The stream buffers cover approximately half of the buildable area of the lot.

The site plan also shows the proposed decorative wall and berm on the edge of the slope. The berm is being installed to stabilize the slope. The berm is proposed to be re-vegetated per buffer standards.

Staff notes the properties to the north and south are zoned R-2 (Single Family Dwelling District), the same zoning as the subject property. The properties to the west of are zoned R-2A (Single Family Dwelling District).

On February 18, 2010 a stop work was posted for encroaching into the seventy-five (75) stream buffer to construct a driveway, decorative wall and berm. The site is currently under a stop work notice.

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 property shape, topography, or physical conditions existed at the time of the adoption of the ordinance. Staff notes the stream buffers covers approximately half of the buildable area of the lot. Without construction of the berm and re-vegetation the slope along the eastern side of the house the slope will continue to erode. 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 would be strictly applied. Staff notes the stream buffers covers approximately half of the buildable area of the lot. The erosion on the slope is located in the buffer and the berm was installed to stabilize the slope. If the slope is not repaired it would create an extreme hardship because it would continue to erode. The decorative wall would create a safety barrier at the edge of the slope. 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, and slopes from the south west corner up to the house. The lot then has a sheer drop of approximately twenty-five (25) feet within twenty-five (25) feet (exhibit 2) to the water on the eastern side of the house. The stream buffers cover approximately half of the buildable area of the lot. 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 lake is located on the eastern side of the property. The lake and buffer occupies approximately half of the subject property.

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

Findings:

The lake is located on the eastern side of the property. The lake and buffer cover approximately half of the property. The proposed intrusion of approximately ninety-four (94) square foot for the decorative wall, twenty (20) square feet for the berm and three hundred (300) square feet of the driveway would be located in the 25 foot impervious surface setback on the southeast side of the property. 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 not been discussed with staff regarding this property. The applicant has indicated that there is not another location outside of the buffer to re-stabilize the slope and install a decorative wall for safety. 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 at least as protective of the natural resources and environment as the existing site condition, which includes an eroding slope within the tributary buffer.

Department Comments

The staff held a Focus Meeting on April 7, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	There are no building requirements that need to be addressed at this time.
	Sandy Springs Development Plan Review Engineer	Re-vegetate disturbed areas within the stream buffer in accordance with city arborist requirements.
	Sandy Springs Landscape Architect/ Arborist	The plan shows edge of water and top of bank. The GAEPD considers the top of bank as the "point of wrested vegetation". As such the buffer is measures from the normal pool elevation in the case of a lake. If the Board decides to approve the variance it should be a condition that all newly disturbed areas in the buffer in conjunction with the construction of the wall be planted with riparian vegetation as directed by the Arborist.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	There are no Fire 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 has 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(s) request.

Recommended Condition(s)

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

- 1) The subject driveway, decorative wall and berm shall be constructed in accordance with the proposed site plan, provided by the applicant dated received March 2, 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 twenty-five (25) feet (proposed berm encroachment of forty-eight (48) feet and limits of disturbance of two (2) feet for a total encroachment of fifty (50) feet) to allow for a driveway, decorative wall and berm., 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 site plan (exhibit 1)
Stream buffer diagram (exhibit 2)
Elevation Contour map
Photographs



Variance Petition No. V10-007

HEARING & MEETING DATES

Design Review Board
April 13, 2010

Board of Appeals Hearing
May 13, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
North Springs Charter High
School

Petitioner
North Springs Charter
High School

Representative
Kimberly Bornstein

PROPERTY INFORMATION

**Address, Land Lot,
and District** 7447 Roswell Road (SR 9)
Land Lot 32 of the 17 District

Council District 4

Frontage Approximately 707 feet of frontage along the East side of Roswell Road (SR 9) and approximately 81 feet of frontage along the north side of Dalrymple Road.

Area The subject property has a total area of 38.5 acres.

Existing Zoning and Use R-2 (Single Family Dwelling District) The property is currently developed with a high school.

Overlay District Suburban District

**Interim 2025
Comprehensive Future
Land Use Map
Designation** CF (Community Facility)

INTENT

The applicant is requesting four (4) primary variances from the Zoning Ordinance:

1. Variance from Section 33.18.G to allow banners to be attached to light poles.
2. Variance from Section 33.26.B.5
 - a. to increase the number of permitted banners to 6 and
 - b. to allow banners to be permanent in lieu of the three fourteen day periods permitted per calendar year,
3. Variance from Section 33.26.H.1.a (frontage up to and including 500 lineal fee-Dalrymple Road). (Sign # 2)
 - a. To increase the monument sign maximum area permitted from 32 square feet to 37.36 square feet
 - b. To increase the monument sign maximum height permitted from six (6) feet to 9' - 4", and
 - c. To allow for a changeable copy sign.

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 2010

4. Variance from Section 33.26.H.1.b to allow for a changeable copy sign (frontage more than 500 and up to 1,000 lineal feet-Roswell Road). (Sign # 1).

DESIGN REVIEW BOARD RECOMMENDATION

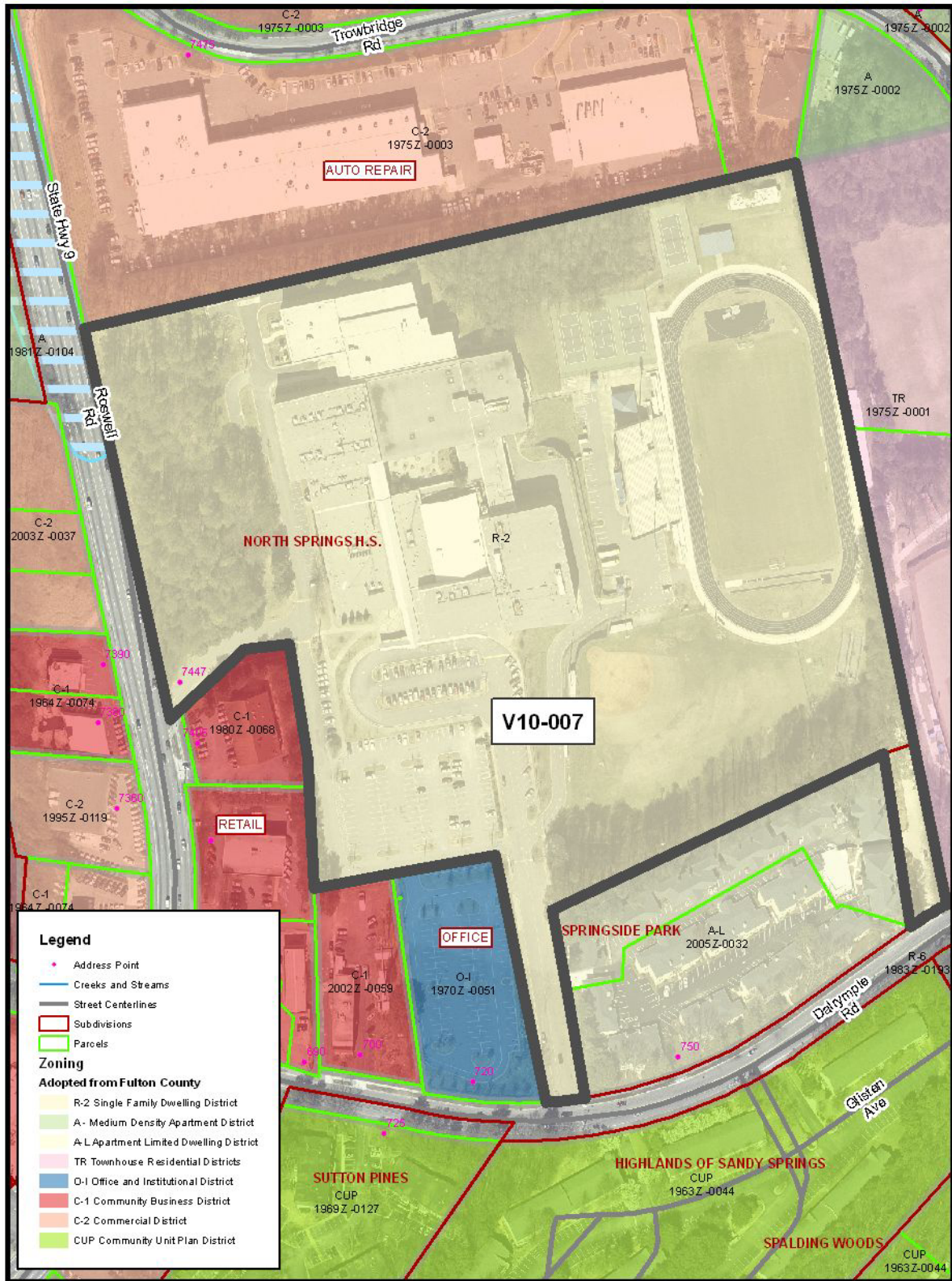
The application was heard at the April 13, 2010 DRB meeting. The request was recommended as follows: for ENDORSEMENT variances #3 and #4 and DENIAL of variances #1 and #2 (5-0, Landeck, Gregory, Mobley, Westmoreland and Richard for; Lichtenstein Absent; Porter not voting) with the following conditions: to allow a 37.36 square foot monument sign, increase the maximum height from six (6) feet to nine (9) feet four (4) inches and allow changeable copy. To deny the increased number of banner and permanent banners.

