



**Board of Zoning Appeals Meeting  
August 17, 2021**

<b>CASE NUMBER:</b>	<b>V-21-006</b>
<b>PROPERTY LOCATION:</b>	<b>230 West Smoketree Terrace, Johns Creek, GA 30005</b>
<b>CURRENT ZONING:</b>	<b>R-4A (Single-Family Dwelling District) Conditional</b>
<b>PARCEL SIZE:</b>	<b>0.53 Acres</b>
<b>PROPERTY OWNERS:</b>	<b>Judy Mar and Albert Baker</b>
<b>VARIANCE REQUEST:</b>	<b>To allow a 4,000-square-foot elevated volleyball court to encroach 19.5 feet into the 30-foot rear yard setback</b>
<b>STAFF RECOMMENDATION:</b>	<b>DENIAL</b>

**Background**

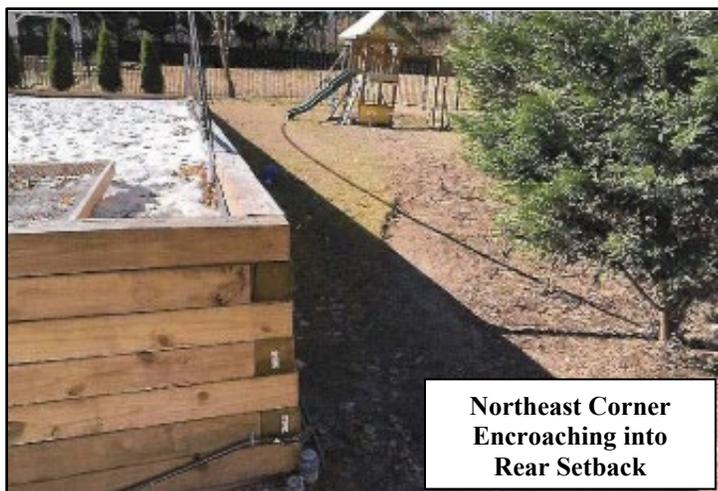
The subject property is zoned R-4A (Single-Family Dwelling District) Conditional and located in Seven Oaks subdivision. In 2018, Ms. Mar purchased the subject property and shortly thereafter, constructed a 4,000-square-foot elevated volleyball court (50 feet by 80 feet, as shown in white) without acquiring any permits from the City. The volleyball court was found to encroach into the 30-foot rear yard setback. The City issued a verbal warning in October 2020, and then issued a citation in March 2021, since the property owners failed to take any corrective action to address the violation.

The Applicant proposes to keep the volleyball court as is, and seeks to a variance to encroach 19.5 feet into the 30-foot rear yard setback.



**Community Development**

The northeast corner of the volleyball court (the area of encroachment) is elevated 40 inches above the ground, and the southeast corner is elevated 44 inches above the ground.



## Applicable Code Requirements

City of Johns Creek Code of Ordinances, Appendix A – Zoning, Article III. Definitions, Section 3.3.19.S.

**Structure.** *Anything built or constructed which occupies a location on, or is attached, to the ground. Driveways, surface parking lots, patios, and similar paved surfaces are not considered structures.*

**Structure, Accessory.** *A subordinate structure, customarily incidental to a principal structure or use and located on the same lot. Examples of accessory structures in single-family dwelling districts include outbuildings, such as, tool sheds, woodsheds, workshops, outdoor kitchens, fire pits, pool houses, gardens, gazebos, guest houses, storage sheds, playground sets, tree houses, detached garages and detached carports, etc. Fences and retaining walls are not considered accessory structures. Driveways, surface parking lots, patios, and similar paved surfaces are not considered accessory structures.*

City of Johns Creek Code of Ordinances, Appendix A – Zoning, Article VI. Single-Family Dwelling Districts, Section 6.7. R-4A Single-Family Dwelling District, Section 6.7.3. Development Standards.

- I. **Minimum Accessory Structure Requirements:** *Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.*

City of Johns Creek Code of Ordinances, Appendix A – Zoning, Article VI. Single-Family Dwelling Districts, Article XIX: Administrative Permits and Use Permits, Section 19.3. Minimum Administrative Permit Standards, Section 19.3.8. Recreational Court, Private.

*B.1. Detached Dwellings. Recreational courts serving single-family detached dwellings shall be located in side or rear yards but shall not be located within a minimum yard.*

Fulton County Zoning Case, Z-87-063 and Recorded Final Plat for Seven Oaks Subdivision, Phase I (Plat Book 175, Page 100-103).

