



SANDY SPRINGS
GEORGIA

P&Z STAFF REPORT

Board of Appeals Hearing: December 8, 2016

Case: **V16-0101 – 965 Landmark Drive**

Staff Contact: Joshua Berry (jberry@sandyspringsga.gov)

Report Date: December 1, 2016

REQUEST

Variance from Section 109-225 of the City of Sandy Springs Development Regulations for the construction of an attached two-car garage with second story in-law suite with an encroachment of 528.18 square feet into the 25-foot City impervious surface setback (25-foot additional impervious surface setback associated with a stream buffer).

APPLICANT

Property Owner: William and Joy Ordway	Petitioner: Jim Tilghman	Representative: Jim Tilghman
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PROPERTY INFORMATION

Location:	965 Landmark Drive
Council District:	5 - DeJulio
Road frontage:	Approximately 70 feet
Acreage:	Approximately 1.072 acres
Existing Zoning:	R-2A (Single Family Dwelling District)
Existing Land Use:	Residential
Overlay District:	N/A
Special Planning Area:	N/A
Future Land Use Designation:	R1-2 (1 to 2 units per acre)

SUMMARY

The applicant is proposing to construct a new two-car garage with a second floor in-law suite that would be attached by a proposed breezeway to the existing single-family residence. The proposed garage and in-law suite encroaches 528.18 square feet into Nancy Creek's 25-foot City impervious surface setback. The applicant's proposal also includes a small expansion of the existing driveway to allow ingress/egress to the proposed garage. Neither the expansion of the driveway nor the breezeway encroach into the stream buffer, only the garage with the second floor in-law suite.

The applicant proposes a mitigation plan through the installation of a rain garden, which is to be engineered and installed with hand tools. The water quality device is sized to treat approximately 189% of the proposed additional impervious surface in the buffer by the City of Atlanta standards (1" per square foot), or 158% by the City of Sandy Springs' standard (1.2" per square foot).

	Existing Encroachments (sf)	Proposed Total Encroachments (sf)	Proposed Increase in Encroachments (sf)	Percent Change
25' State Stream Buffer	0	0	0	0
50' City Stream Buffer	265.61	265.61	0	0
25' City Impervious Surface Setback	214.64	742.82	528.18	+246%

OCTOBER UPDATE, 10/6/2016

Due to the existing site conditions and unresolved environmental questions on the part of Staff, the Board chose to Defer the variance with a unanimous vote during its September meeting. Since then, the City's Chief Environmental Compliance Officer was sent to the site to assess the conditions of the stream buffer and stream bank associated with Nancy Creek. Although this process brought clarification to some of the questions regarding the genesis of existing conditions (detailed in the "Variance Consideration" section), the findings of the September Staff Report remain largely unchanged. The main difference is that conditions were discovered that negate a portion of the buffer, of which the survey and proposed site plan do not portray, thus rendering the variance application incomplete. Since the September deferral, the applicant has requested to WITHDRAW the application.