RECOMMENDATIONS:

1. Variance from Section 33.18.G to allow banners to be attached to light poles. DENIAL
2. Variance from Section 33.26.B.5
 - a. To increase the number of permitted banners to 6. DENIAL
 - b. To allow banners to be permanent in lieu of the three fourteen day periods permitted per calendar year. DENIAL
3. Variance from Section 33.26.H.1.a (Sign # 2)
 - a. To increase the monument sign maximum area permitted from 32 square feet to 37.36 square feet (frontage up to and including 500 lineal feet). APPROVAL
 - b. To increase the monument sign maximum height permitted from six (6) feet to 9'- 4".
APPROVAL
 - c. To allow for a changeable copy sign. APPROVAL
4. Variance from Section 33.26.H.1.b to allow for a changeable copy sign (frontage more than 500 and up to 1,000 lineal feet). (Sign # 1). APPROVAL

Parcel

7447 Roswell Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 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

Findings of Fact

The subject property is the site of **North Springs Charter High School**. The purpose of these variances is to be allowed to display banners on a permanent basis and be allowed to reface the existing freestanding signs and maintain changeable copy sign.

The Zoning Ordinance provides in Section 33.18.G.

PROHIBITED SIGNS AND DEVICES

Signs mounted or located on a tree, utility pole, or other similar structure.

The ordinance does not allow for signs to be attached to poles. The applicant is requesting the display of banners attached to poles that are interior to the development and barely visible from adjacent properties. The location of these banners allows the applicant to communicate activities within the school. Also, placing the banners on the existing poles provide more visible impact as there are located at a higher point than five (5') from the ground and prevent clutter.

The Zoning Ordinance provides in Section 33.26.B.5.

Banner

Banners shall be allowed for a period not exceeding fourteen (14) days with no more than three (3) such fourteen (14) day periods being permitted per calendar year per lot. Banners shall not be more than twenty-four (24) square feet. No banner shall be mounted so as to extend above the horizontal plane of the roof where the building wall and roof meet or shall not extend more than five (5) feet above grade when on the ground.

The Sandy Springs ordinance provides for properties to display banners three (3) times a year for fourteen (14) days each time. The applicant proposes to display banners and extend the time to a permanent display. In addition the applicant wants to increase the number of banners displayed at one time and have the ability to change it periodically to reflect current activities. The proposed banner size is fifteen (15) square feet each.

The Zoning Ordinance provides in *Section 33.26.H.1.*

Monument Signs

- a. 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.
- b. One (1) maximum sixty-four (64) square foot, monument sign shall be permitted for each street on which the lot has more than five hundred (500) linear square feet and up to one thousand (1,000) linear feet of frontage. The sign shall have a maximum height of eight (8) feet (see exception d.). Except for gas stations, changeable copy shall not be permitted.
 - c. One (1) maximum seventy-two (72) square foot, monument sign shall be permitted for each street on which the lot has more than one thousand (1,000) linear feet of frontage (excludes spin sites and out-parcels). The sign shall have a maximum height of eight (8) feet (see exception d.). Except for gas stations, changeable copy shall not be permitted.
 - d. Notwithstanding the foregoing, monument signs on Roswell Road, Hammond Drive, or Abernathy Road may be ten (10) feet in height.

The property has Identification monuments on Roswell Road and Dalrymple Road. The applicant wants to upgrade it as follows:

Sign #1 is located along the Roswell Road street frontage. There is an existing monument sign that according to the applicant is not functioning. To make changes to the sign and maintain the changeable copy sign, now prohibited by the Sandy Springs Ordinance, a variance is required. The applicant stated the importance of a changeable copy sign to the school is because it is one of the tools used to communicate to the community the different events within the school. The property frontage along Roswell Road is approximately 707 feet, which qualifies to have a sign sixty (64) square feet, ten (10) feet high. The proposed sign is 37.36 square feet, 7'-7' high.

Sign #2 located along the Dalrymple Road. The property frontage along Dalrymple Road is approximately 81 feet, which qualifies to have a sign thirty-two (32) square feet, six (6) feet high. The applicant proposes a sign 37.36 square feet of sign area, 9'-4' high with changeable copy. The applicant states that this is the primary entrance to the school. It is used by students, parents and buses. The goal of the school is to keep the community at large informed of the current events, which change on a weekly basis.

Standards for Consideration

Zoning Ordinance

1. Variance from Section 33.18.G to allow banners to be attached to light poles.

Section 33.12.D. The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

- 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.**

Finding: Staff is of the opinion that the topography and configuration of the lot minimize the visibility of the banners attached to the poles from the adjoining public roads. Therefore, the relief from this ordinance will not compromise the public health,

safety or welfare as the banners are intended to be seen by the people entering the school site.

Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

- 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.**

Finding: The school ground is surrounded by businesses that prevent the direct visual contact with any activity within the school ground. Due to the location of the school and the adjacent businesses, the utilization of the existing poles to place banners will not compromise the public health, safety or welfare. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

2. Variance from Section 33.26.B.5.

- a. To increase the number of permitted banners to six (6).
- b. To allow banners to be permanent in lieu of the three fourteen day periods permitted per calendar year,

Section 33.12.D. The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

- 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.**

Finding: The topography and configuration of the lot minimizes the visibility of the banners attached to the poles from the adjoining public roads. Therefore, that relief from this ordinance will not compromise the public health, safety or welfare as the banners are intended to be seen by the people entering the school ground. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

- 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.**

Finding: Regarding variance number 2, Staff is of the opinion that relief from this ordinance will not compromise the public health, safety or welfare. The school ground is surrounded by businesses and trees that prevent the direct visual contact with any activity within the school site. Due to the location of the school the adjacent businesses and the screen provided by the vegetation that surrounds the school ground, the utilization of the existing poles to place banners, the numbers of banners and the extension of time to display the banners on school property, will not compromise the public health, safety or welfare. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

3. Variance from Section 33.26.H.1.a (Sign # 2) Dalrymple Road.

- a. To increase the monument sign maximum area permitted from 32 square feet to 37.36 square feet (frontage up to and including 500 lineal feet).
- b. To increase the monument sign maximum height permitted from six (6) feet to 9'-4", and
- c. To allow for a changeable copy sign.

Section 33.12.D. The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

- 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.**

Finding: The topography and configuration of the lot minimize the visibility of the school from the adjoining public roads. Therefore, having a sign visible from the adjacent road is very important. The purpose of the sign ordinance is to encourage the effective use of signs as a means of communication. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

- 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.**

Finding: The school ground is surrounded by businesses and trees that prevent the direct visual contact with the school. To provide clear identification to the school, the applicant proposes to install a sign, monument style, 9'-4" height, and 37.36 square feet of sign area. Staff is of opinion that the characteristics of this large development such as the school located approximately 770 feet from the road and the structures and vegetation around the property lines that obscures the visibility of the building, preclude the applicant to have a sign that is in compliance with the standards. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

- 4. Variance from Section 33.26.H.1.b to allow for a changeable copy sign (Sign # 1) Roswell road.

Section 33.12.D. The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

- 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.**

Finding: The topography and configuration of the lot minimize the visibility of the school from the adjoining public roads. Therefore, having a sign visible from the adjacent road is very important. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

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.

Finding: The Roswell Road entrance as the Dalrymple Road entrance has topographic and natural challenges that prevent the direct visual contact with the school. The school finds it necessary to inform the community of all events by advertising these on the monument signs. The purpose of the sign ordinance is to encourage the effective use of signs as a means of communication. Based on these reasons the staff is of the opinion this standard has been satisfied

Department Comments

The staff held a Focus Meeting on April 7, 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	▪ No Comments
	Sandy Springs Landscape Architect/ Arborist	▪ No Comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Department of Transportation	▪ No Comments

Conclusion

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 2010

Staff reviewed the request relative to the variance standards contained in Section 33.12.D. of the Zoning Ordinance. Based upon this review, staff recommends:

V10 - 007- 1. APPROVAL CONDITIONAL.

V10 - 007- 2. APPROVAL CONDITIONAL

V10 - 007- 3. APPROVAL CONDITIONAL

V10 - 007- 4. APPROVAL CONDITIONAL

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

1. To allow banners to be attached to light poles A, B and C pursuant to the site plan submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development.(Exhibit 1)
2. a. To allow six banners at the same time pursuant to the sign detail submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development.(Exhibit 2)

b. To allow banners to be permanent.
3. a. To allow an Identification monument sign with a 37.36 square feet of sign area pursuant to the sign detail submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development (Sign # 2). Dalrymple Road.

b. To allow an Identification monument sign 9'-4" height pursuant to the sign detail submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development (Sign # 2). Dalrymple Road.

c. To allow a changeable copy sign pursuant to the sign detail submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development (Sign # 2). Dalrymple Road.
4. To allow a changeable copy sign pursuant to the sign detail submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development (Sign # 1). Roswell Road.

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



Variance Petition No. V10-008

HEARING & MEETING DATES

Design Review Board
April 13, 2009

Board of Appeals Hearing
May 13, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner
Prado LLC

Petitioner
Publix

Representative
Nathan V. Hendrix

PROPERTY INFORMATION

Address, Land Lot,
and District. 5630 Roswell Road (SR 9)
Land Lot 91, District 17

Council District 6

Frontage and Area 1,415 feet of frontage along the west side of Roswell Road (SR 9) and 1,460 feet of frontage along the south side of Lake Placid Drive. The subject property has a total area of 30.44 acres.

Existing Zoning and Use C-1 (Community Business District) conditional under Z05-0050 and ZM07-05, currently developed with a retail shopping center.

Overlay District Urban District.

2027
Comprehensive
Future Land Use
Map Designation Living-Working Community (LWC).

INTENT

The applicant is seeking two primary variances from the Zoning Ordinance:

1. Variance from Section 33.18.P to allow two (2) projecting signs and
2. Variance from Section 33.26.H.2.a to allow for two (2) wall signs on a non street facing wall.

DESIGN REVIEW BOARD RECOMMENDATION

The application was heard at the April 13, 2010 DRB meeting. Both variances request were recommended for ENDORSEMENT as presented (5-0, Landeck, Gregory, Mobley, Westmoreland and Richard for; Lichtenstein Absent; Porter not voting).

