



Variance Petition No. 201500032

HEARING & MEETING DATES

Board of Appeals Hearing
March 12, 2015 (Deferred)
April 9, 2015 (Meeting Cancelled)
May 14, 2015 (Deferred)
June 11, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Roswell Road Redevelopment Partners, LLC	Woody King	Woody King

PROPERTY INFORMATION

Address, Land Lot(s), and District	4995 and 4985 Rebel Trail Land Lot 163, 17 th District
Council District	6 (Andy Bauman)
Frontage	Approximately 199.79 feet of frontage along Rebel Trail.
Area	Approximately 3.225 acres (140,481 square feet)
Existing Zoning	R-2 (Single Family Dwelling District)
Existing Use	Vacant
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	Residential, 0 to 1 units per acre (R0-1)
INTENT	

The applicant is proposing to build a driveway to allow access unto the property. The applicant is requesting one (1) primary variance(s) from the Zoning Ordinance:

1. One (1) primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback to allow a driveway.

The driveway crosses two parcels. The applicant is the authorized agent for both parcel owners.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201500032 – 1) DEFERRAL

APPLICANT HAS REQUESTED DEFERRAL TO PROVIDE MORE INFORMATION.

VARIANCE #1

One (1) primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback to allow a driveway.

Standards for Consideration

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	0 sf	1,062 sf	1,062 sf
25' – 50' City Stream Buffer	150 sf	728 sf	578 sf
50' – 75' Impervious Surface Setback	0 sf	2,119 sf	2,119 sf *
Total Impervious Surface encroaching in Stream Buffer	150 sf	3,909 sf	3,759 sf

*net change on the site plan is listed as “2,828”, this is typographical error and it should be “2,119.”

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

Sec. 109-225. Land development requirements.

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

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

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

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes that the stream buffers cover approximately three-fourths of the subject property. Additionally, the topography slopes towards the middle of the property. In order to build a home on the property, a driveway has to be built first. The proposed driveway is within all three of the applicable stream buffer however, Section 109-222(c)(1)a. exempts a stream crossing by a driveway, transportation route or utility line. Therefore a perpendicular crossing to access the property onto the 50' Undisturbed Buffer and the 25' State Waters Buffer is permissible. The portion of the driveway that is not a part of the crossing requires a variance. Based on these reasons, staff is of the opinion that land development would be prevented unless a variance is granted and that 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:

Due to the location of the stream, approximately three-fourths of the subject property has been covered by the stream buffers, leaving the only buildable area to the northeast of the lot. In order for the applicant to access the property an encroachment into the stream buffers is necessary. Based on these reasons, staff is of the opinion that 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 rectangular in shape and slopes from northeast to southwest. Three-fourths of the subject property is located within the stream buffers, which restricts the buildable area of the lot to the eastern side of the property. When the stream buffers are combined with the topographical challenges on the site the location of the deck is severely limited. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

The locations of all streams and property boundaries are shown on the attached site plans. Staff is of the opinion this condition has been satisfied.

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

Findings:

The location and extent of the stream buffer intrusions are identified on the attached site plan and are included in the table above. Staff is of the opinion this condition has been satisfied.

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

Findings:

Alternative designs have not been discussed with staff. There are limited options to access the property. 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 Practices (BMPs) during the construction of the driveway. 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:

The proposed location of the driveway eliminates any encroachment into the twenty-five (25) foot state buffer and the impervious surface in the fifty (50) foot undisturbed buffer. The only portion requiring a variance is within the 75' City of Sandy Springs Buffer. Staff is of the opinion that issuance of the variance is as protective of the natural resources and environment as the existing site conditions.

Department Comments

Focus Meeting held on Wednesday, February 4, 2015, no comments from the following departments: Building and Permitting, Fire, Code Enforcement, Site Development, and Transportation. Arborist made the following comments:

