

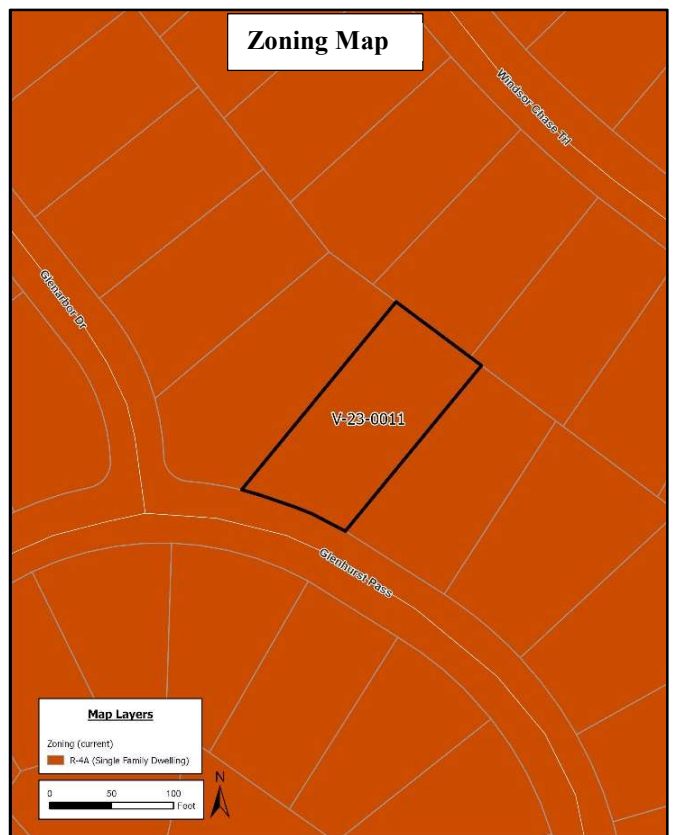
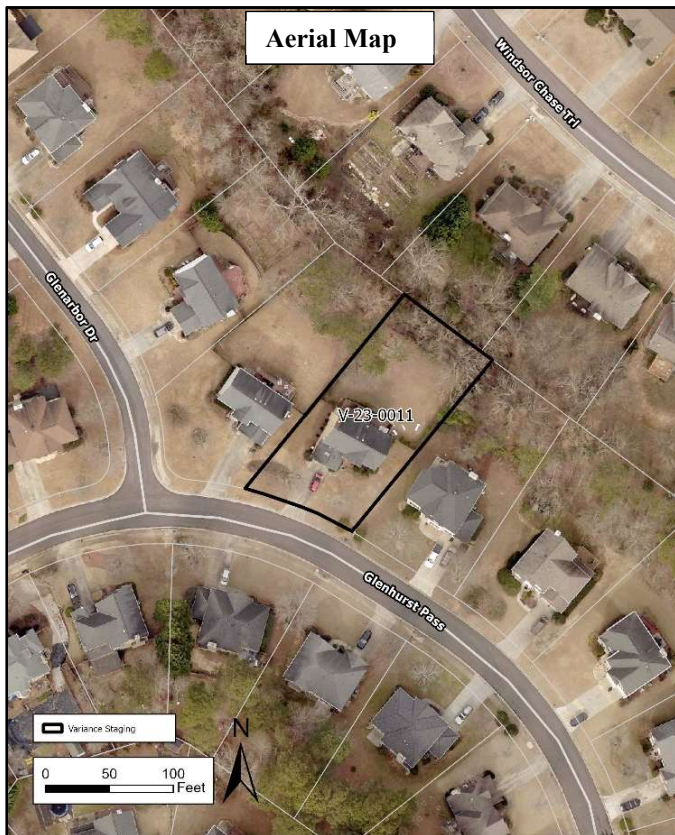


**Board of Zoning Appeals Meeting
October 16, 2023**

CASE NUMBER:	V-23-0011
PROPERTY LOCATION:	10980 Glenhurst Pass, Johns Creek, GA 30097
CURRENT ZONING:	R-4A (Single-Family Dwelling District) Conditional
PARCEL SIZE:	0.358 Acres
PROPERTY OWNER:	Georgios Mermigkas
VARIANCE REQUEST:	To allow 46-foot encroachment into the 75-foot stream buffer to locate a 230 square-foot shed
STAFF RECOMMENDATION:	DENIAL

Background

The subject property is zoned R-4A (Single-Family Dwelling District) Conditional and located in the Glenhurst subdivision. The surrounding properties are zoned R-4A Conditional and developed with single-family detached homes.



Community Development

In May 2023, the City received a complaint regarding outdoor storage of birds and associated noise from the subject property. During the site investigation, staff uncovered a 230 square-foot shed constructed by the Applicant without acquiring a permit, and a Notice of Violation (NOV) was issued to the Applicant on June 21, 2023. Subsequently, the property owner submitted an as-built survey that shows the shed is encroaching into the 75-foot stream buffer, thus requiring the Applicant to seek a variance to maintain the shed in its current location.