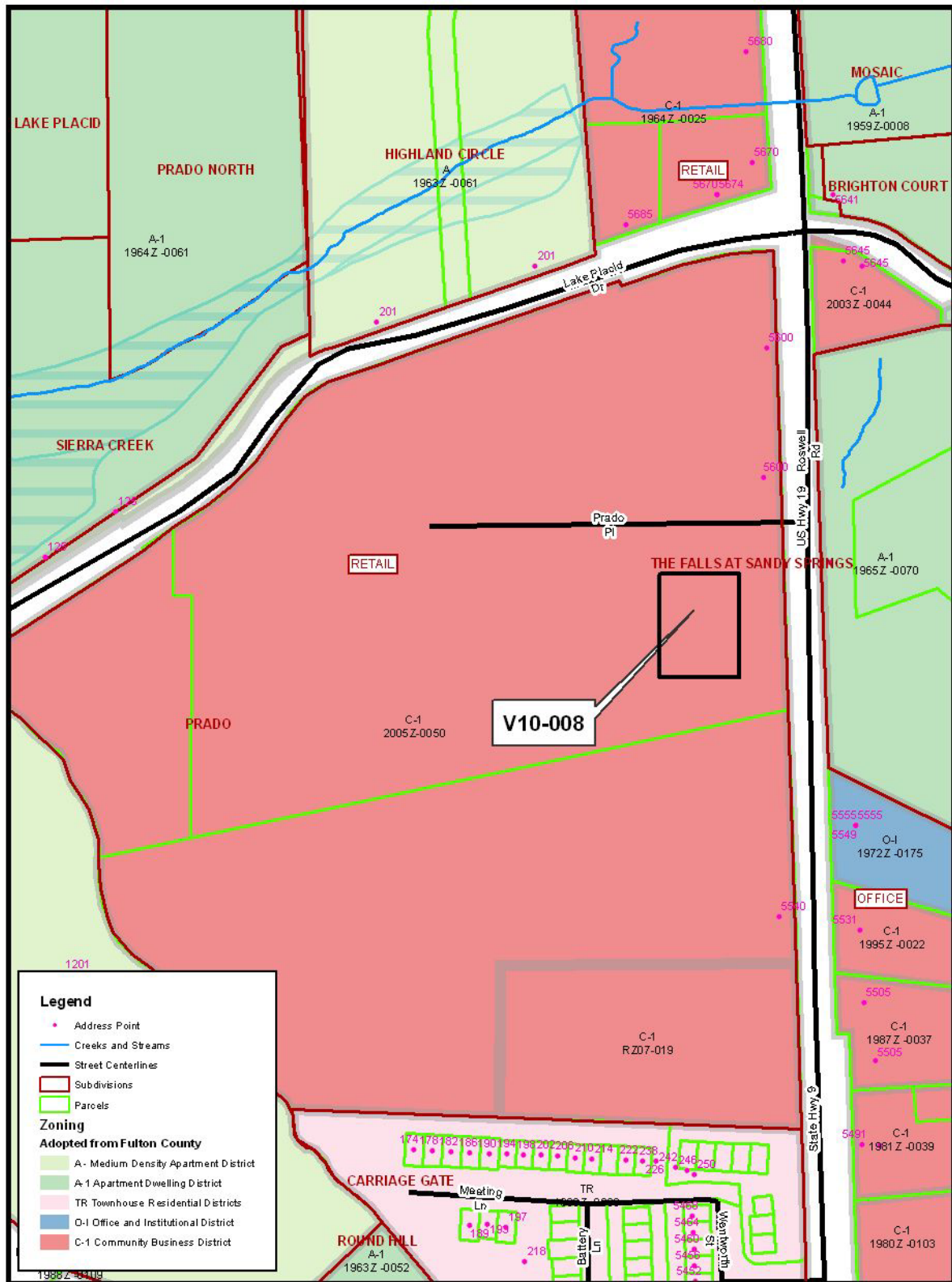
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V10 - 008- 1. APPROVAL CONDITIONAL.

V10 - 008- 2. APPROVAL CONDITIONAL

Parcel Map

5630 Roswell Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 2009

CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS

CASE NUMBER:

V10-008

STAFF CONTACT:

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

Findings of Fact:

The subject of these variances is an existing one story building within The Prado development, housing **Publix**. The **Publix** building is located adjacent to the Roswell Road right-of-way at a range of eight (8) feet on the northeast to eighteen (18) feet on the southeast. Due to the proximity of the building to the Roswell Road right-of-way, the sign location on the east elevation of the building is barely visible until you are directly on front of the building. The Applicant is requesting variances to include signage on the east and west elevations of the building in order to provide this business visibility from the main public right-of-way (Roswell Rd.) and the various internal access points of the development.

Currently the **Publix** building has signs on the east, north and west elevation. The west elevation sign was approved pursuant to V08-016. The north and east elevation signs are on street facing walls.

The **Publix** building location on this site presents challenges since the store entry is actually on the opposite side of the building elevation facing the street. The requested signage on the west elevation assists customers with locating the entrance once they emerge from the main parking field for this store within the parking deck.

The applicant has indicated that the purpose for these variances is mainly to provide signage visibility for the business as signage installed otherwise would be obscured by the surrounding buildings. Due to the topography of the lot, the **Publix** building finished grade sits approximately fourteen (14) feet above the existing grade of the Prado Place frontage and there is a fourteen (14) feet drop in the elevation between the southwest corner and northwest corner of the building. When viewed from the north, there are existing trees, the existing Prado building, and the new shops and parking deck sited along the hill in front of the store. These signs as proposed will also help pedestrians and motorists alike, to locate this business once they enter this vertically integrated site from all directions. It is necessary to provide proper visibility for businesses from all points and entries of the development.

The Zoning Ordinance provides in Section 33.18.P.

PROHIBITED SIGNS AND DEVICES.

P. Projecting Signs.

The applicant proposes to remove the wall sign on the east elevation and replace it with a projecting sign, which is a sign that is prohibited. Therefore, a variance is required. The intention is to capture visibility from the north and southbound traffic on Roswell Road.

A projecting sign is proposed to be located at the top north corner of the east elevation of the building and it will be replacing a 151 square feet existing wall sign. The proposed projecting sign will be comprise of sixty-eight (68) square feet, internally lit (Sign 1).

In addition the applicant proposes to install a projecting sign at the top north corner on the west elevation of the building, to be forty-eight (48) square feet internally lit intended to capture the attention from all points of the development (Sign 2).

The Zoning Ordinance provides in Section 33.26.H.2.a

Wall Signs

Wall signs are permitted on street-facing walls (including windows and doors). Businesses without a street on which there is frontage, but which have exterior entrances to the building, are entitled to one wall sign on the exterior wall of the business. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred eighty (180) square feet, confined to the upper thirty (30) feet of the facade. Wall signs shall not have changeable copy unless approved as a marquee sign.

The applicant proposes to install two (2) wall signs on the west elevation of the building. The west elevation is not street facing wall; therefore signs on this wall require a variance. There is an existing sign on the west elevation that the applicant wants to move to a more useful location. This sign is to be placed over an entrance portal where it will be readily seen from the interior of the parking structure. In addition, the applicant proposes to locate an additional wall sign at the southwest upper corner of the west elevation which it will be seen front the upper deck of the parking structure. The total proposed wall sign area for both signs on the west elevation is approximately forty (40) square feet internally lit. The west elevation contains a total of approximately 6,060 square feet. The ordinance allows 5% of the total wall area, or 180 square feet maximum.

Standards for Consideration

Zoning Ordinance

1. Variance from Section 33.18.P to allow 2 projecting signs.

Section 33.12.D. The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

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.*

Findings:

The unique site layout, quantity of new and existing businesses and the vertical nature of this project, as dictated by the topography and existing natural features, create many challenges for using signage effectively to promote vehicular and pedestrian awareness. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

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.*

Finding:

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. When approaching the site traveling northbound along Roswell Road, none of the existing Publix signs are visible to a motorist until nearly parallel to the building. Therefore a motorist traveling northbound does not have sufficient time to identify the business and adequately determine access locations. A similar situation exists for a motorist traveling southbound. Although a wall sign exist on the north elevation, the presence of trees limits the visibility of the signage. The issues created by the lack of visible signs could be prevented by the use of a double sided sign. Similar condition exists for the internal circulation that can be resolve by the placement of a projecting sign, making the facility more identifiable to motorists traveling along internal roadways. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied

2. Variance from Section 33.26.H.2.a to allow for wall sign on a non street facing wall.

Section 33.12.D. The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

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.*

Finding:

Staff is of opinion that site layout, as dictated by the topography create many challenges for using signage effectively to promote vehicular and pedestrian awareness. Due to the topography of the lot, the **Publix** building finished grade sits at a fourteen (14) feet drop in the elevation between the southwest corner and northwest corner of the building. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied.

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.*

Finding:

Relief, if granted, would not cause detriment to the public good or impair the purpose and intent of the zoning ordinance, as the request would result in a proportional and commercially reasonable level of signage for the store and would be in harmony with the intent of the zoning ordinance. Because the design of the site, with an integrated

orientation of multiple retail buildings the ability to capture visibility and identification of Publix is limited. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied.

