



Variance Petition No. V09-017

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

June 11, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Joseph Wright	Joseph Wright	Katherine Wright Warden

PROPERTY INFORMATION

Address, Land	8310 Hewlett Road
Lot(s), and District	Land Lot(s) 356 & 361, District 6
Council District	1
Frontage and Area	164.44 feet of frontage along the northwesterly side of Hewlett Road. The subject property has a total area of approximately 7.0116 acres.
Existing Zoning and Use	The lot is zoned R-2(Single-family Dwelling District) under Fulton County zoning case Z66-0001. The property is currently developed with a residence.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R0-1Residential (0-1 units per acre)

INTENT

The applicant is seeking two (2) primary variances:

- 1) Variance from Section 4.2.10 of the Zoning Ordinance to allow the required lot width of 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.
- 2) 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 a 50 foot undisturbed natural buffer and a 6 foot impervious surface setback to allow for an existing out-building, to a 50 foot undisturbed natural buffer and a 15 foot impervious surface setback to allow for an existing driveway, and to a 25 foot undisturbed natural buffer to allow for an existing tennis court .

Parcel Map

8310 Hewlett Road and 06 0361 LL028



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

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

CASE NUMBER: V09-017

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

REQUEST:

The applicant is requesting relief from Section 4.2.10 of the Zoning Ordinance to subdivide the property in to two (2) lots and 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 and a 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 a 50 foot undisturbed natural buffer and a 6 foot impervious surface setback to allow for an existing out-building, to a 50 foot undisturbed natural buffer and a 15 foot impervious surface setback to allow for an existing driveway, and to a 25 foot undisturbed natural buffer to allow for an existing tennis court .

ANALYSIS:

The applicant has provided a site plan indicating the subject properties to have a frontage provided via a narrow strip of land forming a pole or stem to the buildable area creating two (2) flag lots. The existing house will remain on the proposed northwest lot and a new house is proposed on the southwest lot. The site plan shows each lot to have a frontage of 82.22 feet. The pole or stem on the lot to the southwest is 524.28 feet and the lot to the northwest is 527.50 feet. 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 though the buildable area.

The houses on the surrounding properties of the north side of Hewlett Road are setback an average of 275 feet from the road. The minimum lot width would be met at approximately 585 feet. The existing lot is currently in compliance with the R-2 zoning requirements.

The rear of the property has a lake with a 75 foot buffer and setback requirement. Staff notes the site currently has an existing out building, tennis court and ten (10) feet of a driveway that encroaching into the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback).

Staff notes the surrounding lots in the immediate vicinity are AG-1 along the east and west of the pole or stem and R-2 surrounding the buildable portion of the lot which is the same zoning as the subject property. The houses on the surrounding lots appear to have at least the minimum requirements of the zonings lot width. Additionally, the proposed house would not encroach into the required 75 foot undisturbed natural buffer.

The applicant states the following:

The applicant is requesting a variance for the reduction of the minimum building line width of 98 feet, to reduce it from 150 feet to 82 feet. This condition only occurs at the front of the property while five (5) acres is 579.80 feet wide. The second variance is to allow the existing out building, tennis court and ten (10) feet of the driveway to remain in the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback).

Hardship

-) The unique shape of the seven (7) acre lot only has 164 feet of frontage on Hewlett Road.
-) Considering the shared driveway and required setbacks, it is not possible or desirable to build at the front of the property.

Harmony

-) Between 1998 and 2006 four (4) existing lots on Hewlett Road were subdivided , becoming thirteen (13) new one acre lots
-) The applicant's proposal renders 3.6 acres per lot.
-) The lots will maintain the side by side houses that the new rule is interested in preserving.

Department Comments

The staff held a Focus Meeting on May 6, 2009 at which the following departmental comments were provided:

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

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The houses on the surrounding properties of the north side of Hewlett Road are setback an average of 275 feet from the road. The minimum lot width would be met at approximately 585 feet. The existing lot is currently in compliance with the R-2 zoning requirements.

Staff notes the surrounding lots in the immediate vicinity are AG-1 along the east and west of the pole or stem and R-2 surrounding the buildable portion of the lot which is the same zoning as the subject property. The houses on the surrounding lots appear to have at least the minimum requirements of the zoning's lot width. Additionally, the proposed house would not encroach into the required 75 foot undisturbed natural buffer.

The applicant states the following:

The applicant believes their plan is consistent with the neighborhood. Between 1998 and 2006, 4 existing lots on Hewlett Road were subdivided into thirteen (13) new one (1) acre lots. The proposed lots will be 3.6 acres and maintain the side by side house that the new rule is interested in preserving.

2. *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;*

The applicant has provided a site plan indicating the subject properties to have a frontage provided via a narrow strip of land forming a pole or stem to the buildable area creating two (2) flag lots. The existing house will remain on the proposed northwest lot and a new house is proposed on the southwest lot. The site plan shows each lot to have a frontage of 82.22 feet. The pole or stem on the lot to the southwest is 524.28 feet and the lot to the northwest is 527.50 feet. 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 applicant states the following:

The unique shape of the seven (7) acre lot only has 164 feet of frontage on Hewlett Road. Considering the shared driveway and required setbacks, it is not possible or desirable to build at the front of the property.