Arborist	• An impervious surface be used. • Replanting of the buffer where sparsely vegetated.
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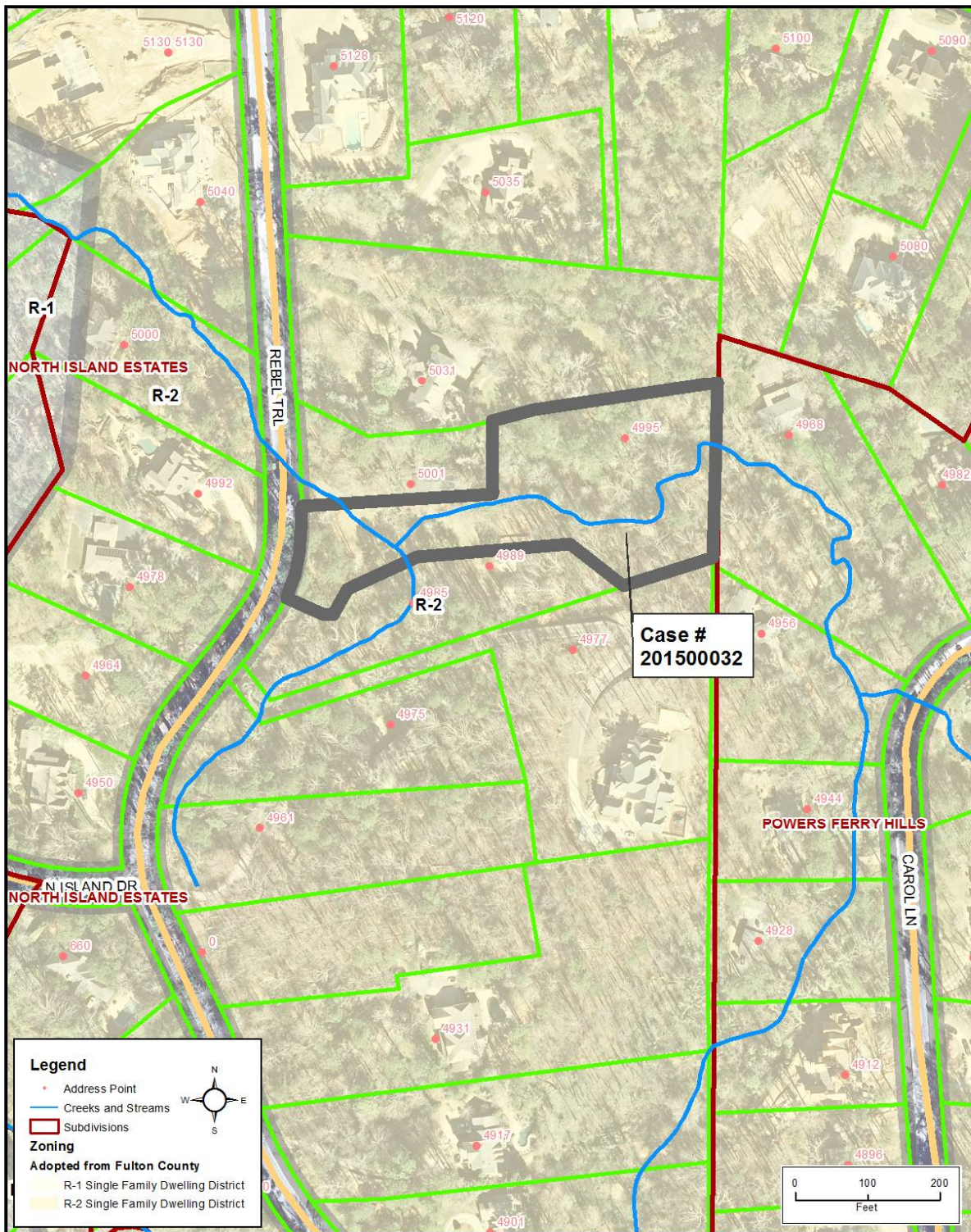
Additional Information

Three letters of opposition was received dated March 13, 2015 and April 27, 2015.

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Please note creation of a new lot with limited buildable areas does not constitute a hardship for any future variance applications to increase the buildable area of the lot. Based upon this review, staff recommends **DEFERRAL** of the variance requests to build a driveway to access the property.

4995 Rebel Trail





Variance Petition No. 201500717

HEARING & MEETING DATES

Board of Appeals Hearing

May 14, 2015 – Deferral

June 11, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner

DDR

Petitioner

Linda Mackay

Representative

Linda Mackay

PROPERTY INFORMATION

**Address, Land Lot(s),
and District** 1155 Mount Vernon Highway
Land Lot 19, 17th District

Council District 5

Frontage Approximately 1,000 feet of frontage along the southeast side of Mt. Vernon Highway and 620 feet along the northeast side of Perimeter Center West.

Area Approximately 30.41 acres

Existing Zoning C-1 (Community Business District) pursuant to Sandy Springs rezoning case RZ09-006/CV09-015.

Existing Use Shopping center

Overlay District Perimeter Community Improvement Design District

**2027 Comprehensive
Future Land Use Map
Designation** Living-Working Regional (LWR), Node 6: PCID (Perimeter Community Improvement District – Live Work Regional only)

REQUEST

The applicant is proposing to allow a tent and sign in association with roadside vending. The applicant is requesting two (2) primary variance(s) from the Zoning Ordinance:

1. Variance from Section 19.3.14.1.B.11 of the Zoning Ordinance to allow tents and tarps.
2. Variance from Section 19.3.14.1.B.12 of the Zoning Ordinance to allow signs advertising the vending operation.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201500717 – 1) APPROVAL CONDITIONAL

201500717 – 2) APPROVAL CONDITIONAL

Standards for Consideration

VARIANCE #1

Variance from Section 19.3.14.1.B.11 of the Zoning Ordinance to allow tents and tarps

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:

Previously there was a section in the Zoning Ordinance that allowed the use of tents in the seasonal sale of items related to calendar holidays. When the text was taken out of the Zoning Ordinance permits were still issued to seasonal businesses who had tents as a part of their display. The intent of the ordinance is to prevent the long-term sale of crafts, clothing, etc. from temporary structures in residential neighborhoods. The intent of the ordinance is not to prohibit the use of tents in the seasonal sale of items such as, Christmas trees, Halloween pumpkins, fireworks, etc. The proposed display would not be obtrusive to any residential neighborhoods and would be located at the edge of a parking lot in a commercial shopping center, along Mount Vernon Highway. Based on these considerations, staff is of the opinion that this condition has been satisfied.

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

Not applicable.

VARIANCE #2

Variance from Section 19.3.14.1.B.12 of the Zoning Ordinance to allow signs advertising the vending operation.

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:

The intent of the ordinance is to prevent the cluttering of sites with signage. The proposed display would be limited to the maximum allowances for banners placed on commercial property. Based on these considerations, staff is of the opinion that this condition has been satisfied.

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

Not applicable.

Department Comments

Focus Meeting held on Wednesday April 1, 2015, no comments from the following departments: Building and Permitting, Fire, Code Enforcement, Site Development, Arborist, or Transportation.

Additional Items

One letter of opposition was received dated April 30, 2015.

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request to allow tents and tarps in association with roadside vending and **APPROVAL CONDITIONAL** of the variance request to allow signs advertising the vending operation.

