

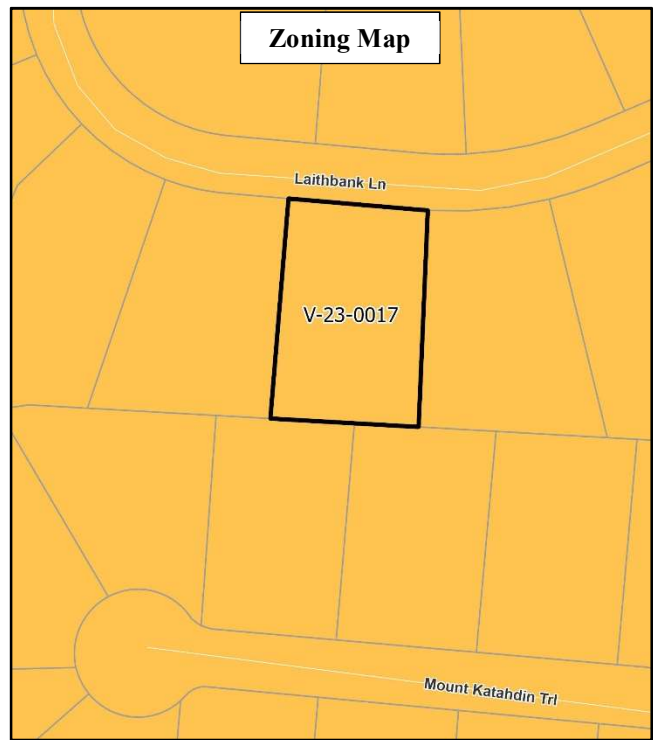
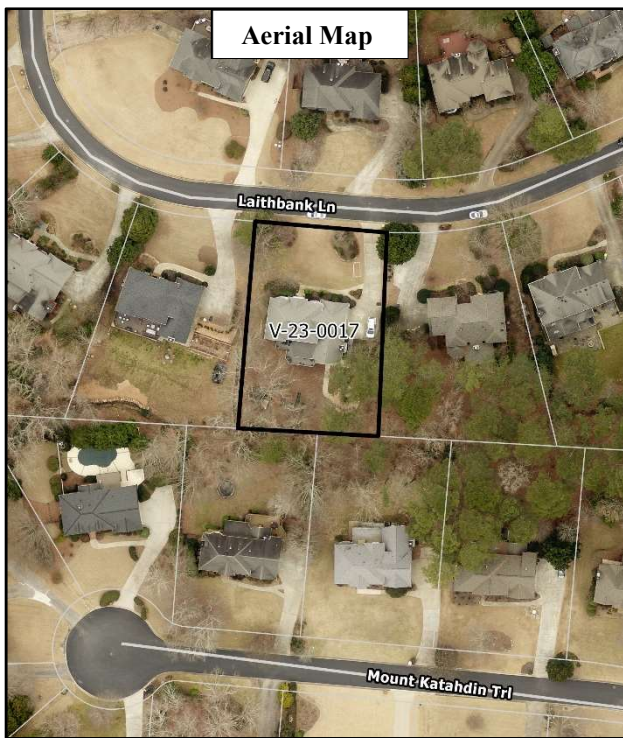


**Board of Zoning Appeals Meeting  
November 21, 2023**

<b>CASE NUMBER:</b>	<b>V-23-0017</b>
<b>PROPERTY LOCATION:</b>	<b>5285 Laithbank Lane, Johns Creek, GA 30022</b>
<b>CURRENT ZONING:</b>	<b>R-3 (Single-family Dwelling District) Conditional</b>
<b>PARCEL SIZE:</b>	<b>0.441 Acres</b>
<b>PROPERTY OWNER:</b>	<b>Steven and Tamara Liles</b>
<b>VARIANCE REQUEST:</b>	<b>Encroachment into the 75-foot stream buffer to construct a pool and bring existing improvements into compliance</b>
<b>STAFF RECOMMENDATION:</b>	<b>APPROVAL WITH CONDITIONS</b>

**Background**

The subject property is located in the Doublegate subdivision and is zoned R-3 (Single-family Dwelling District) Conditional. The subject lot was originally platted in Fulton County in 1989 with a 20-foot drainage easement along the rear property line. Due to the application of the City's 50-foot undisturbed buffer and additional 25-foot impervious surface setback, the buffer encompasses the entirety of the rear yard and portions of existing house and deck.



