



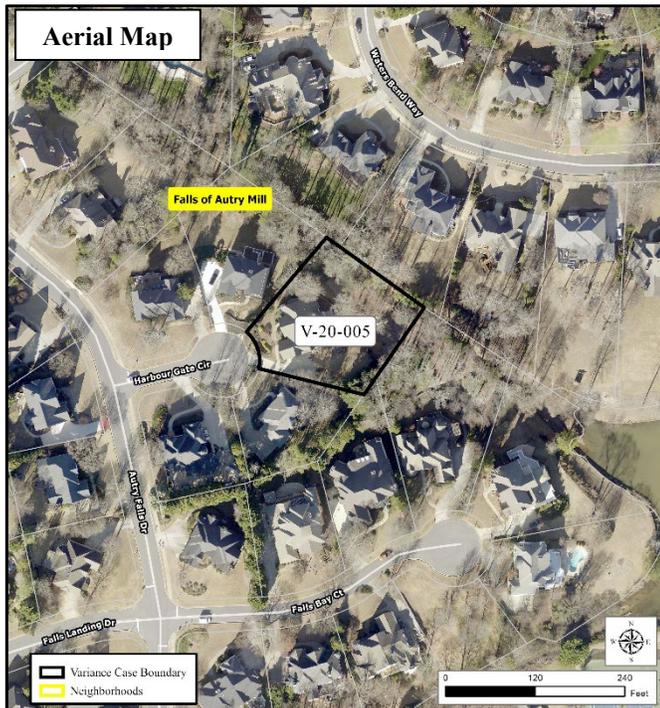
Johns Creek

Board of Zoning Appeals Meeting November 17, 2020

CASE NUMBER:	V-20-005
PROPERTY LOCATION:	520 Harbour Gate Circle, Johns Creek, GA 30022
CURRENT ZONING:	R-4A (Single-Family Dwelling District) Conditional
PARCEL SIZE:	0.66 Acres
PROPERTY OWNERS:	Richard and Jill Levine
VARIANCE REQUEST:	20-foot encroachment into the 75-foot stream buffer to construct a pool, patio and retaining wall
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is located in the Autry Mill subdivision. The entire neighborhood is zoned R-4A (Single-Family Dwelling District) Conditional. The lot was originally platted in Fulton County in 1994 with a 25-foot undisturbed stream buffer in the rear. However, since that time, the stream buffer requirements have been extended to 75 feet (50-foot undisturbed buffer and an additional 25-foot impervious surface setback).



Community Development

Applicable Code Requirement

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 a stream buffer variance to allow a portion of a pool, patio and retaining wall to encroach 20 feet into the 75-foot impervious surface setback portion of the stream buffer. The proposed addition is approximately 1,988 square feet, but only 710 square feet (highlighted in light purple) is located within the 75-foot impervious surface setback. The Applicant has not proposed any land disturbance or impervious surface within the 50-foot undisturbed stream buffer.

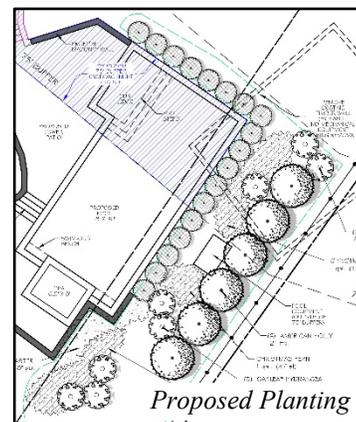
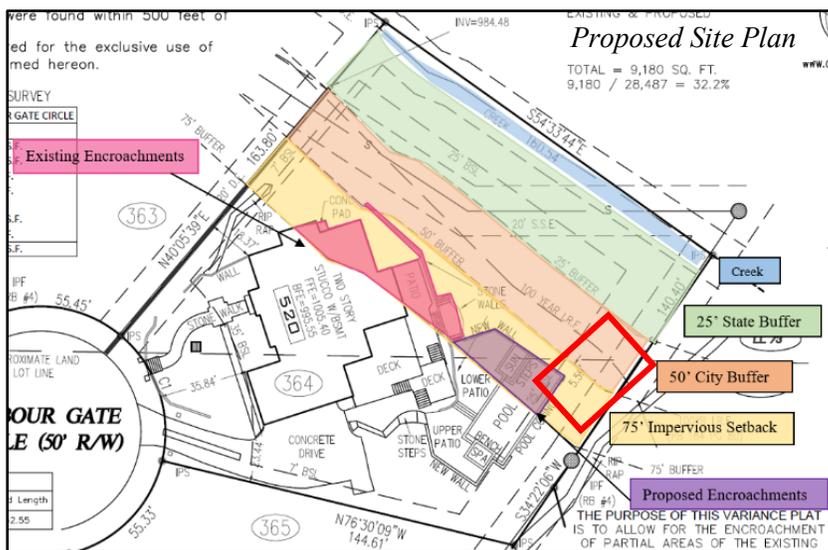
It should be noted that a portion of the existing house and patio (highlighted in red) are located within the 75-foot impervious surface setback as well. There is an existing playground structure in the rear yard, enclosed by a 10-inch tall timber wall (outlined in red), and the Applicant has proposed to remove both the playground and timber wall using non-motorized equipment as additional mitigation for the proposed encroachment.

In order to offset the adverse impacts associated with the encroachment, the Applicant has proposed to install a dry well that would hold 71 cubic feet of stormwater runoff, as well as installation of 6 trees, 26 shrubs and 285 square feet of groundcover.

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



Staff Analysis

The subject property was platted in Fulton County in 1994 with a 25-foot undisturbed stream buffer in the rear. However, after the incorporation of the City in 2006, the stream buffer was expanded to 50 feet and the additional 25-foot impervious surface setback was added. The expansion of the stream buffer creates a hardship for the homeowner and requires them to submit for a variance, as even portions of the existing home and patio are located within the 75-foot impervious surface setback, which would not be permitted today without a stream buffer variance.

In order to mitigate the impact of encroachment into the stream buffer, the Applicant has proposed to install a dry well to capture the first 1.2 inches of runoff for the 710 square-foot encroachment, along with vegetative planting to infiltrate, and further reduce and slow stormwater runoff associated with the proposed expansion of additional impervious surface on the property.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-20-005, **subject to the following conditions:**

- 1) The encroachment of the proposed development shall not exceed 20 feet in depth and 710 square feet of impervious surface into the 75-foot impervious surface setback, as shown on the site plan received by the Community Development Department on October 21, 2020.
- 2) No land disturbance shall occur within the 50-foot City stream buffer or the 25-foot State stream buffer.
- 3) The Applicant is required, prior to the issuance of a building permit, to receive approval from the City's Land Development Manager for a stream buffer mitigation plan to offset any adverse impacts associated with the additional impervious surface. Said plan shall be consistent with the mitigation plan proposal received by the Community Development Department on October 21, 2020. The mitigation plan shall be submitted, approved, and inspected, prior to the issuance of a Certificate of Completion.
- 4) The Applicant is required to remove the existing playground structure and timber wall using non-motorized equipment, prior to the issuance of a building permit.