Recommended Condition(s)

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

- 1) To allow one (1) 40x60 tent for a period of eleven (11) days commencing on June 25, 2015 and expiring on July 5, 2015, as shown on the site plan dated received February 27, 2015 by the Department of Community Development.
- 2) To allow one (1) thirty-two (32) square foot sign advertising the vending operation, for a period of eleven (11) days commencing on June 25, 2015 and expiring on July 5, 2015, as shown on the site plan dated received February 27, 2015 by the Department of Community Development.

1155 Mount Vernon Highway NE





**Planning & Zoning Staff Report
Variance Petition No. 201501102**

HEARING & MEETING DATES

Board of Appeals Hearing

June 11, 2015 (Deferred)

July 9, 2015 (Deferred)

August 13, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner

Joseph Glaza

Petitioner

Joseph Glaza

Representative

Joseph Glaza

PROPERTY INFORMATION

Address, Land Lot(s), and District 282 Underwood Drive, Lot 13
Land Lot 125, 17th District

Council District 3 (Graham McDonald)

Frontage Approximately 148.05 feet of frontage along Underwood Drive

Area Approximately 0.492 acres (21,456.31 square feet)

Existing Zoning R-3 (Single Family Dwelling District)

Existing Use Single family residence

Overlay District N/A

2027 Comprehensive

Future Land Use Map Designation Residential, 1 to 2 units per acre (R1-2)

REQUEST

The applicant is proposing to construct a stand-alone garage structure on the eastern portion of their property. A stream is located on the property running between the proposed garage site and driveway, and the house (see site plan). An existing bridge crosses the stream from the existing entrance drive to provide access to the house and the existing garage within the residential structure.

At the Board of Appeals' meeting held on June 11, 2015, the applicant's request was deferred to allow the applicant time to meet with staff to determine if there was a less intrusive location for the proposed garage.

While the Applicant provided alternatives to staff via email, he did not request a meeting with staff for review of a final site design prior to the submittal deadline of July 1, 2015 deadline. Such a plan was to be submitted for staff review for inclusion within the staff report to the BOA on Monday, July 6, 2015 (the week of the hearing). When asked about the public notice sign on the applicant's property, the applicant responded by email saying that the sign was recycled as he was thinking it wasn't needed after the last hearing. Due to improper notice the applicant's request was again deferred. A new sign was then properly posted on the property. Since then, the applicant has submitted a final proposal to be reviewed by staff and BOA.

Since the meeting held on June 11, 2015, the applicant has replaced the existing garage door in the residence with new pedestrian entrance doors converting it from a garage use to living space. This and some other renovations were made that were not part of the building permit obtained from the City (building permit #201500879) (see attachments). A stop work order and a citation was issued by Code Enforcement. The applicant is requesting two (2) primary variance(s):

1. One (1) primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer to construct a garage.
2. One (1) primary variance from Section 6.4.3(C) of the Zoning Ordinance to encroach into the minimum side yard to construct a garage. (No Longer)

The new proposal dated received on June 29, 2015 only requires a variance from the Stream Buffer Protection Ordinance.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**201501102 – 1) APPROVAL CONDITONAL
2) NO LONGER**

Standards for Consideration

VARIANCE #1

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	1,102 sf	918 sf	-184 sf
25' – 50' City Stream Buffer	3,005 sf	3,227 sf	222 sf
50' – 75' Impervious Surface Setback	902 sf	902 sf	0 sf
Total Impervious Surface encroaching in Stream Buffer	5,009 sf	5,047 sf	38 sf

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

Sec. 109-225. Land development requirements.

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

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

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

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes that the stream buffers cover approximately three-fourths of the subject property. Additionally, the creek is located near the center of the property. The home that exists on the lot is within the seventy-five (75) foot Impervious Surface Setback, the fifty (50) foot City Stream Buffer, and the twenty-five (25) State Stream Buffer. The house is designed with a one car garage which was converted without proper permitting from the City. The existing garage along with the parking area which is part of the existing paved driveway provided the parking required under the City's zoning ordinance. The proposed garage is designed to be within the fifty (50) foot City Stream Buffer. Based on these reasons, staff is of the opinion that **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:

Due to the location of the stream, approximately three-fourths of the subject property has been covered by the stream buffers along with a twenty (20) foot Sanitary Sewer Easement and a twenty-two (22) foot drainage easement, leaving the applicant minimal buildable area available. The applicant desires to build additional garage apace. Based on these reasons, staff is of the opinion that **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 square in shape and slopes towards the center of the property where the creek is located. Majority of the subject property is located within the stream buffers and has both a sanitary sewer easement and drainage easement, which restricts the buildable area. Staff is of the opinion that **the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.**

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

Finding:

The locations of all streams and property boundaries are shown on the attached site plans. Staff is of the opinion **this condition has been satisfied.**

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

Findings:

The location and extent of the stream buffer intrusions are identified on the attached site plan and are included in the table above. Staff is of the opinion **this condition has been satisfied.**

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

Findings:

Alternative designs have been discussed with staff. Due to the stream buffers, the sanitary sewer easement, and the drainage easement, any option would require a variance. The revised proposal reduces the design to a one-car garage structure which is partially built on the existing driveway pavement and the remaining portion of the footprint is away from the stream. The Applicant is proposing removal of approximately 245 square feet of paved patio area, most of which is in the 25' setback area as partial remediation and the installation of a 10' x 10' rain garden or other approved retention systems to catch runoff from the proposed structure. Driveway modification and additions as shown on the site plan are to be pervious surface. Therefore, based upon the revised site plan, 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 proposed garage would increase the volume of runoff into the creek. Construction would occur in the 50 (fifty) foot City Stream Buffer and would disturb the vegetation/soil. The applicant has proposed to install a rain garden or a water retention system that is approved by the City. Staff is of the opinion **this condition has been satisfied.**