Recommended Condition(s)

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

1. The proposed lots shall be in accordance with the proposed site plan, provided by the applicant dated received May 8, 2009 by the Department of Community Development, for the variance(s) herein, showing the subdivision of 8310 Hewlett Road into 2 lots with a reduction of the required minimum lot width being achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback. The property shall also be in accordance with the aforementioned site plan, for the variance(s) herein showing a 50 foot undisturbed natural buffer and a 6 foot impervious surface setback to allow for an existing out-building, a 50 foot undisturbed natural buffer and a 15 foot impervious surface setback to allow for an existing driveway, and a 25 foot undisturbed natural buffer to allow for an existing tennis court.

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



Variance Petition No. V09-018

HEARING & MEETING DATES

Design Review Board
May 12, 2009

Board of Zoning Appeals Hearing
June 11, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Sandy Springs Plaza Assoc, LP	Sandy Springs Plaza Assoc, LP	Marjie Tyson

PROPERTY INFORMATION

Address, Land Lot, and District. 6311 Roswell Road (SR 9)
Land Lot 89, District 17

Council District 4

Frontage and Area Approximately 799.07 feet of frontage along the east side of Roswell Road (SR 9) and 405 feet of frontage along the north side of Johnson Ferry Road. The subject property has a total area of 9.6 acres (418,176.0 square feet).

Existing Zoning and Use C-1 (Community Business District) conditional under Fulton County zoning case 1957Z -029, currently developed with a shopping center.

Overlay District Main Street District.

2027 Comprehensive Future Land Use Map Designation Live Work Community (LWC).

INTENT

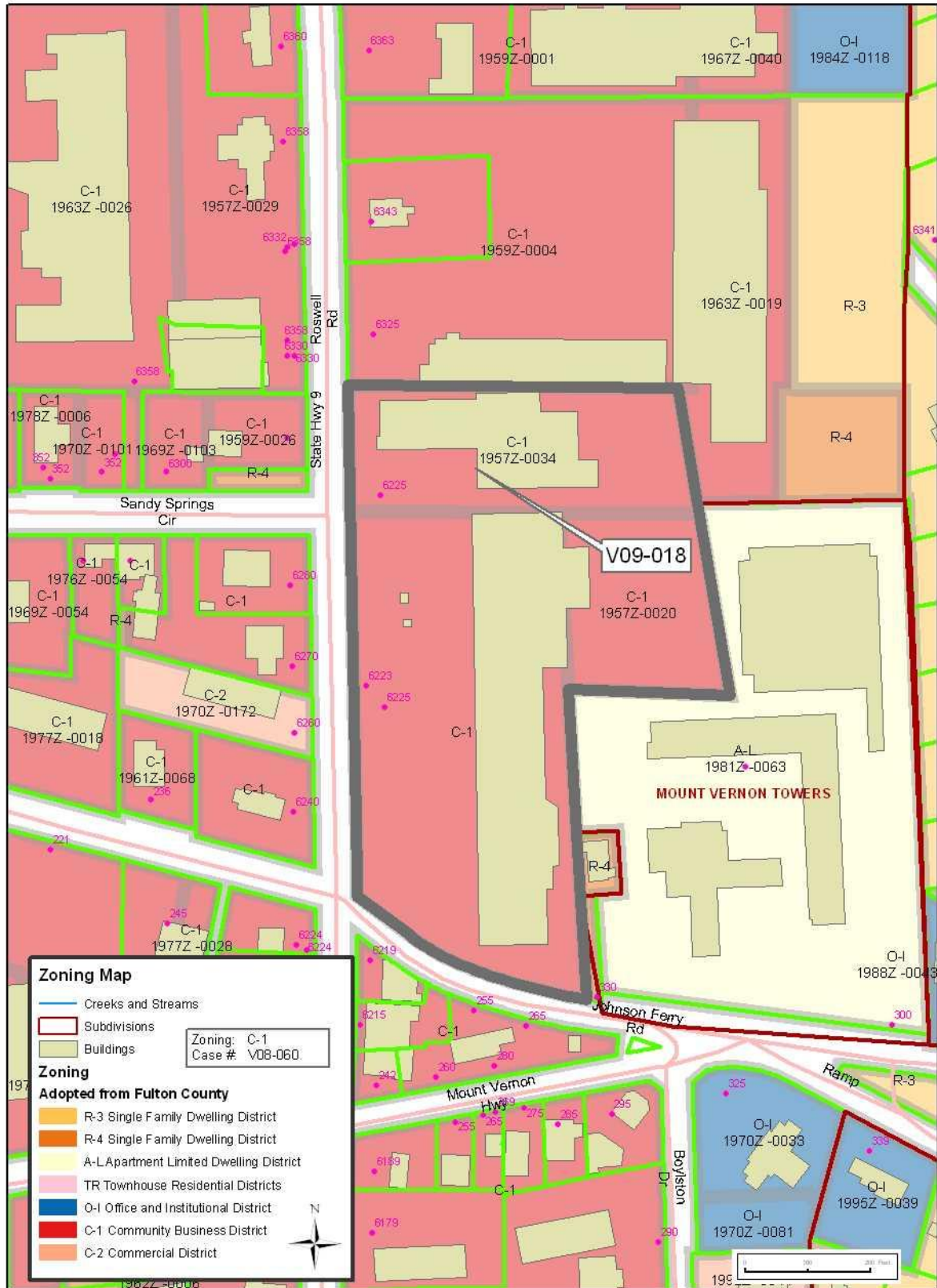
The applicant is seeking a primary variance from Article 33.18.P of the Zoning Ordinance to allow for a projecting sign.

