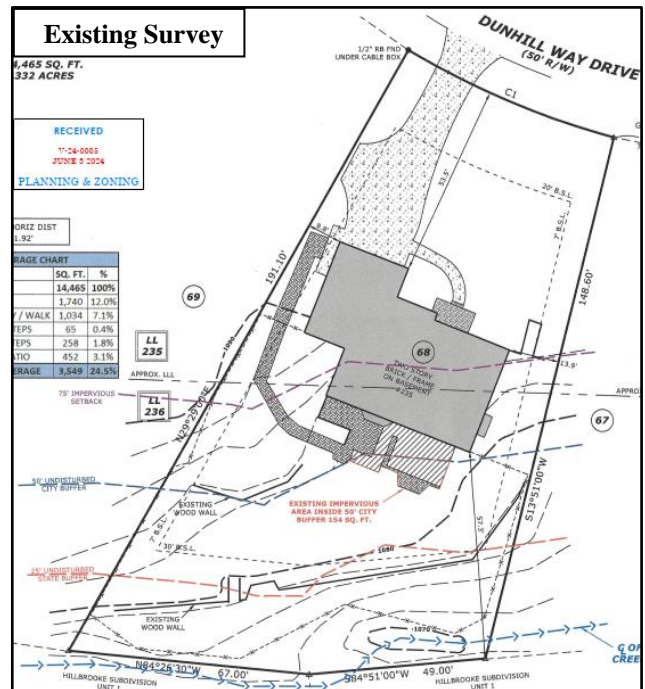


**Board of Zoning Appeals Meeting
July 16, 2024**

CASE NUMBER:	V-24-0005
PROPERTY LOCATION:	235 Dunhill Way Drive, Johns Creek, GA 30005
CURRENT ZONING:	TR (Townhouse Residential District) Conditional
PARCEL SIZE:	0.332 Acres
PROPERTY OWNER:	Joyce Daniel
VARIANCE REQUEST:	Encroachment into the 75-foot stream buffer to construct a deck and bring the existing house, patio and walkway into compliance
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is in the Abbotts Cove subdivision and is zoned TR (Townhouse Residential District) Conditional. The lot was originally platted by Fulton County in 1992, showing a 100-year floodplain along the rear property line with no reference of stream buffers. A current survey of the property identifies a creek along the rear property line. Due to the application of the City’s 50-foot undisturbed buffer and additional 25-foot impervious surface setback, the stream buffer encompasses the entirety of the rear yard, existing deck and patio, and portions of the house and brick-paver walkway.



Community Development

Applicable Code Requirements

City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection, Section 109-118: Land Development Requirements.