Department Comments

The staff held a Focus Meeting on April 7, 2010 at which time the following departmental /divisional comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ No Comments
	Sandy Springs Development Plan Review Engineer	▪ No Comments
	Sandy Springs Landscape Architect/ Arborist	▪ No Comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Department of Transportation	▪ No Comments

Conclusion

Staff reviewed the request relative to the variance standards contained in Section 33.12.D. of the Zoning Ordinance. Based upon this review, staff recommends:

V10 - 008- 1. APPROVAL CONDITIONAL.
V10 - 008- 2. APPROVAL CONDITIONAL

Recommended Conditions:

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

1. Allow a projecting sign on the east elevation of the building, to be installed pursuant to the sign detail and building elevation depicting the sign location (Exhibit 1), submitted

by the applicant, and dated received March 2, 2010 by the Department of Community Development.

2. Allow a projecting sign on the west elevation of the building, to be installed pursuant to the sign detail and building elevation depicting the sign location (Exhibit 2), submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development.
3. Allow two (2) wall signs on the west elevation of the building, to be installed pursuant to the sign detail and building elevation depicting the signs location (Exhibit 3), submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development.

ATTACHMENTS: Proposed sign site plan, proposed sign detail, and letter of appeals.



Variance Petition No. V10-009

HEARING & MEETING DATES

Board of Appeals Hearing

May 13, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner

AEW SCT 1155 Perimeter Center West, LLC

Petitioner

AEW SCT 1155 Perimeter Center West, LLC

Representative

Nathan V. Hendricks III

PROPERTY INFORMATION

Address, Land Lot, and District

1155 Perimeter Center West
Land Lot 19 of the 17 District

Council District

5

Frontage

Approximately 1,200 feet of frontage along the west side of Perimeter Center West, approximately 540 feet of frontage along the south side of Mount Vernon Road and approximately 850 feet of frontage along the east side of Peachtree Dunwoody Road.

Area

The subject property has a total area of 5.835 acres.

Existing Zoning and Use

O-I (Office & Institutional District) conditional under Fulton County zoning case Z88-0198. The property is currently developed with office buildings.

Overlay District

PCID (Perimeter Community Improvement District)

Interim 2025 Comprehensive Future Land Use Map Designation

LWR (Living-Working Regional)

INTENT

The applicant is requesting a primary variance from Section 33.26.D.1.c of the Zoning Ordinance (frontage more than 1,000 lineal feet) to allow a second monument sign where only one is permitted.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V10-009-1. APPROVAL CONDITIONAL

1155 Perimeter Center West



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

CASE NUMBER: V10-009

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

Findings of Fact:

This property is identified as "1117&1155" Perimeter Center West, comprised approximately 5.835 acres. This property is located three roads frontages as follows: on the east side of Peachtree Dunwoody Road, southeast side of Mount Vernon Road and southwest side of Perimeter Center West.

The property is currently developed with office buildings with the first building being the 1117 building located to northeast of the property and the 1155 building being located to the southeast of the property. The property has approximately 1,200 linear feet of frontage along the Perimeter Center West.

The staff of the Planning and Zoning Division reviewed a sign permit application package to place a sign for the 1155 building. During the review it was determine that 1155 is on a separate parcel under the ownership of a different entity, but it remains zoned as one property with the 1117 building (Fulton County zoning case Z88-0198).

The applicant and his primary tenant indicated they have found it difficult to achieve reasonable identification from the Perimeter Center West right-of-way. The only way of identification is a monument sign, located in the median of the private drive which simply provides "1117 1155" Perimeter Center West.

The proposed sign location is in an area that was City right-of-way. Therefore, prior to consideration of this variance, the applicant was required to obtain approval from City Council to receive this property. The City's attorney has determined that the Board of Appeals does not have jurisdiction over the right-of-way. Therefore, the City has abandoned the property where the sign is proposed to be located and it has been acquired by the applicant. Approved by City Council on January 19, 2010.

The applicant has indicated that the purpose for the variance is to provide signage visibility for the business at 1155 Perimeter Center West.

The Sandy Springs Zoning Ordinance provides in Section 33.26.D.1.c:

D. O-I District

1. Monument Signs

- c. One (1) maximum seventy-two (72) square foot, monument sign shall be permitted for each street on which the lot has more than one thousand*

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 2010

(1,000) linear feet of frontage (excludes spin sites and out-parcels). The sign shall have a maximum height of eight (8) feet (see exception), shall not be internally illuminated. Except for gas stations, changeable copy shall not be permitted.

- d. *Notwithstanding the foregoing, monument signs on arterial streets may be ten (10) feet in height.*

To correct the signage issue the applicant proposes to add an additional sign to the Perimeter Center West frontage. It was determined that a variance was needed to allow an additional identification sign on the Perimeter Center West road frontage, as Article 33.26.D.1.c of the Zoning Ordinance allows properties which lots have more than one thousand (1,000) linear feet of frontage, one (1) maximum seventy-two (72) square foot freestanding sign per street frontage. The applicant proposes a 34.08 square feet of sign face monument sign 7'-10" height externally lite.

Standards for Consideration

Zoning Ordinance

Variance from Section 33.26.D.1. to allow for a second monument sign where only one is permitted.

Section 33.12.D. The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

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.*

Findings:

The lot does not present any topographical challenges to justify the approval of this variance. 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.*

Findings:

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

Department Comments

The staff held a Focus Meeting on April 7, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ No Comments
	Sandy Springs De- velopment Plan Review Engineer	▪ No Comments
	Sandy Springs Landscape Archi- tect/Arborist	▪ No Comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Depart- ment of Transporta- tion	▪ No Comments

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. 1155 building has two wall signs identifying two of the tenants on that building, but only are visible from the distance when moving west bound or moving east bound. When approaching the site traveling eastbound along Perimeter Center West, none of the existing 1155 building signs are visible to a motorist. Therefore a motorist traveling eastbound does not have sufficient time to identify the business and adequately determine access locations. A similar situation exists for a motorist traveling westbound. Staff is of opinion that the approval of this variance request would be in harmony with the general intend of the Zoning Ordinance and the public will be well served having the ability to reasonably identify the location of the tenants within the property.

Staff recommends approval due to the particular conditions of the building and not the topography of the site. Not meeting the standards does not preclude Staff from recommending approval as intended by The Mayor and City Council by abandoning the right-of-way where the second sign is proposed to be located. The proposed sign allows the applicant to serve all intents and purposes of the sign ordin

ance, which is to encourage the effective use of signs as a means of communication. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request.

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

1. To allow a second Identification monument sign along the Perimeter Center West. The sign shall not exceed thirty-five (35) square feet of sign area; 7'-10" height pursuant to the sign detail, submitted by the applicant, and dated received March 2, 2010 by the Department of Community Development.