DESIGN REVIEW BOARD RECOMMENDATION

The application was heard at the May 12, 2009 DRB meeting. The request was recommended for APPROVAL (3-0, Gregory, Landeck, and Richard for; Porter not voting; Mobley and Westmoreland absent) as presented without conditions.

Parcel Map

6311 Roswell Road



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

CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS

CASE NUMBER: V09-018

STAFF CONTACT: Chris Miller, AICP, Deputy Director
E-mail: chris.miller@sandyspringsga.org

REQUEST:

The applicant is seeking a primary variance from Article 33.18.P of the Sandy Springs Zoning Ordinance to allow for a projecting sign.

Staff Analysis:

The applicant is requesting relief from Article 33.18.P of the Sandy Springs Zoning Ordinance which expressly prohibits the use of projecting signs. According to Article 33.3, a projecting sign is defined as “[a]ny sign which is projected from the wall of a building or structure”.

The applicant is proposing to re-locate the fourteen (14) square foot sign from its present location above the “Smoothie King” sign to a new location between Buildings 2 and 3 in Sandy Springs Plaza. Because the sign will be re-located into the corner of the shopping center, the middle of the sign will project approximately twenty-four (24) inches from the corner of the building.

According to the applicant, “Buckhead Uniforms opened for business approximately 40 years ago in Sandy Springs Plaza. They are located in the corner of the “L” shaped plaza”. The applicant states further, “[i]f Buckhead Uniforms was a traditional inline tenant, they would have approximately 138 square feet of frontage with traditional retail space being 60 square feet deep”. However, because of the location of the tenant space in the building corner, Buckhead Uniforms does not have any wall facade facing the front of Sandy Springs Plaza.

The existing Buckhead Uniforms sign was temporarily located above the “Smoothie King” while the center was being remodeled. According to the applicant, the Buckhead Uniforms sign must now be relocated to accommodate a new tenant. The applicant has indicated a hardship exists because they have “a 50+ year tenant that demands the same signage as any other market competitor in any other shopping center and that deserves the same opportunities as any other qualified tenant. Neither the city of Sandy Springs nor the Landlord can afford to lose a great corporate citizen that has the longevity or the vast customer draw that Buckhead Uniforms brings to the center and the community. Without this variance, their business is at risk of failing”.

Department Comments

The staff held a Focus Meeting on May 13, 2009 at which time the following departmental/divisional comments were provided:

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

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant states that the proposed sign is consistent with other normal and customary tenant identification.

2. *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;*

This property is developed as a shopping center which was first constructed approximately 50 years ago. According to the applicant the physical configuration of the center does not afford Buckhead Uniforms with a customary area for tenant identification.

3. *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 and adjoining road.*

The applicant states that the proposed sign is consistent with other normal and customary tenant identification.

Recommended Conditions:

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

1. The sign area for the wall sign shall not exceed fourteen (14) square feet of sign area, pursuant to the sign design detail, submitted by the applicant, dated received April 10, 2009 by the Department of Community Development.

ATTACHMENTS: Site plan, leasing plan, proposed sign detail and letter of appeal.

VARIANCE TABLE

Variance Request	DRB Action	Proposed Conditions	Comments
The applicant is seeking one primary variances from the Zoning Ordinance: 1. Variance from Article 33.18.P of the Zoning Ordinance to allow for a projecting sign.	The Design Review Board recommended APPROVAL.	1. The sign area for the wall sign shall not exceed fourteen (14) square feet of sign area, pursuant to the sign design detail, submitted by the applicant, dated received April 10, 2009 by the Department of Community Development.	▪ N/A



Variance Petition No. V09-015

HEARING & MEETING DATES

Design Review Board
May 12, 2009

Board of Appeals Hearing
June 11, 2009
July 9, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
HEG Real Estate Venture LTD	Fantastic Visuals, LLC	Alan I. Berger

PROPERTY INFORMATION

Address, Land Lot, and District.	7855 Roswell Road (SR 9) Suite E Land Lot 30, District 17
Council District	4
Frontage and Area	Approximately 178 feet of frontage along the east side of Roswell Road (SR 9). The subject property has a total area of 1.179 acres (51,357.24 square feet).
Existing Zoning and Use	C-1 (Community Business District) conditional under Fulton County zoning case 1986Z-098, currently developed with a shopping center.
Overlay District	Suburban District.
2027 Comprehensive Future Land Use Map Designation	R12-20 Residential (12-20 Units per Acre).

INTENT

The applicant is seeking a primary variance from Section 33.26.H.2.a of the Zoning Ordinance to allow for a sign to exceed the 5% permitted square footage of the applicable wall area.