DECEMBER UPDATE, 12/1/16

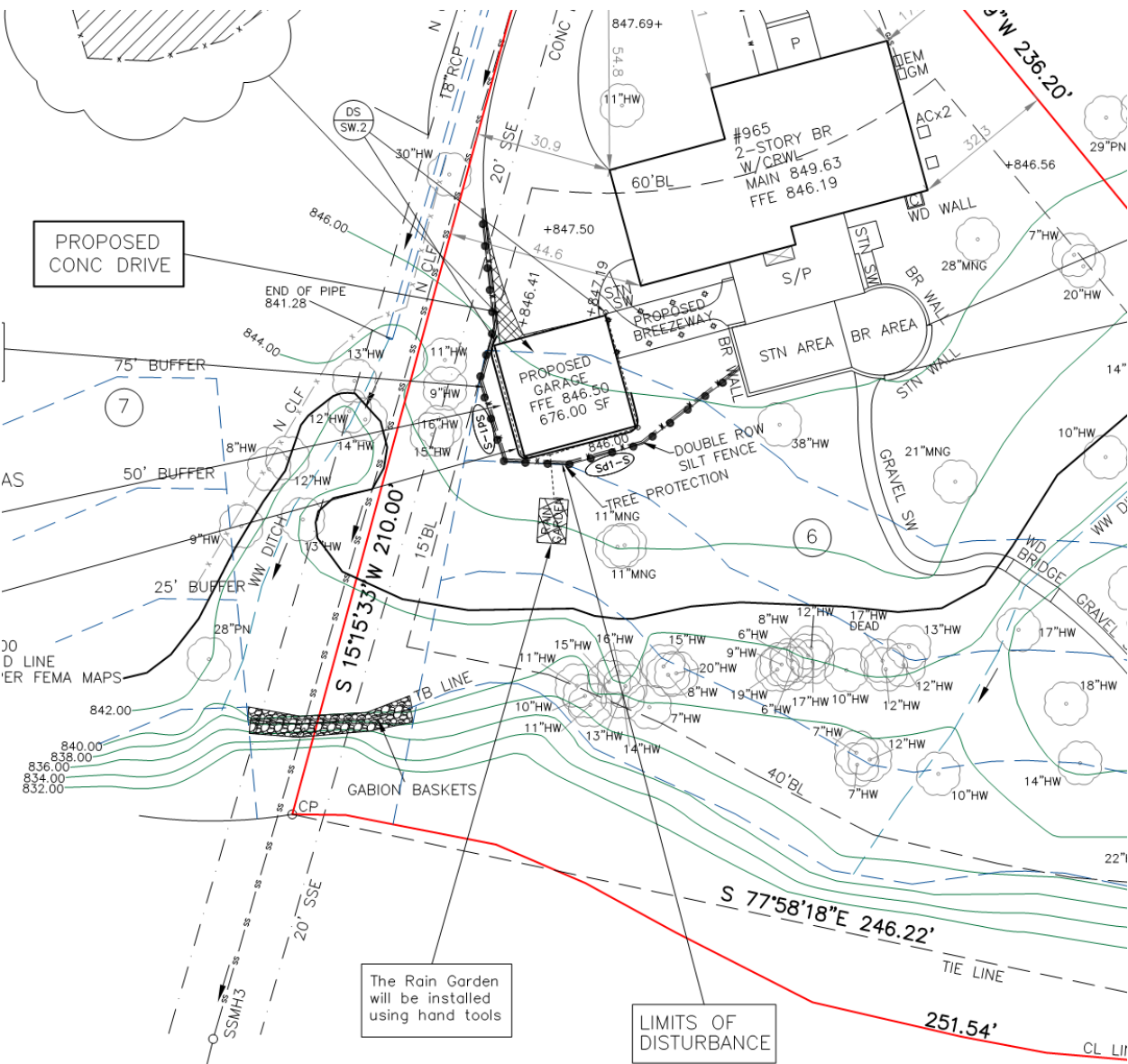
At the October 13th Board of Appeals hearing, the Board unanimously voted to grant the Applicant's request for a two-month deferral in order to allow time for the variance petition to be updated to include the findings of the gabion basket and the associated nullified buffer. The Applicant has resurveyed the property and has submitted a site plan that accurately represents the existing conditions. There is no change to Staff's findings or recommendations, only a slight adjustment to recommended condition of approval #2 which requires the Applicant to restore the Natural Vegetative Buffer in the area behind the proposed garage/in-law suite and Nancy Creek.