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

Findings:

The proposed garage would increase the volume of runoff into the creek. Construction would occur in the 50 (fifty) foot City Stream Buffer and would disturb the vegetation/soil. *The applicant has proposed to install a rain garden or a water retention system that is approved by the City.* Any work within the 25' state setback, will require approval or waiver from the State of Georgia EPD, specifically the removal of the impervious deck area. Staff is of the opinion that **issuance of the variance is as protective of the natural resources and environment as the existing site conditions.**

VARIANCE #2 (NOT NEEDED PER PROPOSAL AND SITE PLAN DATED RECEIVED JUNE 29, 2015)

Department Comments

Focus Meeting held on Wednesday, May 6, 2015, no comments from the following departments: Fire, Code Enforcement, Site Development, Transportation Building & Permitting, and Arborist.

Additional Items

Two letters of opposition for this variance request were received dated received June 26, 2015 prior to the revised submittal for the August 13, 2015 meeting.

Conclusion

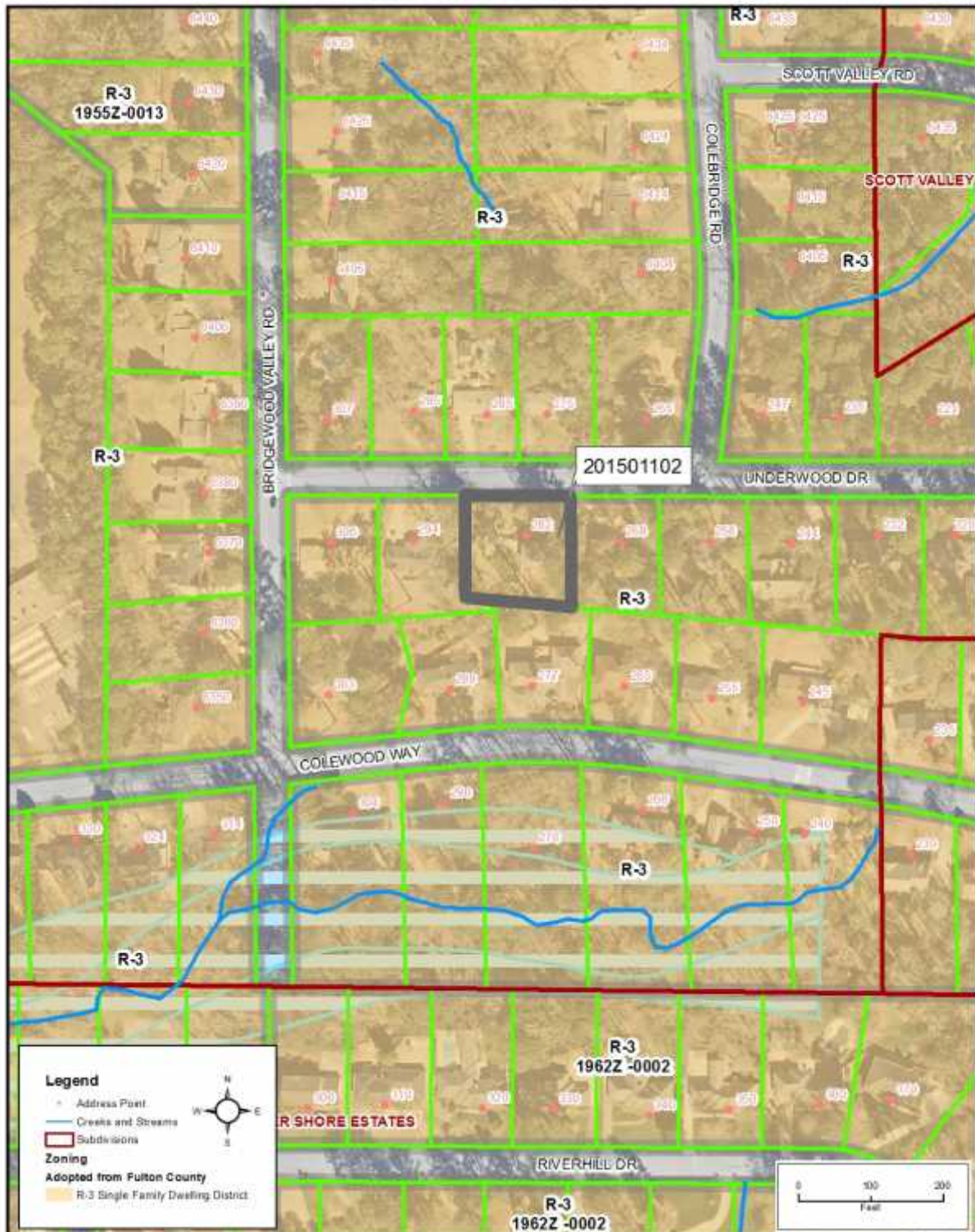
Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request, Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the fifty (50) foot undisturbed buffer, to construct a garage.

Recommended Condition(s)

Should the Board of Appeals choose to approve the request in its entirety, staff recommends the following conditions:

1. To construct a fourteen (14) foot by twenty-six (26) foot maximum one-car garage in the fifty (50) foot undisturbed buffer, as shown on the site plan dated received June 29, 2015 by the Department of Community Development.
2. To install a ten (10) foot by ten (10) foot rain garden or other water retention system approved by the City Staff, as shown on the site plan dated received June 29, 2015 by the Department of Community Development.
3. To remove L-shaped portion of the tile pad, approximately 245 square feet, and convert to landscaped area, as shown on the site plan dated received June 29, 2015 by the Department of Community Development.

