



Variance Petition No. V11-045

HEARING & MEETING DATES

Board of Appeals Hearing

November 10, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner

Chris Cramer

Petitioner

Chris Cramer

Representative

Mark Shoemaker

PROPERTY INFORMATION

Address, Land 5280 Long Island Drive

Lot(s), and District Land Lots 121 and 135, District 17

Council District 6

Frontage 150.51 feet of frontage along the west side of Long Island Drive.

Area 1.42 acres

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 R0-1 Residential (0-1 units per acre)

Map Designation

INTENT

The applicant is proposing to construct an accessory structure (screened-in porch) in the side yard on the north side of the property. The applicant is requesting two (2) primary variances:

- 1) Primary variance from Sections 109-225(a)(b) 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 35.3 feet (proposed structure encroachment of 34.7 feet and limits of disturbance of five (5) feet for a total encroachment of 39.7 feet) to allow for a screened porch.
- 2) Primary variance from Section 6.2.3.C of the Zoning Ordinance to reduce the fifteen (15) foot side setback to 5.3 feet to allow construction of a screened porch.

ENFORCEMENT ACTION

There is no history of code enforcement action on the property. There is currently a building permit application under review for the screened porch that is the subject of this variance application.

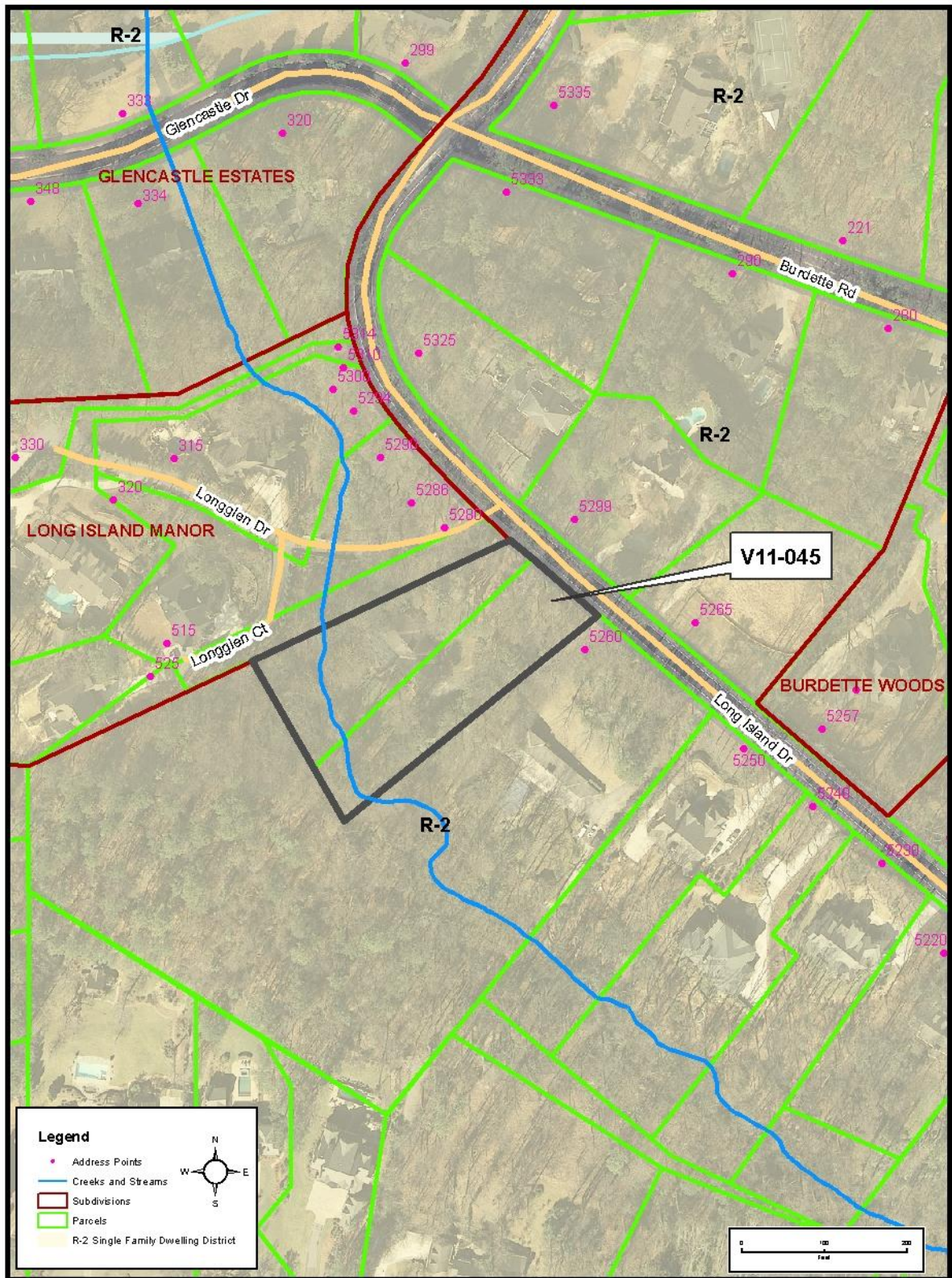
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-045 - 1) APPROVAL CONDITIONAL

V11-045 - 2) DENIAL

Parcel Map

5280 Long Island Drive



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

CASE NUMBER: V11-045

STAFF CONTACT: Taylor Baxter, Planning and Zoning 770-206-1514
E-mail: taylor.baxter@sandyspringsga.org

Finding of Fact:

The applicant is requesting relief from Section 109-225 (a)(b)1 and 109-225 (a)(b)2 of the Stream Buffer Protection Ordinance to reduce the required seventy-five (75) foot stream buffer to 35.3 feet to allow construction of a screened porch, and relief from Section 6.2.3.C of the Zoning Ordinance to reduce the fifteen (15) foot side setback to 5.3 feet to allow construction of a screened porch.

The applicant has submitted a site plan (exhibit 1) indicating the subject property to have approximately 150.51 feet of frontage along the west side Long Island Drive. The property is trapezoidal in shape, with a stream running approximately 143 feet south to north through the rear yard. The property slopes downward from east to west toward the stream. A seventy-five (75) foot impervious setback extends east of the stream toward the front of the property, and includes the pool, pool deck, rear porch, nearly the entirety of the rear yard, and rear portions of the existing house. The proposed screen porch to the north side of the existing house would fall entirely within this impervious setback. The proposed screened porch would extend nearly ten (10) feet into the north side yard setback and would be 5.3 feet from the north property line.

The site slopes approximately twenty (20) feet from Long Island Drive at an elevation approximately 910 to the creek at an elevation of approximately 890. The property slopes upward approximately twenty (20) feet from the creek to the rear property line. The proposed screened porch would be sixteen (16) feet by twenty (20) feet and would be located entirely within the seventy-five (75) foot impervious setback, increasing the amount of impervious surface by three-hundred-twenty (320) square feet.

Staff notes the surrounding properties are zoned R-2 (Single Family Dwelling District) on all sides. The nearest neighboring structures to the north and south are approximately 180 and 205 feet from the proposed screened porch location. Substantial tree cover exists between the proposed screened porch location and neighboring structures.

Standards for Consideration

VARIANCE #1

Section 109-225(a)(b) 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 35.3 feet (proposed structure encroachment of 34.7 feet and limits of disturbance of five (5) feet for a total encroachment of 39.7 feet) to allow for a three-hundred-twenty (320) square foot screened porch.

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

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on November 10, 2011

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 fifty (50) percent of the buildable area of the front and sides yards of the lot. The lot slopes downward from the east to the west. The stream runs through the western part of the property for approximately one hundred forty-six (143) feet flowing north. While nearly the entire rear and side yards of the property fall within the seventy-five (75) foot impervious setback, the area of an existing porch in the rear yard could be built upon without significant increases in impervious surface. Additionally, the entire front yard falls outside the impervious setback. Based on these reasons, staff is of the opinion this condition has not 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 buffers cover approximately fifty (50) percent of the buildable area of the lot. 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. The lot slopes from the east to the west. The stream runs through the west side of the property for approximately one hundred forty-three (143) feet flowing north. The stream buffers cover approximately fifty (50) percent of the buildable area of the lot. The property does exhibit some topographic challenges relation to the requested variances. 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 buffers on the property have been identified on the site plan (exhibit 1). The stream runs through the west side of the property for approximately one hundred forty-three (143) feet flowing north. The stream buffers cover approximately fifty (50) percent of the buildable area of the lot.