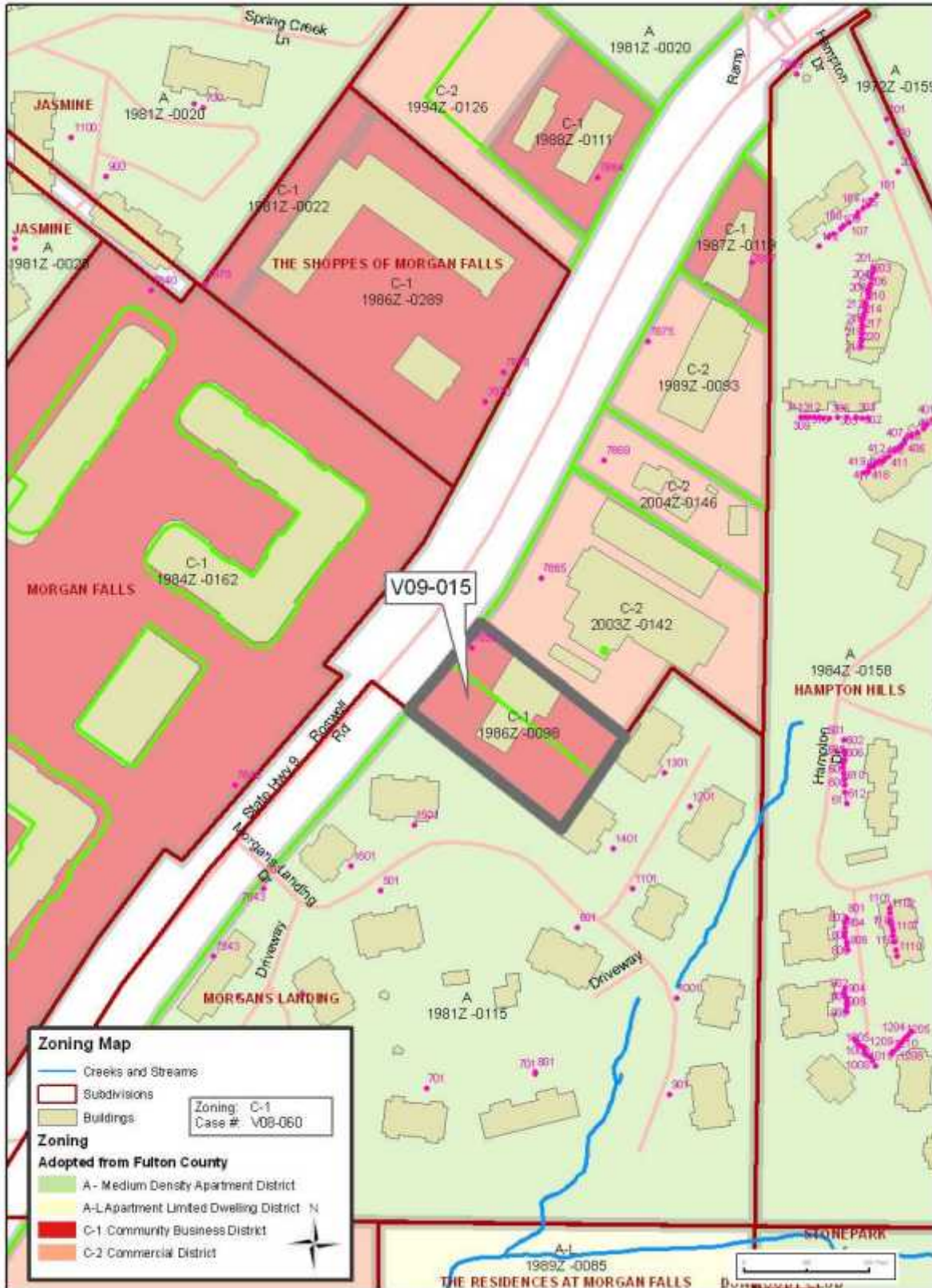
At the June 9, 2009 BOA meeting the Board deferred the application to the July 9, 2009 BOA meeting due to the applicant's absence at the meeting.

DESIGN REVIEW BOARD RECOMMENDATION

The application was heard at the May 12, 2009 DRB meeting. The request was recommended for APPROVAL (3-0, Gregory, Landeck, and Richard for; Porter not voting; Mobley and Westmoreland absent) as presented without conditions.

Parcel Map

7855 Roswell Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on July 9, 2009

CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS

CASE NUMBER: V09-015

STAFF CONTACT: Chris Miller, AICP, Deputy Director 770-206-1509
E-mail: chris.miller@sandyspringsga.org

REQUEST:

The applicant is seeking a primary variance Section 33.26.H.2.a of the Zoning Ordinance to allow for a sign to exceed the 5% permitted square footage of the applicable wall area.

Staff Analysis:

The applicant is requesting relief from Section 33.26.H.2.a of Sandy Springs Zoning Ordinance, that states *"Wall signs are permitted on street-facing walls (including windows and doors)...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"*. The code allows for a sign with a total square footage of 17.5 square feet which represents 5% of the total facade area (351.75 square feet). The applicant is seeking to replace the existing thirty-one (31) square foot sign with a new sign of the same size and design.

This petition involves the Inserction Adult Fantasy Store located at 7855 Roswell Road (SR 9) (hereinafter "Inserction") and its nonconforming sign. On or about, June 2008, Inserction made changes to its non-conforming sign. The City issued a notice of violation to the store on July 8, 2008 citing a sign face change without a permit, window signs covering more than the allowable 25% of window area, and opaque windows. Per request of the applicant, on July 29, 2008, a 30 day extension was granted to allow for corrective action. The applicant corrected the violations related to the two windows violations. The applicant was informed that since they modified the sign from its original configuration, it constituted a face change which meant they now needed a permit for a new sign which is smaller than the original grandfathered sign. An appeal of this determination by the Director was denied by Board of Appeals on November 13, 2008. Subsequent to the denial of the appeal, the manager for the subject property was cited by Officer Ferrell from the City's Code Enforcement Division for altering a sign without a permit and having a sign which exceeded the City's maximum area provisions for wall signs. To address these violations, the applicant is now requesting a variance to allow the wall sign to remain thus re-establishing the sign's non-conforming grandfather status.

Department Comments

The staff held a Focus Meeting on April 1, 2009 at which time the following departmental /divisional comments were provided:

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

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant has stated the sign change request only constitutes newer lighting to replace an old sign with the same dimensions.