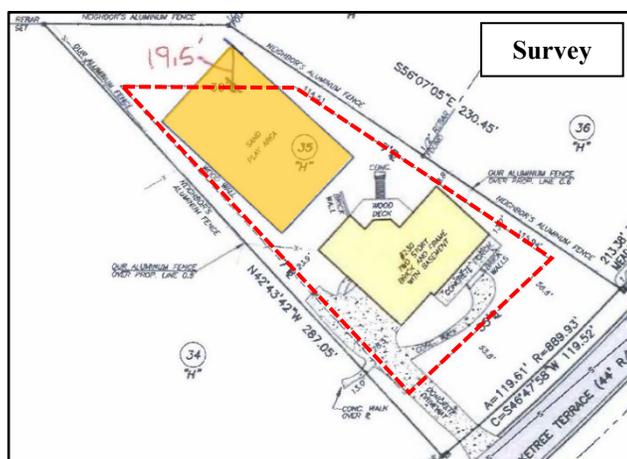
13) C. Rear Yard = 30 feet or 20% of lot depth: with 20 feet minimum depth

13) THE BUILDING SETBACK LINES ARE AS FOLLOWS:  
 A. FRONT YARD = 35 FEET MINIMUM  
 B. SIDE YARD = INTERIOR LOTS: 7 FT. MINIMUM  
 (COMBINED WIDTH OF EACH SIDE IS 15 FT. MINIMUM) STREET INTERSECTION LOTS: 20 FT. MINIMUM ALONG SIDE STREET.  
 C. REAR YARD = 30 FT. OR 20% (PERCENT) OF LOT DEPTH: WITH 20 FT. MINIMUM DEPTH.

## Variance Request

The Applicant is requesting a variance to allow a 4,000-square-foot elevated volleyball court (shown in orange) to encroach 19.5 feet into the 30-foot rear yard setback (setbacks shown in red dashed line).

It should be noted that the volleyball court is elevated from the ground and therefore, meets the definition of both a “structure” and “accessory structure.” Additionally, the Applicant is seeking to vary from the recreational court (Section 19.3.8.B.1.) and accessory structure (Section 6.7.3.I.) location requirements of not having the structure located within a minimum yard.



## Variance Review Criteria

Zoning Ordinance Section 22.3.1. lists the following considerations for granting a variance:

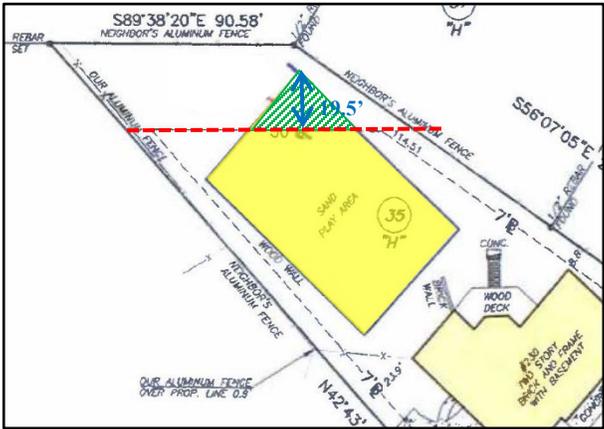
- Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or
- The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public.

## Staff Analysis

The intent of the Zoning Ordinance is to “promote or protect the health, safety, peace, security, good order, comfort, convenience and general welfare of the city and its inhabitants” as authorized by the State of Georgia through the establishing City Charter (Zoning Ordinance, Article II, Section 2.1.). The requirements of Section 6.7.3.I. and 19.3.8.B.1. of the Zoning Ordinance pertain to setback requirements of accessory structures and recreational courts. The intent is to ensure that adequate separation is established between structures, especially in residential areas, to minimize any visual, noise, or other adverse impacts on adjacent properties.

Additionally, there are no extraordinary and exceptional conditions on the subject property (size, shape, or topography) outside of the control of the Applicant that would create an unnecessary hardship under the provision of the Zoning Ordinance as the Applicant could have constructed a functional court within the minimum yard without adverse impact to adjacent properties.

Considering that the proposed encroachment was not necessitated by extraordinary and exceptional conditions of the subject property and can be voluntarily remedied by the Applicant removing a minor portion of the court (shown in green) without impacting the functionality of it, the granting of the variance would not be in harmony with the purpose or intent of the Zoning Ordinance.



**Staff Recommendation**

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of V-21-006.

However, should the Board of Zoning Appeals decide to approve the variance request, Staff would recommend imposing the following conditions:

- 1) The encroachment of the volleyball court shall not exceed 19.5 feet into the 30-foot rear setback.
- 2) The Applicant shall apply for and obtain an approved minor land disturbance permit (LDP) from the City of Johns Creek, showing no net increase in runoff volume to each property abutting the subject property. If increase in runoff volume exists, the Applicant shall submit at time of the minor LDP a mitigation plan incorporating the Georgia Stormwater Management Manual best management practices (BMP) to be implemented on the subject property to address adverse stormwater impacts from construction of the volleyball court. Final inspection and approval to confirm proper installation/implementation of the required BMPs by the City’s Land Development Inspector shall be required to authorize the granting and use of the volleyball court.
- 3) The Applicant shall plant 2 rows of evergreen trees along the east property line, where now sparsely vegetated, to provide a visual barrier that offsets any adverse impacts of the encroachment, prior to the issuance of the minor LDP. The planting material shall meet zoning buffer requirements, pursuant to the City’s Tree Preservation Administrative Guidelines, and subject to the approval of the City’s Land Development Manager.