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 site plan (exhibit 1). The proposed screened porch would encroach 39.7 feet (proposed structure encroachment of 34.7 feet and limits of disturbance of five (5) feet for a total encroachment of 39.7 feet). The proposed structure would be twenty feet long (20) by (16) feet wide, for a total of three-hundred-twenty (320) square feet. Therefore, 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 regarding this property. However, the applicants proposed location to expand the master bedroom is the least intrusive into the stream buffer. Potential designs placing the structure further west on the property in order to lessen side yard setback intrusion would increase stream buffer intrusion. 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 not is as protective of the natural resources and environment as the existing site condition. The existing stream buffer has natural vegetation within the approximately fifteen (15) foot fenced-off portion of the stream buffer. The portion of the buffer between the house and the fence along the north side yard is grassed with approximately five large trees. Staff has recommended a condition to install flo-wells subject to the Chief Engineers approval to mitigate the additional impervious surface.

VARIANCE #2

- 1) Section 6.2.3.C of the Zoning Ordinance to reduce the fifteen (15) foot side setback to 5.3 feet to allow construction of a screened porch.

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:

Relief from this requirement is not in harmony with the intent of the Zoning Ordinance and would be a detriment to the public. The 320-square-foot screened porch would be sixteen (16) feet wide by twenty (20) feet long. It would be constructed 5.3 feet from the north property line, approximately one-hundred-eight (180) feet from the nearest structure. This significant encroachment into the side yard setback could be avoided by constructing the porch in the front yard or above the existing porch in the rear yard, or by redesigning the porch to lessen the reduction of the side yard setback. Therefore, staff is of the opinion this condition has not been satisfied.

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

Finding:

The property is approximately trapezoidal in shape, with a stream running approximately one-hundred-forty-three (143) feet south to north through the rear yard. The property slopes downward from east to west toward the stream. A seventy-five (75) foot impervious setback extends east of the stream toward the front of the property, and includes the pool, pool deck, rear porch, nearly the entirety of the rear yard, and rear portions of the existing house, severely limiting buildable area in the rear and side yards. However, the porch could be constructed in the front yard outside of the impervious setback or over the existing porch in the rear yard without increasing impervious surface. Therefore, because the property's natural features do not preclude alternative building sites, staff is of the opinion this condition has not been 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 October 5, 2011 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	There are no Development Plan Review requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	▪ Approval should be conditioned to the owner's installation of riparian vegetation as directed by the Arborist.
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 reviewed the request relative to the variance standards contained in Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance and Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of variance #1 and **DENIAL** of variance #2.

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 August 31, 2011 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 35.3 feet (proposed structure encroachment of 34.7 feet and limits of disturbance of five (5) feet for a total encroachment of 39.7 feet) to allow for a screened porch, 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

Petition and Legal Description (Exhibit A)

Site plan (Exhibit B)

Construction Materials and Design List (Exhibit C)

Screened Porch Plans (Exhibit D)

Applicant photographs (Exhibit E)

Staff photographs (Exhibit F)

Aerial Photograph (Exhibit G)



Variance Petition No. V11-044

HEARING & MEETING DATES

Board of Appeals Hearing

November 10, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Christopher H. ERB/Developers Diversified Realty	Chick-Fil-A	Brett Bokath

PROPERTY INFORMATION

Address, Land Lot, and District.	1145 Mt Vernon Highway Land Lot 19, District 17
Council District	5
Frontage and Area	Approximately 1,025.0 feet of frontage along the eastern side of Mt Vernon Hwy and approximately 444.0 feet along the northern side of Perimeter Center West. The subject property has a total area of 29.10 acres (123,240.0 square feet).
Existing Zoning and Use	C-1 (Community Business District) under Sandy Springs Zoning case RZ09-006 currently developed with a shopping Center.
Overlay District	Perimeter Community Improvement Design District
2027 Comprehensive Future Land Use Map Designation	LWR – Living Working Regional

INTENT

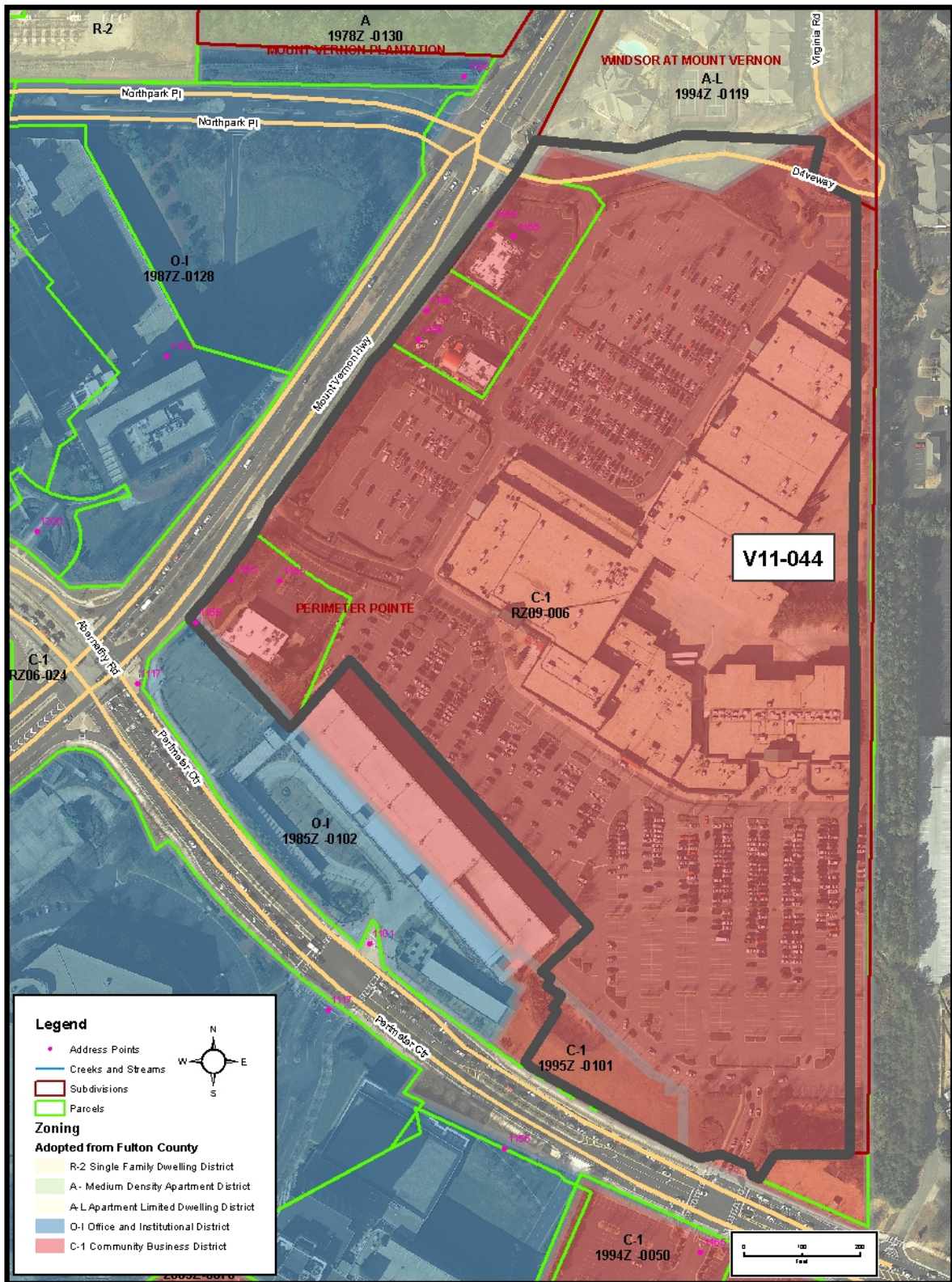
The applicant is seeking a primary variance from Section 33.26.F.4 of the Zoning Ordinance to allow a second menu board where only one is allowed.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V10-044 - 1) APPROVAL CONDITIONAL

Parcel Map

1145 Mount Vernon Highway NE



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on November 10, 2011

CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS

CASE NUMBER: V11-044

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

ANALYSIS:

The subject of this variance is a parcel located at 1145 Mount Vernon Hwy at the intersection of Mount Vernon Hwy and Perimeter Center West. This property is zoned C-1 (Community Business District) under Sandy Springs zoning case RZ09-006 and is currently developed with a shopping center.