Shed and Bird Cages



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.

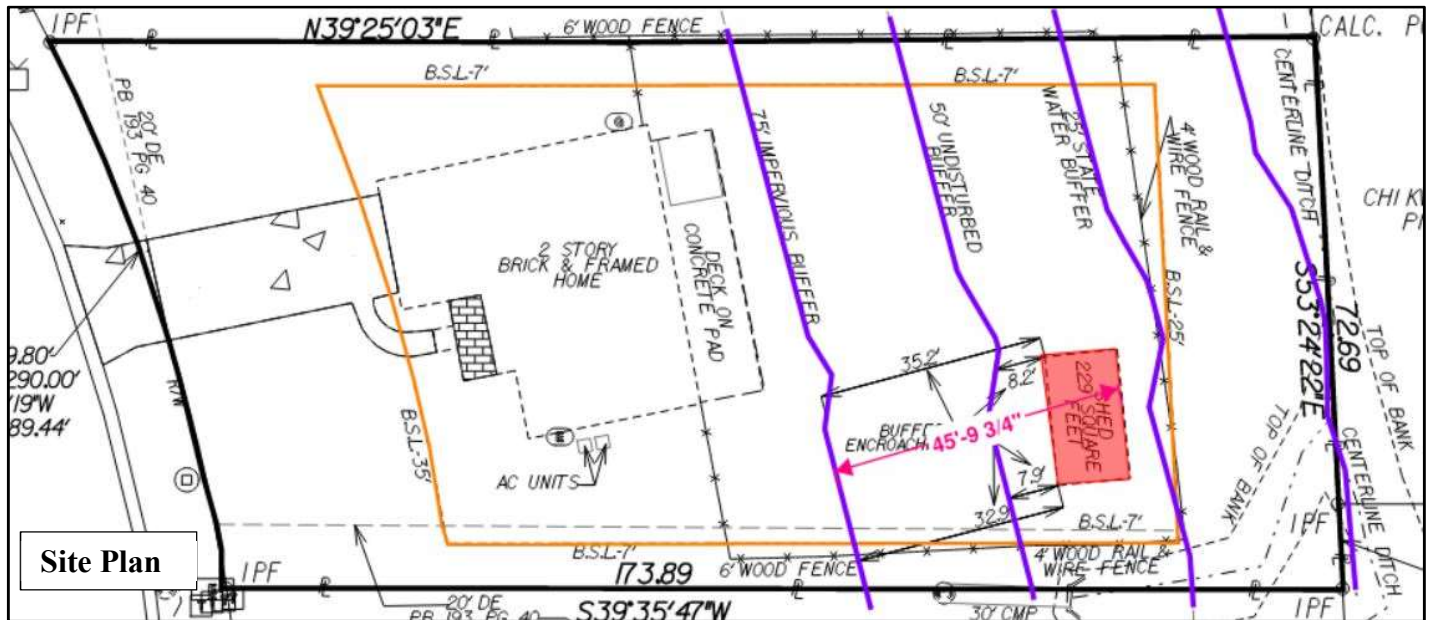
(a) *Buffer and setback requirements.*

- (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 (shown in pink arrow) into the 75-foot stream buffer (shown as purple lines) to maintain a 230 square-foot shed (shown in red) that was constructed without a permit. The shed resulted in 230 square feet of impervious surface in the City’s stream buffer.

Staff would note the Applicant has indicated to plant trees, shrubs and ground cover in between the shed and existing fence in order to offset stormwater and environmental impacts associated with the encroachment. However, the Applicant has not provided a mitigation plan quantifying the planting requirements in accordance with the City’s Stream Buffer Revegetation Standards.



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 proposed encroachment, if granted, would not be in harmony with the purpose or intent of the City’s Stream Buffer Protection Ordinance. Stream buffers were created for the protection of water resources, and to minimize public and private losses due to erosion, siltation and water pollution, and to maintain stream water quality.

There are no extraordinary or exceptional conditions on the subject property that would create a hardship to allow a 230 square-foot shed within the City’s 50-foot undisturbed buffer. The property has approximately 400 square feet of buildable area in the rear, outside of the 75-foot stream buffer, where the shed can be located without seeking a variance. Recent site visit and complaints received by the Community Development Department have confirmed the intended use of the shed is to house birds and bird cages. Chapter 10 of the City Code, “Animal Control,” requires birds to be kept at a minimum 100 feet from adjacent occupied

buildings. The current location of the shed does not provide for the required separation from neighboring homes, which adds to the negative impact associated with the shed.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **DENIAL** of V-23-0011. However, should the Board of Zoning Appeals feel compelled to approve the variance request, Staff would recommend 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 September 5, 2023:
 - a) 46 linear feet of encroachment into the stream buffer; and
 - b) 230 square feet of total impervious surface within the stream buffer.
- 2) The Applicant shall submit a mitigation plan that is in compliance with the City's Stream Buffer Revegetation Standards to the Community Development Department, as part of the building permit application. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion for the shed.
- 3) The outdoor shed shall not be used for housing birds and bird cages.