

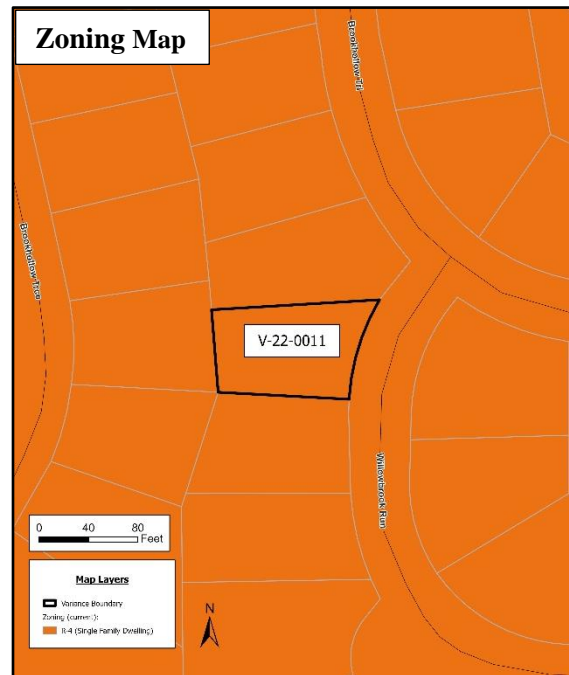


**Board of Zoning Appeals Meeting
September 20, 2022**

CASE NUMBER:	V-22-0012
PROPERTY LOCATION:	505 Willowbrook Run, Johns Creek, GA 30022
CURRENT ZONING:	R-4 (Single-Family Dwelling District) Conditional
PARCEL SIZE:	0.20 Acres
PROPERTY OWNER:	Hassan Ali Elnajjar
VARIANCE REQUEST:	55-foot encroachment into the 75-foot stream buffer to construct a deck.
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is located in the Brookhollow subdivision and is zoned R-4 (Single-Family Dwelling District) Conditional. The lot was originally platted in Fulton County in 1988 with a ditch. However, a recent survey located a stream along the western property line and accordingly, the required 75-foot stream buffer (50-foot undisturbed buffer and additional 25-foot impervious surface setback) is to be applied to the property. Staff would note that there was a deck in the rear yard prior to the Applicant demolishing the deck earlier this year without obtaining a demolition permit.



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.

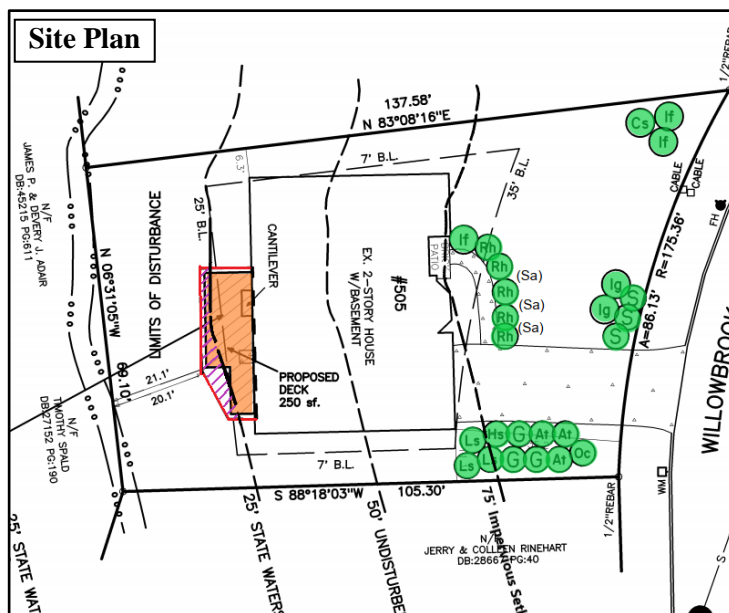
(a) *Buffer and setback requirements.*

- (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 55 feet into the 75-foot stream buffer to construct a 250 square-foot deck (highlighted in orange), and to bring the property into compliance with the City's Stream Buffer Ordinance. The proposal will result in 336 square feet of disturbance (outlined in red) in the 50-foot undisturbed buffer, of which 94 square feet will be located within the State's 25-foot stream buffer (hashed in purple). It should be noted that the Georgia Department of Natural Resources allows for minor land-disturbing activities to occur when encroachment is less than 100 square feet in the 25-foot State stream buffer.

The Applicant proposes to offset stormwater and environmental impacts associated with the requested encroachment into the stream buffer by planting 1 small tree, 8 shrubs, and 76 square feet of groundcover (shown in green).



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 1988 with a ditch. However, a recent survey confirmed the presence of a stream requiring the 75-foot stream buffer (50-foot undisturbed buffer and additional 25-foot impervious surface setback) to be applied to the property. The determination of a stream requires application of the stream buffer to the property and creates a hardship for the homeowner. The determination of the stream also locates the entire residential structure within the 75-foot stream buffer. Granting of this variance will bring the existing home and proposed deck into compliance with the City's Stream Buffer Ordinance.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-22-0012, **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 and date stamped on August 4, 2022:
 - a. 55 linear feet of encroachment into the stream buffer
 - b. 336 square feet of disturbance within the 50-foot undisturbed buffer
 - c. 250 square feet of impervious surface within the 50- foot undisturbed buffer
- 2) Total square footage of impervious and disturbance together in the State's 25-foot stream buffer shall not exceed 100 square feet.
- 3) A vegetative planting plan shall be submitted to the Community Development Department for approval by the City's Land Development Manager, prior to the issuance of a building permit. Said plan shall be consistent with the mitigation plan received by the Community Development Department and date stamped on August 4, 2022. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion for the deck.