The applicant is a tenant in a stand-alone building within the Perimeter Point Shopping Center, located on the east right-of way of Mt Vernon Hwy. The property is housing a fast food restaurant identified as Chick-fil-A. The subject request is to allow the applicant to install an additional menu sign

The Sandy Springs zoning ordinance provides:

Menu Sign (amended 04/21/09, TA09-002, Ord. 2009-04-19). One sign oriented toward the drive-thru lane, and not legible from the public right-of-way, such sign not to exceed six (6) feet in height.

The current zoning provides for only one menu sign per business. This variance request is based on Chick-fil-A's proposed plans to add a second drive thru order to their existing location. The proposed Chick-fil-A work is to be done in conjunction with the overall site developer's plans to improve the access drive in front of the Chick-fil-A site to address traffic concerns on the site. The applicant state "relief from this restriction will further enhance the traffic improvements in this area by allowing Chick-fil-A to more efficiently serve its drive thru customers, and provide relief to traffic flow on-site and at overall development's perimeter access drive".

The proposed menu sign will be located approximately one hundred (100) feet from the property right-of-way and on the northern side of the Chick-fil-A's building attached to a canopy. The proposed menu sign is approximately 3.5sqft. of sign area and 5.81 feet above the ground. The menu sign will be internally illuminated.

SITE HISTORY

In the year 2010 pursuant to RZ09-006 the Mayor and City Council recommended to the MDT Perimeter Pointe LLC to address "**Deficiency in traffic circulation in and around the Chick-Fil-A outparcel**". The applicant has addressed this concern by redesigning the site layout and providing relief to traffic flow.

Standards for Consideration

Zoning Ordinance

1. Section 33.26.F.4 to allow a second menu board where only one is allowed.

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 Mount Vernon Hwy street frontage with fully developed vegetation that partially blocks the building from the passing traffic. Staff is of the opinion that the lot presents topographical challenges along the front of the property on Mount Vernon Hwy, impacting the visibility of the sign from the adjoining public roads. Therefore, based on these reasons the staff is of the opinion this standard has 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 landscape strip along the perimeter of the property with fully developed vegetation that surrounds the buildings in addition to the topographical changes, limits the visibility of the menu sign, not allowing the ease visibility from the public right-of way as required by the ordinance. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied.

Department Comments

The staff held a Focus Meeting on October 5, 2011 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer	▪ No Comments
	Plan Review	
	Sandy Springs Development Plan Review Engineer	▪ No Comments
FIRE DEPT.	Sandy Springs Landscape Architect/ Arborist	▪ No Comments
	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Department of Transportation	▪ 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. The proposed menu sign at the proposed location can't be seen from the public right-of-way, because is obscured by the vegetation and berm on the west property line as is required by the zoning ordinance. Staff is of opinion that the approval of this variance request would be in harmony with the general intent of the Zoning Ordinance. This relief will further enhance the traffic flow on site and Chick-fil-A will serve its drive thru costumers more efficiently. Therefore, based on these reasons the staff recommends **APPROVAL CONDITIONAL** of this variance.

Recommended Conditions:

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

1. To allow a second menu sign on the existing outparcel (Chick-Fil-A), pursuant to the sign design detail submitted by the applicant, dated received August 31, 2011 by the Department of Community Development.
2. The menu sign shall be located pursuant to the site plan submitted by the applicant, dated received August 31, 2011 by the Department of Community Development.

ATTACHMENTS: Proposed site plan, proposed sign detail, elevations Letter of appeals and Photos.



Variance Petition No. V11-046

HEARING & MEETING DATES

Design Review Board
October 11, 2011

Board of Appeals Hearing
November 10, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Apostles Lutheran Church	Apostles Learning Center	Denyse/Michael Norton

PROPERTY INFORMATION

Address, Land Lot, and District.	6025 Glenridge Drive Land Lot 36, District 17
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Council District	3
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Frontage and Area	256 feet of frontage along the northeast side of Glenridge Drive and 267 feet along the north side of Hammond Drive. The subject property has a total area of 4.680 acres (203,860.8 square feet).
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Existing Zoning and Use	R-2 (Single Family Dwelling District) currently developed with a Church and Day Care Facility.
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Overlay District	Suburban District
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2027 Comprehensive Future Land Use Map Designation	R3-5 - Residential, 3 to 5 units per acre.
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INTENT

The applicant is seeking a primary variance from Section 33.26.B. of the Zoning Ordinance to allow for a wall sign in a single family residential zoning.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

