



Variance Petition No. 201403045

HEARING & MEETING DATES

Board of Appeals Hearing
November 13, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Allison R. Dubovsky	Allison R. Dubovsky	Allison R. Dubovsky

PROPERTY INFORMATION

Address, Land Lot(s), and District	640 Weatherly Lane Land Lot 167, 17 th District
Council District	3 (Graham McDonald)
Frontage	Approximately 75 feet of frontage along the south side of Weatherly Lane
Area	Approximately 0.740 acres (32234 sq. ft.)
Existing Zoning	R-2A (Single family dwelling district)
Existing Use	Single family dwelling unit
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	Residential 1 to 2 units per acre (R1-2)

INTENT

The applicant is proposing to park a recreational vehicle at the rear of the property. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 19.3.11.B.1 of the Zoning Ordinance to allow a recreational court in the minimum yard.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403045 – 1) DENIAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 19.3.11.B.1 of the Zoning Ordinance to allow a recreational court in the minimum yard.

Zoning Ordinance

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

Section 22.3.1. Variance Considerations.

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

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. The applicant indicates the recreational court would need to be located in the minimum yard due to significant

topographical issues, allowing room for future construction (garage), and sufficient distance and vegetation density as not to disturb neighbors. Staff believes that the proposed variance has no greater potential to disturb adjacent properties than if it were to locate outside the minimum building area. The majority of the recreational court would be located within the non-buildable area. Based on these considerations, staff is of the opinion that 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's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. After reviewing the survey and visiting the property, staff believes the above conditions of the property do not significantly limit the buildable area for a recreational court and therefore do not create a hardship. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

Department Comments

Focus Meeting held on Wednesday, October 1, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **DENIAL** of the variance request to allow a recreational court in the minimum yard.

Recommended Condition(s)

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

- 1) To allow a recreational court in the minimum yard as shown on the site plan dated received July 11, 2014 by the Department of Community Development.
- 2) Provide full screening of the recreational court and associated structures (basketball hoops, lights, etc.) from adjacent property owners.

ATTACHMENTS:

Parcel Map
Proposed Site Plan – Dated received August 25, 2014
Photographs

640 Weatherly Lane





Variance Petition No. 201403117

HEARING & MEETING DATES

Board of Appeals Hearing
November 13, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner
Gustavo Cueto

Petitioner
Gustavo Cueto

Representative
Oneida Builders Inc.

PROPERTY INFORMATION

Address, Land Lot(s), and District	4570 Windsor Gate Court Land Lot 13 & 41, 17 th District
Council District	5 (Tibby DeJulio)
Frontage	Approximately 170.13 feet of frontage along the south side of Windsor Gate Court.
Area	Approximately 1.402 acres
Existing Zoning	R-4 (Single family dwelling district)
Existing Use	Single family dwelling unit
Overlay District	N/A

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

INTENT

The applicant is proposing to construct an addition to a single family residence. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer to allow an addition to the existing single family residence.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403117 – 1) APPROVAL CONDITIONAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer to allow an addition to the existing single family residence.

Standards for Consideration

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	0 sf	0 sf	0 sf
25' – 50' City Stream Buffer	281 sf	266 sf	-15 sf
50' – 75' Impervious Surface Setback	2,458 sf	2,460 sf	2 sf
Total Impervious Surface encroaching in Stream Buffer	2,739 sf	2,726 sf	-13 sf

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

Sec. 109-225. Land development requirements.

(b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:

(3) Variances will be considered only in the following cases:

a. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes that the stream buffers covers over 75% of the property, including a large portion of where the existing dwelling is constructed. The home that exists on the lot is within the fifty (50) foot and seventy-five (75) foot stream buffers. The proposed addition would be primarily within the seventy-five (75) foot impervious surface setback, with a new deck located within the fifty (50) foot buffer. The proposed addition would remain outside of the twenty-five (25) foot buffer. Based on these reasons, staff is of the opinion that an addition to the home would be prevented unless a variance is granted and that this condition has been satisfied.

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

Finding:

Due to the location of the stream and the existing dwelling, area for an addition is limited. In order for the applicant to construct an addition to the existing dwelling an encroachment into the stream buffers is necessary. Based on these reasons, staff is of the opinion that this condition has been satisfied.

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

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

Finding:

The property is an irregular shape and has steep topography on the northern lot line. When the stream buffers are combined with the location of the existing dwelling, opportunities for an addition without encroaching into the stream buffers are severely limited. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

The locations of all streams and property boundaries are shown on the attached site plans. Staff is of the opinion this condition has been satisfied.

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

Findings:

The location and extent of the stream buffer intrusions are identified on the attached site plan and are included in the table above. Staff is of the opinion this condition has been satisfied.

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

Findings:

Alternative designs have not been discussed with staff. However, the applicant is proposing to locate the addition to the dwelling out of the twenty-five (25) foot state buffer and to reduce the existing encroachment into the fifty (50) foot undisturbed buffer by fifteen (15) feet. Encroachment into the seventy-five (75) foot stream impervious surface setback would be increased by two (2) feet. The addition has been designed to reduce the overall encroachment into the stream buffers. Therefore, staff is of the opinion this condition has been satisfied.

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

Findings:

The applicant will be required to use Best Management Practices (BMPs) during the construction of the house. The City will monitor the sites BMPs. The applicant indicates that the piers will be hand dug and groundwater infiltration will be enhanced.