Relief, if granted, would not cause detriment to the public good or impair the purpose and intent of the zoning ordinance.

Recommended Conditions:

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

1. Allow a new wall sign to be erected at 7855 with a maximum area of 31.2 square feet.
2. The proposed wall sign shall be consistent with the plans submitted to the City dated April 7, 2009.

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

VARIANCE TABLE

Variance Request	DRB Action	Proposed Conditions	Comments
The applicant is seeking two primary variances from the Zoning Ordinance: 1. Variance from Section 33.26.H.2.a of the Zoning Ordinance to allow for a sign to exceed the 5% permitted square footage of the applicable wall area	The Design Review Board recommended APPROVAL.	1. Allow a new wall sign to be erected at 7855 with a maximum area of 31.2 square feet. 2. The proposed wall sign shall be consistent with the plans submitted to the City dated April 7, 2009.	



Variance Petition No. V09-016

HEARING & MEETING DATES

Design Review Board
May 12, 2009

Board of Appeals Hearing
June 11, 2009
July 9, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Belle Isle Square Assc, LLC	The Chastain School	Tom Wakefield

PROPERTY INFORMATION

Address, Land Lot, and District.	4967 Roswell Road (SR 9) Land Lots 93, District 17
Council District	5
Frontage and Area	Approximately 701 feet of frontage along the east side of Roswell Road (SR 9) and 277 feet of frontage along the south side of Belle Isle Road. The subject property has a total area of 6.369 acres (277,433.64 square feet).
Existing Zoning and Use	C-1 (Community Business District) conditional under Fulton County zoning case 1972Z-122, currently developed with a shopping center.
Overlay District	Village District.
2027 Comprehensive Future Land Use Map Designation	Living Working Community (LWC)

INTENT

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

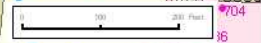
- 1) Variance from Section 33.3 to allow for a sign with a base less than one-third (1/3) the width of the sign face.
- 2) Variance from Section 33.22.C to reduce the required ten (10) foot minimum sign setback from the right-of-way to 0 feet.
- 3) Variance from Section 33.26.H.1.b to allow for a second freestanding sign where only one is allowed on a property with more than 500 linear feet and up to 1,000 linear feet of frontage.

The application was heard at the June 11, 2009 Board of Appeals meeting. The Board deferred the application to the July 9, 2009 meeting for the applicant to seek approval from the property owner to be allowed to have a larger sign area on the existing freestanding sign. In addition, the board requested for staff to research the legality of the existing sign.

DESIGN REVIEW BOARD RECOMMENDATION

The application was heard at the May 12, 2009 DRB meeting. The request was recommended for APPROVAL (3-0, Gregory, Landeck, and Richard for; Porter not voting; Mobley and Westmoreland absent) as presented without conditions.

4967 Roswell Road



Page 3 of 8

CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS

CASE NUMBER:

V09-016

STAFF CONTACT:

Cristina Nelson, City Planner 770-206-1516

E-mail: cristina.nelson@sandyspringsga.org

REQUEST:

The applicant is seeking three primary variances as follows: Section 33.3 to allow for a sign with a base less than one-third (1/3) the width of the sign face; Section 33.22.C to reduce the required ten (10) foot minimum sign setback from the right-of-way to 0 feet.; and, Section 33.26.H.1.b to allow for a second freestanding sign where only one is allowed on a property with more than 500 linear feet and up to 1,000 linear feet of frontage.

Staff Analysis:

The applicant is requesting relief from three sections of the Sandy Springs Zoning Ordinance as detailed above. When taken together, these three variances would enable the applicant to construct a second free-standing non-monument sign setback less than 10' from the Roswell Road right-of-way.

The applicant is proposing to construct a new twenty-five (25) square foot free-standing sign with a height of eight (8) feet as measured from the normal grade of Roswell Road. The applicant states the "building on 4967 Roswell Road sits 300 feet away from and 30-35 feet below the grade of Roswell Road making on the top of the building visible from a car on Roswell Road". The applicant would like to install a second free-standing sign which, according to the applicant, is more visible from Roswell Road making it easier for emergency service personnel and customers to locate the school from the road.

According to the applicant the, "property line sits just inside the GDOT guard rail from which the property drops off eight feet from street grade at a 45 degree angle. This topography challenge, combined with landscape buffer and guard rail, means only the top portion of the proposed sign will be visible from the roadway. After considering these factors and the Village Street Overlay requirements, the sign was designed to fit on the slope and engineered for the wind load of this location.

The application was heard at the June 11, 2009 Board of Appeals meeting. The Board deferred the application to the July 9, 2009 meeting for the applicant to seek approval from the property owner to be allowed to have a larger sign area on the existing freestanding sign. In addition, the board requested for staff to research the legality of the existing sign.

Staff findings:

1. The existing sign is a non-conforming sign. (Design and height)
2. The sign structure was recently altered from its original design. (See exhibits 1 and 2)
3. No permit was issued.

Per Article XXXIII, Section 20: NONCONFORMING SIGNS.

A. *Maintained (amended 04/15/08, RZ08-004, Ord. 2008-04-16)*

A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards, or dismountable material on nonconforming signs shall be permitted provided that said replacement does not constitute a material change to the sign. All nonconforming signs shall be maintained in good repair.