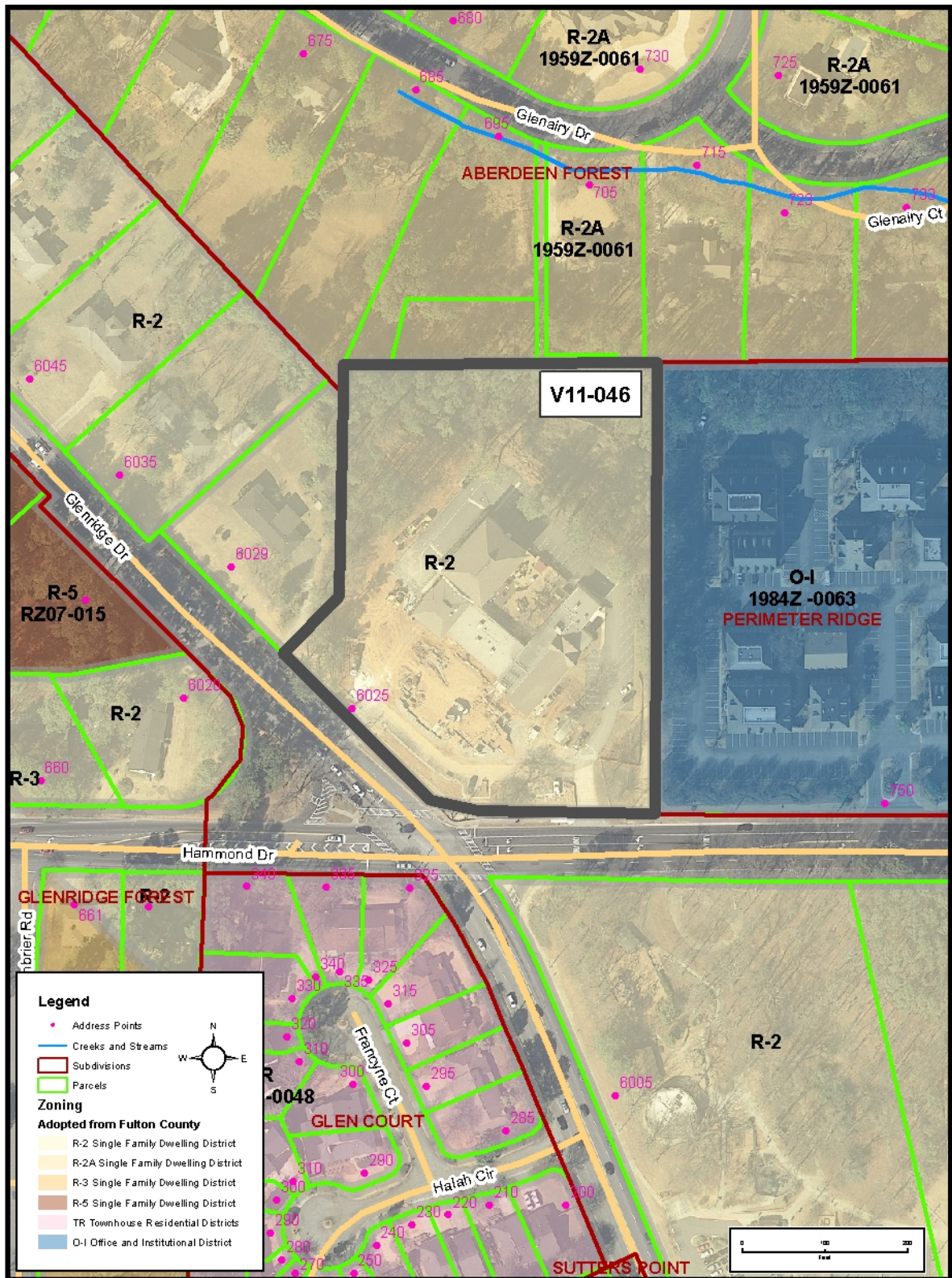
V10-043 - 1) DENIAL

DESIGN REVIEW BOARD RECOMMENDATION

The petition was heard at the October 11, 2011 Design Review Board meeting. The Board recommended Denial (6-0, Richard, Mobley, Landeck, Ealick-Anderson, Porter and Gregory for; Lichtenstein not voting.) with the following recommendation: Applicant should work with the church to create a signage solution.

Parcel

6025 Glenridge Drive



Map

Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on November 10, 2011

CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS

CASE NUMBER: V10-046

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

ANALYSIS:

The site is located at 6025 Glenridge Drive, on the east side of Glenridge Drive at the intersection with Hammond Drive in Land Lot 36 of the 17th District. The property is zoned R-2 (Single family District), its operate with a special use permit and is located within the Suburban District of the Sandy Springs Overlay.

The subject property is developed with a church and received a special use permit to operate a day care. According to the applicant the center has operated at that location for the past 38 years. Recently, as a result of a renovation project to the church the sign that was identifying the learning center was removed, leaving the learning center without identification. The subject of this request is to place a wall sign on the property that tells where the center is located within the development.

Sandy Springs Zoning Ordinance Section 33.26.B. Single Family Residential, CUP and NUP Districts does not make provisions for wall signs.

The property has two street frontages and therefore is allowed to have one ground sign per street frontage. The church has one existing sign on each street consequently that leaves the center without the opportunity to have a sign.

The applicant states that without the appropriate signage it is difficult to locate the learning center since the building is located behind the church building approximately 150 feet from the Glenridge right-of-way. The applicant also indicates that the signage is also for safety; without an identification sign it will be complicated for emergency vehicles or emergency assistance to find the school.

The applicant proposes to add a wall sign on the southwest elevation of a court yard wall facing Glenridge approximately one hundred and thirty (130) feet from the Glenridge right-of-way and approximately fifty-five (55) feet from the front of the church new building. The proposed sign applicable wall has approximately 3000 square feet. The proposed sign is approximately 35.42 square feet. Staff determined that a variance was needed to allow a wall sign for the learning center, as there is no provision in the zoning ordinance for wall signs on a single family residential zoning district.

Staff notes that the learning center has a wall sign in the north elevation of the building with no street visibility.

Site History

In December 2010 the applicant requested to be allowed to have an additional ground sign on the Glenridge Road frontage to identify the Learning Center.

The application was heard at the January 25, 2011 DRB meeting and on February 10, 2011 the request was presented to the Board of Appeals. The request was recommended for DENIAL by the two boards.

The Board of Appeals recommended to the applicant to explore the motion of sharing an ID monument sign with the church.

Standards for Consideration

Zoning Ordinance

- 1) Variance from Section 33.26.B. of the Zoning Ordinance to allow for a wall sign in a single family residential zoning.

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:

Staff is of the opinion that the topography of the lot do not present any challenges to justify the approval of this variance. Therefore, based on this reason the 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 natural features of the lot do not impact visibility of the sign from the adjoining public roads. Therefore, based on these reasons the staff is of the opinion this standard has not been satisfied.

Department Comments

The staff held a Focus Meeting on October 5, 2011 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 encourage the effective use of signs as a means of communication and to promote economic development. While the site does not present hardship based on topography and natural features, Staff recognizes that the location of the day care behind the church building creates limitations to identify the existence of the center. Based upon this observation, staff recommends DENIAL of the variance request. However, relief, if granted, would not cause detriment to the public good or impair the purpose and intent of the zoning ordinance, as the request would result in a proportional and reasonable level of signage for the Apostle Learning Center and would be in harmony with the intent of the zoning ordinance "To convey their message through signs".

Recommended Conditions:

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

1. To allow for a wall sign for the Learning Center, not exceeding 35.42 sqft of sign area, to be installed pursuant to the sign design detail, submitted by the applicant, and dated received September 8, 2011 by the Department of Community Development.

ATTACHMENTS: Proposed sign site plan, proposed sign detail, Letter of appeals.



Variance Petition No. V11-009

HEARING & MEETING DATES

Board of Appeals Hearing

May 12, 2011

July 14, 2011

September 8, 2011

November 10, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
SCI Management	Arlington Memorial Cemetery	Alex Brock

PROPERTY INFORMATION

Address, Land Lot(s), and District	201 Mount Vernon Highway Land Lot 124, District 17
Council District	3
Frontage	1,104.96 feet of frontage along the north side Mount Vernon Highway.
Area	The subject property has a total area of approximately 122.26 acres.
Existing Zoning and Use	The lot is zoned AG-1 (Agricultural District) under Fulton County zoning case Z93-0030. The property is currently developed with a Cemetery.
Overlay District	N/A

2027

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

The applicant is proposing to install 375 feet of storm drain pipes to alleviate erosion and flooding on the existing internal road. 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 twenty-five (25) feet to allow for the installation of storm drain pipes.

At the May 12, 2011 Board of Appeals meeting the Board deferred the application to the July 14, 2011 Board of Appeal meeting to give the applicant and the citizen an opportunity to discuss possible alternative designs.

At the July 14, 2011 Board of Appeals meeting the Board deferred the application per the applicants request to the September 8, 2011 Board of Appeal meeting to give the applicant

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additional time to work with the City to develop a comprehensive stormwater management plan for the cemetery.

The applicant has requested the application be deferred to the November 10, 2011 meeting to continue working with the City to develop a comprehensive stormwater management plan for the cemetery.

At the September 8, 2011 Board of Appeals meeting the Board deferred the application to the November 10, 2011 Board of Appeal meeting to give the applicant the opportunity to discuss possible alternative designs to the overall site with staff and the citizens.

Staff received a request to withdraw the application dated November 3, 2011.

