



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 (Deferred)
July 9, 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 requested a deferral previously to provide more information. The applicant was not in attendance at the Board of Appeals' meeting on June 11, 2015 when the board granted a deferral until the July 9, 2015 meeting. The applicant was contacted via email on June 15, 2015 (see attached email) with details of the board's decision and two unanswered calls were placed. No response from the applicant was received as of July 1, 2015.

The applicant is requesting one (1) primary variance 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 twenty-five (25) 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) APPROVAL CONDITIONAL
PER ORIGINAL RECOMMENDATION**

VARIANCE #1

One (1) primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the twenty-five (25) 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 home 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 twenty-five (25) impervious surface setback. 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	) A pervious surface be used.) Replanting of the buffer where sparsely vegetated.
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Additional Information

Three letters of opposition from neighbors and a former board member of the Long Island Watershed Preservation Association was received dated March 13, 2015 and April 27, 2015.

Conclusion

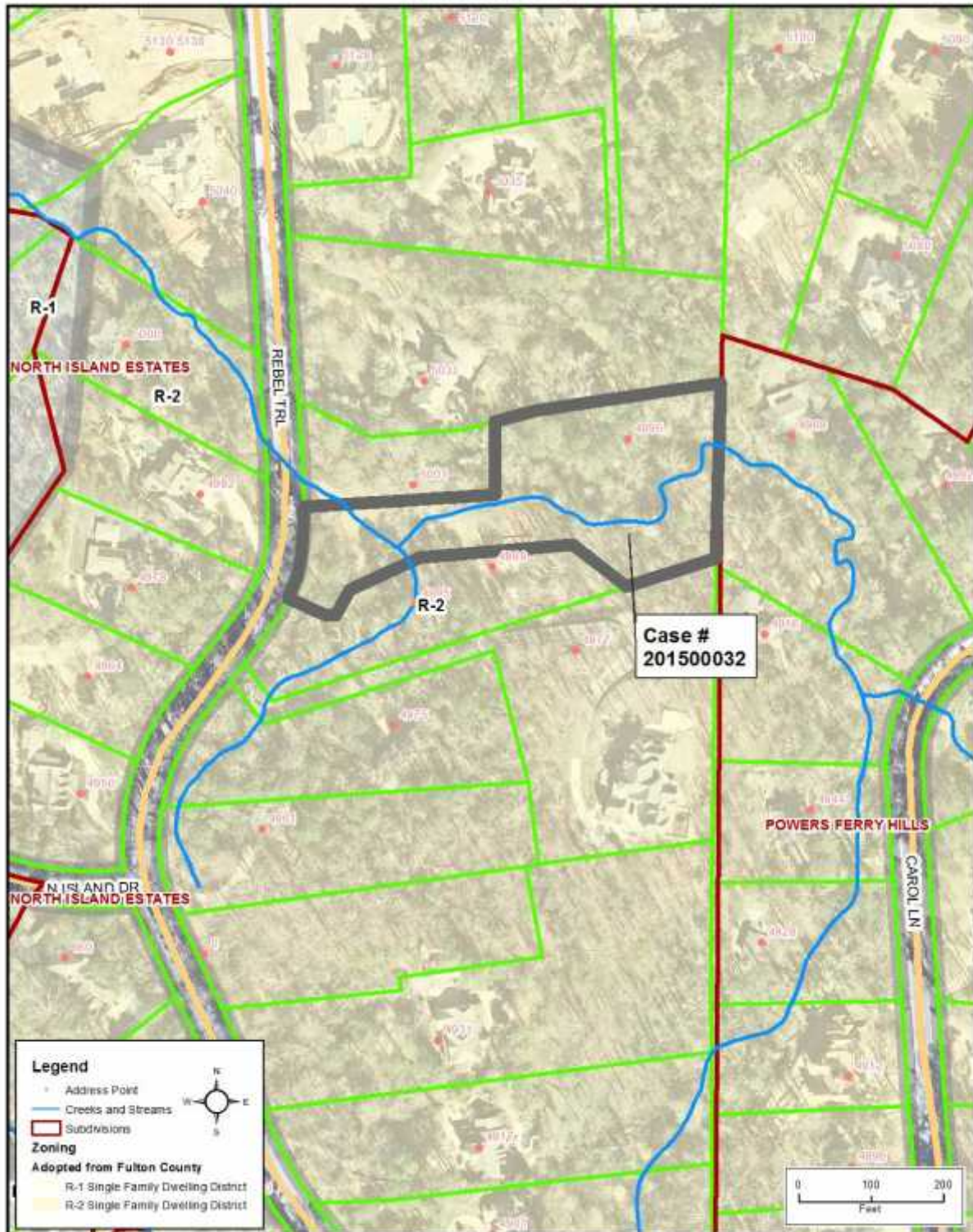
Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Please note creation of a new lot with limited buildable areas does not constitute a hardship for any future variance applications to increase the buildable area of the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

