



Variance Petition No. 201303042

HEARING & MEETING DATES

Board of Appeals Hearing
December 10, 2013

APPLICANT/PETITIONER INFORMATION

Property Owner
TI Equities

Petitioner
TI Equities

Representative
TC Collier

PROPERTY INFORMATION

Address, Land Lot(s), and District 4644 East Conway Road
Land Lot 137, 17th District

Council District 6

Frontage Approximately 163.80 feet of frontage along East Conway Road

Area Approximately 0.67 acres

Existing Zoning R-3

Existing Use Residence

Overlay District N/A

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

INTENT

The applicant is proposing to demolish the existing house and rebuild a new house. The applicant is requesting one (1) primary variance(s) from the Zoning Ordinance:

1. Variance from Section 109-225.a.1 & 2 of Stream Buffer Protection Ordinance to allow construction of a new home within the fifty (50) foot undisturbed buffer and the seventy-five (75) foot impervious surface setback.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201303042 – 1) APPROVAL CONDITIONAL

BOARD OF APPEALS – 11/12/13

201303042 – 1) DEFERRAL

At the November 12, 2013 Board of Appeals meeting, the Board deferred the petition to give the applicant the opportunity to explore the current and proposed site specific stormwater runoff conditions, to ensure that the proposed home would be less impactful to the existing site. Since the meeting, the applicant has done significant research and made several modifications to the previously submitted site plan. The revised site plan that has been submitted shows a decrease in total impervious surface of over 4,000 square feet from the previously submitted plan, and a decrease in over 700 square feet of impervious surface from the existing conditions. There were additional decreases in impervious surface for the overall site, excluding areas within the applicable stream buffers. Additionally, the applicant has proposed to install water quality facilities to further mitigate runoff from the site.

Standards for Consideration

	Existing Site	Proposed Plan	Total
0'-25' Stream Buffer	366 sf	0 sf	0 sf
25' – 50' Stream Buffer	2,005 sf	1,442 sf	1,442 sf
50' – 75' Stream Buffer	1,471 sf	1,680 sf	1,680 sf
Total Impervious Surface encroaching in Stream Buffer	3,842 sf	3,122 sf	3,122 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 the property is irregular in shape. The stream buffer covers more than three-fourths of the developable area of the lot. The home that exists on the lot is within all three of the applicable stream buffers, but the proposed house is designed to be outside of the twenty-five (25) foot state buffer. There is less than 1,000 square feet of buildable area outside of the stream buffer. Based on these reasons, staff is of the opinion this condition has been satisfied.

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

Finding:

The stream buffer covers a majority of the existing property, and, as detailed in the above table and shown on the site plan, the existing residence is within the stream buffers. Staff notes that the stream buffer covers approximately more than three-fourths of the developable area of the lot when the minimum buffer requirement is strictly applied. Based on these reasons, staff is of the opinion this condition has been satisfied.

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

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

Finding:

The lot is "V" shaped. Due to the shape of the lot, the proposed house is shown as close to the front and side of the lot least impacted by the stream buffers, but the stream runs diagonally across the parcel and along the southern side property line. The lot is irregularly shaped and a majority of the buildable area is covered by the applicable stream buffers, when combined with the topography, this limits locations where the proposed house could be built with minimal impact to the environment. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

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

Finding:

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

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

Findings:

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

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

Findings:

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

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

Findings:

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

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

Findings:

The proposed location of the new residence eliminates any encroachment into the twenty-five (25) foot state buffer, and moves other portions of the residence into the seventy-five (75) foot impervious surface buffer instead of the fifty (50) foot undisturbed buffer. Additionally, the proposed site plan shows less impervious surface within the applicable stream buffers than current conditions and includes two water quality facilities. 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 2, 2013, and no comments were provided from the following departments: Transportation, Building and Permitting, Fire, Code Enforcement, or Site Development. The Arborist provided the following:

- Require that alternatives to impervious surface be explored and implemented in pavement areas prior to issuance of any permits.

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of this variance request to allow for the construction of a deck.

Recommended Condition(s)

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

- 1) To allow for the construction of a single family residence within the seventy-five (75) foot impervious surface setback and fifty (50) foot undisturbed buffer, as shown on the site plan dated received September 20, 2013 by the Department of Community Development.

ATTACHMENTS:

Parcel Map

Revised Proposed and Existing Site Plans – Dated received December 4, 2013

Letter of Appeal – Dated received September 13, 2013

Proposed and Existing Site Plans – Dated received September 20, 2013

Photographs

4644 East Conway Road