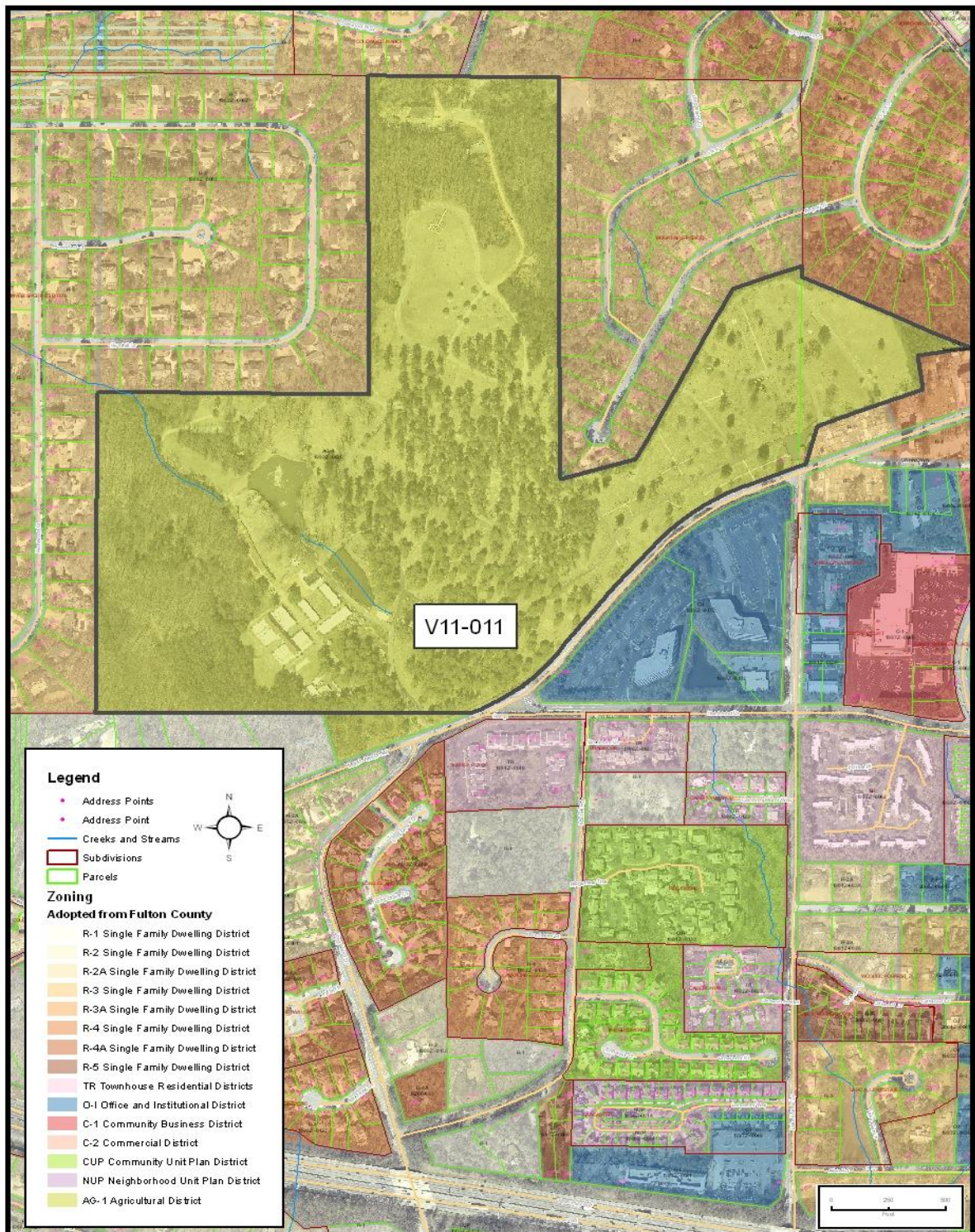
ENFORCEMENT

A Stop Work Order was posted on October 8, 2010 on the site for working without a Land Disturbance permit. The Stop Work Order was amended on January 6, 2011 to allow the upper portion of the ditch to be back filled. The site is currently under a stop work notice.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION**V11-009- 1) WITHDRAWAL**

Parcel Map

201 Mount Vernon Highway NW



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

CASE NUMBER: V11-009

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

Findings of Fact

The applicant is proposing to install 375 feet of storm drain pipes to alleviate erosion and flooding on the existing internal road. 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 twenty-five (25) feet to allow for the installation of storm drain pipes. Below is a breakdown of each portion of the stream buffer encroachment request.

- 1) The applicant is proposing to remove approximately thirty (30) feet of existing pipe from the fifty (50) foot undisturbed buffer. The remaining portion of the pipe and headwall located in the twenty-five (25) foot undisturbed state buffer would be grout filled and abandoned in-place. (Area 1 on Exhibit 4)
- 2) The proposed new eighteen (18) inch reinforced concrete pipe (RCP) would start at the end of the concrete flume connected to the pedestal drop inlet (PDI) and would run fifty-six (56) feet to the northeast then turn north at the junction box and run another twenty-eight (28) feet to grate drop inlet in the properties interior road. (Area 2 on Exhibit 4)
- 3) Also, four (4) eight (8) inch PVC pipe is proposed to be installed next to an existing culvert. The PVC pipe would be a minimum one (1) foot below the existing culvert invert. A portion of the PVC pipe has already been installed before the Stop Work Order was posted on October 8, 2011. (Area 3 on Exhibit 4)

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:

(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 buffer covers approximately one eighth (1/8) of the property. The 122.26 acres property has an irregular shape, and slopes from the Mount Vernon Highway towards the two (2) ponds on the western side of the property. The cemetery has a rolling topography. The topography changes from an elevation of 1,100 feet at Mount Vernon Highway to 990 feet to the western property line. The proposed storm water piping is designed to alleviate erosion and flooding of the onsite road. The applicant can not address the erosion or flooding issue without a stream buffer variance. 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 one eighth (1/8) of the property. An extreme hardship is presented when strict adherence to the minimal buffer requirement is followed. The proposed storm water piping is designed to alleviate erosion and flooding of the onsite road. The applicant can not address the erosion or flooding issue without a stream buffer variance. 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 122.26 acres property has an irregular shape, and slopes from the Mount Vernon Highway towards the two (2) ponds on the western side of the property. The cemetery has a rolling topography. The topography changes from an elevation of 1,100 feet at Mount Vernon Highway to 990 feet to the western property line. 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 being affected on the property have been identified on the site plan (exhibit 2). The stream starts a head wall to the west side of the entry drive. The stream runs approximately one hundred (100) feet before entering the first pond. The stream exits the pond and travels approximately one hundred fifty (150) feet before entering the second pond. The stream exits the second lake and travels west six hundred ninety (690) feet before leaving the property.

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

Findings:

The proposed installation of storm drain pipes would reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to twenty-five (25) feet. All buffer and setback intrusions have been identified on the site plan (Exhibit 1 and Exhibit 2).

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 installation of storm drain pipes. However, the erosion and flooding issue is located in the stream buffer and there is no other location outside the buffer to install the pipes. The proposed pipes will help alleviate the erosion problem in the stream 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

The staff held a Focus Meeting on April 6, 2011 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	Runoff passing through the proposed pipes will drain to the same existing pond on the Arlington campus to which the runoff currently drains. Proposed installation is intended to reduce risk of erosion where overflow from an existing pond currently often washes over an existing drive. No exceptions taken to the proposal.
	Sandy Springs Landscape Architect/ Arborist	There are no Arborist requirements that need to be addressed at this time.
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 109-225 of the Code of the City of Sandy Springs. Based upon this review, staff recommends **WITHDRAWAL** 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 installation of storm drain pipes shall be constructed in accordance with the proposed site plan, provided by the applicant dated received March 29, 2011 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 twenty-five (25) feet (proposed pipe encroachment of forty-eight (48) feet and limits of disturbance of two (2) feet for a total encroachment of fifty (50) feet) to allow for 375 feet of storm drain pipes to be installed, where necessary to accommodate the portion of the encroachment only.

ATTACHMENTS:

Withdrawal request

Letter of appeal

Overall site plan showing stream buffers (Exhibit 1)

Overall site plan outlining location of proposed disturbance (Exhibit 2)

Zoomed in area of disturbance (Exhibit 3)

Site Plan (exhibit 4)

Photographs



Variance Petition No. V11-042

HEARING & MEETING DATES

Board of Appeals Hearing

October 13, 2011

November 10, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
The Mystic Consortium, LLC	The Mystic Consortium, LLC	Rebecca Davis Seyfarth Shaw, LLP

PROPERTY INFORMATION

Address, Land Lot(s), and District	4784 Roswell Road (SR 9) Land Lot 94, District 17
Council District	6
Frontage	Approximately 92 feet of frontage on the west side of Roswell Road (SR 9) and approximately 310 feet of frontage on the south side of Mystic Drive.
Area	The subject property has a total area of approximately 27,400 square feet (0.63 acres).
Existing Zoning and Use	The lot is zoned O-I (Office and Institutional District) conditional under zoning case Z02-0015. The property is currently developed with an office building.
2027 Comprehensive Future Land Use Map Designation	Live-Work Neighborhood (LWN)

INTENT

The Mystic Consortium, LLC has filed a Secondary Variance to appeal the Director of Community Development's determination regarding the identification monument sign located at the property.