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

Findings:

The proposed addition would not encroach into the twenty-five (25) foot state buffer and reduces the overall impervious encroachment by thirteen (13) feet. Staff is of the opinion that issuance of the variance is as protective of the natural resources and environment as the existing site conditions.

Department Comments

Focus Meeting held on Wednesday, October 1, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance and Stream Buffer Protection Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance requests to allow an addition to the existing single family residence.

Recommended Condition(s)

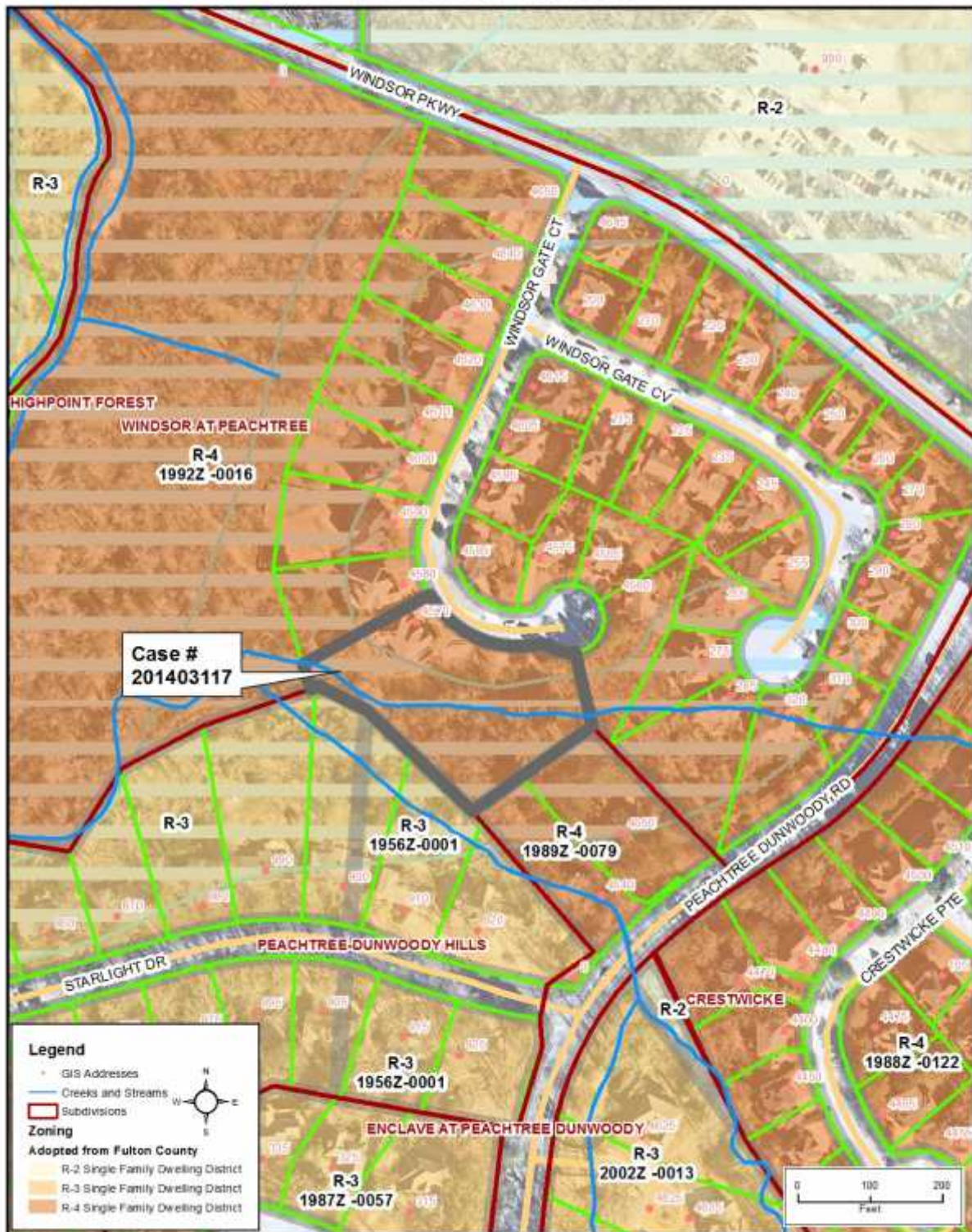
Should the Board of Appeals choose to approve the request, staff recommends the following condition:

- 1) To allow an addition to the existing single family residence as shown within the site plan dated received August 29, 2014 by the Department of Community Development.

ATTACHMENTS:

Parcel Map
Proposed Site Plan – Dated received August 29, 2014
Photographs

4570 Windsor Gate Court





Variance Petition No. 201403132

HEARING & MEETING DATES

Board of Appeals Hearing
January 8, 2015

APPLICANT/PETITIONER INFORMATION

Property Owner
Mohammad Salehi

Petitioner
Mohammad Salehi

Representative
Mohammad Salehi

PROPERTY INFORMATION

Address, Land Lot(s), and District 8212 Hewlett Road
Land Lot 356, 6th District

Council District 1 (John Paulson)

Frontage Approximately 35 feet of frontage along the south side of Hewlett Road.

Area Approximately 1.33 acres

Existing Zoning AG-1 (Agricultural district)

Existing Use Undeveloped property

Overlay District N/A

2027 Comprehensive Future Land Use Map Designation Residential 0 to 1 units per acre (R0-1)

INTENT

The applicant is proposing the construction of a single family residence. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the 75 foot impervious surface setback for construction of a single family residence.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403132 – 1) DENIAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 109-225 (a) (1) & (2) of the Stream Buffer Protection Ordinance for relief from the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer for construction of a single family residence.

