



Variance Petition No. V10-016

HEARING & MEETING DATES

Board of Appeals Hearings

July 8, 2010

August 12, 2010

September 15, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
St. Andrews Presbyterian Church, Incorporated	Tabula Rasa, The Language Academy	Ellen W. Smith, Esq.

PROPERTY INFORMATION

Address, Land Lot, and District	5855 Riverside Drive Land Lot 133, District 17
Council District	6
Frontage	405.29 feet of frontage along the east side of Riverside Drive and approximately 1144.86 feet of frontage along I-285.
Area	The subject property has a total area of 10.1428 acres.
Existing Zoning and Use	R-1 (Single Family Dwelling District), currently developed with a church with a Special School
Overlay District	NA
Interim 2025 Comprehensive Future Land Use Map Designation	Community Facility (CF)

INTENT

The applicant is requesting a primary variance from Section 33.26.B.1.a of the Zoning Ordinance to allow an additional monument sign (private school) on a single-family residential lot occupied by an institutional use.

BOARD OF APPEALS ACTION

The subject application was deferred at the July 8, 2010 Board of Appeals (BOA) meeting for thirty (30) days to allow the applicant time to work with the church and with Staff and discuss alternatives to the 3 signs.

At the August 12, 2010 Board of Appeals (BOA) hearing the board deferred the case for 30 days to allow the applicant ample time to discuss the request.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION**V10-016-1. WITHDRAWAL**

Following the August 12, 2010 Board of Appeals hearing, staff met with the applicant to discuss the request. Subsequently, the applicant has submitted a request to withdraw of the application without prejudice to the BOA. The applicant intends to continue to pursue the right to locate signage on the property.

Parcel

5855 Riverside Drive



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

CASE NUMBER: V10-016

STAFF CONTACT: Cristina Nelson, City Planner 770-206-1516
E-mail: cristina.nelson@sandyspringsga.org

Findings of Fact:

The property is an approximately 10.1428 acre parcel located on the east side of Riverside Drive (approximately 405.29 feet of frontage), at the south intersection with I-285 (approximately 1144.86 feet of frontage). The subject property is zoned R-1 (Single Family Dwelling District); is currently developed with a 25,000 square foot church building at the center of the subject property; 10,000 square foot portion of the existing building is used for a foreign language school ("The Academy") for children with a preschool/kindergarten component and with a large portion unimproved and wooded.

The property is home to the St. Andrews Presbyterian church and since 2007 to "The Academy". The Academy is a private foreign language school offering full immersion language programs to children with an associated day care component.

The church has two (2) existing identification signs on the property: Sign #1 as identified on the site plan is a double faced church sign with a changeable copy area. This sign measures approximately 26.85 square feet on each side. Sign #2 is located in the middle of the driveway and it measures approximately 9.31 square feet on each side. The Academy does not have a sign on the property. The subject of this variance is to allow a sign that identify "The Academy".

The subject property has two street frontages, therefore allowed to have two signs, one on each street. Staff notices that both signs are located along Riverside Drive. Also, there are some concerns that the existing sign at the entrance of the property may be a legal non conforming sign, as it is located within the ten (10) foot setback requirement as a result of the right of way given by the church to allow the widening of Riverside Drive. Due to the non conforming status of the sign, the church does not want to expand the non conforming status by adding to the existing sign, to allow the academy to be identified. The applicant also explained that to incorporate additional sign area to the existing sign, the existing landscape and mature tree located within the island will have to be removed. Given that the church is the primary use of the property, the church prefers the existing sign to remain as the church identification. The applicant has indicated they have found it difficult to achieve reasonable identification; therefore, the purpose for the variance request is to provide signage visibility for the school at 5855 Riverside Dr.

