



**Planning and Zoning Staff Report
Variance Petition No. 201501476**

HEARING & MEETING DATES

Board of Appeals Hearing
August 13, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
JSB Homes, Inc.

Petitioner
Javad Oskoei

Representative
Nathan V. Hendricks III

PROPERTY INFORMATION

Address, Land Lot(s), and District	6890 Peachtree Dunwoody Rd Land Lot 20, 17 th District
Council District	4 (Gabriel Sterling)
Frontage	Approximately 105 feet of frontage along Grantley Court
Area	Approximately 0.95 acres ----- (41,362 square feet)
Existing Zoning	A-L (Apartment Limited Dwelling District) per rezoning 201300397
Existing Use	1.5 Story brick building (partially demolished)
Overlay District	PCID Overlay District
2027 Comprehensive Future Land Use Map Designation	Residential, 12 to 20 units per acre (R12-20)

INTENT

The existing structure encroaches 5 square feet into the 50' undisturbed buffer and 1,043 square feet of impervious surface currently exists within the 25' impervious buffer. The applicant is proposing to reduce the impervious surface setback from 75' to 60' to construct an apartment building per rezoning 201300397. The applicant is requesting one (1) primary variance from the Stream Buffer Protection Ordinance:

- 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 build an apartment building.

BOARD OF APPEALS MEETING JULY 9, 2015

Discussion at the Board of Appeals Meeting on July 9th involved pinpointing the original intent of the 2013 rezoning and identifying council's intent as to whether or not the project should be allowed to encroach into the stream buffer.

Johnson motioned to defer, seconded by Moller. The motion carried by the following vote:

Yes: Carpinella, Johnson, Johnson, Moller, Nodvin, and Sandler

Absent: Coan

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201501476 – 1) 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	5 sf	0 sf	-5 sf
50' – 75' Impervious Surface Setback	1,043 sf	895 sf	-148 sf
Total Impervious Surface encroaching in Stream Buffer	1,048 sf	895 sf	-153 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 one-half of the subject property. The proposed building reduces stream buffer encroachments when compared to the existing building. Due to the existing conditions, staff is of the opinion that land development could be hindered unless a variance is granted.

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 one-half of the subject property has been covered by the stream buffers, leaving the only buildable area to the south of the lot. Prior development on the lot has encroached into the stream buffers more significantly than the proposed building. Staff is of the opinion that strict adherence to the minimal buffer requirements would create a hardship for the developer.

(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 south to northeast. Approximately one-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 potential location of the apartment building is severely limited. Staff is of the opinion that the property does exhibit exceptional conditions related to its size, shape, and topography.

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

Finding:

The location 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 intrusion is identified on the attached site plan and is included in the table above. Because the intrusion into the stream buffer has been significantly reduced from existing conditions, 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. However, the applicant is proposing to locate the building in such a way as to reduce the amount of stream buffer intrusion on the site from existing conditions. 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 ensure that additional impervious surfaces drain to the required detention facility.

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

Findings:

The proposed location of the building eliminates any encroachment into the twenty-five (25) foot state buffer and 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.

Department Comments

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

Public Works	Applicant will be required to demonstrate the proposed driveway meets sight distance requirements to permit a full-access driveway at the time of a Land Disturbance Permit, §103-77. In rezoning 201300397, the proposed access was restricted for left turns exiting the proposed driveway. The ordinance requirement for sight distance does not impact the stream buffer variance request.
Arborist	Applicant will be required to ensure that additional impervious surfaces drain to the required detention facility

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of this variance request to allow for construction of an apartment building.

Recommended Condition(s)