Standards for Consideration

	Existing Site	Proposed Plan	Net Change
0' – 25' State Stream Buffer	0 sf	0 sf	0 sf
25' – 50' City Stream Buffer	0 sf	0 sf	0 sf
50' – 75' Impervious Surface Setback	0 sf	2,712 sf	2,712 sf
Total Impervious Surface encroaching in Stream Buffer	0 sf	4,512 sf	4,512 sf

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

Sec. 109-225. Land development requirements.

(b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:

(3) Variances will be considered only in the following cases:

a. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes that the stream buffers cover upwards of 50% of the buildable area on the subject property. Additionally, the topography slopes toward the east side of the property. Based on these reasons, staff is of the opinion that land development would be prevented unless a variance is granted and that this condition has been satisfied.

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

Finding:

Due to the location of the stream, a majority of the subject property has been covered by the stream buffers, leaving the only buildable area in the western and southwestern portions of the lot. In order for the applicant to construct a house that is in harmony with surrounding properties, whose homeowner's association requires a minimum of 2,000 square feet of first floor area, encroachment is necessary. Based on these reasons, staff is of the opinion that this condition has been satisfied.

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

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

Finding:

The property is long and narrow in shape and slopes from west to east. A majority of the subject property is located within the stream buffers, which restricts the buildable area of the lot to the western and southwestern portion of the property. When the stream buffers are combined with the topographical challenges on the site the location of a single family dwelling unit is severely limited. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

The locations of all streams and property boundaries are shown on the attached site plans. Staff is of the opinion this condition has been satisfied.

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

Findings:

The location and extent of the stream buffer intrusions are identified on the attached site plan and are included in the table above. Staff is of the opinion this condition has been satisfied.

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

Findings:

Following the November 2014 Board of Appeals meeting, alternative designs were discussed with staff. The construction of the home is now limited to encroachment within the 75 foot stream buffer as opposed to the previous site plan which included encroachment into the 50 foot undisturbed buffer. Therefore, staff is of the opinion this condition has been satisfied.

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

Findings:

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

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

Findings:

The applicant has modified the site plan for the home to now lie outside both the 25 foot and 50 foot undisturbed buffers. The applicant proposes using pervious surfaces for the driveway, **700 square feet of which encroach into the 75 impervious surface setback. Of the home's 2,600 first floor square footage, 1,100 square feet will still lie within the 75 foot impervious surface setback.** Staff believes the house could be moved toward the western property line, moving a large portion of its square footage outside of this setback. The floorplan and shape of the home could be modified to accommodate this as well. Staff is of the opinion that issuance of the variance is not as protective of the natural resources and environment as the existing site conditions.

Department Comments

Focus Meeting held on Wednesday, October 1, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance and Stream Buffer Protection Ordinance. Based upon this review, staff recommends **DENIAL** of the variance request to allow construction of a single family residence.

Recommended Condition(s)

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

- 1) To allow for construction of a single family residence as shown on the site plan dated received December 12, 2014 by the Department of Community Development with the exception the footprint of the home should not lie within the fifty (50) foot undisturbed buffer.
- 2) Pervious pavers shall be used on portions of the driveway lying within the 75 foot buffer impervious surface setback.
- 3) Allow for a 10 foot encroachment into the 50 foot undisturbed during construction to be replanted to buffer standards upon completion of construction.
- 4) Perform a siltation study on the lake prior to and after construction of the house.
- 5) Install turbidity fence subject to agreement submitted by the Lake Northridge Association.