The Sandy Springs Zoning Ordinance provides in Section 33.26.B.1.a:

B. Single Family Residential, CUP AND NUP Districts

1. Monument Signs

- a. *One (1) maximum thirty-two (32) square foot, monument sign per lot occupied with an institutional use shall be permitted for each street on which the lot has frontage.*
- b. *One (1) maximum thirty-two (32) square foot, entry wall or monument sign or two (2) single-faced entry wall or monument signs not to exceed sixteen (16) square feet for each side of a platted single family subdivision entrance shall be permitted for each street on which the lot has frontage. Subdivisions with more than one (1) identifiable section, as shown on an approved preliminary plat, may be allowed internal identification monument signs of sixteen (16) square feet on one (1) side of the entrance to each section.*
- c. *Monument signs shall have a maximum height of six (6) feet, not be internally illuminated. Except for gas stations, changeable copy shall not be permitted.*

The applicant states that without the appropriate signage it is difficult to locate “The Academy” since the building is located approximately 300 feet from the curb, behind a berm, a tree line and a parking lot. The applicant also indicates that the entry signage is more for safety than marketing; without identification sign it will be complicated for emergency vehicles or emergency assistance to find the school.

To resolve the school’s concern, the applicant proposes to add a sign at the entrance. Staff determined that a variance was needed to allow an identification sign for “The Academy” on the Riverside Road frontage, as there are two existing signs identifying the church. Section 33.26.B.1.a of the Zoning Ordinance allows properties which lots have up to 500 feet of frontage, one (1) maximum thirty-two (32) square foot freestanding sign per street frontage. The applicant proposes a six (6) square foot monument sign four (4) feet height.

Standards for Consideration

Zoning Ordinance

Variance from Section 33.26.B.1. a. to allow for an additional monument sign where only one is permitted.

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 property has a berm along the Riverside property line that screens the church building and the Academy for the most part of the street visibility. The applicants has indicated that having a sign is important to inform the general public of the location of “The Academy”, and to alert traffic prior to passing by and having to turn around on the neighboring streets. The lot presents topographical challenges to justify the approval of this variance. Therefore, this criterion is applicable.

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:

Mature vegetation along the I-285 street frontage and the tree lines along the Riverside Drive coupled with the topographical challenges of the lot limit the area of the property where a sign can be appropriately and effectively located. The natural features of the lot present challenges to justify the approval of the variance. Therefore, this criterion is applicable.

Department Comments

The staff held a Focus Meeting on June 2, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ No Comments
	Sandy Springs De- velopment Plan Review Engineer	▪ No Comments
	Sandy Springs Landscape Archi- tect/ Arborist	▪ No Comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Depart- ment of Transporta- tion	▪ No Comments

Conclusion

The purpose of the sign ordinance is to encourage the effective use of signs as a means of communication; to improve traffic and pedestrian safety. 5855 Riverside Drive has two Identification signs that alert traffic of the location of the church. When approaching the site traveling northbound or south-

bound along Riverside Drive, none of the existing signs provide information about the school. Therefore a motorist traveling on either direction has sufficient time to identify the business and adequately determine access locations. Staff is of opinion that the approval of this variance request would be in harmony with the general intent of the Zoning Ordinance and the public will be well served having the ability to reasonably identify the location of "The Academy".

The proposed sign allows the applicant to serve all intents and purposes of the sign ordinance, which is to encourage the effective use of signs as a means of communication.

The subject application was deferred at the July 8, 2010 Board of Appeals (BOA) meeting for thirty (30) days to allow the applicant time to work with the church and with Staff and discuss alternatives to the 3 signs.

At the August 12, 2010 Board of Appeals (BOA) hearing the board deferred the case for 30 days to allow the applicant ample time to discuss the request.

Following the August 12, 2010 Board of Appeals hearing, staff met with the applicant to discuss the request. Subsequently, the applicant has submitted a request to withdraw of the application without prejudice to the BOA. The applicant intends to continue to pursue the right to locate signage on the property.

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

1. To allow an additional Identification monument sign along the Riverside Drive street frontage for the school. The sign shall not exceed six (6) square feet of sign area; four (4) feet in height pursuant to the sign detail, submitted by the applicant, and dated received May 4, 2010 by the Department of Community Development.

ATTACHMENTS: Site Plans, Photos, Detail Drawings, Letters of Appeal, Letters of Opposition and Deferral Request Letter.



