



Variance Petition No. 201402043

HEARING & MEETING DATES

Board of Appeals Hearing
August 14, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner
Saralynn Lundy

Petitioner
Saralynn Lundy

Representative
Laurel David

PROPERTY INFORMATION

Address, Land Lot(s), and District 0 High Point Rd (17 00410001039)
Land Lot 41, 17th District

Council District 5

Frontage Approximately 100 feet of frontage along High Point Road

Area Approximately .68 acres (29,621 square feet)

Existing Zoning R-3 (Single Family Residential District)

Existing Use Vacant lot

Overlay District N/A

2027 Comprehensive Future Land Use Map Designation Residential 1 to 2 units per acre

INTENT

The applicant is proposing to construct a driveway and retaining wall. The applicant is requesting one (1) primary variance(s) 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 seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer for the construction of a driveway and retaining wall.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201402043 – 1) APPROVAL CONDITIONAL

Standards for Consideration

	Existing Site	Proposed Plan	Net Change
0'-25' Stream Buffer	0 sf	0 sf	0 sf
25' – 50' Stream Buffer	0 sf	1,673 sf	1,673 sf
50' – 75' Stream Buffer	0 sf	800 sf	800 sf
Total Impervious Surface encroaching in Stream Buffer	0 sf	2,473 sf	2,473 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 two-thirds of the subject property at the front portion of the lot. Additionally, the topography slopes towards the middle of the property. These factors combined effectively limit the buildable area to the rear of the lot. In order for the applicant to build a single family home in the applicable buildable area they would need to have access across the stream buffers at the front of the property. Based on these reasons, staff is of the opinion this condition has been satisfied.

b. Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.

Finding:

Due to the location of the stream, approximately two-thirds of the subject property has been covered by the stream buffers in the front portion of the property, leaving the only buildable area to the rear of the lot. A driveway would need to be constructed in order to access the buildable portion at the rear of the lot. Thus, strict adherence to the buffer requirements would create an extreme hardship in the construction of a driveway and retaining wall. 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:

Two-thirds of the subject parcel 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 a driveway and retaining wall are severely limited because the buildable area cannot be accessed without encroaching into the applicable stream buffers. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

The locations of all streams and property boundaries are shown on the attached site plans.

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:

On the initial site plan submitted on June 3, 2014 the applicant proposed to build a single family dwelling unit in the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer. After meeting with staff the applicant has provided an alternative design that would move the house out of the impervious surface setback and has significantly reduced the amount of grading in association with the retaining wall and driveway in the fifty (50) foot undisturbed buffer. Therefore, staff is of the opinion this condition has been satisfied.

e. The long-term and construction water quality impacts of the proposed variance;

Findings:

The applicant will be required to use Best Management Practice (BMP) during the construction of the house. The City will monitor the sites BMPs.

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

Findings:

Staff is of the opinion that issuance of the variance is as protective of the natural resources and environment as the existing site condition.

Department Comments

Focus Meeting held on Wednesday July 9, 2014 no comments from the following departments: Building and Permitting, Fire, Code Enforcement, Site Development, or Arborist. Transportation made the following comments:

Transportation:	) For informational purposes, High Point Road is included in the adopted Sidewalk Master Plan network.
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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 a driveway and retaining wall.

Recommended Condition(s)

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

- 1) To reduce the required seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer to allow construction of a driveway and retaining wall, as shown on the site plan dated received July 25, 2014 by the Department of Community Development.

ATTACHMENTS:

Parcel Map
Revised Letter of Appeal – Dated received July 25, 2014
Letter of Appeal – Dated received June 3, 2014
Revised Site Plan – Dated received July 25, 2014
Site Plan – Dated received June 3, 2014
Photographs

0 High Point Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on August 14, 2014.



Variance Petition No. 201402049

HEARING & MEETING DATES

Board of Appeals Hearing

August 14, 2014

September 11, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner

Joseph & Stephanie Wilkins

Petitioner

Joseph & Stephanie Wilkins

Representative

Stephen Klim

PROPERTY INFORMATION

Address, Land Lot(s), and District 1915 Monticello Court
Land Lot 351, 6th District

Council District 1

Frontage Approximately 119.90 feet of frontage along the south side of Monticello Court.

Area Approximately 1.33 acres

Existing Zoning AG-1

Existing Use Single family dwelling unit

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 construct a single family residence and retaining wall on a previously permitted lot that was abandoned after initial land disturbance was permitted and completed. The applicant is requesting three (3) primary variance(s) as follows:

1. From Section 5.1.3.C from the Zoning Ordinance to reduce the required side yard setback from 25 feet to 5 feet for the construction of an accessory structures; **POOL HOUSE REMOVED; HOWEVER PERGOLA WILL REMAIN WITH A 14 FOOT SETBACK**
2. From Section 19.3.15.B.1 from the Zoning Ordinance to allow a pool closer than 10 feet to a property line; and **WITHDRAWN – POOL RECONFIGURED**
3. From Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the 75 foot impervious surface setback and 50 foot undisturbed buffer for the construction of a pool, pool deck, and driveway. **MODIFIED – POOL RECONFIGURED SO ONLY CONSTRUCTION ACCESS NECESSARY AND DRIVEWAY PULLED OUT OF 50' BUFFER SO ONLY VARIANCE NEEDED IS IN IMPERVIOUS SURFACE SETBACK BUT CONSTRUCTION ACCESS REMAINS**