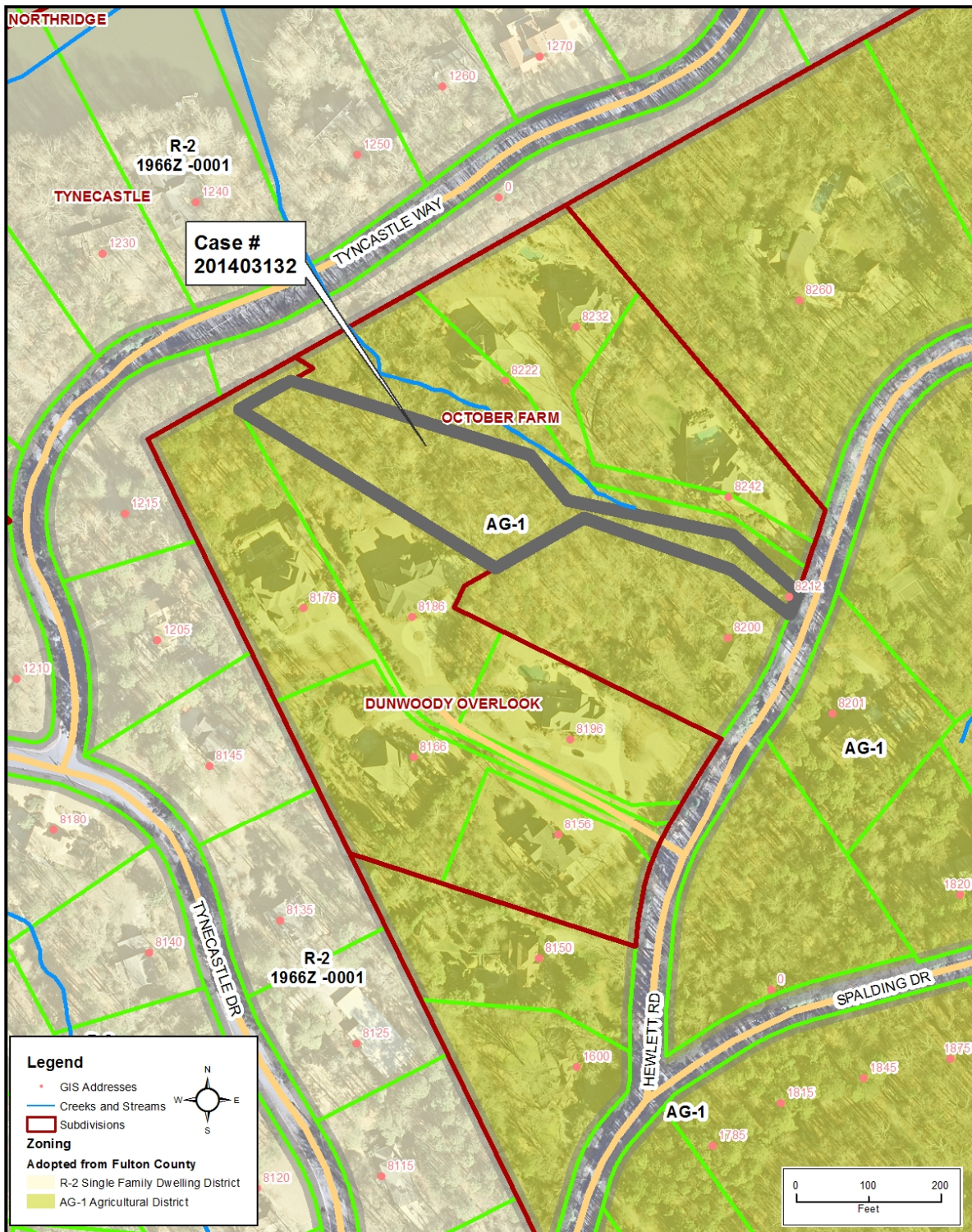
ATTACHMENTS:

Parcel Map

Proposed Site Plan – Dated received December 12, 2014

Photographs

8212 Hewlett Road





Variance Petition No. 201403139

HEARING & MEETING DATES

Board of Appeals Hearing
November 13, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner
Randall Tolbert

Petitioner
Randall Tolbert

Representative
Randall Tolbert

PROPERTY INFORMATION

Address, Land Lot(s), and District	45 Maryeanna Drive Land Lot 92, 17 th District
Council District	6 (Andy Bauman)
Frontage	Approximately 255 feet of frontage along the south side of Maryeanna Drive.
Area	Approximately 1.006 acres
Existing Zoning	R-2 (Single family dwelling district)
Existing Use	Single family dwelling unit
Overlay District	N/A

2027 Comprehensive Future Land Use Map Designation
Residential 0 to 1 units per acre (R0-1)

INTENT

The applicant is proposing to construct a roof over an existing porch. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 6.2.3.D of the Zoning Ordinance to reduce the required forty (40) foot rear setback for construction of a roof over an existing porch.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403139 – 1) APPROVAL CONDITIONAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 6.2.3.D of the Zoning Ordinance to reduce the required forty (40) foot rear setback for construction of a roof over an existing porch.

Zoning Ordinance

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

Section 22.3.1. Variance Considerations.

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

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. By right, an enclosed porch could encroach ten (10) feet into the rear minimum rear yard. The applicant would

request an additional eight (8) feet from this. Being the deck is located in the rear yard and the footprint would not be expanded, the impact on adjacent property owners would be minimal. Based on these considerations, staff is of the opinion that this condition has been satisfied.

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

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. The home on the property was constructed after the adoption of the ordinance. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

Department Comments

Focus Meeting held on Wednesday, October 1, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance and Stream Buffer Protection Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance request to reduce the required forty (40) foot rear setback for construction of a roof over an existing porch.

Recommended Condition(s)

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

- 1) To construct a roof over an existing porch within the minimum rear yard as shown on the site plan dated received September 2, 2014 by the Department of Community Development.