B. *Repairs; Material Change (amended 04/21/09, TA09-002, Ord. 2009-04-19)*

Minor repairs and maintenance of nonconforming signs shall be permitted; provided however, no structural repairs or changes in the size or shape of a nonconforming sign shall be permitted except to make the sign comply with the standards of this Article. To the extent that any sign allowable hereunder is damaged or destroyed by act of God or by other circumstances beyond control of owner of sign then such sign may be repaired without regard to the restrictions of this paragraph. The replacement of an existing sign face utilizing LED technology is expressly prohibited.

Based on this information staff opinion is that structural changes were made to the sign as shown on exhibits 1 and 2; therefore, the sign is to be brought to compliance with the current standard.

The Code Enforcement division has been provided with the above information for action.

At the time of this report the Code Enforcement Division has issued a Notice of Violation. (See exhibit 3).

Department Comments

The staff held a Focus Meeting on April 1, 2009 at which time the following departmental /divisional comments were provided:

LAND DEVELOPMENT DIVISION	Engineering Plan Reviewer	▪ No comments
	Arborist/ Landscape Architect	▪ No comments
BUILDING AND PERMITTING DIVISION	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Department, Transportation Planner	• This sign is located well outside of the required clear zone at this location; therefore, Public Works has no comment.
	Georgia Department of Transportation	▪ N/A - Sign not within the right-of-way.

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant states by granting the variance the City will "improve economic viability of this parcel for any business in this building therefore promoting local business opportunities in a large box retail building that, due to the visibility, is undesirable for many retailers who could occupy a 36,000 square feet building. Given current economic conditions and the changing space requirements of major retail tenants, appropriate street signage will improve this property's appeal and opportunity to be a valuable contributor to our community's business tax base".

Relief, if granted, would not cause detriment to the public good or impair the purpose and intent of the zoning ordinance.

2. *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;

According to the applicant, "street signage will significantly improve the visibility of businesses located in the building at 4967 Roswell Road. Topography, geographic location, access and visibility are the primary ingredients of a successful retail property but the unique topography of this parcel should warrant an additional sign".

3. *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 and adjoining road.*

The property has a guard rail coterminous with the existing property/right-of-way line along Roswell Road. The proposed sign will be located behind and above the guard to ensure visibility to passing motorists.

Recommended Conditions:

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

1. The sign and sign installation shall be consistent with: the design drawings received on April 16, 2009 by the City, the site plan received on April 7, 2009 by the City, and the letter from Kristen A. Ware dated April 30, 2009.
2. Allow the identification sign setback from the right-of-way to be reduced to zero (0) feet.

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

VARIANCE TABLE

Variance Request	DRB Action	Proposed Conditions	Comments
The applicant is seeking two primary variances from the Zoning Ordinance: 1. Variance from Section 33.3 to allow for a sign with a base less than one-third (1/3) the width of the sign face. 2. Variance from Section 33.22.C to reduce the required ten (10) foot minimum sign setback from the right-of-way to 0 feet. 3. Variance from Section 33.26.H.1.b to allow for a second freestanding sign where only one is allowed on a property with more than 500 linear feet and up to 1,000 linear feet of frontage.	The Design Review Board recommended APPROVAL.	1. The sign shall be consistent with the design drawings received on April 16, 2009 by the City and the letter from Kristen A. Ware dated April 30, 2009. 2. Allow the identification sign setback from the right-of-way to be reduced to zero (0) feet.	No Comments.

BOARD OF APPEALS

V09-014

1600 Dunwoody Club Drive
Old Cobblestone Homeowners
Association



Variance Petition No. V09-014

HEARING & MEETING DATES

Board of Appeals Hearing

June 11, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Dunwoody Country Club	Old Cobblestone Homeowners Association	Kathryn M. Zickert

PROPERTY INFORMATION

Address, Land Lot, and District.	1600 Dunwoody Club Drive Land Lots 339, 341, 342, & 352, District 6
----------------------------------	--

Council District	1
------------------	---

Frontage and Area	The subject property has approximately 4,517.23 feet of frontage along the north side of Dunwoody Club Drive, approximately 1,458.53 feet of frontage along the east side of Ball Mill Road, and approximately 1,317.61 feet along the west side of Jett Ferry Road. The property has a total area of approximately 200.48 acres.
-------------------	---

Existing Zoning and Use	AG-1 (Agricultural District). The property is currently developed with a country club and golf course.
-------------------------	--

Overlay District	N/A
------------------	-----

2027 Comprehensive Plan Future Land Use Map Designation	PR (Private Recreational)
---	---------------------------

INTENT

The petitioner is seeking a secondary variance to appeal the Department of Community Development Director's determination that the golf course netting located on the top of fencing is not part of the fence and as such does not have to meet the fence/wall standards of the Zoning Ordinance and it does not require to be permitted.

Parcel Map

1600 Dunwoody Club Drive



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

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

CASE NUMBER: V09-014

STAFF CONTACT: Cesar Geraldo, Zoning Administrator
cesar.geraldo@sandyspringsga.org

BACKGROUND:

This petition involves the Dunwoody Country Club located at the north side of the Dunwoody Club Drive and the golf course netting installed on the top of its fencing.

Summary:

- 1) On or about mid February 2009, the Dunwoody Country Club installed a golf course net 100 feet in height along the edge of the driving range.
- 2) On or about the beginning of March 2009, the Old Cobblestone Homeowners Association sought a determination from the Department of Community Development of whether the installed golf course net was allowed.
- 3) City's Staff analyzed the installed net and responded with a letter of determination dated March 6, 2009. The letter states that the City's determination is that the golf course netting is not a part of the fence; therefore, it does not have to meet the Zoning Ordinance fence/wall standards nor it is required to be permitted.
- 4) The Old Cobblestone Homeowners Association filed this appeal to the City's determination in a letter dated April 3, 2009.