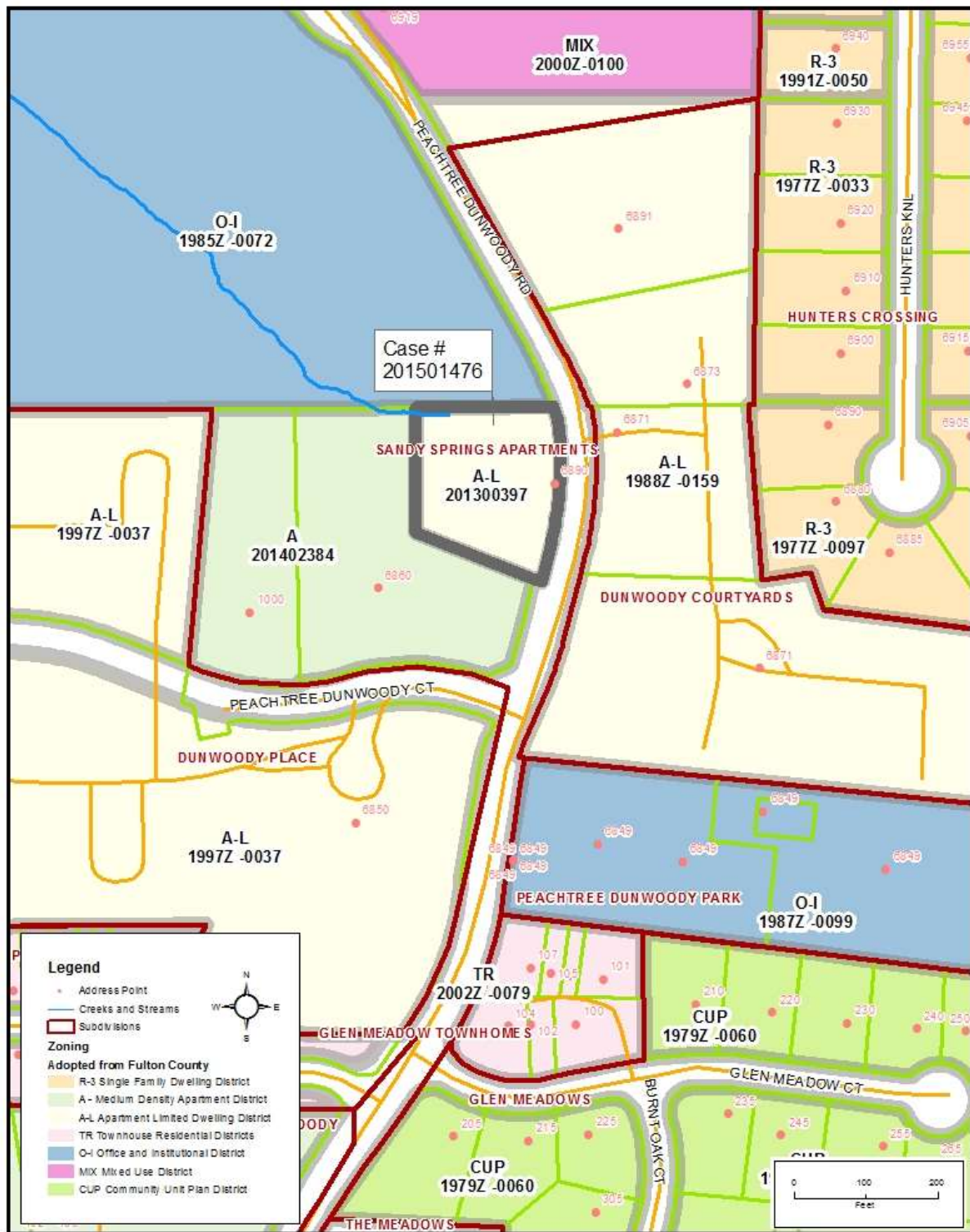
Should the Board of Appeals choose to approve the request, staff recommends the following conditions:

- 1) To allow the proposed apartment building to encroach into the twenty-five (25) foot impervious surface setback per the site plan dated received May 4, 2015 by the Department of Community Development.

ATTACHMENTS:

Parcel Map
Letter of Appeal – Dated received May 4, 2015
Site Plan – Dated received May 4, 2015
Sandy Springs GIS aerial image
Site photos

6890 Peachtree Dunwoody Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on August 13, 2015.



Planning & Zoning Staff Report
Variance Petition No. 201501853

HEARING & MEETING DATES

Board of Appeals Hearing
August 13, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
Eric Mowris

Petitioner
Eric Mowris

Representative
N/A

PROPERTY INFORMATION

Address, Land Lot, and District	441 Hilderbrand Drive Land Lot 71, 17 th District
Council District	3 – Graham McDonald
Frontage	Approximately 100 feet of frontage along Hilderbrand Drive NE
Area	Approximately 0.67 acres
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, 2 to 3 units per acre (R2-3)

INTENT

The applicant is requesting one (1) primary variance from the Zoning Ordinance:

1. One (1) primary variance from Section 6.4.3.C of the Zoning Ordinance to encroach two (2) feet into the required ten (10) foot minimum side yard for an existing residence and expansion of the residence in the rear of the property with the same encroachment of two (2) feet into the required minimum side yard.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201501478 – APPROVAL CONDITIONAL

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:

Article II of the City of Sandy Springs Zoning Ordinance states that the purpose of the ordinance is to promote desirable living conditions within a neighborhood and protect property against blight and depreciation. The residence located at 441 Hilderbrand was constructed in the 1950s alongside the majority of its adjacent neighbors, prior to the creation of the City of Sandy Springs and the adoption of its Zoning Ordinance. The existing structure currently encroaches two (2) feet into the required minimum side yard of ten (10) feet. The applicant seeks to expand the rear of the home at the same setback as the existing structure. The applicant obtained letters from adjacent neighbors in support of the application, including the neighbor most directly impacted by the encroachment. The expansion of the home does not conflict with the purpose of the Zoning Ordinance and works to protect the property from depreciation by expanding and upgrading the existing structure. 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 lot with no topographical issues. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

Department Comments

A Focus Meeting was held on June 15, 2015 and no comments were provided from the following departments: Arborist, Fire, Code Enforcement, Building and Permitting, Land Development, Transportation Services, or Site Development.

Staff Recommendation

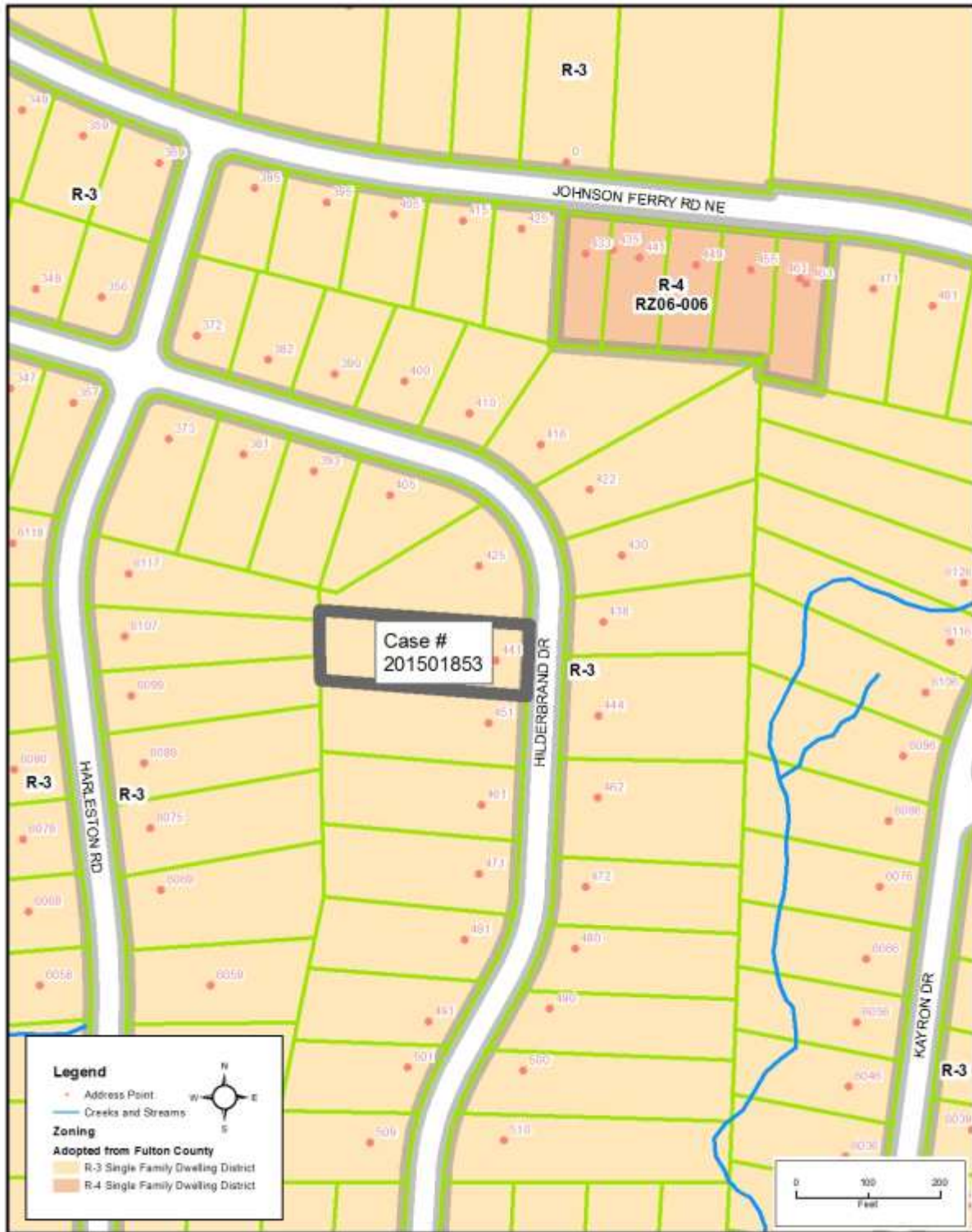
Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of variance request to allow an encroachment into the side yard for the existing house and expansion of the existing house.