**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 50 feet into the City’s 75-foot stream buffer to build a new pool and associated decking (highlighted in orange) and to bring the existing home, deck and other improvements (in pink) into compliance with the City’s Stream Buffer Ordinance. Please note that a portion of the existing fire pit and seating area (approximately eight linear feet and 122 sq. ft.) encroaches into the 25-foot State buffer that the City does not have jurisdiction over. However, we are including this area into the overall mitigation calculation to account for adverse impacts associated with this existing improvement.

The proposal will result in approximately 1,635 sq. ft. of new disturbance (shown in red outline) and 2,918 sq. ft. of total impervious surface in the City’s stream buffer. However, the net increase of impervious surface in the stream buffer would be 1,890 sq. ft. (in orange), as 1,028 sq. ft. of impervious surface (in pink) currently exists.

The Applicant has proposed to plant 2 large trees, 5 small trees, 28 shrubs and 110 ground cover plants (shown in green on the site plan and in the plant schedule), to offset stormwater and environmental impacts associated with requested the encroachment into the stream buffer. The Applicant also proposes to install two drywells (shown in purple on the site plan) that would retain the first one-inch of stormwater runoff associated with the proposed 2,012 square feet of impervious surface within the 75-foot stream buffer.

### 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.



PLANT SCHEDULE					
Large Trees	QTY	Botanical Name	Common Name	Size	SQ Value
	1	Acer rubrum	Red Maple	2" cal	200sqft
	1	Magnolia grandiflora	Southern Mag.	2" cal	200sqft
Small Trees	QTY	Botanical Name	Common Name	Size	
	1	Cercis canadensis	Redbud	6' ht	100sqft
	1	Cornus florida	Dogwood	6' ht	100sqft
	2	Ilex opaca	American Holly	6' ht	200sqft
	1	Acer barbatum	Florida Maple	6' ht	100sqft
Shrubs	QTY	Botanical Name	Common Name	Size	
	7	Lilicium parviflorum	Small Anise	3 gal	112sqft
	7	Itea virginica	Itea Sweetspire	3 gal	112sqft
	7	Hydrangea quercifolia	Oak-leaf Hydran.	3 gal	112sqft
	7	Ilex glabra	Inkberry	3 gal	112sqft
Ground Cov.	QTY	Botanical Name	Common Name	Size	
	22	Eupatorium fistulosum	Joe-Pye Weed	1 gal	88sqft
	22	Polystichum acrostichoides	Christmas Fern	1 gal	88sqft
	22	Polygonatum biflorum	Solomon's Seal	1 gal	88sqft
	22	Osmunda cinnamomea	Cinnamon Fern	1 gal	88sqft
	22	Rudbeckia hirta	Black Eyed Susan	1 gal	88sqft

### **Staff Analysis**

The subject property was platted in Fulton County in 1989 with a 20-foot drainage easement along the rear property line. 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 portions of the house, deck, concrete patio and retaining wall fall within the 75-foot stream buffer, which would not be permitted today without seeking a stream buffer variance. Granting of this variance would bring the proposed pool, pool deck, concrete patio and existing improvements into compliance with the Stream Buffer Ordinance, while negligibly impacting the stream. Staff would note that the extent of the fire pit encroaching into the State buffer is not related to this variance, and any future improvement considered with the 25-foot State buffer will require the Applicant to seek a variance directly from the State's Environmental Protection Division.

### **Staff Recommendation**

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-23-0017, 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 on October 10, 2023:
  - a. 50 linear feet of encroachment into the City's stream buffer;
  - b. 1,635 square feet of new disturbance within the stream buffer;
  - c. 2,918 square feet of total impervious surface, including 1,890 square feet of net new impervious surface associated with the proposed pool, portion of the fire-pit outside the State buffer, and concrete patio within the stream buffer.
  
- 2) A vegetative planting plan shall be submitted to the Community Development Department, as part of the building permit resubmittal. Said plan shall be consistent with the mitigation plan received by the Community Development Department on October 10, 2023. The final vegetative planting shall pass City inspection prior to the closeout of issuance of a Certificate of Completion for the pool.