RECOMMENDATION

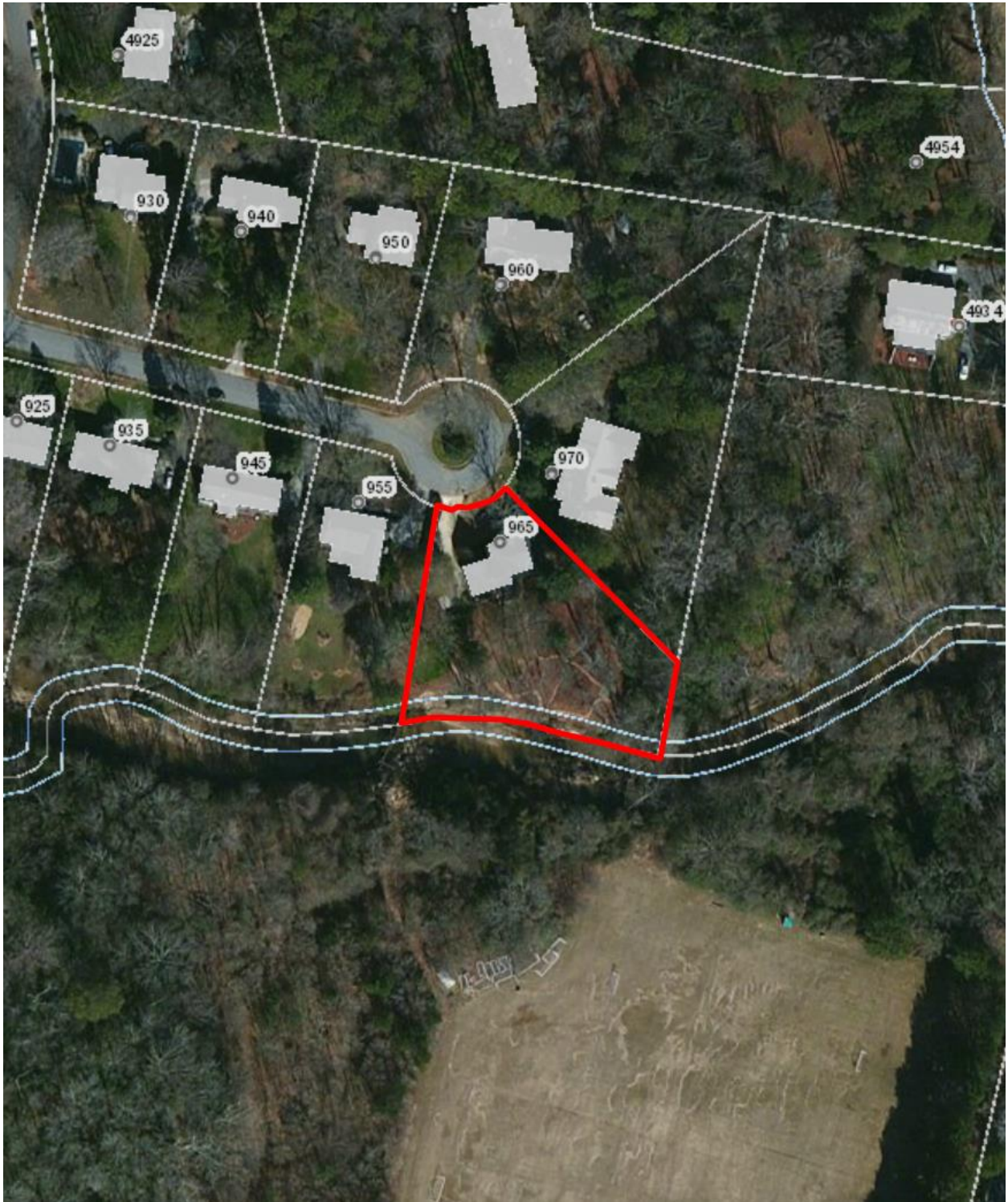
Department of Community Development -- December 1, 2016 Report

Staff recommends **conditional approval** of the variance request.

SITE PLAN (FULL SITE PLAN AS ATTACHMENT)