Recommended Condition(s)

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

1. To allow the existing structure and the expansion of the structure to encroach two (2) feet into the minimum side yard, as shown on the site plan dated received June 2, 2015 by the Department of Community Development.

441 Hilderbrand Drive





**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

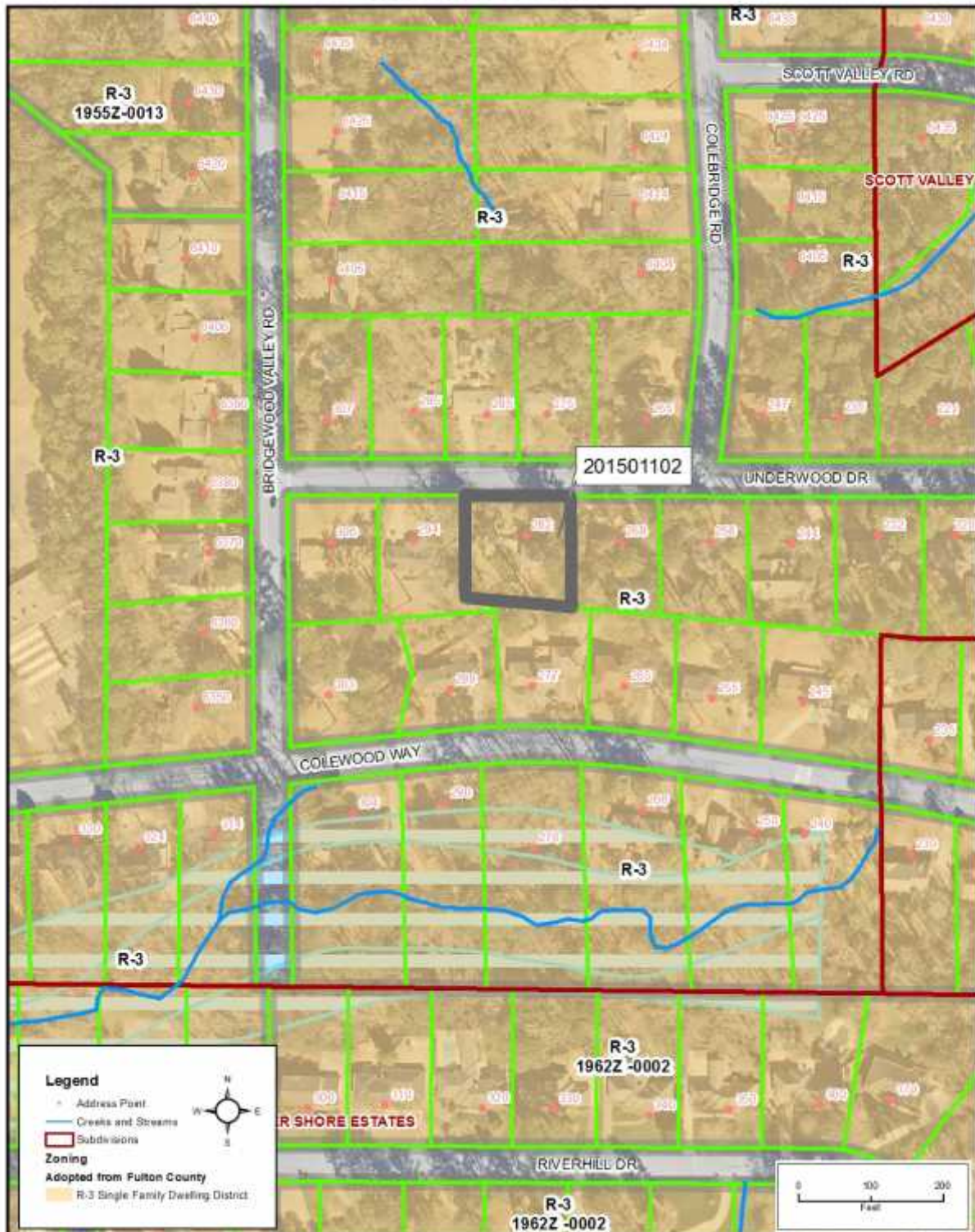
Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request, Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief 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. 201501809