APPEAL:

The applicant indicates the following basis for the appeal to the Department of Community Development. In letter dated April 3, 2009 the applicant indicates that:

1. In February 2009, the Dunwoody Country Club installed a golf course net along the driving range one hundred (100) feet in height. The new net replaced an existing 65 foot tall net. The new net dwarfs over the surrounding trees, creating an unsightly appearance for neighboring properties.
2. The zoning district of the subject property is AG-1 (Agricultural), which does not allow either a country club or golf course. The golf course predates the Sandy Springs Zoning Ordinance, so it is classified as a non-conforming use. The Zoning Ordinance prohibits any nonconforming use of land from being enlarged, increased or extended. Increasing the height of the golf net and its supporting poles was a violation of the Zoning Ordinance because of its status as nonconforming structure.
3. Pursuant to the Zoning Ordinance Section 4.2.1.A, the golf course net is a prohibited structure because the ordinance does not expressly allow such structure especially at its current height.
4. The Sandy Springs Zoning Ordinance lacks any clear and articulable standards for allowing the golf course net at the current height and is thus void for vagueness.
5. The applicant requests that the Board of Appeals reverses the initial determination of the Department of Community Development and finds that golf course net is not allowed pursuant to the Sandy Springs Zoning Ordinance.

BASIS FOR DEPARTMENT OF COMMUNITY DEVELOPMENT'S DETERMINATION:

The Department of Community Development, in a letter dated March 6, 2009, determined that the golf course netting located on top of fencing is not part of the fence and as such does not have to meet the fence/wall standards outlined in the City's Zoning Ordinance. Based on this determination, the golf course netting does not require a permit. The Zoning Ordinance of the City of Sandy Springs allows Golf Courses in all zoning districts under Section 19.3.4 Golf Course Administrative Permit. The issue of non-conformity would only apply to those specific requirements set forth in Section 19.3.4. Rules regarding perimeter netting of a golf course are not regulated under the aforementioned Section.

CONCLUSION AND REQUESTED ACTION:

Staff respectfully requests the Board of Appeals to uphold the determination made by the Director of the Department of Community Development, thereby affirming that the golf course netting is not a part of the fence and as such does not have to meet the fence/wall standards outlined in the Sandy Springs Zoning Ordinance. Therefore, the golf course netting is not required to be permitted.

ATTACHMENTS: Letter of appeal, letter of determination, Zoning Ordinance Section 19.3.4 Golf Course Administrative Permit.

RECEIVED

APR 03 2009

City of Sandy Springs
Community Development

LETTER OF APPEAL
AND WRITTEN JUSTIFICATION

V09 014

for the

Secondary Variance Application

of

Old Cobblestone Homeowners Association

for

the Interpretation of the Legality of the Golf Course Net Installed
at Dunwoody Country Club
at 1600 Dunwoody Club Drive

Submitted for Applicant by:

Kathryn M. Zickert
Davené D. Walker
Smith, Gambrell & Russell, LLP
Promenade II Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

I. INTRODUCTION

This Application seeks reconsideration of the opinion of the Director of Community Development that the golf course net recently installed by Dunwoody Country Club is legal and permissible pursuant to the Sandy Springs Zoning Ordinance.

II. HISTORY

The Dunwoody Country Club is located at 1600 Dunwoody Club Drive (the "Subject Property"). Dunwoody Country Club first began to operate a golf course around 1969. During the 1980s, they installed a golf course net of 65' in height, presumably to prevent errant golf balls from escaping the driving range on to an adjacent hole. The original golf course net was about the same height as many of the trees that surrounded the net. However, in February 2009, the Dunwoody Country Club installed a new golf course net of 100' in height along the edge of the driving range. This new net dwarfs the surrounding trees and creates an unsightly appearance for the neighboring property owners in this community as well as a number of others. It will also significantly impact the property values. As a result, the Declarants, for the Old Cobblestone Homeowners Association (the "Applicant") sought a determination of whether the increased-height golf course net was allowed.

III. ANALYSIS

Under the Sandy Springs Zoning Ordinance, the Dunwoody Country Club is zoned AG-1 (Agricultural), which does not allow either a country club or a golf course. The permitted uses under AG-1 include single family dwellings; agricultural, general and specialized farming; roadside stands for the sale of agricultural products produced on the property; riding stables; kennels; and veterinary hospitals or clinics. However, the golf course predates the Sandy Springs Zoning Ordinance, so it is classified as a non-conforming use under Section 4.3.1. A

non-conforming use is a use that was lawful before the Ordinance was adopted or amended but which would be prohibited, regulated or restricted under the terms of the existing Ordinance. The Ordinance prohibits any nonconforming use of land from being enlarged, increased or extended. The golf course net fits the definition of a nonconforming structure, which cannot be enlarged or altered in any way which increases its nonconformity. By increasing the height of the golf net and its supporting poles, Dunwoody Country Club enlarged and increased its nonconformity in violation of the Ordinance.

Furthermore, the Sandy Springs Zoning Ordinance does not expressly allow develop of a structure such as the golf course net. Pursuant to the Sandy Springs Zoning Ordinance, if a use is not expressly permitted in a district, then it is prohibited in that district. Section 4.2.1(A). Since a golf course net or anything similar is not permitted in the AG-1 zoning district, the installation of the new net should be prohibited, especially at its current height.