282 Underwood Drive





Variance Petition No. 201501112

HEARING & MEETING DATES

Board of Appeals Hearing
June 11, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Brian & Tanya Early	Brian & Tanya Early	Brian & Tanya Early

PROPERTY INFORMATION

Address, Land Lot(s), and District	6239 Mountain Brook Way Land Lot 167, 17 th District
Council District	3 (Graham McDonald)
Frontage	Approximately 123.81 feet of frontage along Mountain Brook Way
Area	Approximately 0.619834 acres (26,999.96904 square feet)
Existing Zoning	R-2A (Single Family Dwelling District) pursuant to Fulton County zoning case Z62-0086.
Existing Use	Single family residence
Overlay District	N/A

**2027 Comprehensive
Future Land Use Map
Designation**

Residential, 1 to 2 units per acre (R1-2)

REQUEST

The applicant has an existing batting cage in their minimum side and rear yard and a shed in their rear minimum yard. The applicant is seeking conformance. The applicant is requesting two (2) primary variance(s) from the Zoning Ordinance:

1. One (1) primary variance from Section 6.3.3.(C) and Section 6.3.3. (D) of the Zoning Ordinance to encroach into the minimum side and rear yard setbacks to allow a batting cage.
2. One (1) primary variance from Section 6.3.3(D) to encroach into the minimum rear yard to build a shed.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**201501112 – 1) DENIAL
2) DENIAL**

Standards for Consideration

VARIANCE #1

Primary variance from Section 6.3.3.(C) and Section 6.3.3. (D) of the Zoning Ordinance to encroach into the minimum side and rear yard setbacks to allow a batting cage.

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:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. The applicant indicated the existing batting cage is sixty (60) feet by fourteen (14) feet by twelve (12) feet. A minor portion of the batting cage is located inside the buildable area within the rear yard while the remaining portion of the batting cage is outside of the non-buildable area, less than five (5) feet from the rear property line. The applicant did not provide a site plan showing topography, instead pictures were submitted to depict topography issues. There is a slope, but the yard is terraced. Both pictures and site plan show that the batting cage can either be reduced in size or move to another location. There are locations on the site within the building envelope where the batting cage could be located. Based on these considerations, staff is of the opinion that **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,

The property's shape, topography, and physical conditions existed after the adoption of the ordinance. After reviewing the survey and visiting the property, staff believes the above conditions of the property do not significantly limit the buildable area for batting cage and therefore do not create a hardship. Based on these considerations, staff is of the opinion that **this condition has not been satisfied.**

VARIANCE #2

One (1) primary variance from Section 6.3.3(D) to encroach into the minimum rear yard to build a shed.

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:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. The applicant indicated the existing shed has been in its location for well over a year with no concern and has come forth due to receiving a complaint. The shed is located entirely outside of the buildable, also less than five (5) feet from the rear property line. The applicant did not provide a site plan showing topography, instead pictures were submitted to depict topography issues. Both pictures and site plan show that the shed be located elsewhere on the property. Based on these considerations, staff is of the opinion that 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,

The property's shape, topography, and physical conditions existed after the adoption of the ordinance. After reviewing the survey and visiting the property, staff believes the above conditions of the property do not significantly limit the buildable area for the shed and therefore do not create a hardship. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

Department Comments

Focus Meeting held on Wednesday, May 6, 2015, no comments from the following departments: Building and Permitting, Fire, Code Enforcement, Site Development, Arborist, and Transportation.

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **DENIAL** of the both variance requests to for a batting cage and a shed.

Additional Items

Four letters of support from the surrounding neighbors were received dated April 2, 2015.

6239 Mountain Brook Way





Variance Petition No. 201501132

HEARING & MEETING DATES

Planning Commission Hearing
May 21, 2015

Board of Appeals Hearing
June 11, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
ABC Associated Builders and Contractors of Georgia, Inc.	ABC Associated Builders and Contractors of Georgia, Inc.	Bill Anderson

PROPERTY INFORMATION

Address, Land Lot(s), and District	8975 Roswell Road (SR 9) Land Lot 367, District 6
Council District	1
Frontage	Approximately 200 feet of frontage along the easterly side of Roswell Road (SR 9) and 293.30 feet along the northerly side of North River Parkway.
Area	The subject property has a total area of 1.4163 acres (61,695.0 square feet).
Existing Zoning and Use	C-1 (Community Business District) conditional under Fulton County zoning case 1971Z-002, currently developed with an office building.
Overlay District	Suburban Overlay District
2027 Comprehensive Plan Future Land Use Map Designation	Commercial
INTENT	

The applicant is seeking a primary variance from Section 33.22.C of the Sandy Springs Zoning Ordinance to reduce the sign setback from the right of way from ten (10) feet to Zero (0) along the Roswell Road frontage:

PLANNING COMMISSION RECOMMENDATION

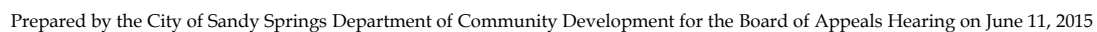
Recommended Approval (5-0, Porter, Tart, Frostbaum, Squire and Maziar for; Nickles absent; Duncan not voting) of Variance from the Zoning Ordinance as follows:

1. From Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to zero (0) feet along the Roswell Road frontage with Staff condition.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION 201501132- 1) APPROVAL CONDITIONAL

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on June 11, 2015

8975 Roswell Road (SR9)



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

CASE NUMBER: 201501132

STAFF CONTACT: Cristina Nelson, Senior Planner 770-206-1516
E-mail: cnelson@sandyspringsga.gov

Staff Analysis:

The subject site is located at 8975 Roswell Road (SR 9) at the intersection of Roswell Road (SR 9) and North River Parkway. The property is zoned C-1 (Community Business District) Conditional pursuant to Fulton County zoning case 1971Z-002. It is currently developed with a two story brick building. Additionally, this project is located within the Suburban District of the Sandy Springs Overlay.