ENFORCEMENT ACTION

1. First Notice of Violation for Abandoned Sign – April 26, 2010 (to original owner)
2. Second Notice of Violation for Abandoned Sign – February 1, 2011 (to current owner)
3. First Citation for Noncompliance with Second Notice of Violation – April 15, 2011
4. Second Citation for Modification of a Nonconforming Sign without a Permit – June 20, 2011

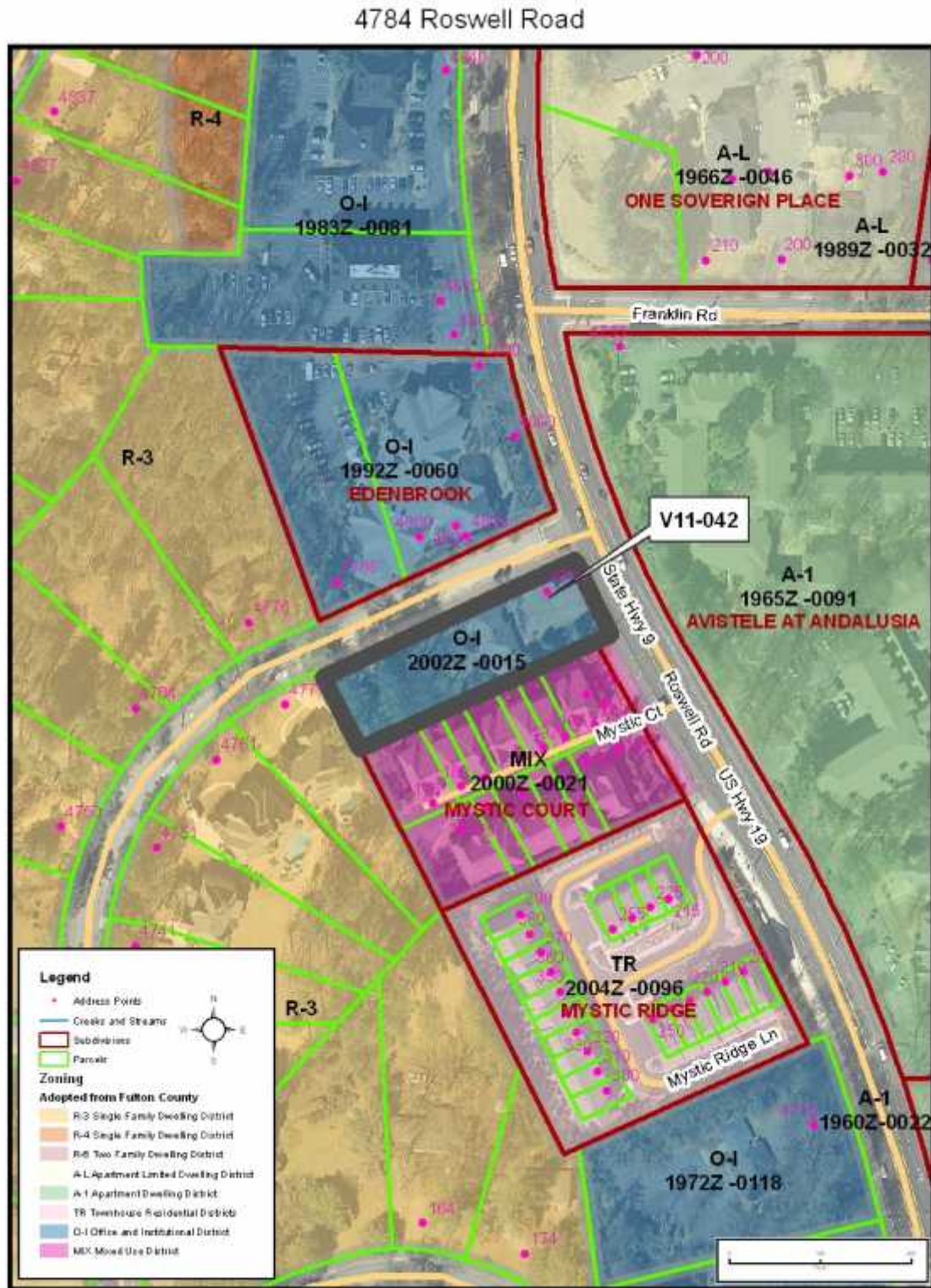
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-042 - 1) AFFIRM DIRECTOR'S DECISION

BOARD OF APPEALS ACTION - OCTOBER 13, 2011

The petition was heard at the October 13, 2011 Board of Appeals meeting. The Board deferred the case to the November 10, 2011 meeting at the applicant's request (6-0, Coan, Moller, Reale, Squire, Frostbaum and Sandler for; Pond absent).

Parcel Map



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

CASE NUMBER: V11-042

STAFF CONTACT: Patrice Dickerson, Manager of Planning and
Zoning, 770-206-1513
E-mail: pdickerson@sandyspringsga.gov

Findings of Fact

This petition involves property located at 4784 Roswell Road (SR 9) owned by the Mystic Consortium, LLC. The subject property is currently zoned O-I (Office and Institutional District) conditional under zoning case Z02-0015 and is developed with a vacant office building.

Staff of the Code Enforcement Division of the Department of Community Development issued a notice of violation on April 26, 2010. The notice was issued because the monument sign on the property was determined to be abandoned based on the fact that the prior business, Nationwide Mortgage, ceased operation in January 2010. The notice came back unclaimed, however the new owner was made aware of the violation during an on-site inspection in July 2010. At that time, Code Enforcement notified the new owner that the sign was determined to be abandoned and that any business operation occurring at the property was doing so without a valid business license. The new business, Campbell Dental, did not begin legal operation with an official business license from the city until July 2010, after the verbal notification from Code Enforcement.

Article 33, Signs, of the Zoning Ordinance provides the following:

Abandoned sign (amended 04/21/09, TA09-002, Ord. 2009-04-19). Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, or missing letters or which is otherwise dilapidated, unsightly, or unkempt, and for which no person accepts maintenance responsibility. Also, any sign associated with a business that has ceased operations for sixty (60) days or more.

A second notice of violation was issued to the property owner on or about February 1, 2011 for noncompliance with the original notice of violation based on the fact that the sign had not been removed and that the property owner had not contacted staff to discuss alternatives. A citation was then issued on April 15, 2011 for noncompliance with the second notice of violation.

On June 14, 2011 several staff members from the Department of Community Development met with the property owner to discuss the signage issue and other permitting questions. At this meeting staff advised the owner that if he desired to maintain the sign he would need to complete a variance pre-application meeting with the appropriate staff and the process for obtaining a variance was outlined. Additionally, staff informed the property owner that modifications could not be made to the nonconforming sign without a permit or variance.

On June 15, 2011, following the meeting with staff and the determination that the sign was abandoned, the Code Enforcement Division found that the sign had been modified by the property owner and was therefore subject to the following section of the sign ordinance as well:

SECTION 20: NONCONFORMING SIGNS.

A. Maintained (amended 04/15/08, RZ08-004, Ord. 2008-04-16)

A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards, or dismountable material on nonconforming signs shall be permitted provided that said replacement does not constitute a material change to the sign. All nonconforming signs shall be maintained in good repair.

B. Repairs; Material Change (amended 04/21/09, TA09-002, Ord. 2009-04-19)

Minor repairs and maintenance of nonconforming signs shall be permitted; provided. However, no structural repairs or changes in the size or shape of a nonconforming sign shall be permitted except to make the sign comply with the standards of this Article. To the extent that any sign allowable hereunder is damaged or destroyed by act of God or by other circumstances beyond control of owner of sign then such sign may be repaired without regard to the restrictions of this paragraph. The replacement of an existing sign face utilizing LED technology is expressly prohibited.