HEARING & MEETING DATES

Board of Appeals Hearing

August 13, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
CNCC Holdings, LLC

Petitioner
CNCC Holdings, LLC

Representative
Nancy Comerford

PROPERTY INFORMATION

Address, Land Lot(s), and District 710 Morgan Falls Road.
Land Lot 30, 17 District

Council District 2

Frontage Approximately 206.87 feet of frontage along the northern side of Morgan Falls Road and 439.92 feet of frontage along the western side of Brandon Mill Road.

Area The subject property has a total area of 2.3462 acres (102,201.0 square feet).

Existing Zoning and Use M-1 (Industrial District) conditional under Fulton County zoning case 86Z-189. The subject property is currently developed with an office building.

Overlay District NA

2027 Comprehensive Plan Future Land Use Map Designation Office

INTENT

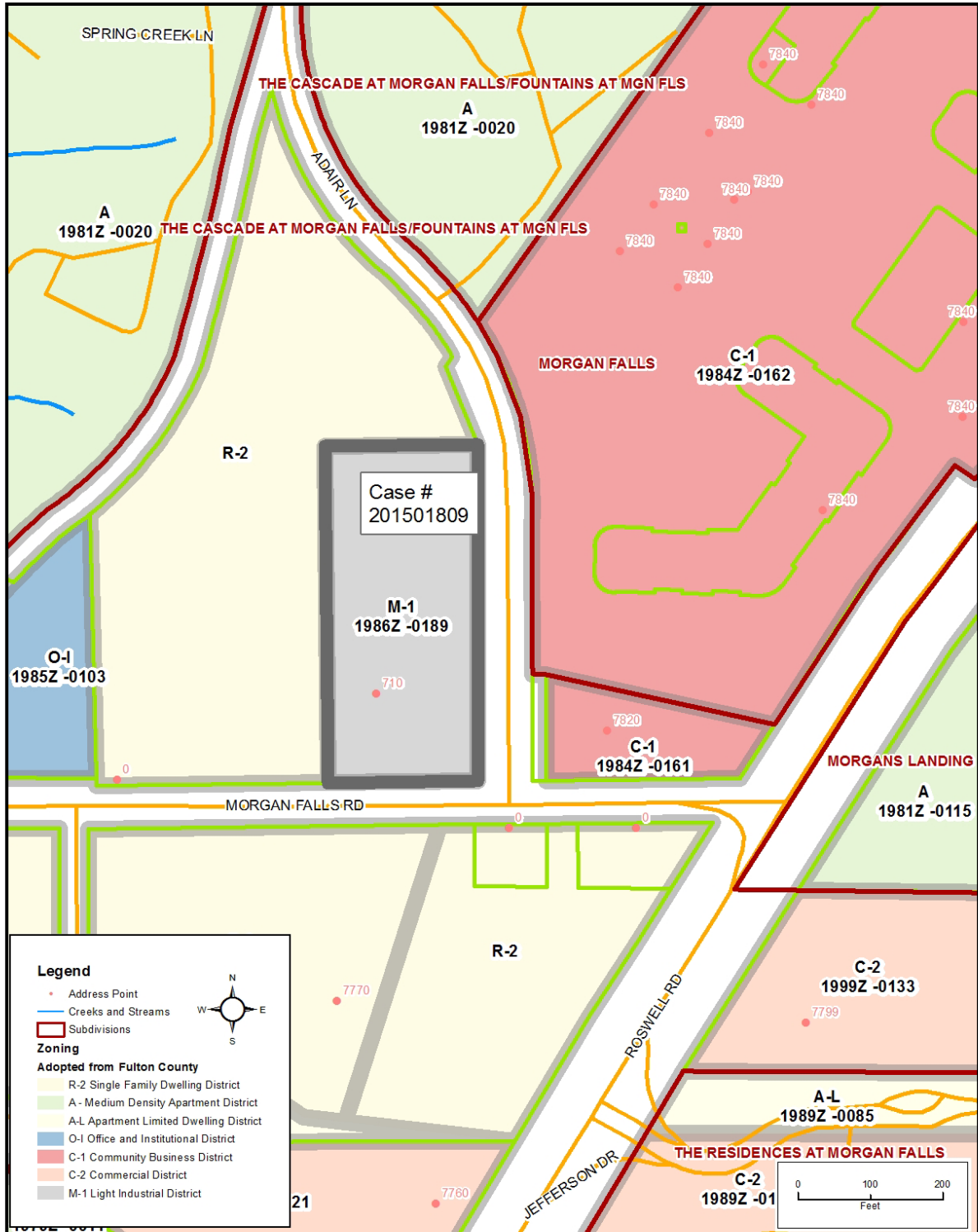
The applicant is seeking a primary variance from Section 33.26.G.3 of the Zoning Ordinance to allow a wall sign on a non-street facing wall (West elev.).