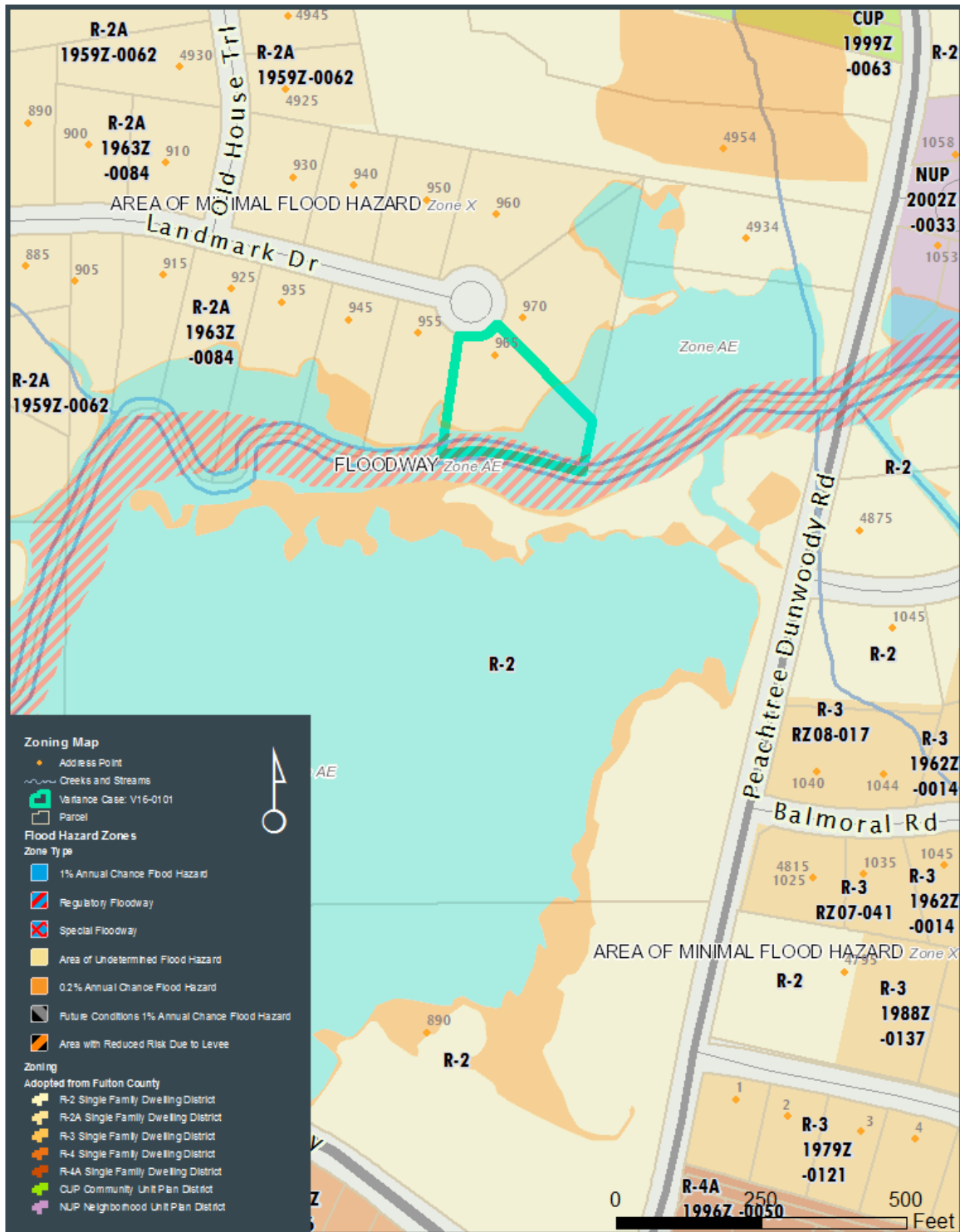


AERIAL IMAGE



ZONING MAP

965 Landmark Dr



VARIANCE CONSIDERATION

Per Section 109-225 of the Development Regulations, 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 the article is derived prevents land development unless a buffer variance is granted.

B. Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship.

Variances will not be considered when, following adoption from which this article is derived, actions of any property owner of a given property have created conditions of a hardship on that property.

Findings (September 1st):

As seen on the site plan and as explained in the applicant's Variance Analysis, there are physical conditions on the property which hinders land development. The existing residence already encroaches 20.9 feet into the minimum front yard, positioning the residence further away from the stream than would normally be possible, leaving no remaining buildable area in the front yard. Additionally, the lot is cone-shaped with its narrowest point along the frontage on the cul-de-sac of Landmark Drive. Since the house is located in such proximity to the street, its side yards are very narrow. The eastern side yard is unbuildable due to its narrow width and side setback and the western side yard is currently occupied by the existing driveway that leads to the side-loading garage. There are no front loading garages on Landmark Drive, so the existing condition of 965 Landmark Drive is consistent with the neighborhood character. The only buildable area on the lot is in the rear yard, most of which is within the stream buffer.

There is one potential buildable location in the rear yard that does not encroach into the stream buffer, just southeast of the existing residence. Applicant has ruled out this buildable area from being utilized because it is impractical to extend the driveway to this area. The City's Development Regulations would not permit another curb cut, so the existing driveway would either have to be extended across the front yard and along the eastern side yard, or through the rear yard, which would encroach into the impervious buffer and the critical root zone of a 38" oak tree.

Due to the position of the existing residence and driveway, the cone shape of the lot, the existing trees, and the stream buffer in the rear yard, the variance petition meets Variance Consideration Criteria A.