C. Grandfathering

Nonconforming signs may stay in place until one of the following conditions occurs:

1. The advertised business ceases at that location;
2. The deterioration of the sign or damage to the sign makes it a hazard or renders it dilapidated, unsightly, or unkempt; or
3. The sign has been damaged to such extent that more than minor repairs or a material change is required to restore the sign. No structural repairs or change in shape or size shall be permitted except to make the sign comply with all standards of this Article. To the extent that any sign allowable hereunder is damaged or destroyed by act of God or by other circumstances beyond control of owner of sign then such sign may be repaired without regard to the restrictions of this paragraph.

A second citation was issued on June 20, 2011 for modification of a nonconforming sign without a permit. The existing sign does not meet the minimum sign setback requirements and the original design (Exhibit 1) had a reader board included in the design, which is no longer permitted by the Zoning Ordinance. The sign was modified by replacement of the sign face and reader board with a solid panel (Exhibit 2).

On July 8, 2011, after a request for clarification from the property owner, a Letter of Determination (Exhibit 3) was issued citing the code sections above and providing the following options to the owner:

- 1) The sign must be removed pursuant to the citations issued related to the sign; or
- 2) A Secondary Variance may be filed within 30 days of the date of the letter with the City to appeal the determination to the Board of Appeals. As such, any application for Secondary Variance must be filed on or before August 8, 2011.

The property owner submitted the subject Secondary Variance application on August 5, 2011.

Appeal

The Mystic Consortium, LLC, in the Letter of Appeal (Exhibit 4) received on August 5, 2011, indicates that unclear direction from the city on the status of the sign is the basis for the appeal and that the property owner has only done what the city has directed him to do. Therefore, the property owner contends that "the grandfather status of the sign is still in force".

Conclusion and Requested Action

Pursuant to Section 22.13.11 of the Sandy Springs Zoning Ordinance, the Board is permitted to take the following actions as it relates to this appeal:

22.13.11. BOA DECISION ON SECONDARY VARIANCES/INTERPRETATIONS. The BOA may take the following actions pursuant to a secondary variance and/or an interpretation appeal:

- A. Affirm an order, requirement, or decision, wholly or partly;
- B. Reverse an order, requirement, or decision, wholly or partly;
- C. Clarify an order, requirement, or decision, wholly or partly, by presenting an interpretation of the text in the form of a statement of clarification. Such statement shall not contain substitute language, but shall rely upon language and definitions contained in the Zoning Ordinance, and definitions contained in the most current edition of the Merriam-Webster Collegiate Dictionary.

At this time, staff respectfully requests the Board of Appeals to **AFFIRM** the determination made regarding the monument sign located on the property.

Attachments

- Exhibit 1 – Staff Photographs of Original Sign
- Exhibit 2 – Staff Photographs of Modified Sign and Property
- Exhibit 3 – Letter of Determination dated July 8, 2011
- Exhibit 4 – Letter of Appeal from the Mystic Consortium, LLC and Supporting Documentation dated received August 5, 2011



Variance Petition No. V11-043

HEARING & MEETING DATES

Board of Appeals Hearing

November 10, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner
Gilbert Holzer

Petitioner
Gilbert Holzer

Representative
Gary Unell

PROPERTY INFORMATION

Address, Land Lot(s), and District
7715 Marsh Court
Land Lot 127, District 17th

Council District
3

Frontage
Approximately 298.26 feet of frontage on the west side of Brandon Mill Road and approximately 58.86 feet of frontage along the north side of Marsh Court.

Area
The subject property has a total area of approximately 1.54 acres

Existing Zoning and Use
The lot is zoned CUP (Community Unit Plan District) under Fulton County zoning case Z01-0055. The property is currently developed with a single family resident.

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 a 224 square foot addition over an existing deck, which would encroach into the fifty (50) foot undisturbed buffer. The applicant is requesting one (1) primary variance from the Stream Buffer Protection Ordinance, the Zoning Ordinance:

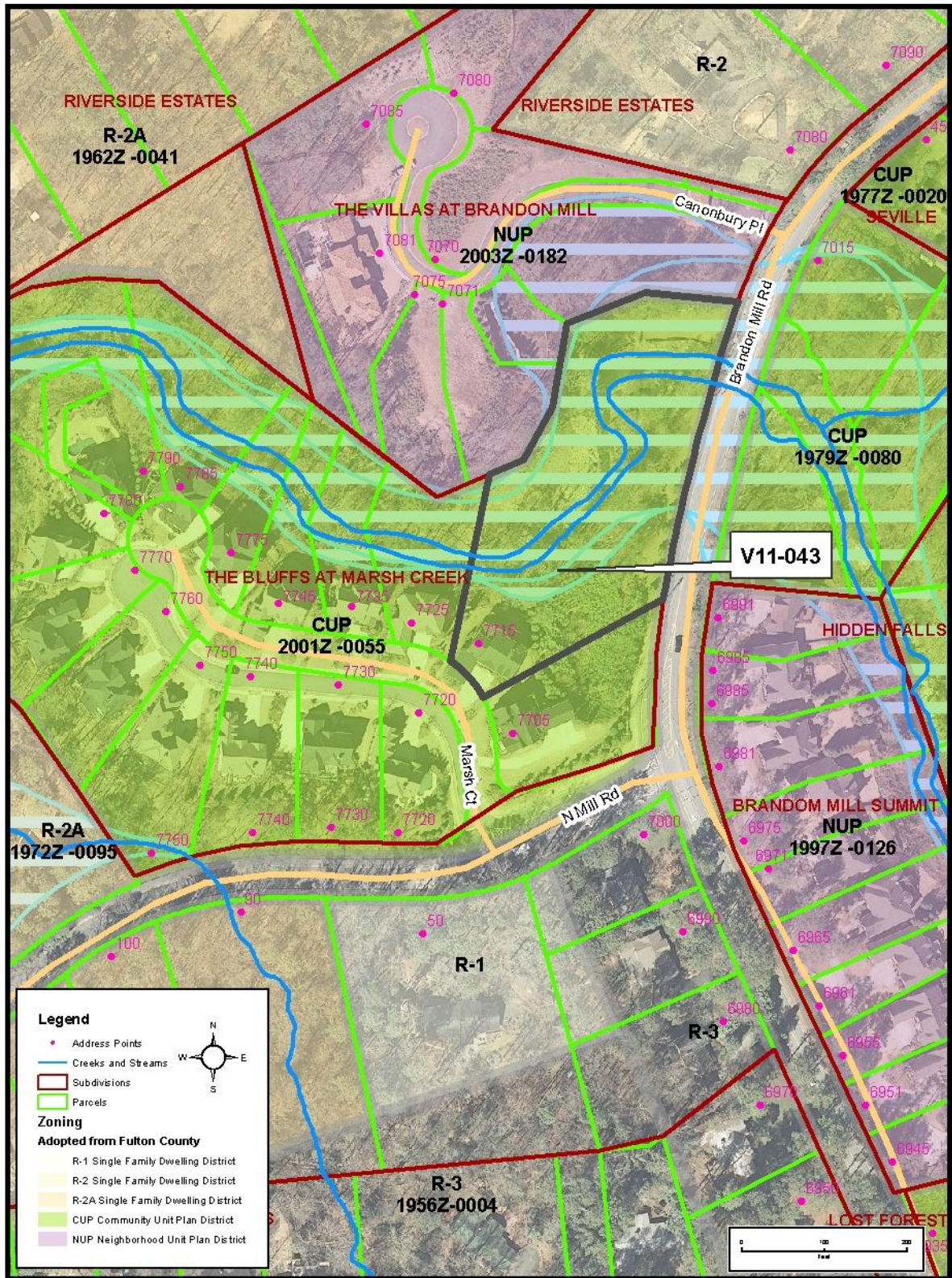
- 1) Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to twenty-eight (28) feet (proposed addition encroachment of thirty-seven (37) feet and limits of disturbance of ten (10) feet for a total encroachment of forty-seven (47) feet) to allow for the replacement of the existing deck with an enclosed addition. The addition would be on the second story and open underneath.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-043- 1) APPROVAL CONDITIONAL

Parcel Map

7715 Marsh Court



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on November 10, 2011.