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201501809-1) APPROVAL CONDITIONAL

Parcel Map

710 Morgan Falls Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on August 13, 2015

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

CASE NUMBER: 201501809

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

Staff Analysis:

The subject property is one level office facility with approximately 206.87 feet of frontage along the northern side of Morgan Falls Road and 439.92 feet of frontage along the western side of Adair Lane. Previously, this building was occupied by FedEx Corporation.

As per the applicant: "This building was leased and operated by FedEx Corporation for a 20 year period. FedEx maintained a monument sign and a building entrance sign at the current sign locations for 20 years. New tenant signs replaced previous signs in the same location for the same purpose."

The new tenant is a company named Antonline.com. The facility is large and there are multiple entrances, on the North, East and West facing sides of the building. "Company guests, vendors and related appointments enter the office portion of the building through the designated building entrance on the west side of the building near Morgan Falls Road. They are greeted by a receptionist at the entrance; appointments are verified, logged and escorted while in the building. This is crucial for both visitors and employee safety."

The applicant states: "The warehouse portion of the building continually receives merchandise deliveries and pickups via shipping carriers in large tractor trailer trucks entering from the East delivery building entrance. There are multiple large bay doors on the rear west side of the building to accommodate this activity. Warehouse employees enter the building through employee entrances on the East and West facing sides of the building. Large trucks, forklifts and other industrial warehouse tools are used in the shipping and receiving portion of the warehouse which also houses expensive customer merchandise. Unescorted visitors are not allowed in the warehouse for safety and security reasons. Without proper entrance signage over the designated public building entrance, visitors can easily become confused and attempt building entry through warehouse delivery, pickup or employee doors creating a safety and security risk for public and employees."

The applicant is seeking a primary variance from the Zoning Ordinance to allow for a wall sign on the west elevation of the building, a non-street facing wall.

The Sandy Springs Zoning Ordinance provides:

Section 33.26.G. Industrial Districts

3. Wall Signs. *Wall signs are permitted on street-facing walls* (including windows and doors). Businesses without a street on which there is frontage, but which have exterior entrances to the building, are entitled to one wall sign on the exterior wall of the business. Wall sign(s) shall not exceed five percent (5%) of the applicable wall area or one hundred eighty (180) square feet, whichever is smaller. Wall signs shall not have changeable copy unless approved as a marquee sign. Notwithstanding the foregoing, an anchor tenant that has over fifty thousand (50,000) square feet of gross floor space within a shopping center shall be allowed wall signs not to exceed five percent (5%) of the applicable wall area or three hundred (300) square feet, whichever is smaller.

Because the location of this property at the intersection of Morgan Falls Road and Adair Lane, the property qualifies to have wall signs on two (2) frontages, south and east in addition to have two ID Monument signs. The applicant instead wants to place a wall sign on the west elevation and an Id monument at the roads intersection.