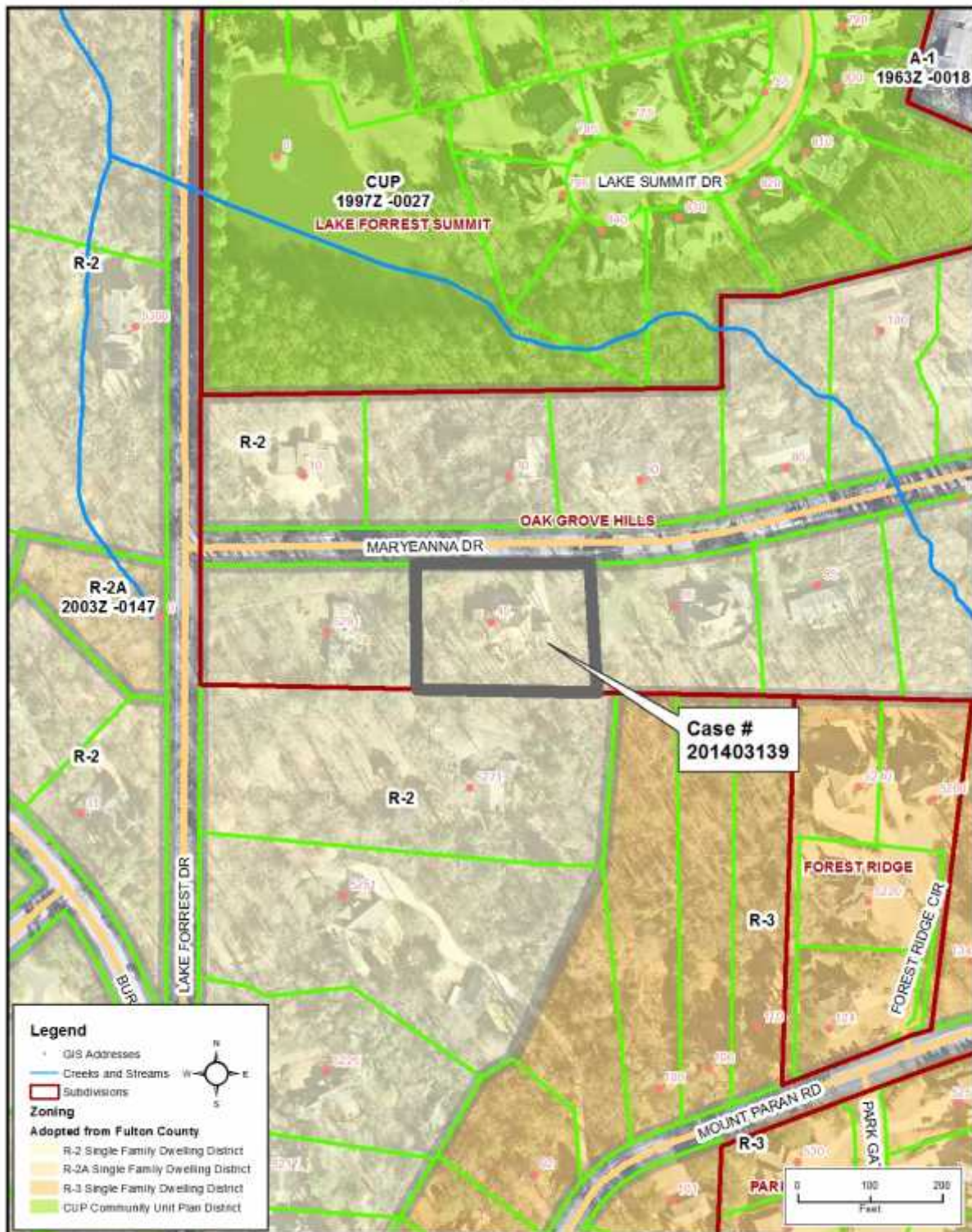
ATTACHMENTS:

Parcel Map

Proposed Site Plan – Dated received September 2, 2014

Photographs

45 Maryeanna Drive





Variance Petition No. 201403175

HEARING & MEETING DATES

Planning Commission Hearing
October 16, 2004

Board of Appeals Hearing
November 13, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner
McDonald's Restaurant

Petitioner
T.Y.Lin International

Representative
Danielle Dixon
Williams

PROPERTY INFORMATION

**Address, Land Lot(s),
and District** 8745 Roswell Road
Land Lot 368, District 6

Council District 2

Frontage Approximately 1200 feet of frontage along the easterly side of Roswell Road (SR 9) (including the three outparcels) and 916 feet of frontage along the westerly side of Dunwoody Place.

Area The subject property has a total area of 11.73 acres (510,958.8 square feet).

Existing Zoning and Use C-1 (Community Business District) conditional under Fulton County zoning case 1991Z -035, currently developed with a shopping center.

Overlay District Suburban District

**2027 Comprehensive
Plan Future Land Use
Map Designation** Commercial.

INTENT

The applicant is seeking primary variances from the Sandy Springs Zoning Ordinance as follows:

- 1) From Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to one (1) foot along the Roswell Road frontage.
- 2) From Section 33.26.F.4 to allow an additional menu board where only one is allowed.
- 3) From Section 33.26.H.2. to allow wall signs on non-street facing walls for the north, south and east elevations of the building.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403175- 1) APPROVAL CONDITIONAL
2) APPROVAL CONDITIONAL
3) APPROVAL CONDITIONAL