Because this property is located at the intersection of Roswell Road and North River Parkway, it is allowed to have wall signs on two (2) frontages, south and west in addition to have two ID Monument signs. The applicant instead wants to place two signs only as follows: one ID monument along Roswell Road adjacent to the street right of way and one wall sign on the south elevation of the building facing the North River Parkway. Both signs are allowed under the present zoning regulations.

The applicant is seeking a primary variance from Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to zero (0) feet along the Roswell Road frontage.

The Sandy Springs Zoning Ordinance provides:

Section 33.22.C. Setback.

Unless a more restrictive setback is specified in conditions of zoning or otherwise in this Article, all signs shall set back at least ten (10) from the right-of-way or twenty (20) feet from the edge of pavement if a private street and no sign shall project over the right-of-way. However, the Director is authorized by this Zoning Ordinance to consider an administrative variance to the sign setback requirements subject to the limitations of Section 12, Variance, subsection d. Standards, of this ordinance. In the Overlay Main Street District all signs shall set back at least three (3) feet from the right-of way. Temporary banners shall be exempt from the setback requirements, but shall not encroach upon the right-of-way.

The applicant explains:

"This sign will help visitors more easily locate our building, especially traveling south on Roswell Road, and provide overall greater visibility for our building.

However, the right of way in front of our building is approximately 31 feet from the edge of pavement on Roswell Road. The additional 10 feet setback requirement for a sign in the City's Ordinance, Section 33.22C would make our sign at least 41 feet back from the edge of pavement."

The ID monument sign is to meet the requirements of the zoning ordinance on size and height.

History

No Code Enforcement issues have been reported.

Standards for Consideration

Zoning Ordinance

1. Variance from Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to zero (0) feet along the Roswell Road frontage.

Section 33.12.D. Standards

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 site layout, does not present topographical challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has not 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.*

Findings:

ABC (Associated Builders and Contractors of Georgia, Inc.) prefers to have the sign at the right of way line, which is already set back approximately 35 feet behind the roadway curb. The applicant states that the normal ten (10) feet set-back for the sign would put it about 41 feet from the curb which would severely block visibility due to the vegetation of the lot. Staff found that the natural features of the lot present challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has been satisfied.

Department Comments

The staff held a Focus Meeting on May 6, 2015 at which time 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

Recommendation

Staff explains: the Sandy Springs overlay provides for businesses to have signs on road frontages. This business has the opportunity to display four signs: two ID monument monuments one per road frontage and two wall signs, on the west and south elevations of the building. The applicant has selected to display two signs instead. One ID monument along Roswell Rd frontage and one wall sign on the south elevation of the building.

The applicant has indicated that the purpose for this variance is mainly to provide signage visibility for the business. 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 business and would be in harmony with the intent of the zoning ordinance. The proposed sign location will not have a negative impact on the surroundings instead will provide information to the south bound traffic.

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 **APPROVAL CONDITIONAL** of the variance requests.

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

- 1) To allow an Identification monument sign along Roswell Road property frontage to be located at zero feet off the right-of-way pursuant to the sign location, submitted by the applicant, and dated received April 7, 2015 by the Department of Community Development.

Attachments

Letter of Appeal, Property Survey, Sign Detail and Photographs.



Variance Petition No. 201501162

HEARING & MEETING DATES

Planning Commission Hearing
May 21, 2015

Board of Appeals Hearing
June 11, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
Eric Hald / Celestino Venturi

Petitioner
Bojangle's

Representative
Atlas Sign Industries/
Jennifer Ronneburger

PROPERTY INFORMATION

**Address, Land Lot(s),
and District**
8550 Roswell Road (SR 9)
Land Lot 26, District 17

Council District
2

Frontage
Approximately 148.09 feet of frontage along the westerly side of
Roswell Road (SR 9)

Area
The subject property has a total area of 0.902 acres (39,291.120 square
feet).

**Existing Zoning and
Use**
C-1 (Community Business District) conditional under Fulton County
zoning case 1957Z-043, currently developed with a building.

Overlay District
Suburban Overlay District

**2027 Comprehensive
Plan Future Land Use
Map Designation**
Commercial

INTENT

The applicant is seeking a primary variance from Section 33.22.C of the Sandy Springs Zoning Ordinance to reduce the sign setback from the right of way from ten (10) feet to zero (0) feet along the Roswell Road frontage:

PLANNING COMMISSION RECOMMENDATION

Recommended Approval (5-0, Porter, Tart, Frostbaum, Squire and Maziar for; Nickles absent; Duncan not voting) of Variance from the Zoning Ordinance as follows:

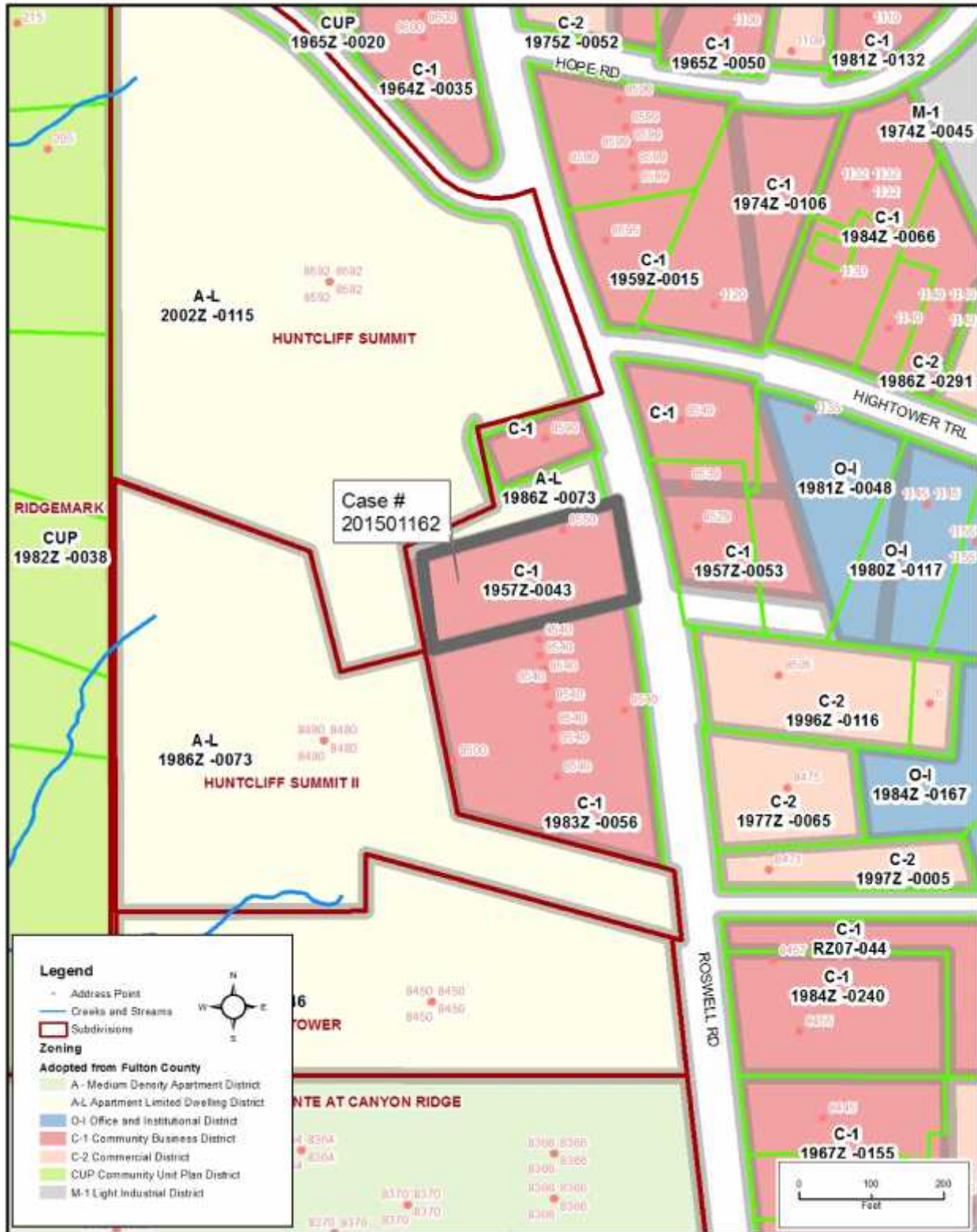
1. From Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to zero (0) feet along the Roswell Road frontage with staff conditions.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201501162- 1) APPROVAL CONDITIONAL

Parcel Map

8550 Roswell Road (SR9)



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on June 11, 2015

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

CASE NUMBER: 201501162

STAFF CONTACT: Cristina Nelson, Senior Planner 770-206-1516
E-mail: cnelson@sandyspringsga.gov

Staff Analysis:

The subject site is located at 8550 Roswell Road (SR 9). The property is zoned C-1 (Community Business District) conditional under Fulton County zoning case 1957Z-043. It is currently developed with a one story building. Additionally, this project is located within the Suburban District of the Sandy Springs Overlay.

The subject of this variance is the new location for Bojangle's. Roswell Road has a right of way of 150 feet along the property frontage which locates it approximately 49 feet from the back of the curb. Adding the 10 foot requirement from the right of way would place the sign 59 feet from back of curb. The applicant wants to place the allowable ID monument along Roswell Road adjacent to the street right of way. To pursue this request it is necessary to obtain the approval through a variance process.

Request 1) The applicant is seeking a primary variance from Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to zero (0) feet along the Roswell Road frontage.

The Sandy Springs Zoning Ordinance provides:

Section 33.22.C. Setback.

Unless a more restrictive setback is specified in conditions of zoning or otherwise in this Article, all signs shall set back at least ten (10) from the right-of-way or twenty (20) feet from the edge of pavement if a private street and no sign shall project over the right-of-way. However, the Director is authorized by this Zoning Ordinance to consider an administrative variance to the sign setback requirements subject to the limitations of Section 12, Variance, subsection d. Standards, of this ordinance. In the Overlay Main Street District all signs shall set back at least three (3) feet from the right-of way. Temporary banners shall be exempt from the setback requirements, but shall not encroach upon the right-of-way.

The applicant explains: "Bojangle's selected this property with the understanding that they would be able to utilize the existing ground sign from the previous tenant which was located in the Georgia Department of Transportation right-of-way.

