



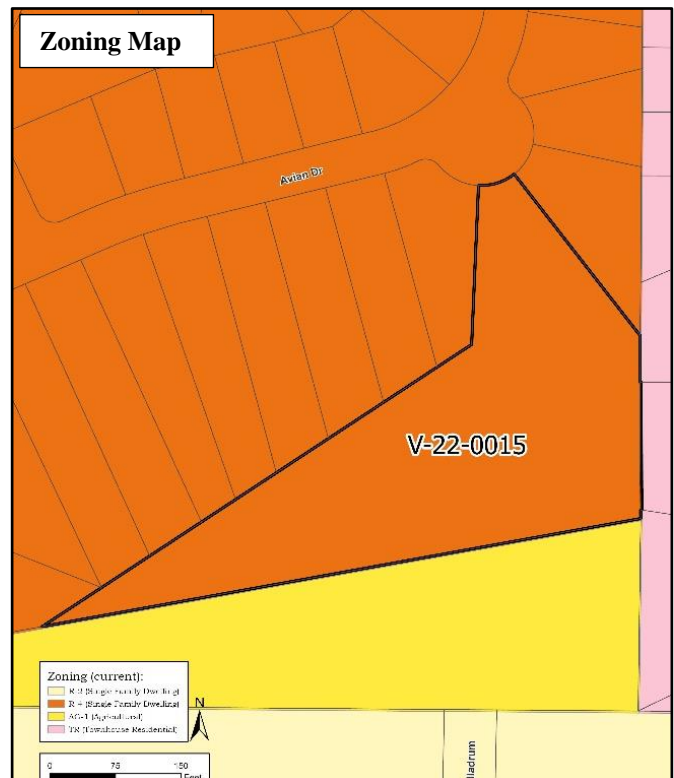
Johns Creek

Board of Zoning Appeals Meeting November 15, 2022

CASE NUMBER:	V-22-0015
PROPERTY LOCATION:	10725 Avian Drive, Johns Creek, GA 30022
CURRENT ZONING:	R-4 (Single-Family Dwelling District) Conditional
PARCEL SIZE:	2.974 Acres
PROPERTY OWNER:	Michael DeBinder
VARIANCE REQUEST:	44-foot encroachment into the 75-foot stream buffer to construct a pool.
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is located in The Gates subdivision and is zoned R-4 (Single-Family Dwelling District) Conditional. The lot was originally platted in Fulton County in 1995 with a 35-foot tributary buffer, a 20-foot drainage easement for the stormwater pipe, and a detention easement for the detention pond. 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 and majority of the house.



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 44 feet into the 75-foot stream buffer to construct a 551 square-foot pool and decking (shown in blue), and to bring the property into compliance with the City's Stream Buffer Ordinance. It should be noted that the Applicant is replacing some existing impervious surface (gravel, retaining wall, etc.) within the stream buffer, and the net increase of impervious surface is 212 square feet.

The proposal will result in 840 square feet of disturbance (hashed in red) in the 50-foot undisturbed buffer. The Applicant has not proposed any land disturbance in the State's 25-foot stream buffer.

In order to offset stormwater and environmental impacts associated with the proposed encroachment into the stream buffer, the Applicant proposes to install a drywell (shown in green) to retain the first 1.2 inches of stormwater runoff associate with the net increase of impervious surface as well as to submit a vegetative planting plan to the Community Development Department for approval by the City's Land Development Manager.



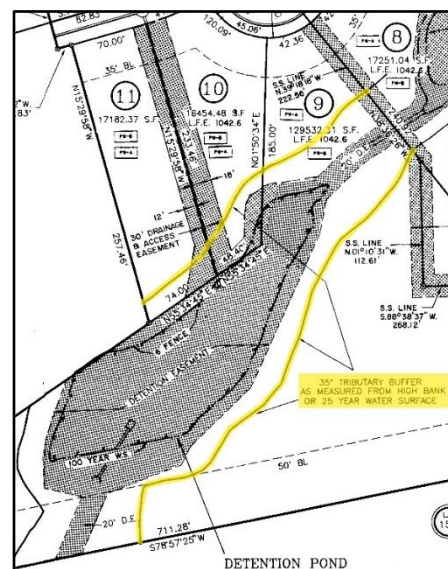
Stream Buffer Variance Review Criteria

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 1995 with a 35-foot tributary buffer, a 20-foot drainage easement for the stormwater pipe, and a detention easement for the detention pond. However, with the incorporation of the City, the stream buffer was expanded to 50 feet with an additional 25-foot impervious surface setback. The expansion of the stream buffer has created a hardship for the homeowner, as all



improvements within the back yard as well as the entire deck and majority of the house falls within the 75-foot stream buffer, which would not be permitted today without seeking a stream buffer variance.

The Applicant has proposed to keep the impervious surface outside of the originally platted 35-foot tributary buffer. The land disturbance within the 35-foot tributary buffer is approximately 45 square feet, within the limits of an existing retaining wall (as shown in the picture at right). Given the proposed mitigation and limited scope of disturbance within the originally platted 35-foot tributary buffer, granting of this variance would bring the proposed improvements and existing house into compliance with the Stream Buffer Ordinance.



Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-22-0015, **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 November 7, 2022:
 - 44 linear feet into the 75-foot stream buffer
 - 840 square feet of disturbance within the 50-foot undisturbed buffer
 - 551 square feet of impervious within the 75-foot stream buffer
- 2) The Applicant shall provide runoff reduction to retain the first 1.2 inches of stormwater runoff from the net increase of impervious surface within the 75-foot stream buffer. The drywell location and design shall be approved by the City's Land Development Manager prior to the issuance of a building permit, and shall pass City inspection prior to the issuance of a Certificate of Completion for the pool.
- 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. The vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion for the pool.
- 4) Any plant installation within the portion of the 35-foot tributary buffer shall be manually carried out without the use of machinery.