There are existing manicured landscape conditions on the property that have been taken into consideration when an analysis is conducted regarding the potential encroachment into the Stream Buffer. The City of Sandy Springs imposes a 50-foot Undisturbed Natural Vegetative Buffer for the purposes of filtering out sediment and other undesirable materials from getting into the stream and conservation of the ecological corridor around streams. At 965 Landmark Drive, the portion of the

undisturbed buffer extending from the proposed location of the garage all the way up to a few feet from the top of the bank of Nancy Creek has been removed and transformed into a well-manicured lawn. If the undisturbed buffer were intact, the petition could potentially be approved with an appropriate mitigation plan. However, without the undisturbed buffer protecting Nancy Creek, Staff believes that a mitigation strategy must include the restoration of the 50-foot undisturbed buffer in the area between the proposed garage and Nancy Creek.

The applicant proposes a mitigation plan through the installation of a rain garden, located behind the proposed garage, which is to be engineered and installed with hand tools. For new development, the City of Sandy Springs requires treatment of the first 1.2 inches of rainfall on the site to prevent soil erosion into the stream. The applicant's mitigation plan exceeds this standard, as far as the proposed impervious surface within the buffer is concerned, as the rain garden is sized to treat approximately 158% of the proposed additional impervious surface encroaching into the buffer. However, it should be noted that the mitigation plan does not include the proposed additional driveway (approximately 100 square feet as shown on the plans as a cross-hatched area), and the calculations on the plans show an intent to mitigate the total additional building coverage, 992.31 square feet (the garage/suite and breezeway combined), but do so to the City of Atlanta standard of 1 inch of rainfall per square foot, not the City of Sandy Springs 1.2 inches of rainfall per square foot. If approval is granted, Staff recommends that the mitigation plan would be equal or greater than the proposed additional impervious surface (the total of the garage, breezeway and driveway expansion).

The conditional approval of this request will increase water quality for the stream through the restoration of the undisturbed buffer and the installation of the rain garden and would be in harmony with the general purpose and intent of the stream buffer regulations.

October 6th Updated Findings:

Staff discovered information that necessitated further research in regards to on-site conditions within the stream buffer. At the September 8th Hearing, the Board issued a one-month deferral in order for Staff to gather and analyze information as it may pertain to the variance case.

A site inspection by the City's Chief Environmental Compliance Officer on September 28th uncovered that Fulton County, in 2010, had installed approximately 36 feet of gabion basket (wired-together rock wall) along the point of protrusion of a sewer pipe that lies just outside of the western side property line as the sewer line crosses Nancy Creek. The purpose of the gabion basket is to stabilize the bank to prevent erosion. This action nullifies the stream buffer directly behind the gabion basket. Since these conditions were not identified in the applicant's variance submittal, the application documents do not appropriately represent the conditions on the property and therefore the application is now considered incomplete. Due to the lack of information contained in the submitted materials, Staff cannot determine exactly where the stream buffer begins and ends, and thus cannot make an informed recommendation as to the variance request. It is possible, even if only to a small degree, that the negated buffer area behind

the gabion basket could reduce the proposed square footage of impervious encroachment, as well as the area that Staff was recommending to be restored as a condition of approval.

The Applicant has requested to withdraw the variance application. Staff supports the Applicant's request for withdrawal.

December 1st Updated Findings:

Since the time of the two-month deferral unanimously granted by the BOA at the October 13th hearing, the Applicant has provided a site plan updated with the gabion basket and the nullified stream buffer area drawn perpendicular from the stream. The terminated buffer area does NOT affect the proposed garage/in-law suite, but is directly adjacent to it to the west. No other new information has been provided to alter Staff's opinion regarding its recommendation or recommended conditions of approval, with the slight exception that Staff recommended condition #2 specifically states that replanting of the Natural Vegetative Buffer will not be required in area perpendicular to the stream behind the gabion basket.

Staff's recommended condition #2, to restore the Natural Vegetative Buffer, has been contended by the Applicant at the September hearing and through correspondence with Staff. Staff is of the opinion that this condition is critical to protect the health of the environmental resource, and that if the Board chose to grant approval of the variance without this condition, a public harm would result in the form of a detriment to the health of Nancy Creek.