Recommended Condition(s)

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

1. To encroach into the required twenty-five (25) foot impervious surface setback to allow construction of a driveway to provide access unto the property for a single family dwelling unit, as shown on the Proposed Site Plan dated received January 6, 2015 by the Department of Community Development.
2. Submit recorded copy of ingress/egress easement across adjacent parcel prior to receiving building permit.
3. A pervious surface be used for the portion within the buffer.
4. Replanting of the buffer where sparsely vegetated. Approval of City Arborist required before certificate of completion is issued.

4995 Rebel Trail





**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

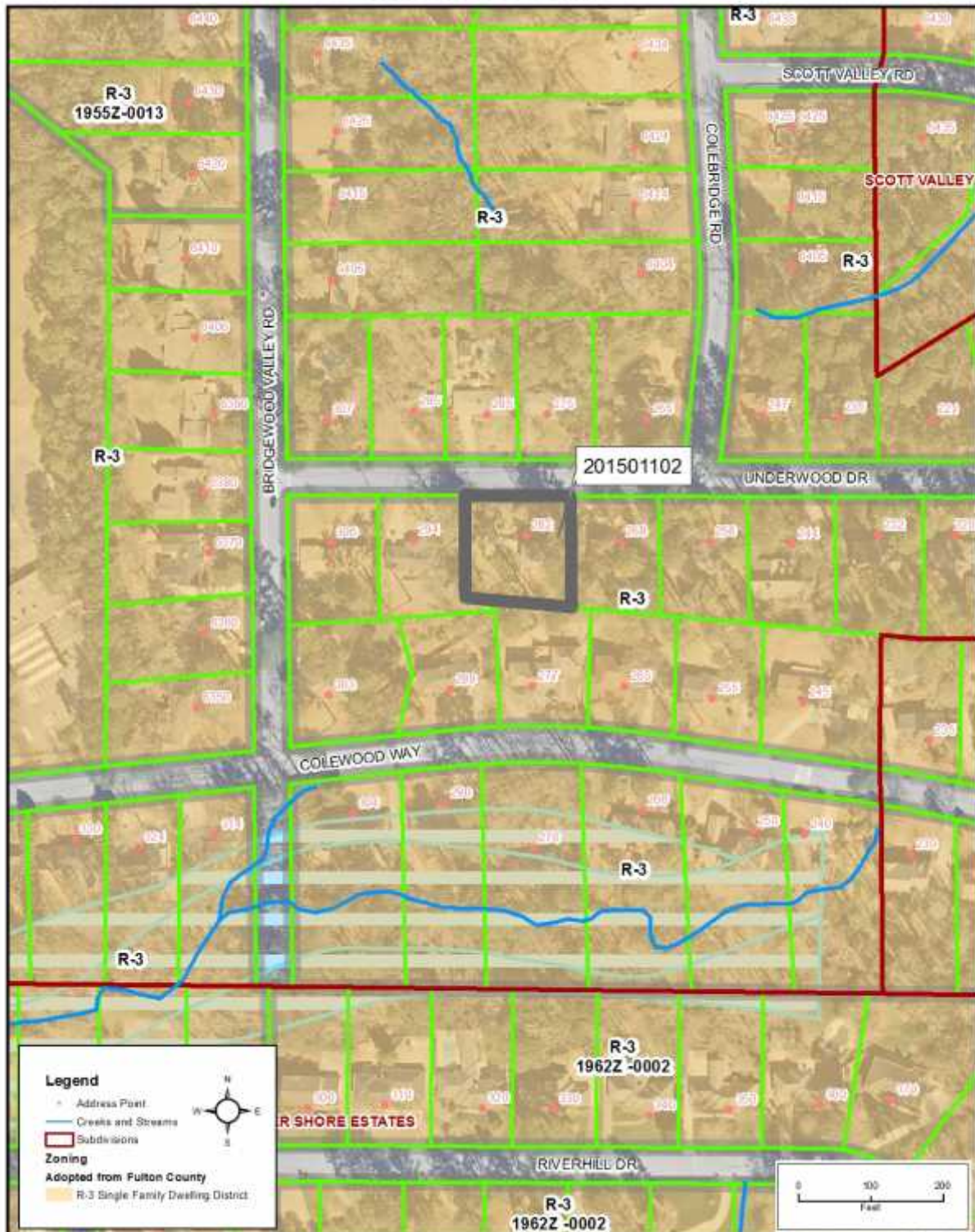
Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request, Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief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