PLANNING COMMISSION RECOMMENDATION

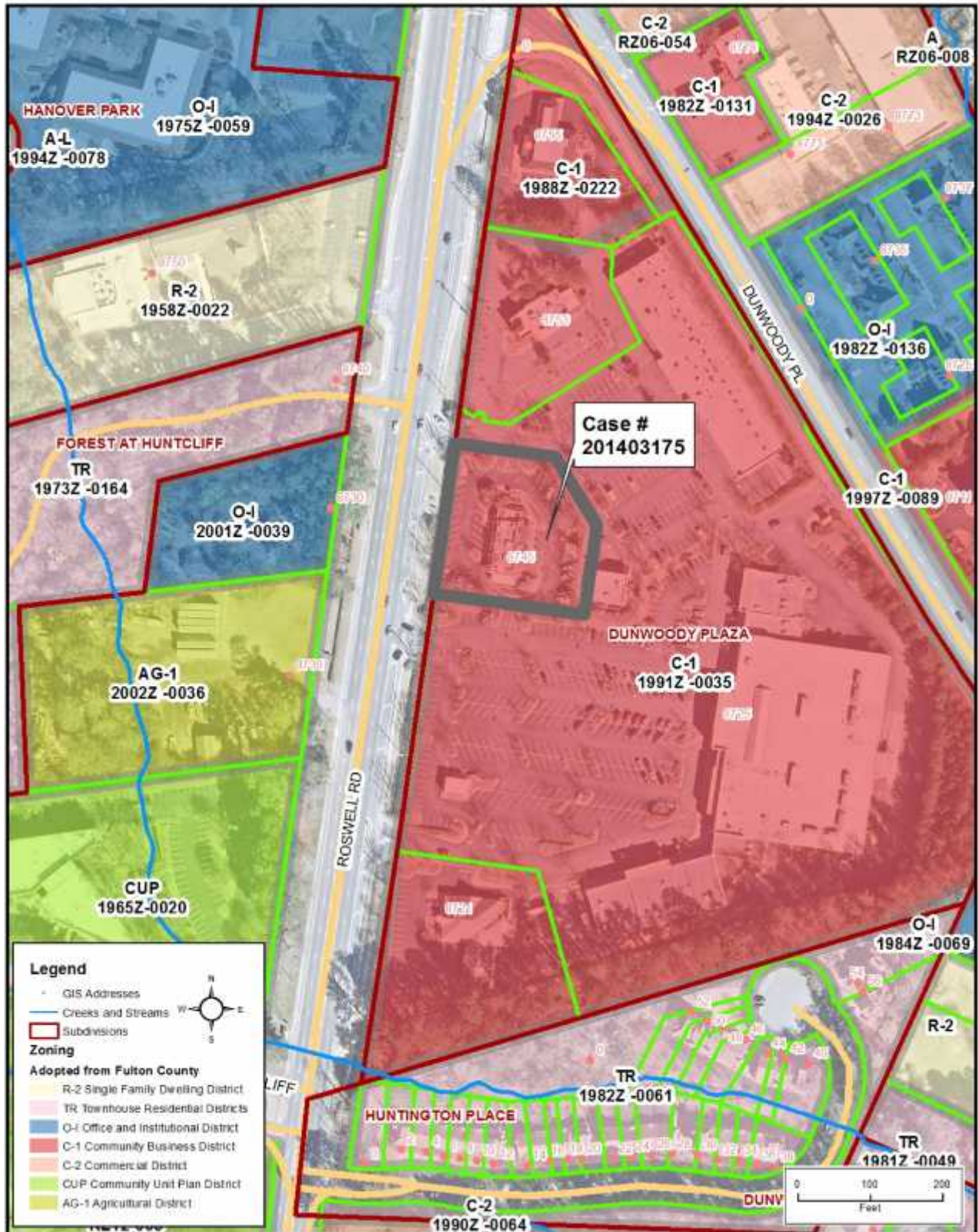
Recommended Approval (4-0, Porter, Tart, Frostbaum and Nickles for; Maziar and Squire absent; Duncan not voting) of Variances from the Zoning Ordinance as follows:

1. From Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to one (1) foot along the Roswell Road frontage.
2. From Section 33.26.F.4 to allow an additional menu board where only one is allowed.
3. From Section 33.26.H.2. to allow wall signs on non-street facing walls for the north, south and east elevations of the building.

With Staff conditions.

Parcel Map

8745 Roswell Road (SR9)



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on November 13, 2014

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

CASE NUMBER: 201403175
STAFF CONTACT: Cristina Nelson, Senior Planner 770-206-1516
E-mail: cnelson@sandyspringsga.gov

Staff Analysis:

The subject property is located at the intersection of Roswell Road (SR 9) and Dunwoody Place and is comprised of approximately 11.73 acres. The property was rezoned in the early 1991 and approved to have a maximum of six (6) outparcels. Currently the property has four (4) outparcels; each outparcel is identified with a freestanding sign.

The subject of this variance is the McDonald's outparcel. Said tract or parcel of land contains approximately 0.895 acres and approximately 210.02' of frontage along east side of Roswell Road. The property is unique in that it differs from other developments because it doesn't have direct access from the road frontage and it is enclosed by the other parcels within the shopping center, from which the access is provided. McDonald's has been at this location for several years and is undergoing a major renovation of the building façades including the signs.

The property has an existing free standing sign that is non-conforming, and as part of the renovation project the sign is to be removed and replaced with an ID monument sign that meets the standards of the Sandy Springs Suburban Overlay with the exception of the location. The applicant is asking to move the sign at one (1) foot from the right of way, indicating "vegetation along the landscape strip and the site topography would block the view of a monument sign if it were set back ten (10) feet from the right of way". To be able to place the sign adjacent to the right of way the applicant must apply for a variance.

In addition, McDonald's second request is to be allowed to have an additional menu board where only one is allowed.

The current zoning ordinance provides for only one menu sign per business. This variance request is based on McDonald's proposed plans to add a second drive thru order lane to their existing location. The proposed McDonald's work is to be done in conjunction with the overall site developer's plans to improve the access drive in front of the McDonald's site to address traffic concerns on the site. The applicant states "relief from this restriction will further enhance the traffic improvements in this area by allowing McDonald's 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's right-of-way and on the north side of the McDonald's building. The proposed menu sign will be oriented to the drive thru lanes, and not legible from the Roswell Road right-of-way. The menu sign will be internally illuminated. To be able to have an additional menu board the applicant must apply for a variance.

The third request is to install wall signs on non-street facing walls for the north, south and east elevations of the building.

While the building has a street facing wall, and the ordinance allows a sign on this wall, the visibility of the building/sign is obscured by the vegetation along the road frontage. The applicant states that "the request to have signs on the north, south and east elevations is for identification for the building entrances which are necessary to direct costumers to the doorways". A variance is required to have wall signs on non-street facing walls.

The Sandy Springs Zoning Ordinance provides:

Section 33.22.C. Setback.