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

CASE NUMBER: V11-043

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: labaray@sandyspringsga.gov

Findings of Fact

The applicant has submitted a site plan (exhibit 1) indicating the subject property to have 298.26 feet of frontage on the west side of Brandon Mill Road and approximately 58.86 feet of frontage along the north side of Marsh Court. The property is trapezoidal in shape. The lot slopes from southwest (Marsh Court) towards the stream. The stream runs along the north property line for approximately four hundred seventy (470) feet. The stream buffers cover approximately three fourths of the buildable area of the lot. The property also has a twenty (20) foot drainage easement running into a detention pond along the south lot line. The applicant is proposing to replace an existing 292 square foot deck and stairs with a 224 square foot second story addition. The addition would be on the second story replacing the deck and open underneath.

Staff notes the surrounding properties are zoned NUP (Neighborhood Unit Plan District) to the north, CUP (Community Unit Plan District) and NUP (Neighborhood Unit Plan District) east, and CUP (Community Unit Plan District) south and west. The stream also effect portions of adjacent properties.

Total Site Area	1.54 acres
Existing deck and stairs	292 SF
Proposed Addition	224 SF
Difference in Impervious Surface	-68 SF

Standards for Consideration

VARIANCE #1

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 twenty-eight (28) feet (proposed addition encroachment of thirty-seven (37) feet and limits of disturbance of ten (10) feet for a total encroachment of forty-seven (47) feet)

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:

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on November 10, 2011.

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 ($\frac{3}{4}$) of the buildable area of the lot. The property also has a twenty (20) foot drainage easement running into a detention pond along the south lot line. 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 buffers cover approximately three fourths ($\frac{3}{4}$) of the buildable area of the lot and a twenty (20) foot drainage easement running into a detention pond along the south 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. The lot slopes from southwest (Marsh Court) towards the stream. The stream runs along the north property line for approximately four hundred seventy (470) feet. The stream buffers cover approximately three-fourths of the buildable area of the lot. The property also has a twenty (20) foot drainage easement running into a detention pond along the south lot line. The property does exhibit some topographic challenges in relation to the requested variances. The property drops approximately forty (40) feet from Marsh Court to 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:

The locations of all streams and buffers on the property have been identified on the site plan (exhibit 1). The stream runs along the north property line for approximately four hundred seventy (470) feet. The stream buffers cover approximately three-fourths of the buildable area of the lot.

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 site plan (exhibit 1). The proposed second story addition would encroach twenty-eight (28) feet (proposed addition encroachment of thirty-seven (37) feet and limits of disturbance of ten (10) feet for a total encroachment of forty-seven (47) feet) The second story addition will replace the existing deck and stairs. Therefore, 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 regarding this property. However, the applicants proposed location of the addition is over the existing deck and would decrease the existing impervious surface by sixty-eight (68) 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 proposed addition would decrease the existing impervious surface by sixty-eight (68) square feet. The second story addition will have a pervious surface below the proposed addition.

Department Comments

The staff held a Focus Meeting on October 5, 2011 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	Sandy Springs Floodplain Management Ordinance requires that no part of the structure can touch the ground where the ground surface is within the floodplain. At this location the base flood elevation is 873 (NAVD 1988); therefore, the structure must touch the ground only where the existing ground surface is above 873. To be eligible for permitting the applicant must demonstrate compliance with this requirement.
	Sandy Springs Landscape Architect/ Arborist	Project was constructed with a 35' Buffer. Due to the slope and the current vegetation the proposed construction will not have a negative impact on the stream.
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 109-225 of the Sandy Springs Code of Ordinances. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance requests to encroach into the stream buffer.

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 October 7, 2011 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 twenty-eight (28) feet (proposed addition encroachment of thirty-eight (38) feet and limits of disturbance of ten (10) feet for a total encroachment of forty-eight (48) feet) to allow for a two hundred and twenty-four (224) square foot second story addition, 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)

Elevations

Floor Plan

Photographs

Letters of Opposition



Variance Petition No. V11-047

HEARING & MEETING DATES

Board of Appeals Hearing

November 10, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner
T-Domus, LLC

Petitioner
T-Domus, LLC

Representative
Mike Bayani

PROPERTY INFORMATION

Address, Land Lot(s), and District
613 Esfun Trace
Land Lot 36, District 17

Council District
3

Frontage
Approximately 54.00 feet of frontage on the south side Esfun Trace.

Area
The subject property has a total area of approximately 0.60 acres.

Existing Zoning and Use
The lot is zoned R-5A (Single Family Dwelling District) under Fulton County zoning case Z04-0075. The property is currently under construction with a residence.

Overlay District
N/A

2027 Comprehensive Future Land Use Map Designation
R3-5 Residential (3 to 5 units per acre)

INTENT

The applicant is proposing to install three (3) air conditioner units along the west property line, which will encroach into the required seven (7) foot side yard setback. The applicant is requesting one (1) primary variance:

- 1) Variance from Section 6.9.3.G.2 of the Zoning Ordinance to reduce the required seven (7) foot side setback to three (3) feet to allow for the installation of three (3) air conditioner units.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-047- 1) APPROVAL CONDITIONAL

613 Esfun Trace



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

CASE NUMBER: V11-047

STAFF CONTACT: Linda Abaray, City Planner 770-206-1577
E-mail: labaray@sandyspringsga.gov

Findings of Fact

The applicant has submitted a site plan (exhibit 1) indicating the subject property to have approximately 54.00 feet of frontage on the south side Esfun Trace. The property is trapezoidal in shape. The site slopes from north (Esfun Trace) to the south. The site plan shows a ten (10) foot private drainage easement along the rear (south) of the property. The private easement is a condition of zoning under Fulton County zoning case Z04-0075. The three (3) proposed air conditioner units are located on the west side of the house.

Staff notes that air conditioner units are required to be located within the building setbacks. The proposed air conditioner units would be approximately ten (10) feet from the adjacent structure (603 Esfun Trace, Lot 1).

The surrounding lots in the immediate vicinity are zoned R-5A (Single Family Dwelling District) the same as the subject property.

Site History

The property does not have any enforcement history and currently has a building permit for construction of single family residences issued May 13, 2011 (Building Permit 11-00132). The new construction does not require any variances and is not part of this application.

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:

Relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public as adjacent properties have similar encroachments into the side yard setback. The air conditioner units would be approximately ten (10) feet from the adjacent house. Additionally, the proposed air conditioner units would be located between two houses owned by the applicant. The air

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on November 10, 2011

condition units will not fit on the rear of the house due to the slope and drainage easement. The other alternative location would be on the east side of the house. Staff did not feel this location was sufficient because there was not an opportunity for the future property owner to voice an option. 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. The property is trapezoidal in shape. The site slopes from north (Esfun Trace) to the south. The topography gets steeper at the rear of the house adjacent to the drainage easement. The lot is one of the smaller lots in the subdivision. The size, shape and topography does create a hardship in relation to the requested variances as defined by the City's Zoning Ordinance. Therefore, staff is of the opinion this condition has not been 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 October 5, 2011 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	Lot is the smallest lot in the subdivision and is encumbered by easements to the extent that compliance with this ordinance item is problematic for homes typical of the area.
	Sandy Springs Landscape Architect/ Arborist	There are no Arborist requirements that need to be addressed at this time.
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 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 received September 8, 2011 by the Department of Community Development, for the variance(s) herein, showing a reduction of the required seven (7) foot side yard setback to three (3) feet to allow for three (3) air conditioner units along the west property line, where necessary, to accommodate the portion of the encroachment (s) only.

ATTACHMENTS:

Letter of appeal
Site plan (exhibit 1)
Photographs