COMMENTS FROM OTHER PARTIES

Support:

1. Lee Haverstock, 935 Landmark Drive
2. Ken and Sally Shigley, 945 Landmark Drive

Opposition: None received

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Staff has reviewed the request relative to the variance standards contained in Section 109-225 of the Sandy Springs Development Regulations. Based upon this review, staff recommends **Conditional Approval** of variance request V16-0101 to allow the construction of and attached two-car garage with a second floor in-law suite with an encroachment of 528.18 square feet into the 25-foot City impervious surface setback (25-foot additional impervious surface setback associated with a stream buffer).

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

1. To construct a two-car garage with second floor in-law suite attached to the existing residence via a breezeway and to expand the driveway as shown on a residential site plan created by Eugene

- A. Stepanov for Joy and William Ordway on 10/18/16 and received by the Department of Community Development by 11/2/2016.
2. The 50-foot Natural Vegetative Buffer be restored in the area between the proposed garage and the stream up to but not encroaching into the terminated buffer area perpendicular to the gabion basket, according to the following requirements:
 - a. Only plants native to the Southeast shall be used – according to Plant List in Appendix A of the *City of Atlanta Riparian Buffer Revegetation Guidelines*;
 - b. A single species shall count for a maximum of 25% of the specimens of a same stratum (ex: No more than 4 river birches could be planted when there is a total of 16 trees to be planted; no more than 3 Muhly grass could be planted when there is a total of 12 groundcover plants to be planted);
 - c. The minimum density shall be of one (1) tree per 200 square feet, and one (1) shrub per 100 square feet;
 - d. The ground shall be entirely covered by vegetation within twelve (12) months of planting. Temporary erosion control measures shall be taken to prevent erosion until the coverage is achieved;
 - e. No certificate of occupancy of the proposed building shall be issued until the restoration is completed and has passed City inspection;
 - f. All work shall be conducted by hand unless otherwise approved by the City.
 3. The rain garden must meet the following requirements:
 - a. A planting plan and construction details shall be submitted to the City for review prior to any work being conducted on site. The rain garden must be sized to treat 1.2 inches of rainfall on the entire proposed additional impervious surface;
 - b. Such plan shall be stamped and signed by a Professional Engineer or Professional Landscape Architect, licensed by the State of Georgia;
 - c. No certificate of occupancy of the proposed building shall be issued until the rain garden is completed and has passed City inspection.
 4. Any revisions of the approved site plan and buffer mitigation plan must be reviewed and approved by Staff.
 5. Any revisions of the mitigation strategy must be of equal or greater mitigation and must be approved by Staff.
 6. A Zoning inspection must be satisfactorily conducted and site conditions must adhere to all the aforementioned conditions prior to issuance of a Certificate of Occupancy.
 7. Provide as as-built survey prior to the issuance of a Certificate of Occupancy.



P&Z STAFF REPORT
Board of Appeals Hearing; December 08, 2016

Case: **V16-0145 –885 N. Island Drive**

Staff: Andy Mendzef (amendzef@sandyspringsga.gov)

Contact:

Report Date: November 15, 2016

REQUEST

Variance from Section 6.1.3.C. of the City of Sandy Springs Zoning Ordinance to encroach ten (10) feet into the required (25) foot side yard setback to allow for the construction of a detached garage.
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APPLICANT

Property Owner: Rob and Catherine Hutchinson	Petitioner: J. Ryan Duffey	Representative: N/A
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PROPERTY INFORMATION

Location:	885 N. Island Drive
Council District:	6; Andy Bauman
Road frontage:	Approximately 245 feet along N. Island Drive
Acreage:	1.60 acres
Existing Zoning:	R-1 (Single Family Dwelling District)
Existing Land Use:	Single Family Dwelling
Overlay District:	N/A
Special Planning Area:	N/A
Future Land Use Designation:	R0-0.5 (0-1 units per acre)