Variance Petition No. V10-022

HEARING & MEETING DATES

Board of Appeals Hearing

August 12, 2010
September 15, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Tom and Terri Sewell	Ed Castro Landscape	Hannah Smith

PROPERTY INFORMATION

Address, Land	546 Londonberry Road
Lot(s), and District	Land Lot 135, District 17
Council District	6
Frontage	Approximately 111.92 feet of frontage on Londonberry Road.
Area	The subject property has a total area of approximately 1 acre.
Existing Zoning and Use	The lot is zoned R-2 (Single Family Dwelling District). The property is currently developed with a residence.
Overlay District	N/A

2027

Comprehensive Future Land Use Map Designation	R0-1 Residential (0 to 1 units per acre)
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INTENT

The applicant is proposing to construct two (2) retaining walls, a stone walkway and courtyard with a fire pit, and steps which will encroach into the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback). The applicant is requesting one (1) primary variance from the Stream Buffer Protection Ordinance:

- 1) Variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a twenty-five (25) foot as shown on the site plan (exhibit 2) to allow for two (2) retaining walls, a stone walkway, courtyard with a fire pit, and steps.

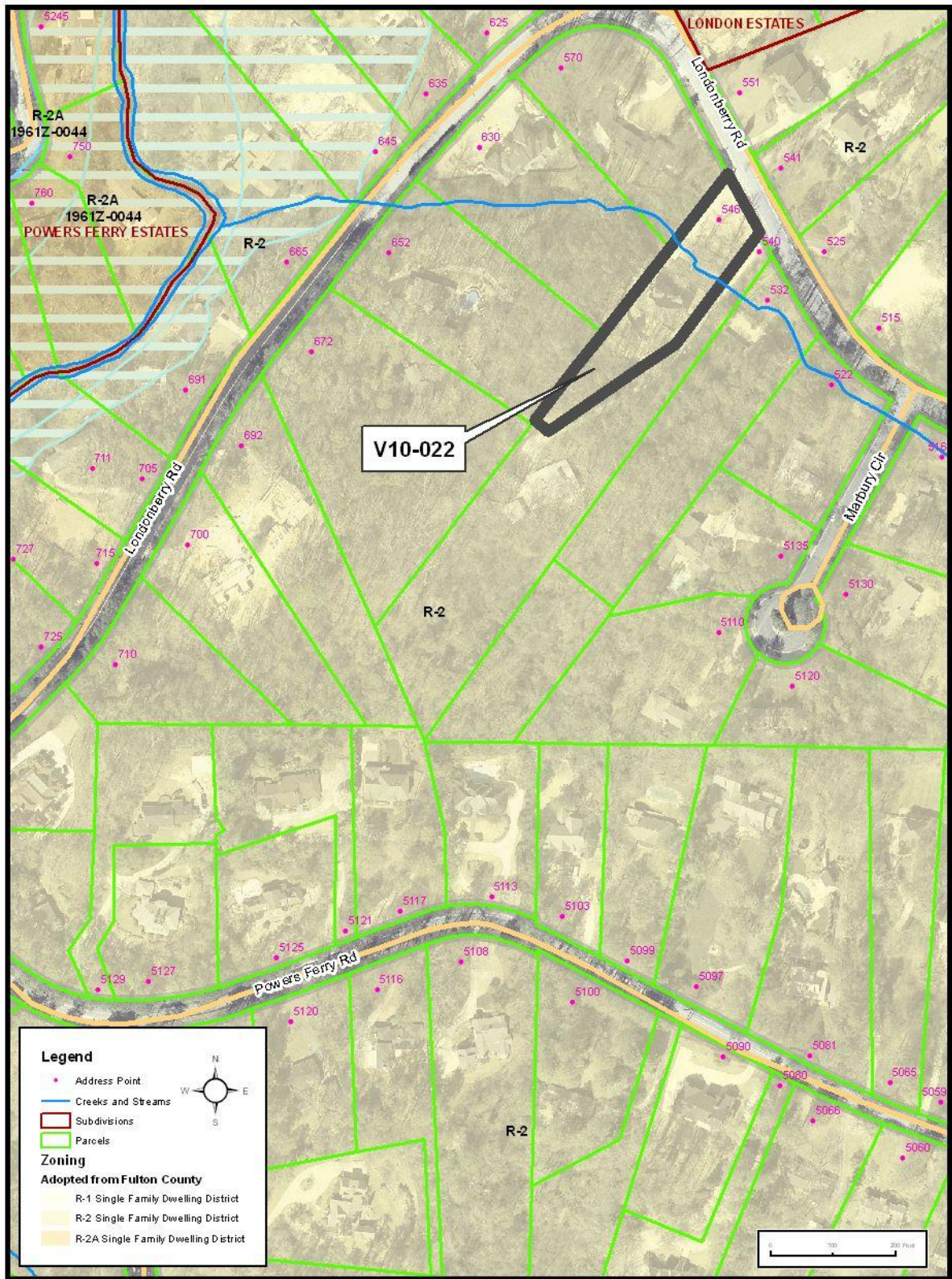
At the August 12, 2010 BOA meeting the Board deferred the application to the September 15, 2010 BOA meeting to allow staff to review the Landscape Plan and alternatives to the proposal.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V10-022 - 1) APPROVAL CONDITIONAL