Upon breaking ground on the lot, the GDOT retracted their statement regarding the allowance of the ground sign to remain inside of their ROW. This requires our client now to be subject to a substantial setback of 40' instead of 10'. Adding the City requirement of an additional 10' brings our sign location back to 50' from Roswell Road.

As depicted in the photographs herein, you will find that conforming to the ten (10) foot setback off the right-of-way would severely increase the restricted visibility of the sign, placing it almost in the front windows of the restaurant. Additionally, the maximum height allowance of only six (6) feet hampers the visibility of the Bojangle's brand to potential customers at this increased setback.

The combination of the GDOT right-of-way, the 10 foot ordinance setback requirement, and the ground sign height requirement will lead to immeasurable impacts to Bojangle's visibility.

Our client sought approval from GDOT prior to entering into the investment on the property, and this retraction of approval, in combination with the above additional requirements will cause severe hardship for Bojangle's therefore causing subsequent impact to revenue generated at this location."

"As such, we are requesting relief from this setback, reducing it to zero to allow us to be closer to the street."

The applicant states "that the proposed sign location would help advertise the restaurant presence to the patrons and better able Bojangle's to continue its business in the community at their new location."

The ID monument sign is to meet the requirements of the zoning district on size and height.

History

No Code Enforcement issues have been reported.

Standards for Consideration

Zoning Ordinance

1. Variance from Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to zero (0) along the Roswell Road frontage.

Section 33.12.D. Standards

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 site layout, does not present topographical challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has not 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.*

Findings:

The applicant (Bojangle's) prefers to have the sign at the right of way line, which is already set back approximately 49 feet behind the roadway curb, according to the survey provided by the applicant. The applicant states that the normal ten (10) foot set-back from the right of way for the sign would put it about 59 feet from the curb which would severely impact visibility. Staff found that the natural features of the lot presents challenges that justify the approval of this variance. Therefore, staff is of the opinion this standard has been satisfied.

Department Comments

The staff held a Focus Meeting on April 6, 2015 at which time 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

Recommendation

The applicant has indicated that the purpose for this variance is mainly to provide signage visibility for the business. 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 Bojangle's and would be in harmony with the intent of the zoning ordinance. The proposed ID monument at the proposed location will not have a negative impact on the surroundings as the sign will be away of the traveling line.

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.

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 **APPROVAL CONDITIONAL** of the variance request.

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

- 1) To allow an Identification monument sign along Roswell Road property frontage to be located at zero (0) foot off the right-of-way pursuant to the sign location, submitted by the applicant, and dated received April 7, 2015 by the Department of Community Development.

Attachments

Letter of Appeal, Property Survey, Sign Detail and Photographs.



Variance Petition No. 201501169

HEARING & MEETING DATES

Board of Appeals Hearing
June 11, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Sharon Smith Frances Hardin Glen Allen	Robert Webb Construction	Robert Webb

PROPERTY INFORMATION

Address, Land Lot(s), and District	0 Mount Vernon Highway, Lot 2 Land Lot 133, 17 th District
Council District	3 (Graham McDonald)
Frontage	Approximately 779.16 feet of frontage along Mount Vernon Highway (entire development)
Area	Approximately 7.92 acres (344,955.2 square feet) (entire development)
Existing Zoning	R-2A (Single Family Dwelling District)
Existing Use	Vacant lot
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	Residential, 0 to 1 units per acre (R0-1)

REQUEST

The applicant is proposing to construct a single family dwelling residence. The applicant is requesting one (1) primary variance(s) from the Zoning Ordinance:

1. One (1) primary variance from Section 6.3.3.(B) of the Zoning Ordinance to reduce the minimum front yard setback from 60' to 40' for construction of a single family house.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201500387 – 1) APPROVAL CONDITIONAL

Standards for Consideration

VARIANCE #1

Primary variance from Section 6.3.3.(B) of the Zoning Ordinance to reduce the minimum front yard setback from 60' to 40' for construction of a single family house.

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;

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. This request to encroach into the minimum front yard to construct a single family dwelling unit is in harmony with the neighborhood due to two previous rezoning petitions of the entire development (Hardin Ridge Subdivision), 201303645 and 201402366. The outcome of the two petitions were the rezoning of the properties from R-1 (Single Family Dwelling District) to R-2A (Single Family Dwelling District) and the reduction of the front yard setback from sixty (60) feet to forty (40) feet for lots 3,4,5, and 6 of the proposed development. The applicant is proposing to reduce the front yard setback of Lot 2 from sixty (60) feet to forty (40) feet consistent with adjacent lots within the development. Based on these considerations, staff is of the opinion that **this condition has been satisfied.**

OR,

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;

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance with changes after the rezoning and permitting. Staff notes that the Lot 2 sits on the corner of the curve of the proposed road, Bass Way. Being that the lot sits on curve where the front yard setback would be located, it creates a hardship by limiting the amount of buildable area allotted. Reducing the front yard setback will allow a single family dwelling unit to be constructed consistent with other homes that are to be constructed. Based on these considerations, staff is of the opinion that **this condition has been satisfied.**

Department Comments

Focus Meeting held on Wednesday, May 6, 2015, no comments from the following departments: Building and Permitting, Fire, Code Enforcement, Site Development, Arborist, and Transportation.

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance requests to construct a single family dwelling residence.

Recommended Condition(s)

Should the Board of Appeals choose to approve the requests, staff recommends the following conditions:

1. To reduce the minimum front yard setback from 60' to 40 for the construction of a single family dwelling residence, as shown on the Proposed Site Plan dated received April 7, 2015 by the Department of Community Development.

Future Hardin Ridge Lot 2