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



Variance Petition No. V10-010

HEARING & MEETING DATES

Board of Appeals Hearing

May 13, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Eric Varah & Kelli Godfrey	Eric Varah & Kelli Godfrey	Eric Varah & Kelli Godfrey

PROPERTY INFORMATION

Address, Land Lot(s), and District	200 North Mill Court Land Lot 127, District 17
Council District	3
Frontage	100.8 feet of frontage along the south side North Mill Court.
Area	The subject property has a total area of approximately 0.802 acres.
Existing Zoning and Use	The lot is zoned R-2A (Single Family Dwelling District) under Fulton County zoning case Z66-0023. 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

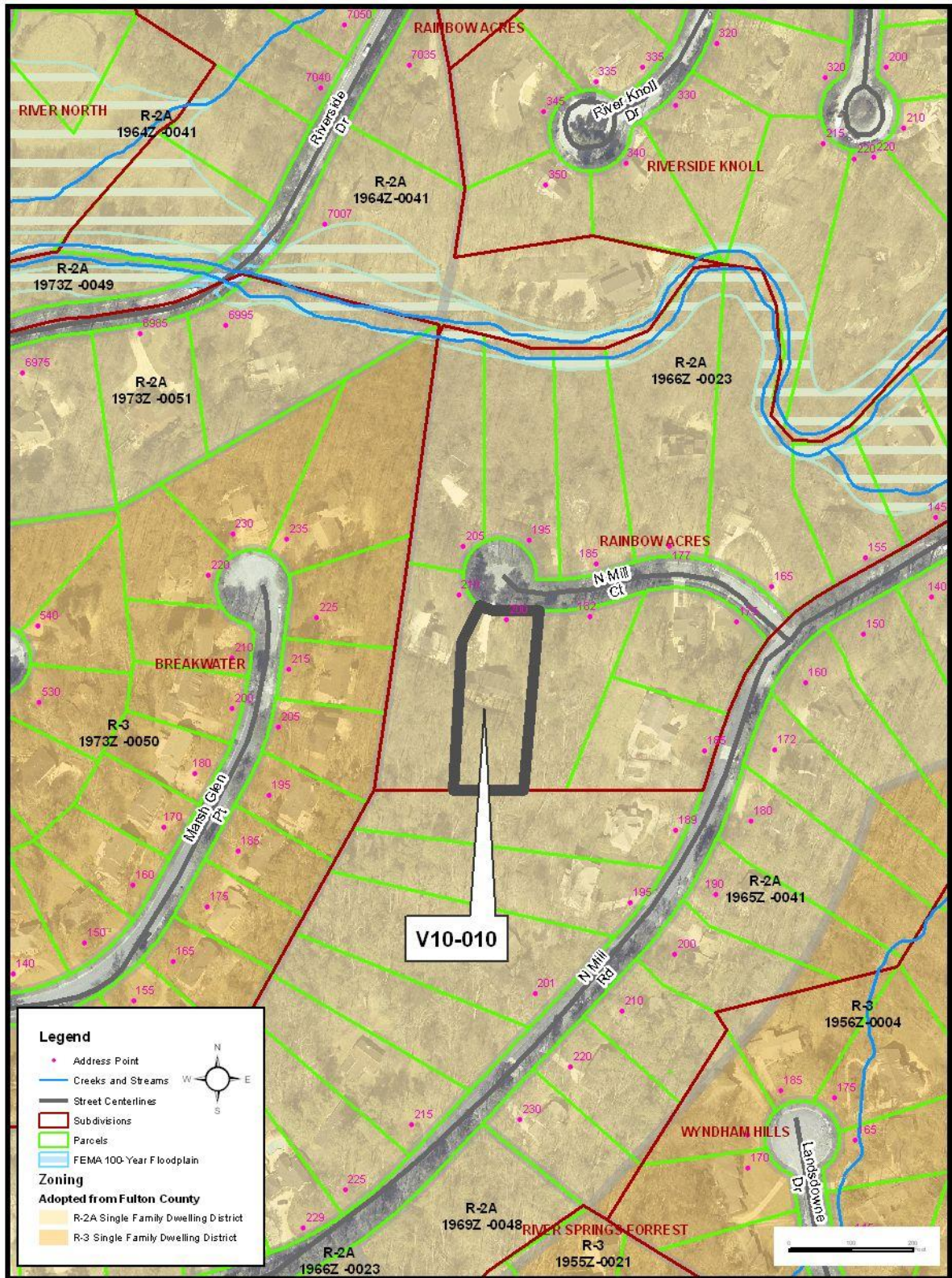
The applicant is proposing to construct an addition to the existing house which will encroach into the required fifteen (15) foot side yard setback. The applicant is requesting one (1) primary variance:

- 1) Variance from Section 6.3.3.C of the Zoning Ordinance to reduce the required side yard setback from 15 feet to 7.5 feet to allow for the construction of an addition.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V10-010 - 1) APPROVAL CONDITIONAL

Parcel Map

200 North Mill Court



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 2010

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

CASE NUMBER: V10-010

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

Findings of Fact

The applicant is proposing to construct an eight hundred eight-five (885) square foot three (3) car garage and a family room expansion of three hundred fifty (350) square feet to the existing house which will encroach into the required fifteen (15) foot side yard setback. The applicant is requesting one (1) primary variance from Section 6.3.3.C of the Zoning Ordinance to reduce the required side yard setback from fifteen (15) feet to seven (7) feet six (6) inches to allow for the construction of an addition.

The applicant has submitted a site plan indicating the subject property to have 100.8 feet of frontage along North Mill Court. The property is trapezoidal in shape. The site is sloping from the west to the northeast. The site plan shows the existing house located at an angle approximately one hundred seven feet from the right-of-way and currently encroaches four (4) feet into the required fifteen (15) foot side setback on the west. The proposed addition would be located at the fifty foot front setback line and would encroach seven (7) feet six (6) inches.

The surrounding lots in the immediate vicinity are zoned R-2A (Single Family Dwelling District) the same as the subject parcel. The subdivision to the west is zoned R-3 (Single Family Dwelling District).

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 as adjacent properties appear to have encroachments have into the side yard setback per aerial picture from 2006 and as shown with an (*) asterisk on the parcel map. Additionally, the footprint of the existing house currently encroaches into the side setback. The proposed additions are approximately thirty four (34) feet from the closest house on the side. Therefore, staff is of the opinion this condition has been satisfied.

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 2010

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 subject parcel is similar to other residential properties in the City. However, the property does exhibit extraordinary and exceptional conditions related to its topography. The subject parcel slopes from nine hundred fifty-eight (958) feet on the west to nine hundred (900) feet on the northeast. To match the flow of the existing house the new garage is proposed adjacent to the location of the existing garage. An additional bay added to the existing garage would encroach further into the side setback. Due to the topography of the lot an extraordinary and exceptional condition is created resulting in a hardship for the owner of the property as defined by the City's Zoning Ordinance. Therefore, staff is of the opinion this condition is satisfied.