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on September 15, 2010

Parcel Map

546 Londonberry Road



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

CASE NUMBER: V10-022

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

Findings of Fact

The applicant is requesting relief from Section 109-225.a 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a twenty- five (25) feet (proposed retaining walls, a stone walkway, courtyard with a fire pit, and steps encroachment of forty-nine (49) feet and limits of disturbance of one (1) feet for a total encroachment of fifty (50) feet) as shown on the site plan (exhibit 2) to allow for two (2) retaining walls, a stone walkway, courtyard with a fire pit, and steps.

The applicant has submitted a site plan (exhibit 2) indicating the subject property to have 110.92 feet of frontage along Londonberry Road. The property is trapezoidal in shape with the property tapering from one hundred ten (110) feet at the street to twenty-seven (27) feet at the rear property line. The lot slopes from 920 feet from northwest property line to 832 feet to the creek. The property then slopes upward from 832 at the creek to 848 to Londonberry Road. The rear portion of the lot has a significant slope dropping approximately seventy (70) feet within two hundred twenty (220) feet (exhibit 3) to the house. The creek runs from east to west for approximately one hundred seven (107) feet. The stream buffers cover approximately half of the buildable area of the lot. The site plan also shows a sanity sewer easement running along the creek and a drainage easement running from the catch basin on Londonberry Road to the southwest into the creek.

The applicant has submitted a landscape plan (exhibit 4) showing replanting in the stream buffer and a reduction of two hundred ninety-five (295) square feet of proposed impervious surface. The impervious surface was reduced by pulling the wall closer to the house making it shorter as well as changing the walkway from paving to stepping stones. Below is a chart comparing the original proposal and the new proposal.

Proposal Comparison		
	Original Proposal	New Proposal
Total Site Area	43,560 SF	43,560 SF
Disturbed Area	1,100 SF	1,100 SF
Existing Impervious Surface	22% (9599 SF)	22% (9599 SF)
Proposed Impervious Surface	795 SF	500 SF
Total Impervious Surface	23.9 % (10,394 SF)	23 % (10,099 SF)

Staff notes the surrounding properties are zoned R-2 (Single Family Dwelling District), the same zoning as the subject property. The creek also bisects portions of adjacent properties. Also, some of the adjacent properties have encroachments in to the 75 foot stream buffer.

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on September 15, 2010

Standards for Consideration

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 the stream buffers cover approximately half of the buildable area of the lot. The rear portion of the lot has a significant slope dropping approximately seventy (70) feet within two hundred twenty (220) feet (exhibit 3) to the house. The creek runs from east to west for approximately one hundred seven (107) feet. 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 property has an unusual circumstance when the minimum buffer requirement is strictly applied. Staff notes the stream buffer covers approximately half of the buildable area of the lot. A sanity sewer easement and a drainage easement occupy the majority of the buildable area in the front of the property. The width of the property tapers from one hundred ten (110) feet at the street to twenty-seven (27) feet at the rear property line. 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 is trapezoidal in shape with the property tapering from one hundred ten (110) feet at the street to twenty-seven (27) feet at the rear property line. The lot slopes from 920 feet from northwest property line to 832 feet to the creek. The property then

slopes from 832 at the creek to 848 to Londonberry Road. The rear portion of the lot has a significant slope dropping approximately seventy (70) feet within two hundred twenty (220) feet (exhibit 3) to the house. The stream buffers cover approximately half 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:

All stream buffers on the property have been identified (exhibit 2). The creek runs from east to west for approximately one hundred seven (107) feet. The lake and buffer occupies approximately half of the subject property.