The wall sign location is opposite to the adjoining public roads (Roswell Road and Adair Lane) therefore, the impact on traffic is very minimum.

The proposed wall sign does not exceed the allowable 5% sign area allowed (180 sqft max.) and can only be viewed from vantage points internal to the property.

History

Following a request from the Director on April 9, 2015, inspections were performed at this property for fire safety issues, business license, and building without a permit.

The Code enforcement inspector reported the following:

“4/10/15 I visited the location and found that there wasn't a business license. There was a wall sign outside that has not been permitted. There were several employees in the warehouse areas as well as the office areas. I saw some wood framing that looked new in a utility closet. I issued a ticket to the business owner. She advised that they had been there for a few months. The owner advised that they had been gradually moving in and preparing the location for business. Advised her to apply for a business license and that the fire department may have to inspect as well. Reported findings to code and fire department. 4/13//15 Fire Inspector Scott McColl performed an inspection and found several violations. A citation was then issued on 4/13/15 for the wall sign”. As a result of the enforcement action the applicant has taken the necessary steps to correct the violations.

Standards for Consideration

Zoning Ordinance

1. Variance from Section 33.26.G.3 of the Zoning Ordinance to allow a wall sign on a non-street facing wall (West elev.).

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 (Antonline.com) prefers to have the sign at the proposed location, (west elevation) which is set back approximately 135 feet from the roadway curb (according to the survey provided by the applicant) because the main entrance to the building is on the west side of the building and the intention is not to advertise the business to the public, but to identify the main entrance to the building. The vegetation on the property would provide screening of the sign and would not have any impact on the roadway traffic or adjacent property. Staff found that the natural features of the lot present 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 June 15, 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 purpose of the sign ordinance is to use the signs as a means of effective communication; to improve traffic and pedestrian safety; to protect the rights of individuals and businesses to convey their messages through signs. The applicant has indicated that the purpose for this variance is mainly to provide information to the visitors.

Staff explains: the Sandy Springs Zoning Ordinance 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 east and south elevations of the building. The applicant has selected to display two signs instead. One ID monument at the intersection of Morgan Falls and Adair Ln and one wall sign on the west elevation of the building.

Staff is of opinion that relief, if granted, would not cause detriment to the public good or impair the purpose and intent of the zoning ordinance, as the sign at the proposed location would have very little exposure if any to the road traffic. Staff is of opinion that the approval of this variance request would be in harmony with the general intent of the Zoning Ordinance. Therefore, based on these reasons the staff recommends APPROVAL CONDITIONAL of the variance petition.

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on August 13, 2015

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

- 1) To allow for a wall sign on a non-street facing wall (west elevation) of the building pursuant to the sign location, submitted by the applicant, and dated received June 1, 2015 by the Department of Community Development.
- 2) There shall not be more than two wall signs on the building at any given time.

Attachments

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



Variance Petition No. 201501834

HEARING & MEETING DATES

Board of Appeals Hearing

August 13, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner

David Abassi

Petitioner

David Abassi

Representative

David Abassi

PROPERTY INFORMATION

Address, Land Lot(s), and District 5890 Kayron Drive
Land Lot 70, 17th District

Council District 5 (Tiberio DeJulio)

Frontage Approximately 160 feet of frontage along Kayron Drive

Area Approximately 0.893296 acres (38,911.97 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, 2 to 3 units per acre (R2-3)

INTENT

The applicant is proposing to bring an existing pergola/garden feature attached to the front of their existing home into conformance. Also, the applicant recently received an one (1) foot administrative minor variance to enclose the existing carport. The applicant is now requesting two (2) primary variances from the Zoning Ordinance:

1. One (1) primary variance from Section 6.4.3.I of the Zoning Ordinance to allow an accessory structure in the front yard; and
2. One (1) primary variance from Section 6.4.3.B of the Zoning Ordinance to encroach into the minimum front yard to allow a pergola/garden feature.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**201501834 – 1) APPROVAL CONDITIONAL
2) APPROVAL CONDITIONAL**

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 request to encroach into the minimum front yard to allow a pergola/garden is in harmony with the uniformity of the neighborhood due to preserving the scale of the existing houses in the neighborhood. Additionally, the existing pergola/garden feature is in harmony with the recently renovated garage enclosure. The pergola is attached to the front of the home and hovers over the existing concrete walkway that encroaches into the front yard setback. The garden feature extends into the front yard setback. Together, the entire structure would encroach twelve (12) feet, six (6) inches into the front yard setback. Based on these considerations, staff is of the opinion that this condition is in harmony with the general purpose of the Zoning Ordinance to maintain the character and uniformity of the neighborhood

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 Monday, June 15, 2015, no comments from the following departments: Building and Permitting, Fire, Code Enforcement, Site Development, Arborist, and Transportation.