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201402049 – 1) APPROVAL CONDITIONAL

201402049 – 2) APPROVAL CONDITIONAL

201402049 – 3) APPROVAL CONDITIONAL

BOARD OF APPEALS ACTION – AUGUST 14, 2014

The case was heard at the August 14, 2014 Board of Appeals meeting. The Board deferred the case (6-0, Coan, Sandler, Carpinella, A. Johnson, Moller, and Nodvin; E. Johnson absent) to the September 11, 2014 meeting to allow the applicant time to meet with the neighbors and to make revisions to the proposed plan to reduce the impact to the immediate neighbor and to the stream buffer.

The applicant has satisfied the Board's requests by meeting with the neighbors and revising the plan to be less impactful.

STANDARDS FOR CONSIDERATION

Variance #1

From Section 5.1.3.C from the Zoning Ordinance to reduce the required side yard setback from 25 feet to 5 feet for the construction of an accessory structures.

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 existing lot is covered approximately 75% by stream buffer and consistent with other similarly situated lots in the neighborhood, permanent structures have been pulled closer to the street away from the stream. Therefore, the proposed encroachment is in harmony with the surrounding area. 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,

Finding:

The property changes in topography as you move away from the street, sloping downwards towards the stream. The applicant is requesting a reduction in the setback as there are no other options for development due to the topography of the lot and the amount of stream buffer covering the lot. Based on these considerations, staff is of the opinion that this condition has been satisfied.

Variance #2

From Section 19.3.15.B.1 from the Zoning Ordinance to allow a pool closer than 10 feet to a property line.

WITHDRAWN

Variance #3

From Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the 75 foot impervious surface setback and 50 foot undisturbed buffer for the construction of a pool, pool deck, and driveway.

Stream Buffer Protection Ordinance

	Existing Site (square feet)	Proposed Plan (square feet)	Net Change (square feet)
0' – 25' State Buffer	137	137	0
25' – 50' Undisturbed Buffer	1,665	1,630	-35
50' – 75' Impervious Surface Setback	2,483	1,768	-715

Total Impervious Surface encroaching in Stream Buffer	4,285	3,535	-750
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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. The stream buffer covers more than three-fourths of the developable area of the lot. The applicant has been mindful of the buffers, creating a site plan that pushes the proposed improvements towards the street, leaving the twenty (25) foot state buffer intact. Due to the applicable stream buffers, there is not a sufficient buildable area outside of the stream buffer for the development of accessory structures customarily incidental to a single family residence. Based on these reasons, staff is of the opinion this condition has been satisfied.

b. Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.

Finding:

The stream buffer covers a majority of the existing property. As detailed in the table above and shown on the site plan, the applicant has proposed limited (and reduced) impact to the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer. Staff notes that the stream buffer covers more than two-thirds of the buildable area of the lot when the minimum buffer requirement is strictly applied. Based on these reasons, staff is of the opinion this condition has been satisfied.

(5) The following factors will be considered in determining whether to issue a variance:

a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;

Finding:

The property changes in topography as you move away from the street, sloping downwards towards the stream. Additionally, the stream buffer covers approximately 75% of the buildable area of the lot. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

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:

The variance request is for the construction of accessory structures customarily incidental to a single family residence. Based on the coverage of the lot by the stream buffers, no alternatives that were less intrusive were possible. Staff is of the opinion this condition has been satisfied.

e. The long-term and construction water quality impacts of the proposed variance;

Findings:

The applicant will be required to use Best Management Practice (BMP) during the construction of the house. The City will monitor the sites BMPs.

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

Findings:

The applicant is proposing to pull the proposed improvements as far away from the stream buffer as possible. Additionally, the proposal reduces the overall amount of encroachment into the stream 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, July 9, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance and Stream Buffer Protection Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance requests to allow construction of a pool, pool deck, accessory structure, and driveway.

Recommended Condition(s)

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

- 1) To reduce the required side yard setback from 25 feet to 14 feet for the construction of an accessory structure (pergola), as shown on the site plan dated received August 28, 2014 by the Department of Community Development.
- 2) To reduce the 75 foot impervious surface setback and 50 foot undisturbed buffer for the construction of a pool, pool deck, and driveway, as shown on the site plan dated received August 28, 2014 by the Department of Community Development. Encroachment into 50 undisturbed buffer shall be for construction access only; no permanent impervious surfaces permitted.

ATTACHMENTS:

Parcel Map

Proposed Site Plan – Dated received August 28, 2014

Applicant E-mail regarding Plan Changes – Dated received August 28, 2014

Applicant Correspondence with Neighbors – Dated received August 28, 2014

Letter of Appeal – Dated received June 3, 2014

Proposed Site Plans – Dated received June 19, 2014

Photographs

1915 Monticello Court