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

Findings:

The creek is located approximately fifty-three (53) feet from the brick porch. The applicant is proposing an encroachment of forty-nine (49) feet and limits of disturbance of one (1) foot for a total encroachment of fifty (50) feet into the 75 foot buffer and setback. The total proposed encroachment of impervious surface will be 500 square feet. The location and extent of the proposed buffer and setback intrusions have been identified on the site plan (exhibit 2).

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

Findings:

Alternative designs have been discussed with staff regarding this property. The applicant has moved the proposal outside the twenty-five (25) foot state buffer and reduced the impervious surface by two hundred and ninety-five (295) square feet. 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. The applicant has submitted a landscape plan that includes replanting of 1 canopy tree, 5 understory trees, 88 shrubs, 240 square feet of ferns, 80 square feet trilliums, 205 square feet of irises, 250 square feet of pickerel rush and 3 vines, which currently does not exist along the creek.

Department Comments

The staff held a Focus Meeting on July 7, 2010 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	There are no building requirements that need to be addressed at this time.
	Sandy Springs Development Plan Review Engineer	Along the creek, fill over the ground surface where the existing ground surface is at or below elevation 836 shall be prohibited.
	Sandy Springs Landscape Architect/ Arborist	If the board chooses to approve the variance a condition could be included that stated that the 50' undisturbed buffer be replanted with riparian vegetation as approved by the arborist. There is also a 28" Sycamore that will need to be located on the plan during the permit process.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	There are no Fire requirements that need to be addressed at this time.
TRANSPORTATION	Sandy Springs Transportation Planner	There are no Transportation requirements that need to be addressed at this time.
	Georgia Department of Transportation	There are no GDOT requirements that need to be addressed at this time.

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL** **CONDITIONAL** of the variance(s) request.

Recommended Condition(s)

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

- 1) The subject retaining walls, a stone walkway, courtyard with a fire pit, and steps shall be constructed in accordance with the proposed site plan, provided by the applicant dated received August 25, 2010 by the Department of Community Development, for the variance herein, showing a reduction in the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a twenty-five (25) foot buffer (proposed retaining walls, a stone walkway, courtyard with a fire pit, and steps encroachment of forty-nine (49) feet and limits of disturbance of one (1) foot for a total encroachment of fifty (50) feet to allow for two (2) retaining walls, a stone walkway, courtyard with a fire pit, and steps, where necessary to accommodate the portion of the encroachment only.
- 2) When garages or parking pads are located in areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either vegetation for filtration before entering the stream or artificial filtration with proof of maintenance required at time of Land Disturbance Permit, subject to the approval of the Sandy Springs City Engineer.
- 3) The area of the fifty (50) foot undisturbed natural buffer outside the area of this approved variance shall be maintained and any modification to the buffer (e.g. replanting or restoration) shall be subject to the approval of the Sandy Springs Arborist.

ATTACHMENTS:

Letter of appeal

Site plan (exhibit 1)

Proposed construction (exhibit 2)

Elevation Contour map (exhibit 3)

Photographs

Landscape Plan (exhibit 4)



Variance Petition No. V10-024

HEARING & MEETING DATES

Board of Appeals Hearing

September 15, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
David Wahl

Petitioner
David Bitler

Representative
David Bitler

PROPERTY INFORMATION

Address, Land 555 Elden Drive NE
Lot(s), and District Land Lot 068, District 17

Council District 5

Frontage Approx 99 feet of frontage along Elden Drive NE.

Area The subject property has a total area of approximately 0.4 acres.

Existing Zoning and Use The lot is zoned R-3 (Single Family Dwelling District). The property is currently developed with a residence.