N/A	
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Additional Items

No letters of support or opposition were received.

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 pergola/garden feature to encroach into the minimum front yard.

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 June 2, 2015 by the Department of Community Development.
2. To allow a pergola/garden feature to encroach into the minimum front yard, as shown on the site plan dated received June 2, 2015 by the Department of Community Development.

5890 Kayron Drive





**Planning & Zoning Staff Report
Variance Petition No. 201501851**

HEARING & MEETING DATES

Board of Appeals Hearing
August 13, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Ray's Rio Bravo Powers Ferry, LLC	Rio Bravo Powers Ferry, LLC	Keith Kendrick

PROPERTY INFORMATION

Address, Land Lot(s), and District	6450 Powers Ferry Road, Land Lots 204, 205, 210, 211, 17 th District
Council District	6 (Andy Bauman)
Frontage	Approximately 164.93 feet of frontage along Powers Ferry Road
Area	Approximately 1.619995 acres (70,566.98 square feet)
Existing Zoning	MIX (Mixed Use District) pursuant to Sandy Springs zoning case RZ09-005 and variance case V11-019
Existing Use	Rio Bravo restaurant
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	LWC (Living Working Community)

REQUEST

The applicant is proposing to expand an existing deck with an exit ramp on the mideast portion of their property. The subject property is part of the Powers Ferry Landing West development however, the variance only relates to one parcel of the said development. Additionally, the applicant has removed impervious surface (two parking spaces) to help mitigate the additional impervious surface. The applicant is requesting one (1) primary variance:

1. One (1) primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance to encroach in the fifty (50) foot undisturbed natural vegetative buffer to construct a deck expansion and exit ramp.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201501851 – 1) APPROVAL CONDITIONAL

Standards for Consideration

VARIANCE #1

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	3,703.21 sf	3,703.21 sf	0 sf
25' – 50' City Stream Buffer	7,801.24 sf	7,530.24 sf	-271 sf
50' – 75' Impervious Surface Setback	9,971.66 sf	9,971.66 sf	0 sf
Total Impervious Surface encroaching in Stream Buffer	21,476.11 sf	21,205.11 sf	-271 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 detention pond and the stream buffers covers approximately two-thirds of the subject property. Additionally, the detention pond is located near the eastern and southwestern portion of the property. The restaurant 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. Additionally, the applicant has removed impervious surface to help mitigate the additional impervious surface. The proposed deck expansion 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 detention pond and stream buffers, leaving the applicant minimal buildable area available. The applicant desires to build a deck expansion. Based on these reasons, staff is of the opinion that **this condition has not 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 oddly pie shaped, the majority of the subject property is located within the stream buffers and the detention pond covers the eastern and southwestern portion of the property, 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 not been discussed with staff. However, due to the stream buffers, any option would require a variance. 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 deck. The City will monitor the sites BMPs. Staff is of the opinion this condition will be satisfied.

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

Findings:

The proposed location of the deck expansion does not encroach into the twenty-five (25) foot state buffer and the twenty-five (25) impervious surface setback. Additionally, the applicant has removed impervious surface to help mitigate the additional impervious surface. Staff is of the opinion that issuance of the variance is not as protective of the natural resources and environment as the existing site conditions.

Department Comments

Focus Meeting held on Monday, June 15, 2015, no comments from the following departments: Fire, Code Enforcement, Site Development, Transportation Building & Permitting, and Arborist.

Additional Items

No letters of support or opposition for this variance were received.

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 deck.

Recommended Condition(s)

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

1. To allow a deck expansion and exit ramp to be constructed in the fifty (50) undisturbed natural vegetative buffer, as shown on the site diagram dated received June 12, 2015 by the Department of Community Development.

6450 Powers Ferry Road