Unless a more restrictive setback is specified in conditions of zoning or otherwise in this Article, all signs shall set back at least ten (10) from the right-of-way or twenty (20) feet from the edge of pavement if a private street and no sign shall project over the right-of-way. However, the Director is authorized by this Zoning Ordinance to consider an administrative variance to the sign setback requirements subject to the limitations of Section 12, Variance, subsection d. Standards, of this ordinance. In the Overlay Main Street District all signs shall set back at least three (3) feet from the right-of way. Temporary banners shall be exempt from the setback requirements, but shall not encroach upon the right-of-way.

Section 33.26.F.4 Menu Sign

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.

Section 33.26.H.Sandy Springs Overlay District

2. Wall Signs (amended 04/21/09, TA09-002, Ord. 2009-04-19).

- a. *Wall signs are permitted on street-facing walls (including windows and doors). Businesses without a street on which there is frontage, but which have exterior entrances to the building, are entitled to one wall sign on the exterior wall of the business. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred eighty (180) square feet, confined to the upper thirty (30) feet of the facade. Wall signs shall not have changeable copy unless approved as a marquee sign.*

The applicant offers the following in support of these request:

- 1)
 - a. McDonald's has determined that customers have approximately 3 seconds to view a sign, recognize it and make a decision. In addition, with the removal of the traditional McDonald's colors and mansard roof from the existing building, signage becomes even more vital to ensure that a store remains easily identifiable.
 - b. McDonald's will voluntarily replace remove the existing non-conforming pole sign and replace it with a monument sign per the Suburban Overlay District requirements. However, vegetation along the landscape strip and the site topography would block the view of a monument sign if it were set back; therefore, the monument sign at the right of way line would be more appropriate for visibility. McDonald's

prefers to have the sign at the right of way line, which is already set back approximately 25 feet behind the roadway curb at the right turn lane, and is nearly 37 feet from the through travel lane.

- c. Safety is of great concern to McDonald's and since much of their business is impulse buying, McDonald's tries to provide optimum sign visibility allowing customers to make a stopping decision at the earliest opportunity. This gives customers reasonable time to slow down appropriately to make a proper turning movement into the site. Therefore, having the monument sign closer to the right of way will provide greater sight distance and additional time for customers to make decisions.
 - d. The site does have not direct access from Roswell Road; therefore, sign visibility is imperative to allow customers ample time to enter the shopping center driveway prior to the McDonald's site.
- 2) Allow wall signage on the building front arcade (sign A), side dining entrance (sign B) and the east side (sign C) of the building in addition to wall signs allowed on the street face only. The appeal for this variance is based on:
- a. These signs are McDonald's standards used on every new/remodeled store and are essential to the building identification and brand identity. For the building to be identified, McDonald's needs additional signage on the building front arcade and the right side facing the shopping plaza.
 - b. The additional wall-signage on the building front, rear and side amount to less than 1% of the wall area on each perspective side.
 - c. Signs on building front and side elevations are also identifiers for the building entrance which are necessary to direct customers to the doorways.
- 3) Allow two (2) menu boards with an overall height of 6'. The appeal for this variance is based on:
- a. These menu boards are McDonald's standards used on every new/remodeled store and are essential to the drive-thru ordering process.
 - b. Two signs are required since there are two drive-thru lanes.

The applicant has indicated the purpose of these variances are to provide signage visibility for the restaurant. Providing proper visibility for businesses from all points and entrances is necessary for their sustainability. The signs are used to establish the presence of the McDonald's and to give clear functional information.

The applicant's requests are intended to direct customers entering the parcel from the parking lot to the main entries. These signs also help pedestrians and motorists alike, to locate the restaurant once they enter this site. These signs locations are opposite to the adjoining public road (Roswell Road) therefore, the impact on traffic is very minimum.

These additional wall signs do not exceed the allowable 5% area allowed and can only be viewed from vantage points internal to the shopping center.

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on November 13, 2014

History

No Code Enforcement issues have been reported.

Standards for Consideration

Zoning Ordinance

1. Variance from Section 33.22.C to reduce the sign setback from the right of way from ten (10) feet to one (1) foot along the Roswell Road frontage.

Section 33.12.D. Standards

The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

- 1) *The topography of the lot on which the sign is located or to be located renders it impossible to comport with the strict standards of this Article.*

Findings:

The site layout, as dictated by the topography and existing natural features, create many challenges for using signage effectively to promote vehicular and pedestrian awareness. There is approximately 200 feet separation between the entrances to the shopping center; which dictate to have a visible sign identifying location of the business. Staff is of the opinion that the topography of the lot present challenges to justify the approval of this variance. Therefore, based on this reason 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:

McDonald's prefers to have the sign at the right of way line, which is already set back approximately 25 feet behind the roadway curb at the right turn lane.

The applicant states that the normal 10 foot set-back for the sign would put it about 35 feet from the curb which would severely block visibility due to the vegetation and the topography of the lot. Staff found that the natural features of the lot presents challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has been satisfied.

2. Variance from Section 33.26.F.4 to allow an additional 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:

Staff is of the opinion that the topography of the lot does 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 applicant states "relief from this restriction will further enhance the traffic improvements in this site by allowing McDonald's 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 additional menu sign at the proposed location it is not legible from the public right-of-way meeting therefore the requirement of the zoning ordinance. Staff is of the opinion that the natural features of the lot on which the sign is to be located present challenges to justify the approval of this variance. Therefore, based on these reasons, staff finds that this standard has been satisfied.