Overlay District N/A

2027

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

INTENT

The applicant is proposing to raise the elevation in the backyard, install a concrete slab to be used as a basketball court, a retaining wall that is no higher than three (3) feet, install the necessary drainage system, and to plant trees and other vegetation. The landscaping project, specifically the retaining wall and recreational basketball court, will encroach into the required thirty-five (35) foot rear yard setback. The applicant is requesting two (2) primary variances:

- 1) Variance from Section 6.4.3.D of the Zoning Ordinance to reduce the required rear yard setback from thirty-five (35) feet to twelve (12) feet to allow for the described landscape project.
- 2) Variance from Section 19.3.8.B.1 of the Zoning Ordinance to allow for a recreational court that serves a single family to be located within a minimum yard.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V10-024 - 1) APPROVAL CONDITIONAL

V10-024 - 2) APPROVAL CONDITIONAL

555 Elden Drive



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

CASE NUMBER: V10-024

STAFF CONTACT: Colleen Allen, Planning & Zoning 770-206-1514
E-mail: colleen.allen@sandyspringsga.org

Findings of Fact

The applicant is proposing to make changes to the existing landscape of the backyard. The landscaping project includes the leveling of the backyard between the existing patio and the fence, this area is to be covered by sod and a concrete slab to be used for a recreational basketball court; the addition of a retaining wall along the court's north end, the retaining wall is to be no higher than three (3) feet at its highest point; installation of a draining system to ensure proper drainage from the site and of neighboring sites, and new vegetation to replace what was there and to provide a vegetative shield.

The applicant has submitted a site plan indicating the subject property to have approximately 99 feet of frontage along Elden Drive. The topography of the lot is unique, sloping to the southwest. There is a significant change in slope on the northern property line with the topography leveling off at the edge of the driveway. The backyard has sloping topography; however, it is much more gradual, sloping down from the eastern property line in the direction of the house. The site plan shows the existing house facing and positioned parallel to Elden Drive within the specified setbacks; the site plan also shows an existing shed located in the setback. The described work would occur on the portion of the property with the most gradual slope.

The surrounding lots in the immediate vicinity are zoned R-3 (Single Family Dwelling District), the same as the subject parcel.

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 only alternative location would be the northern side yard, however it has a much steeper slope than the rear yard; relief from Section 6.4.3.D would allow for the most

suitable location of the recreational court. Based on this recommended location, relief from Section 19.3.8.B.1 is necessary, allowing the recreational court to be located in the required minimum yard. Relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public as a buffer will still exist between the recreational court and the neighboring yards. The area to be distributed will be replanted and landscaped to maintain vegetation in the rear portion of the lot. Therefore, staff is of the opinion 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 subject parcel is similar to other residential properties in the City. However, the property does exhibit extraordinary and exceptional conditions related to its topography. The subject property has a fairly significant change in grade, sloping southwest from the northeastern corner of the property. To accommodate the topography and lack of level open space, the landscaping and recreational court will have to encroach on the rear setback. Due to the steep change in elevation in the northern side yard it is eliminated as an alternative, creating an extraordinary and exceptional condition resulting in a hardship for the initial builder, now current owner of the property, as defined by the City's Zoning Ordinance. Relief from Section 6.4.3.D would allow the owner to avoid this hardship by creating an outdoor recreational court on a level portion of the property, encroaching into the rear setback. Additionally, relief from Section 19.3.8.B.1 is also necessary, allowing the recreational court to be located in the required minimum yard. Based on these findings, staff is of the opinion that this condition is satisfied.

C. Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from an adjoining public road.

Not Applicable.

Department Comments

The staff held a Focus Meeting on July 28, 2010 at which 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

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL** **CONDITIONAL** of the variance(s) request.

Recommended Condition(s)

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

1. The proposed lot shall be in accordance with the proposed site plan, provided by the applicant dated receiving July 2, 2010 by the Department of Community Development, for having the variance(s) herein, showing a reduction of the required thirty-five (35) foot rear yard setback to twelve (12) feet and also to allow for a recreational court to encroach into a setback.

ATTACHMENTS: Letter of appeal, site plan, elevations, letter of support and photographs.



Variance Petition No. V10-026

HEARING & MEETING DATES

Board of Appeals Hearing

September 15, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner
Robert Leven

Petitioner
Robert Leven

Representative
Robert Leven

PROPERTY INFORMATION

Address, Land Lot(s), and District
420 North Errol Court
Land Lot 134, District 17

Council District
6

Frontage
50.19 feet of frontage along the north side North Errol Court.

Area
The subject property has a total area of approximately 0.847 acres.

Existing Zoning and Use
The lot is zoned R-2A (Single Family Dwelling District) under Fulton County zoning case Z79-0032. The property is currently developed with a residence.

