

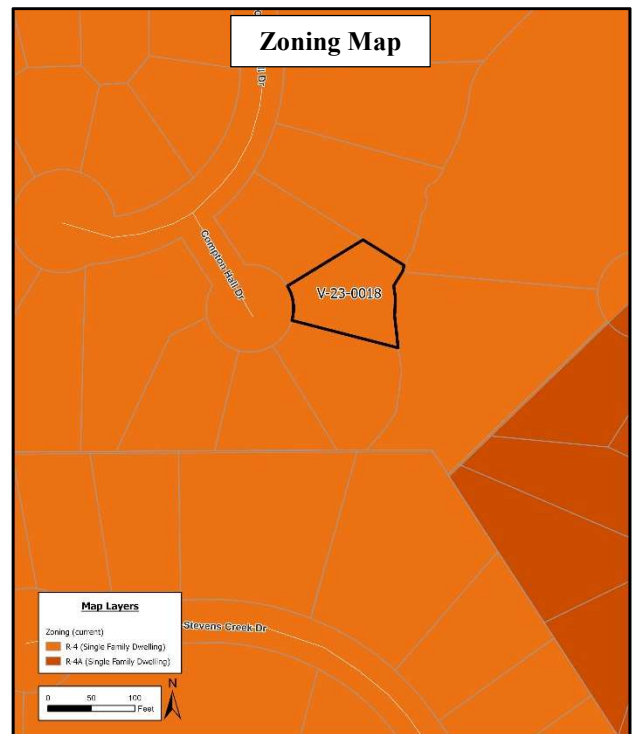
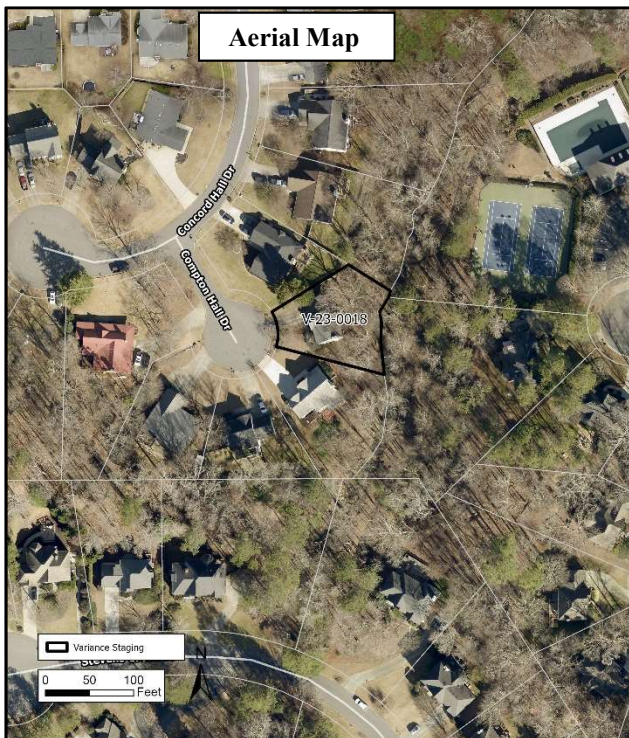


**Board of Zoning Appeals Meeting  
November 21, 2023**

<b>CASE NUMBER:</b>	<b>V-23-0018</b>
<b>PROPERTY LOCATION:</b>	<b>110 Compton Hall, Johns Creek, GA 30005</b>
<b>CURRENT ZONING:</b>	<b>R-4 (Single-family Dwelling District) Conditional</b>
<b>PARCEL SIZE:</b>	<b>0.241 Acres</b>
<b>PROPERTY OWNER:</b>	<b>Fraidoon Izadi</b>
<b>VARIANCE REQUEST:</b>	<b>Encroachment into the 75-foot stream buffer to construct a deck and bring the existing house and driveway into compliance</b>
<b>STAFF RECOMMENDATION:</b>	<b>APPROVAL WITH CONDITIONS</b>

**Background**

The subject property is located in the Concord Hall subdivision and is zoned R-4 (Single-family Dwelling District) Conditional. The subject lot was originally platted in Fulton County in 1990 with a 35-foot tributary buffer. 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 a portion of the existing house and driveway.



**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 deck (highlighted in orange) and to bring the existing home (in blue) and driveway (in green) into compliance with the City's Stream Buffer Ordinance.

The proposal will result in approximately 340 sq. ft. of new disturbance and 1,714 sq. ft. of total impervious surface in the City's stream buffer. However, the net increase of impervious surface in the stream buffer would only be 130 sq. ft., as 1,584 sq. ft. of impervious surface already exists. The Applicant has not proposed any new land disturbance within the State's 25-foot stream buffer.



The Applicant has proposed to plant two dogwoods, 11 azaleas and 160 sq. ft. of ground cover, to offset stormwater and environmental impacts associated with requested encroachment into the 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.

## Staff Analysis

The subject property was platted in Fulton County in 1990 with a 35-foot tributary buffer. 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 and driveway 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 improvement and existing house into compliance with the Stream Buffer Ordinance, while negligibly impacting the stream.

**Staff Recommendation**

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-23-0018, 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. 340 square feet of new disturbance within the stream buffer;
  - c. 1,714 square feet of total impervious surface, including 130 square feet of net new impervious surface associated with the proposed deck, 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 deck.