3. Variance from Section 33.26.H.2: to install wall signs on non-street facing walls.

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 does 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 layout of the building and vegetation on this site present a unique challenge to identify the business since the restaurant entries are facing the parking lot, actually interior to the development away from the street. The requested signs assists customers to identify the business and locating the entrances to the restaurant. Staff found that the natural features of

the lot presents challenges justifying the approval of this variance. Therefore, staff is of the opinion this standard has been satisfied.

Department Comments

The staff held a Focus Meeting on September 3, 2014 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 applicant has indicated that the unique site layout, create many challenges for using signage effectively to promote vehicular and pedestrian awareness and to improve the levels of pedestrian and vehicular safety outside of and within the project boundaries.

The Applicant offers support of the request for additional signage, outlined above, as follows:

“Since McDonald's is a convenience-based business, signage is extremely important to the success of the operation, and the lack of signage visibility results in lost business. If the requested variances are not granted, this would create an unnecessary hardship for this restaurant. Also, if potential customers do not have an opportunity to recognize the building as they approach the site, they may choose other restaurants or continue outside of the City of Sandy Springs in search of another McDonald's. If the requested variance is granted, it would not cause detriment to the public good or impair the purposes and intent of the sign ordinance. Since all other signage codes and safety codes will be met with the proposed design, there will be no negative impact to the public good. Rather, the public will be better

served with a restaurant that is easily recognizable, well ahead of a drivers need to make a decision, resulting in safer traffic maneuvers”. The Applicant believes that there is sufficient reason to approve the requested variances as allowed by Section 33.12.D, items 1 and 2 of the Sandy Springs Sign Ordinance.

Staff reviewed the request relative to the variance standards contained in Section 33.12.D. of the Zoning Ordinance. Based upon this review, staff recommends: APPROVAL CONDITIONAL of this variance.

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

- 1) To allow for an ID monument type sign to be located at one (1) foot from the right-of-way along the Roswell Road frontage pursuant to the sign location, submitted by the applicant, and dated received September 4, 2014 by the Department of Community Development.
- 2) To allow for a second menu sign on the McDonald’s outparcel, pursuant to the sign design detail submitted by the applicant, dated received September 4, 2014 by the Department of Community Development.
- 3) To allow for wall signs on non-street facing walls on the north, south and east elevations of the outparcel building pursuant to the sign location and design, submitted by the applicant, and dated received September 4, 2014 by the Department of Community Development.

Attachments

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



Variance Petition No. 201403184

HEARING & MEETING DATES

Board of Appeals Hearing
November 13, 2014

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Carroll Manor Lake, LLC	Carroll Manor Lake, LLC	Haji Pourreza

PROPERTY INFORMATION

Address, Land Lot(s), and District	8949 Carroll Manor Drive Land Lot 357, 6 th District
Council District	1 (John Paulson)
Frontage	Approximately 40 feet of frontage along the south side of Carroll Manor Drive.
Area	Approximately 3.36 acres
Existing Zoning	A (Medium Density Apartment District)
Existing Use	Multifamily dwelling units
Overlay District	River Corridor
2027 Comprehensive Future Land Use Map Designation	Residential 8 to 12 units per acre (R8-12)

INTENT

The applicant is proposing to park a recreational vehicle at the rear of the property. The applicant is requesting one (1) primary variance(s) as follows:

1. Primary variance from Section 7.3.3.D of the Zoning Ordinance to for reduction of the twenty-five (25) foot rear setback to ten (10) feet to construct an apartment building(s).

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201403184 – 1) DENIAL

STANDARDS FOR CONSIDERATION

Variance #1

Primary variance from Section 7.3.3.D of the Zoning Ordinance to reduce the rear setback from twenty-five (25) feet to ten (10) feet to allow development of townhouses.

Zoning Ordinance

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

Section 22.3.1. Variance Considerations.

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

Finding:

The intent of the Zoning Ordinance is to maintain the character and uniformity of the neighborhood. The proposed work would significantly encroach on other residential properties to the rear. Based on these considerations, staff is of the opinion that 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's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Although the lake/retention area and topography limit a portion of the buildable area, a large portion of the property is already developed. Based on these considerations, staff is of the opinion that this condition has not been satisfied.

Department Comments

Focus Meeting held on Wednesday, October 1, 2014, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, Arborist, or Site Development.

Community Development had several concerns about the proposed project. This included viability of parking for the project and lack of required parking spaces shown on the site plan. The property is also within River Corridor and information on the amount of impervious surface the proposed structure(s) would add as well as the total impervious surfaces on the property would be under that allowed through the ARC River Corridor study has not been provided. Staff met with the applicant about these concerns but has received no additional plans or information since.

Conclusion

Staff has reviewed the request relative to the variance standards contained in the Sandy Springs Zoning Ordinance and Stream Buffer Protection Ordinance. Based upon this review, staff recommends **DENIAL** of the variance request for reduction of the twenty-five (25) foot rear setback to ten (10) feet to construct an apartment building(s).

Recommended Condition(s)

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

- 1) To allow for reduction of the twenty-five (25) foot rear setback to ten (10) feet to construct an apartment building(s) as shown on the site plan dated received September 5, 2014 by the Department of Community Development.
- 2) A revised site plan showing adequate parking in compliance with the Sandy Springs Zoning Ordinance.
- 3) A revised site plan showing compliance with the ARC River Corridor study.

ATTACHMENTS:

Parcel Map

Proposed Site Plan – Dated received September 5, 2014

Photographs

8949 Carroll Manor Drive