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 on April 7, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	There are no building requirements that need to be addressed at this time.
	Sandy Springs Development Plan Review Engineer	Subsequent development shall comply with applicable ordinances.
	Sandy Springs Landscape Architect/ Arborist	The proposed addition and garage is over an existing driveway. Between the driveway and the neighbor is an existing retaining wall. There should be no tree or stream buffer issues with this variance.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	All new one-family and two-family dwellings with a fire separation distance of less than 20 feet from another dwelling structure, or closer than ten feet to the property line, must be sprinkled with an approved automatic fire protection system in accordance with NFPA 13D as adopted by the office of the insurance and safety fire commissioner in the kitchen and fuel fired equipment rooms pursuant the City of Sandy Springs fire ordinance 2006-11-86: Chapter 15, Health and Public Safety, which became effective on November 8, 2006.
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 has 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(s) 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 March 3, 2010 by the Department of Community Development, for the variance(s) herein, showing a reduction of the required fifteen (15) foot minimum side yard setback to seven (7) feet six (6) inches to allow the addition and a three (3) car garage, where necessary, to accommodate the portion of the encroachment (s) only.

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



Variance Petition No. V09-052

HEARING & MEETING DATES

Board of Appeals Hearing

December 10, 2009

February 11, 2010

May 13, 2010

APPLICANT/PETITIONER INFORMATION

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

PROPERTY INFORMATION

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

INTENT

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

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

At the December 10, 2009 BOA meeting the Board deferred the application to the February

Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on May 13, 2010

11, 2010 BOA meeting to determine the buildable area of the lot, show the footprint of a proposed house, impervious surface calculations for the river corridor, and obtain square footages of adjacent homes

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

At the February 11, 2010 BOA meeting the Board deferred the application to the May 13, 2010 BOA meeting to obtain approval from the Atlanta Regional Commission (ARC) approval. The City and ARC have reviewed the proposal and have determined there is adequate clearing and impervious allotment to allow construction of a single family residence and driveway.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-052 - 1) DENIAL

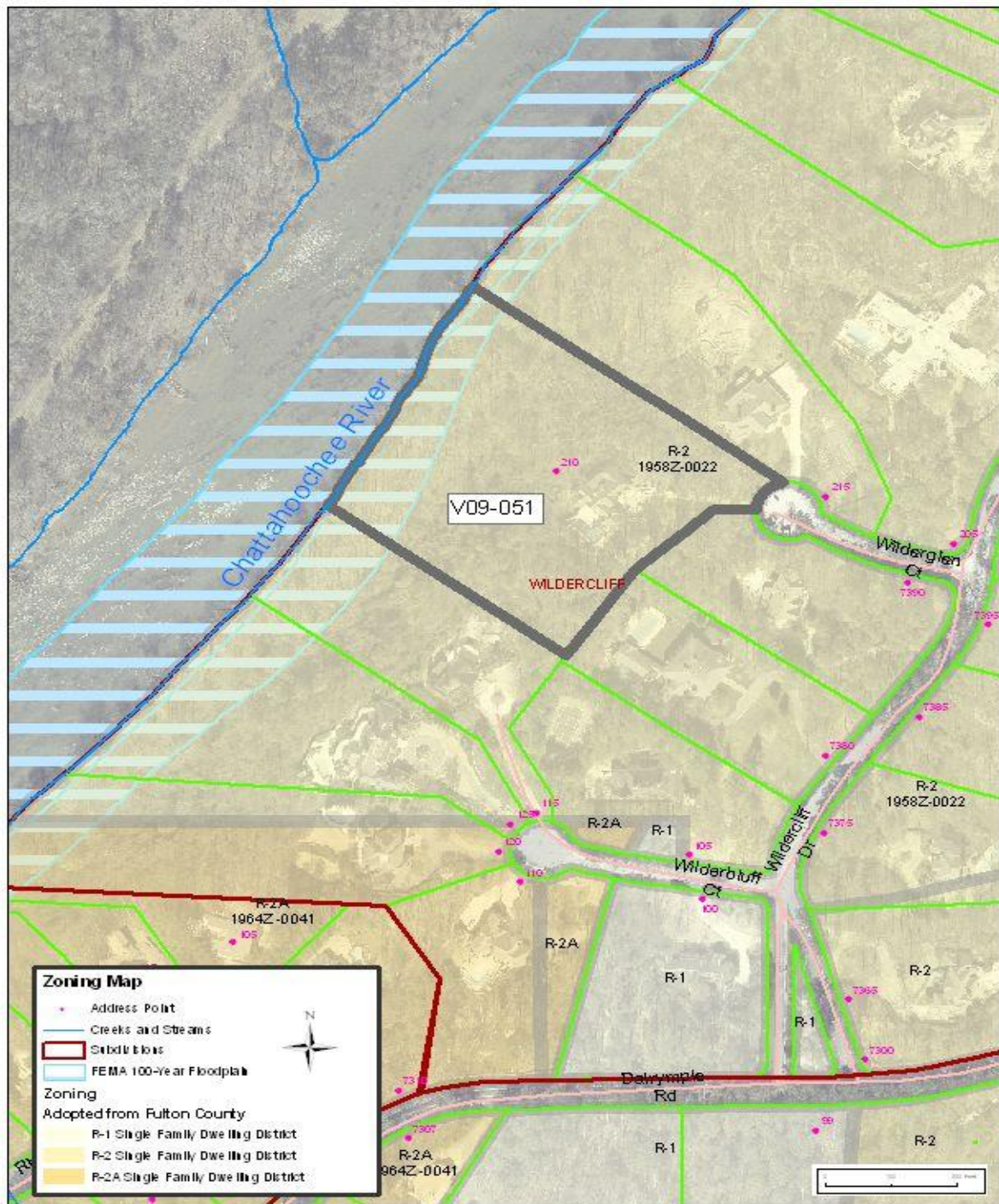
V09-052 - 2) DENIAL

V09-052 - 3) DENIAL

V09-052 - 4) DENIAL

Parcel Map

210 Wilderglen Court



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

CASE NUMBER: V09-052

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

Findings of Fact:

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

The applicant has provided a site plan (exhibit 1) showing the subject properties subdivided into two (2) flag lots. Each lot would have thirty-five (35) feet of frontage along Wilderglen Court. The existing house will remain on the proposed northeast lot. The existing house is shown encroaching into the front setback and the existing pool is located in the front yard. The site plan shows a shared driveway and driveway easement for approximately one hundred twenty feet (120) from the right-of-way. The proposed lots do not meet the required lot width of 150 feet. The lot width is required to be achieved at a distance no greater than sum of the required minimum front yard/setback and minimum rear yard/setback. In addition, the minimum lot width shall be maintained through the depth of the buildable area. The required lot width would need to be met at 100 feet and continue through the buildable area. The site plan also shows the proposed lots are bordered by the Chattahoochee River to northwest.

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

Staff notes the original plat (exhibit 3) of the subdivision dated May 21, 1984 shows the subject property subdivided into two (2) flag lots. The property was combined to allow for the construction of the existing pool. The plat shows eight (8) additional flag lots in the Wildercliff Subdivision. The surrounding lots in the immediate vicinity are R-2 (Single Family Dwelling District) which is the same zoning as the subject property.

The ARC (Atlanta Regional Commission) river corridor allotment for this proposed property would be approximately 17,731 square feet towards impervious area in category E and F and approximately 30,693 square feet of clearing. This information was derived from a breakdown of category E and Category F (exhibit 4). The City and ARC have reviewed the proposal and

have determined there is adequate clearing and impervious allotment to allow construction of a single family residence and driveway.