**Planning & Zoning Staff Report
Variance Petition No. 201501422**

HEARING & MEETING DATES

Board of Appeals Hearing
July 9, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
James & Marcia Decker	James & Marcia Decker	James & Marcia Decker
PROPERTY INFORMATION		
Address, Land Lot(s), and District	5035 Riverview Drive Land Lot 211, 17 th District	
Council District	6 (Andy Bauman)	
Frontage	Approximately 122.65 feet of frontage along Riverview Road	
Area	Approximately 2.547 acres (110,951.1 square feet)	
Existing Zoning	R-1 (Single Family Dwelling District)	
Existing Use	Single family residence	
Overlay District	N/A	
2027 Comprehensive Future Land Use Map Designation	Residential, 0 to 0.5 units per acre (R0-0.5)	
INTENT		

The applicant is seeking to variance to allow a shed in their minimum side yard. The applicant is requesting one (1) primary variance from the Zoning Ordinance:

1. Primary variance from Section 6.1.3.(C) of the Zoning Ordinance to encroach into the minimum side yard to allow for a shed.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201501422 – 1) APPROVAL CONDITIONAL

Standards for Consideration

VARIANCE #1

Primary variance from Section 6.1.3.(C) of the Zoning Ordinance to encroach into the minimum side 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 initially applied for a final plat of 5035 and 5045 Riverview Road, both which they own and received the comment that the shed encroaches into the minimum rear yard and that a variance would be needed to bring the lot into compliance. The shed was built in 2004 before the City was incorporated however, the applicant wants to obtain the variance to allow the shed become a legal non-conforming structure on the property to pursue the final plat. The shed is located entirely outside of the non-buildable area, at least fifteen (15) feet from the south side property line. Additionally, the shed sits on top of an existing retaining wall (also constructed before the City was incorporated) which makes up most of the right and back portions of the shed. The remaining wall space is framed in wood, covered with fiber cement sheets, and finished with stucco to match the home. Also, there is a stone finish on the left portion to match the stone finish on the retaining walls. 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,

The property's shape, topography, and physical conditions existed before 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 shed and therefore do not create a hardship, however the shed is not visible from the road or from any of the neighbors' property based on the above conditions.

Department Comments

Focus Meeting held on Wednesday, June 3, 2015, no comments from the following departments: Building and Permitting, Fire, Code Enforcement, Site Development, Arborist, and Transportation.

Additional Items

Three letters of support from surrounding neighbors were received, dated June 8, 2015 and June 24, 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 requests to allow a shed.

Recommended Condition(s)

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

1. To encroach into minimum side yard setback to allow a shed, as shown on the Variance Exhibit Plan dated received April 24, 2015 by the Department of Community Development.