IV. CONSTITUTIONAL OBJECTIONS

The Applicant respectfully submits that the Zoning Ordinance of Sandy Springs, Georgia, as amended from time to time and known as the "Sandy Springs Zoning Ordinance," is expressly intended to prevent unpermitted uses such as that described above. Further, to deny the Secondary Variance Appeal in this instance would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to grant the requested Secondary Variance Appeal would discriminate unfairly between this Subject Property and others similarly situated, in violation of the Fifth Amendment

and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

Further, the Applicant respectfully submits that the Sandy Springs Zoning Ordinance lacks any clear and articulable standards for allowing such a structure at the current height as the golf course net and is thus void for vagueness.

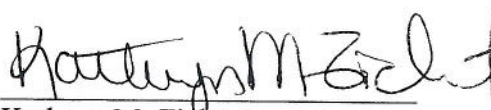
The Applicant respectfully reserves the right to amend this Letter if and when additional information is received which pertains to this variance application.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Board of Zoning Appeals reverse the initial determination and find that golf course net is not allowed pursuant to the Sandy Springs Zoning Ordinance.

This 3rd day of April, 2009.

Respectfully submitted,



Kathryn M. Zickert
Davené D. Walker
Attorneys for Applicant

Smith, Gambrell & Russell, LLP
Promenade II Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

RECEIVED
APR 14 2009
City of Sandy Springs
Community Development



March 6, 2009

Bill Grant
Bill Grant Homes
1711-A Mt. Vernon Road
Dunwoody, GA 30338

Subject: Letter of Determination – Dunwoody Country Club of Atlanta, 1600 Dunwoody Club Drive, Sandy Springs, Georgia 30350

Dear Mr. Grant:

This letter is in response to your request for a determination on the golf course netting located on the top of fencing at the above referenced address.

It has been determined that the golf course netting is not a part of the fence and as such does not have to meet the fence/wall standards outlined in the Sandy Springs Zoning Ordinance. Additionally, based on this determination, the golf course netting is not required to be permitted.

Should you desire to appeal this determination, a Secondary Variance may be filed with the City within 30 days of the date of this letter to appeal this determination to the Board of Zoning Appeals. Any application for Secondary Variance must be filed on or before April 6, 2009.

If you have any questions, please contact me or Patrice Ruffin, Assistant Director of Planning and Zoning, at (770) 730-5600.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. Leathers", is written over a horizontal line.

Nancy J. Leathers, AICP
Director of Community Development

NJL/pr

X:\CommunityDevelopment\Planning & Zoning\Letters\Letter of Determination - Dunwoody Country Club 03.06.09.docx

CITY OF SANDY SPRINGS ZONING ORDINANCE

2. Permitted curb cut access shall not be from a local street.
3. Outdoor facilities within 200 feet of any residential district or dwelling shall limit the hours of operation from 8:00 a.m. to 11:00 p.m.
4. Outdoor recreational facilities shall be set back a minimum of 100 feet from all property lines of any residential district and/or AG-1 district used for single family, except as otherwise permitted with an Administrative Permit for Recreational Court or Swimming Pool.

19.3.3. OPEN (Festivals or Events, Occasional, Outdoor/Indoor deleted 10/16/07, RZ07-033, Ord. 2007-10-61)

19.3.4. GOLF COURSE

A. Required Districts: All

B. Standards:

1. A minimum 100-foot setback for all buildings and parking areas shall be provided adjacent to any residential district and/or AG-1 district used for single family.
2. Driving range, tees, greens and fairways shall be required to have a 100-foot setback from minor, arterial, and major collector roads.
3. Permitted curb cut access shall be from a major thoroughfare unless shown on the approved preliminary plat of a single family subdivision.
4. When located outside a golf course/subdivision development, a minimum 50-foot wide buffer and a 10-foot improvement setback shall be provided adjacent to all buildings and parking areas when said facilities are located adjacent to any residential district and/or AG-1 district used for single family.
5. A minimum 25-foot buffer and a 10-foot improvement setback shall be provided adjoining any residential district and/or AG-1 district used for single family located outside the golf course development or any associated development.

6. When located adjacent to any residential district and/or AG-1 district used for single family, the hours of operation shall be limited to 8:00 a.m. to 11:00 p.m..

19.3.5. GUEST HOUSE

A. Required Districts: Suburban A, Suburban B, Suburban C, R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1, O-1 and MIX when Accessory to a Single Family Dwelling

B. Standards:

1. No more than one guest house structure per lot may be used for occupancy by relatives, guest(s) or employees that work on the property without payment for rent.
2. A separate kitchen facility shall be allowed.
3. Heated floor area shall be a minimum of 650 square feet and a maximum of 1500 square feet.
4. Principal building setbacks shall apply.
5. The location shall be limited to the rear yard.

19.3.5(1) OPEN

(Kennels deleted, See 19.3.19 Veterinary Clinic Or Hospital and 19.4.24 Outside Animal Facilities or Kennel)

19.3.6. MOBILE HOME - WHILE RESIDENCE IS BEING BUILT

A. Required Districts: Suburban A, Suburban B, Suburban C, R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1, O-1 and MIX

B. Standards:

1. The building permit for the principal structure must have been issued and remain valid during the period that the mobile home is on the property.
2. The mobile home must be located on the same parcel as the principal structure being constructed and comply with all district