SUMMARY

The applicant is requesting this variance to encroach 10 feet into the required 25-foot side yard setback or within 15 feet of the property line to allow for the construction of a 625 square foot detached two-car garage and attached utility room. The property is currently developed with a 3,467 square foot single-family residence, attached garage and accessory uses. The planned project is to remove the existing residence and redevelop the site by constructing a new 7,769 square foot single family dwelling with an attached single-car garage, the subject detached garage, a pool, and a large auto court. The proposed garages would be located on opposite

sides of the auto court and the approximate area of the proposed auto court is 1,500 square feet. The submitted site plan indicates that the existing residence currently meets the required building setbacks. The existing driveway would continue to be used as access to the proposed new home. As mitigation the site plan indicates a 650 square foot area that would be planted with a 45-foot long row of plants between the garage and the west property line, however, there are no details of the trees or shrubs to be planted. The site visit revealed that the proposed location of the subject garage is a rose garden and an adjoining water fountain landscape feature. Vegetation along this side yard includes some Leyland Cypress trees and bushes. This area could be planted with additional vegetation to enhance screening.

RECOMMENDATION

Department of Community Development

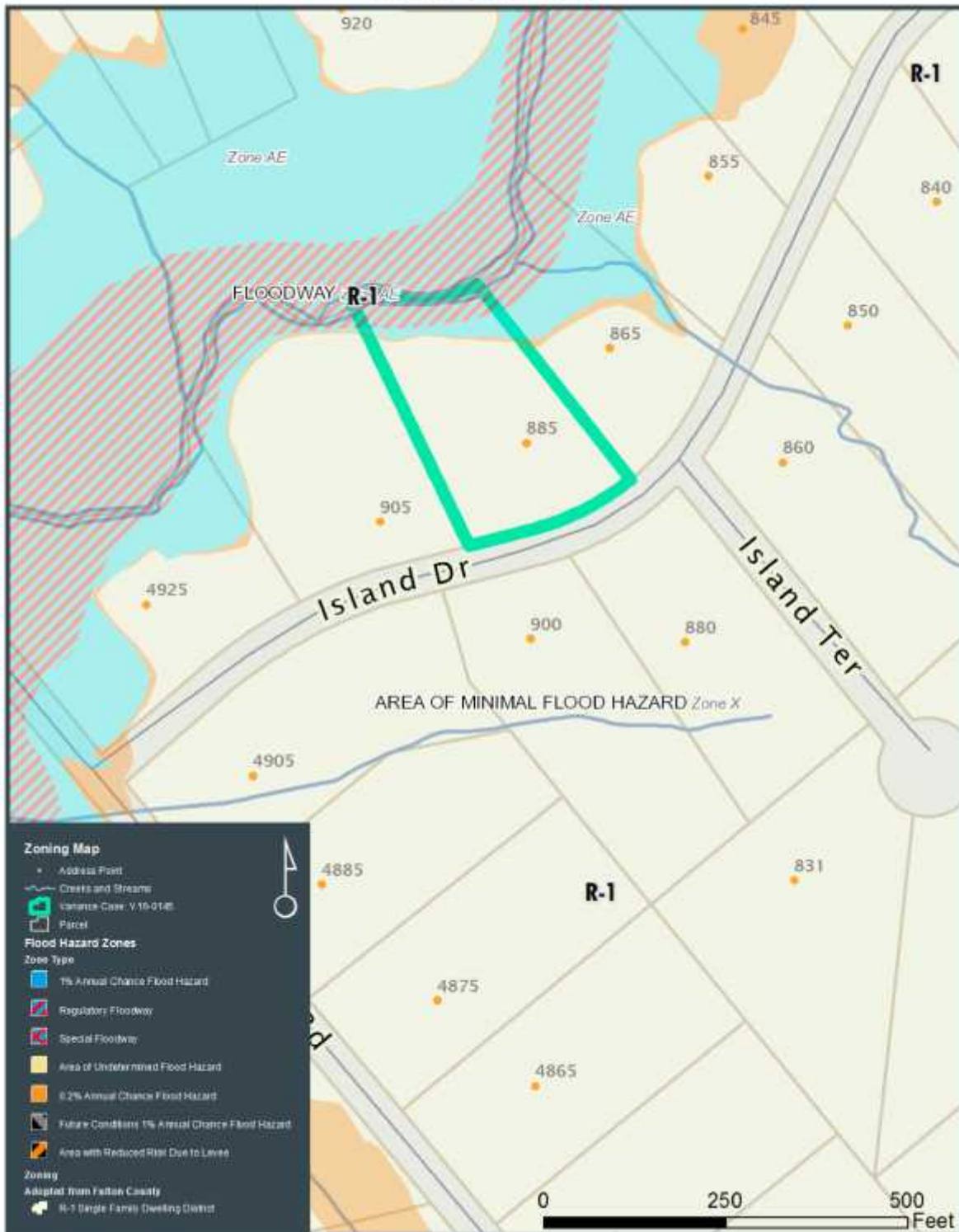
Denial of the variance request

AERIAL IMAGE



ZONING MAP

885 Island Dr



VARIANCE CONSIDERATION

Per Section 22.3.1. of the Zoning Ordinance, variances, administrative variances, and concurrent variances shall only be granted upon showing that:

For new development (including the expansion of an existing development):

- 1. The application of the Zoning Ordinance would create an unnecessary hardship, and not merely an inconvenience to the petitioner; or*
- 2. There are extraordinary and exceptional conditions due to the size, shape, or topography, which are specific to the subject property and not generally found in similar properties;*

Further, the application shall demonstrate that:

- 3. Such conditions are not the result of action or inaction of the current property owner; and*
- 4. The variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and*
- 5. The variance request would result in development that is consistent with the general intent of the Zoning Ordinance, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety, and welfare.*

Request: (6.1.3.C.) Request to allow an encroachment of 10 feet into the required ten (25) foot minimum side yard setback to allow for the construction of a detached two-car garage and utility room.

Finding: The applicant is proposing to remove an existing residence and redevelop the property with a new single-family home and accessory uses. The proposed detached garage would encroach 10 feet into the required 25-foot side yard setback. The submitted letter of intent indicates that there are several land features including trees, granite outcroppings, grade and a stream that constrain the site to best optimize the house location and associated accessory uses. The applicant's plan is to utilize the existing driveway in order to save a mix of trees including magnolia and crabapple trees that line the driveway. It is also noted in the letter of intent, that moving the home towards the east property line, where the topography decreases, may result in the removal of a specimen tree and create a larger basement wall, which would be unsightly and not desirable. Constructing the residence, detached garage or pool further north on the site infringes on significant slope, stream buffers and the granite outcroppings. In order to maintain the proposed home location and auto court design, it was decided that the garage must be located 10 feet into the side yard setback. Although these land features exist, the property is large enough and shaped in a manner that would accommodate redevelopment of the site without a variance. The applicant's proposed development of the site and desired property design are not consistent with the variance considerations. The auto court is large and there would be ample space to construct a detached garage in this location. The space to meet required setbacks is supported by the existing home, which currently meets the setback requirements. This would suggest that extraordinary circumstances due to size, shape or topography do not exist. In light of this, the application of the zoning ordinance does not create a hardship and therefore staff does not support approval of

the requested encroachment as it would not be in harmony with the general purpose and intent of the Zoning Ordinance.

COMMENTS FROM OTHER PARTIES

Andrew G. Postnieks, **Support**

Charles J. Turner, **Support**

Amanda Fielkow, **Support**

Marianne Broadbear, **Support**

Greg O'Neal, **Support**

Katherine Wolfes, **Support**

Nicole Robinson, **Support**

Connie Craig, **Support**

John E. Kampfe, **Support**

Joan Brown, **Support**

Neil Davies, **Support**

John Marshall, **Support**

Sonya Danewood, **Support**

Daniel Cornell, **Support**

Nancy Ferguson, **Support**

Carol E. Raeber, **Support**

Jody Franco, **Support**

Kelly Asbury, **Support**

Robert Rudy, **Support**

Tamara Gould, **Support**

Laura Jones, **Support**

Cheryl Beckham, **Support**

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Staff has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Sandy Springs Zoning Ordinance. Based upon this review, staff recommends **DENIAL** of variance request V16-0145 to allow the proposed two car garage within the required 25 foot side yard setback.

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

1. To allow the proposed two-car garage to encroach 10 feet into the required 25-foot side yard setback, which shall include plantings, as shown on the submitted site plan dated October 18, 2016, and received by the Department of Community Development on October 21, 2016.
2. Minor revisions of the submitted site plan, as determined by the Department of Community Development, may be reviewed and approved by Staff. Any revision shall not include further encroachment of the use or structure.
3. Submit an as-built survey of the two-car garage to the Department of Community Development prior to the issuance of a certificate of occupancy.