Legend

- Address Point
- Creeks and streams
- Subdivision
- Zoning

Adopted from Fenton County
 R-1 Single Family Dwelling District

Case # 201501422

0 100 200 Feet



**Planning & Zoning Staff Report
Variance Petition No. 201501478**

HEARING & MEETING DATES

Board of Appeals Hearing
July 9, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Landis & Michele Frey	Larry Viktora	Larry Viktora

PROPERTY INFORMATION

Address, Land Lot(s), and District	7589 Van Eyck Way Land Lot 23, 17 th District
Council District	1 (John Paulson)
Frontage	Approximately 84.72 feet of frontage along Van Eyck Way and approximately 138.78 feet of frontage along Spalding Drive
Area	Approximately .412718 acres (17,977.99608 square feet)
Existing Zoning	R-3 (Single Family Dwelling District) pursuant to Fulton County case Z74-0028
Existing Use	Single family residence
Overlay District	N/A

2027 Comprehensive Future Land Use Map Designation	Residential, 2 to 3 units per acre (R2-3)
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INTENT

The applicant is seeking relief from the requirements that accessory structures and swimming pools must be located in side and rear yards, to allow for the swimming pool to be located in the front yard. The applicant is requesting two (2) primary variance(s) from the Zoning Ordinance:

1. One (1) primary variance from Section 6.2.3.I of the Zoning Ordinance to allow an accessory structure in the front yard.
2. One (1) primary variance from Section 19.3.15.B.1 of the Zoning Ordinance to allow for a pool in the front yard.

The request is due to the parcel having dual street frontages.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**201501478 – 1) APPROVAL CONDITIONAL
2) APPROVAL CONDITOINAL**

Standards for Consideration

Zoning Ordinance

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

Section 22.3.1. Variance Considerations.

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

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. The applicant's property has two road frontage, prompting two front yards, along Van Eyck Way and Spalding Drive. The proposed location for the accessory structure (swimming pool) is in the applicant's yard along Spalding Drive. The location of the pool would not be any more disruptive to the harmony of the development due to the view of the house and proposed structure are blocked from the street by a privacy fence. 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;

Finding:

The property is a regularly shaped with no topography issues however, the applicant has two road frontages which requires a variance to allow a swimming pool in the yard along Spalding. The swimming pool would not be visible from the road due to a privacy fence located along the rear property line. Based on these considerations, staff is of the opinion that this condition has been satisfied.

Department Comments

Focus Meeting held on Wednesday June 3, 2015, and no comments were provided from the following departments: Arborist, Fire, Code Enforcement, Building and Permitting, Land Development, Transportation Services, or Site Development.

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 first variance request, to allow an accessory structure in a front yard, and **APPROVAL CONDITIONAL** of the second variance request, to allow a swimming pool in a front yard, to allow for the installation of a swimming pool and construction of an accessory structure.

Recommended Condition(s)

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

1. To allow an accessory structure to be located in a front yard, as shown on the site plan dated received May 4, 2015 by the Department of Community Development.
2. To allow a swimming pool to be located in a front yard.

7589 Van Eyck Way





**Planning & Zoning Staff Report
Variance Petition No. 201501482**

HEARING & MEETING DATES

Board of Appeals Hearing
July 9, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner

Earl Moccia

Petitioner

Earl Moccia

Representative

Earl Moccia

PROPERTY INFORMATION

Address, Land Lot(s), and District	1140 Churchill Downs Road, Lot 13 of Derby Hills Subdivision Land Lot 14, 17 th District
Council District	5 (Tiberio DeJulio)
Frontage	Approximately 99.94 feet of frontage along Churchill Downs Road
Area	Approximately 0.453 acres (19,758.62 square feet)
Existing Zoning	R-3 (Single Family Dwelling District) pursuant to Fulton County case Z62-0014
Existing Use	Single family dwelling residence
Overlay District	N/A

**2027 Comprehensive
Future Land Use Map
Designation**

Residential, 2 to 3 units per acre (R2-3)

INTENT

The applicant is proposing to demolish an existing single family dwelling and construct a single family dwelling unit. 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 to encroach into the twenty-five (25) foot impervious surface setback to construct a new single family residence.
2. One (1) primary variance from Section 6.4.3.(B) of the Zoning Ordinance to encroach into the minimum front yard to build a single family residence.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**201501482 – 1) APPROVAL CONDITIONAL
2) APPROVAL CONDITIONAL**