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:

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

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

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 on November 4, 2009 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ There are no building requirements that need to be addressed at this time.
	Sandy Springs Development Plan Review Engineer	▪ There are no Engineering requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	▪ The property is located in the river corridor river corridor review will be done at time of building permit
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 **DENIAL** of the variance(s) request.

Recommended Condition(s)

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

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

ATTACHMENTS:

Letter of appeal
Site plan (Exhibit 1)
Tree Survey
Topographic plan
Proposed setbacks vs. required setbacks (Exhibit 2)
Original lot configuration (exhibit 3)
Aerial view of conceptual site plan
Conceptual site plan
Letter with ARC allotments (exhibit 4)
Square Footage of Surrounding lots
Email from David Schmid
Photographs



Variance Petition No. V09-056

HEARING & MEETING DATES

Board of Appeals Hearing

February 11, 2010

May 13, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner

Olivia Lebedev

Petitioner

Olivia Lebedev

Representative

Olivia Lebedev

PROPERTY INFORMATION

Address, Land 397 Carriage Drive

Lot(s), and District Land Lot 71, District 17

Council District 4

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

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

Overlay District N/A

2027

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

Map Designation

INTENT

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

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

At the February 11, 2010 BOA meeting the Board deferred the application to the May 13, 2010 BOA meeting to allow staff to determine the following:

- A. If the structure (8'X18') along the western portion of the property was part of the heated floor area or a shed.

Response:

The City is unable to determine whether the structure (8'X18') along the western portion of the property was part of the heated floor area. The entire structure was removed and re-framed. There was no way to determine if the "shed" was a part of the original house since the only part of the original foundation that was not demolished was the (8'X18') area encroaching into the side setback.

- B. To determine if there is a way to make the stub out less intrusive to the property to the west.

Response: :

The applicant hasn't presented any alternatives to make a portion of the house less intrusive to the neighboring property.

ENFORCEMENT

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

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-056 - 1) DENIAL

V09-056 - 2) APPROVAL CONDITIONAL

Parcel Map

397 Carriage Drive



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

CASE NUMBER: V09-056

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

Finding of Fact:

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

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

The applicant applied for a building permit on March 16, 2009 to remodel and add an addition to the existing house which did not enlarge or alter the nonconformity. However, during the construction the entire house was demolished which was beyond what was approved in the permit. Section 4.3.1.D. of the zoning ordinance states:

Nonconforming Structures. When a structure exists on the effective date of the adoption of the Ordinance or its amendments that could be built under the terms of this Ordinance because of the restrictions on the building area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may remain as long as it complies with all other zoning regulations, subject to destruction, by any means, of more than sixty (60) percent of the gross square footage of a structure shall require that the structure be reconstructed in conformity with the provisions of the Ordinance.

Because of the demolition of more than sixty (60) percent of the house, the structure lost its legal nonconforming status and it is considered a new structure. Therefore, the applicant is required to seek variances to construct a new house on the footprint of the original house.

The applicant is proposing to complete construction on a new house in the same footprint as the demolished house. During a site visit it appears that there has been a new foundation poured except for the (8'X18') area encroaching into the side setback which has the original foundation. There is also a small rear corner of the original house that also encroaches two (2) feet into the side yard setback. The existing house footprint was slightly changed according to a previous code enforcement case concerning the stream buffer. The footprint of the demolished house is set on the west side of the lot reducing the encroachment into the buffer. The new house would encroach into the twenty-five (25) foot impervious setback by ten (10) feet. There is also a sanitary sewer easement that runs parallel to the stream along the eastern side of the property.

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

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

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

An inspection was done by the Building Department. It was determined that the structure (8'X18') along the western portion of the property could be removed at this time. The City is unable to determine whether the structure (8'X18') along the western portion of the property was part of the heated floor area. The entire structure was removed and re-framed. There was no way to determine if the "shed" was a part of the original house since the only part of the original foundation that was not demolished was the (8'X18') area encroaching into the side setback.

Standards for Consideration

Zoning Ordinance

Section 22.3.1 of the City's Zoning Ordinance outlines the following standards:

Section 22.3.1. Variance Considerations. Variances may be considered in all districts. Primary variances and concurrent variances shall only be granted upon showing:

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 not in harmony with the intent of the Zoning Ordinance and could be a detriment to the public. Adjacent property's have encroachments into the side yard setback. However, they are not as significant as the applicant's proposal. Therefore, staff is of the opinion this condition has not 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 subject parcel is similar to other residential properties in the City. However, the property does not exhibit extraordinary and exceptional conditions related to its topography to justify the significant encroachment of the (8' X18') structure into the side yard setback. The subject parcel has a change in topography on the west side of the

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on May 13, 2010

property. The grade changes sixteen (16) feet from the northwestern corner to the southeastern corner of the property. An extraordinary and exceptional condition has not been created resulting in a hardship for the owner of the property as defined by the City's Zoning Ordinance. Therefore, staff is of the opinion this condition 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.

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

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

(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 change in topography on the west side of the property. The grade changes sixteen (16) feet from the northwestern corner to the southeastern corner of the property. Due to the topography of the lot and approximately three fourths of the buildable area is covered by 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:

All stream buffers on the property have been identified (exhibit 1). The centerline of the stream runs north to south along the outside of the eastern property line. The stream bisects the south east corner of the lot. The stream runs approximately one hundred twenty-one (121) feet across the property.

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

Findings:

The stream is located on the eastern property line. The stream bisects the south east corner of the lot. The stream runs approximately one hundred twenty-one (121) feet across the property. The buffer covers three fourths of the buildable area. The proposed intrusion of approximately 500 square foot portion of the house would be located in the same foot print as the pervious house. 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 not been discussed with staff regarding this property. The applicant has indicated the new house will be constructed in the same footprint as the demolished house. However, intrusion into the stream buffer would occur at any location within the buildable area of the lot. Therefore, staff is of the opinion this condition has been satisfied.

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 January 6, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	There are no building requirements that need to be addressed at this time.
	Sandy Springs Development Plan Review Engineer	There are no Engineering requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	The footprint of the existing house was slightly changed. There was a previous code enforcement case concerning the stream buffer.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	If this residence is constructed closer than 20 feet to another residential structure or other outbuilding larger than 300 sf, automatic sprinklers shall be required in the kitchen and fuel fired equipment room pursuant the City of Sandy Springs fire ordinance 2006-11-86: Chapter 15, Health and Public Safety, which became effective on November 8, 2006. See enclosed Minimum Design Guidelines for the City of Sandy Springs Fire Department.
TRANSPORTATION	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 **DENIAL** of the variance request to reduce the required west side yard setback from 10 feet to 0.8 feet (Variance #1) and **APPROVAL CONDITIONAL** of the variance request to reduce the 25 foot impervious surface setback to fifteen (15) feet (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 February 22, 2010 by the Department of Community Development, for the variance herein, showing a reduction in the 25 foot impervious set back to fifteen (15) feet to allow for a new house where necessary to accommodate the portion of the encroachment only.
- 2) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced for building additions and/or other improvements, downspouts shall be directed into a rain garden or a Best Management Practices (BMP) filtration detention device and such facility shall be maintained.
- 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
Building Permit Site plan (exhibit 1)
Original site plan
Letters of support
Letter of opposition
Building permit application
Photographs