Overlay District
N/A

2027 Comprehensive Future Land Use Map Designation
R1-2 Residential (1-2 units per acre)

INTENT

The applicant is proposing to construct an addition to the existing house which will encroach into the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback). The applicant is requesting one (1) primary variance from the Stream Buffer Protection Ordinance:

- 1) Variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet) to allow for an addition.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V10-026 - 1) APPROVAL CONDITIONAL

420 North Errol Court



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

CASE NUMBER: V10-026

STAFF CONTACT: Colleen Allen, Planning & Zoning 770-206-1514
E-mail: colleen.allen@sandyspringsga.org

Findings of Fact

The applicant is proposing to construct an addition to the existing house which will encroach into the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback). The applicant is requesting relief from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet) to allow for an addition.

The applicant has submitted a site plan indicating the subject property to have 50.19 feet of frontage along North Errol Court. The property is trapezoidal in shape, and sloping to the western side of the lot toward the stream. The stream runs north to south bisecting the western portion of the lot. The stream runs approximately one hundred sixty (160) feet across the property. At the March 11, 2010 hearing, variance V10-003 was approved granting the property owners the right to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to 42 feet to allow for new additions to the existing house. This variance proposes the same encroachment into the stream buffer, but allows for an additional 88 square feet of impervious surface located on the southeastern portion of the addition which will be developed in the opposite direction of the stream buffer. There is also a sanitary sewer easement that runs parallel to the stream through the western portion of the property.

The stream buffer covers approximately three fourths of the buildable area of the lot. Three other lots in the Glen Errol Subdivision are also affected by the stream. The sanitary sewer easement also restricts the buildable area of the property.

The surrounding lots in the immediate vicinity are zoned R-2A (Single Family Dwelling District).

Standards for Consideration

Zoning Ordinance

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:

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on September 15, 2010

(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 the stream buffers cover approximately three fourths of the buildable area of the lot. The parcel topography also restricts the buildable area of the lot. Relief from this requirement would not be a detriment to the public as the proposed addition will be less intrusive in the stream buffer than the existing house and pool. 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:

Staff notes the stream buffer covers approximately three fourths of the buildable area of the lot. The land would be difficult to re-develop without relief from the stream buffer requirements. An extreme hardship is presented when strict adherence to the minimal buffer requirement is followed. 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 is trapezoidal in shape, and sloping to the western side of the lot toward the stream. 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:

All streams on the property have been identified on the site plan. The stream runs north to south bisecting the western portion of the lot. The stream runs approximately one hundred sixty (160) feet across the property.

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

Findings:

The proposed addition to the existing house would reduce the required 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment to twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet). All buffer and setback intrusions have been identified on the site plan.

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

Findings:

Alternative designs have not been discussed with the staff regarding the proposed addition to this property. Therefore, staff is of the opinion this condition has not 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

The staff held a Focus Meeting on July 28, 2010 at which 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	▪ The magnitude of the contemplated improvements do not appear to be significant enough to warrant such additional encroachment and disturbance as would be necessary to install the typically conditioned stormwater runoff infiltration facility within the buffer.
	Sandy Springs Landscape Architect/ Arborist	▪ The planting plan meets the minimum requirements of the riparian vegetation standards.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Department of Transportation	▪ No Comments

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 109-225 of the Code of the City of Sandy Springs. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance(s) request.

Recommended Condition(s)

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

- 1) The subject addition shall be constructed in accordance with the proposed site plan, provided by the applicant dated received July 6, 2010 by the Department of Community Development, for the variance herein, showing a reduction in the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to forty-two (42) feet (proposed structure encroachment of twenty-five (25) feet and limits of disturbance of eight (8) feet for a total encroachment of thirty-three (33) feet) where necessary to accommodate the portion of the encroachment only.
- 2) When garages or parking pads are located in areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either vegetation for filtration before entering the stream or artificial filtration with proof of maintenance required at time of Land Disturbance Permit, subject to the approval of the Sandy Springs City Engineer.
- 3) The area of the fifty (50) foot undisturbed natural buffer outside the area of this approved variance shall be maintained and any modification to the buffer (e.g. replanting or restoration) shall be subject to the approval of the Sandy Springs Arborist.

ATTACHMENTS: Letter of appeal, site plan, elevations, letter of support and photographs.