Standards for Consideration

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	0 sf	0 sf	0 sf
25' – 50' City Stream Buffer	8.58 sf	0 sf	-8.58 sf
50' – 75' Impervious Surface Setback	913.99 sf	1,118.83 sf	204.84 sf
Total Impervious Surface encroaching in Stream Buffer	922.57 sf	1,118.83 sf	196.26 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 half of the subject property. Additionally, the topography slopes towards the back of the property. The existing home on the lot is within the twenty-five (25) foot impervious surface and the fifty (50) foot undisturbed buffer. The proposed home is designed to be outside of the fifty (50) foot undisturbed 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 half of the subject property has been covered by the stream buffers, leaving the only buildable area to the south of the lot. The applicant proposes to encroach into the minimum front yard setback to reduce grading into the fifty (50) foot undisturbed buffer. 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 southeast to northeast, from 872' to 838' in elevation. Half of the subject property is located within the stream buffers, which restricts the buildable area of the lot to the southern side of the property. When the stream buffers are combined with the topographical challenges on the site the location of the proposed home 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:

Applicant met with staff to discuss possible designs, the final plan was submitted for review. 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 home. The City will monitor the site's BMPs.

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

Findings:

The proposed location of the home eliminates any encroachment into the twenty-five (25) foot state buffer and reduces the impervious surface in the fifty (50) foot undisturbed 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.

VARIANCE #2

One (1) primary variance from Section 6.4.3.(B) of the Zoning Ordinance to encroach into the minimum front yard to build a single family residence.

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. The façade setback and proposed home will be aligned with the adjacent home at 1150

Churchill Downs Road. This is a lot of record, created prior to enactment of the stream buffer regulations. Stream buffers cover more than 50% of the property. The proposed single family dwelling will be constructed outside of the fifty (50) foot stream buffer while the existing home is currently within the fifty (50) stream buffer. The proposed home would encroach twelve (12) feet into the required fifty (50) foot front yard setback required for R-3 zoning for an attached garage addition. 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;

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes that the stream buffers covers over 50% of the property towards the rear, limiting the amount of buildable area available. Presently, a home could be constructed at the front of the property without a variance to encroach into the front yard setback. The variance would allow a single family dwelling unit to be constructed in outside of the fifty (50) foot stream buffer, but twelve (12) feet into the minimum front yard setback. Based on these considerations, staff is of the opinion that this condition has been satisfied.

Department Comments

Focus Meeting held on Wednesday, June 3, 2015, no comments from the following departments: Fire, Code Enforcement, Site Development, and Arborist. Building and Permitting and Public Works provided the following comments:

Building and Permitting	) The applicant shall provide an as-built foundation form survey signed and sealed by a Georgia Registered Surveyor to be reviewed by the Community Development Director.) All City and State stream buffers shall be field located and flagged on site.) The applicant shall pass a site inspection prior to proceeding with the foundation installation.
Public Works	) City data shows a stormwater junction box near the west property line. The proposed development should accommodate the existing stormwater infrastructure.

Additional Information

Five letters of support from neighbors was received dated July 2, 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 requests to build a single family dwelling unit.

Recommended Condition(s)

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

1. To encroach into the seventy-five (75) foot impervious surface setback by no more than 1,125 square feet to construct a new single family residence, as shown on the Proposed Site Plan dated received May 4, 2015 by the Department of Community Development.
2. To encroach into the minimum front yard setback by 12' for the construction of a single family dwelling residence, as shown on the Proposed Site Plan dated received May 4, 2015 by the Department of Community Development.

3. Provide an as-built foundation form survey signed and sealed by a Georgia Registered Surveyor including all City and State buffers to be reviewed by the Community Development Director.
4. All City and State stream buffers shall be field located and flagged on site.
5. Approval of a site inspection is required prior to proceeding with the foundation installation.
6. The proposed development should accommodate the existing stormwater infrastructure

1140 Churchill Downs Road