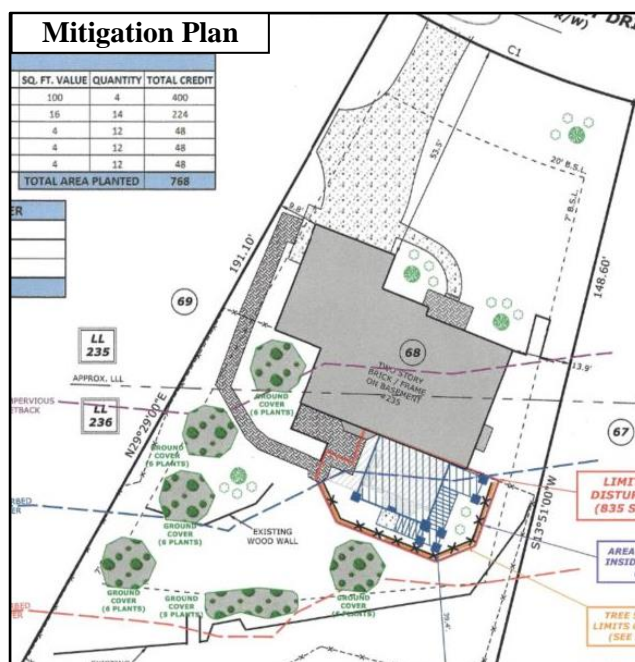
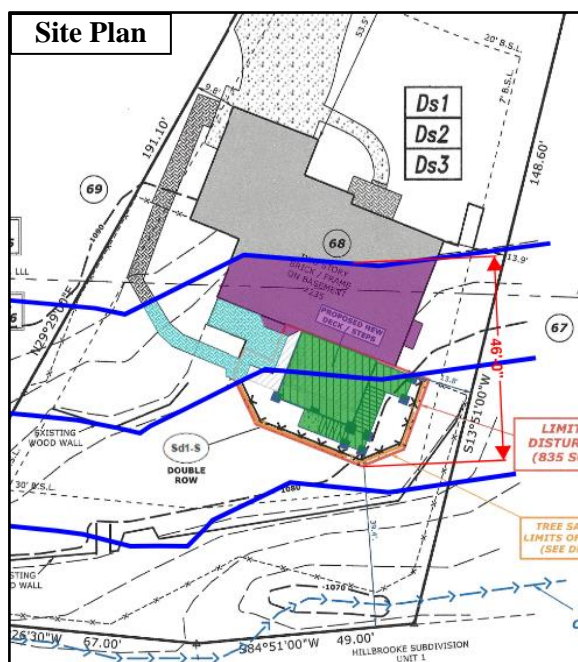
(a) *Buffer and setback requirements.*

- (1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling, and earthmoving shall be minimized within the setback.

Variance Request

The Applicant is requesting to encroach 46 feet into the City’s 75-foot stream buffer to build a new deck with stairs and a concrete pad (highlighted in green) and to bring the existing home (highlighted in purple) and patio and walkway (highlighted in blue) into compliance with the Stream Buffer Ordinance. The proposal will result in approximately 608 sq. ft. of disturbance and 1,473 sq. ft. of total impervious surface in the City’s stream buffer. However, the net increase of impervious surface in the stream buffer would only be 129 sq. ft., as 1,344 sq. ft. of impervious surface already exists. The Applicant has not proposed any land disturbance within the State’s 25-foot stream buffer.

To offset the stormwater and environmental impacts associated with the requested stream buffer encroachment, the Applicant has proposed to plant 4 dogwoods, 14 piedmont azaleas, and 144 sq. ft. of ground cover, providing a total of 768 sq. ft. of planted area.



Stream Buffer Variance Review Criteria

City Code Section 109-118(b)(2) lists the following considerations for granting stream buffer variances:

- a. When a property’s shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a buffer variance is granted; **or**
- b. Unusual circumstances when strict adherence to the minimal buffer requirements in the article would create an extreme hardship.

Staff Analysis

The survey of the subject property identifies a creek with wrested vegetation meandering along the rear property line. The application of the 50-foot undisturbed buffer with an additional 25-foot impervious surface setback extends the buffers to the rear yard and rear portion of the home. The extension of the stream buffer has created a hardship for the homeowner, as the entire rear yard and portions of the house and patio fall within the 75-foot stream buffer, which would not be permitted today without seeking a stream buffer variance. Granting this variance would bring the proposed improvement and existing house into compliance with the Stream Buffer Ordinance, while negligibly impacting the stream.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-24-0005, subject to the following conditions:

- 1) The proposed development shall not exceed the following encroachments, as shown on the site plan received by the Community Development Department on June 3, 2024:
 - a. 46 linear feet of encroachment into the stream buffer.
 - b. 608 square feet of disturbance within the stream buffer.
 - c. 1,473 square feet of total impervious surface, including 129 square feet of net new impervious surface, associated with the proposed deck, within the stream buffer.
- 2) A vegetative planting plan shall be submitted to the Community Development Department, as part of the Building Permit. Said plan shall be consistent with the mitigation plan received by the Community Development Department on June 3, 2024. The final vegetative planting shall pass City inspection prior to the closeout of issuance of a Certificate of Completion for the deck.