

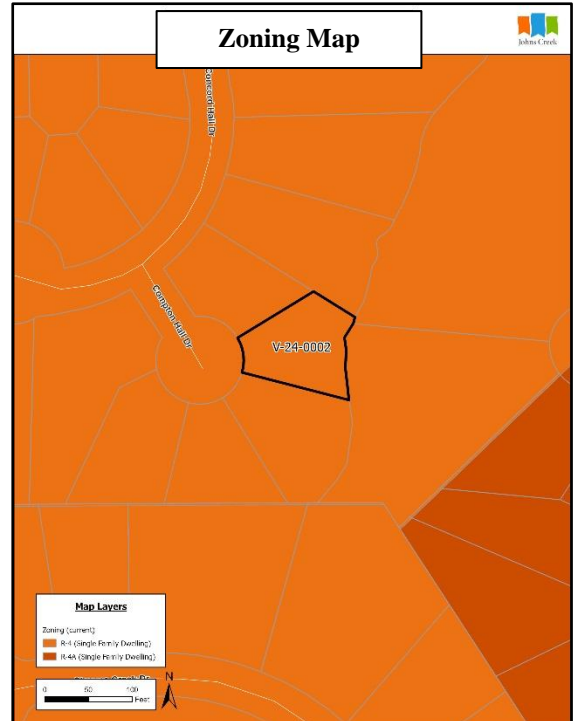
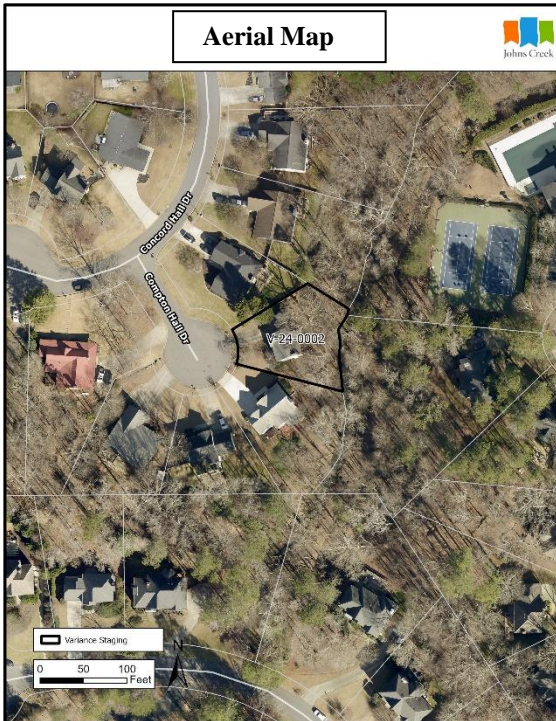


**Board of Zoning Appeals Meeting
April 23, 2024**

CASE NUMBER:	V-24-0002
PROPERTY LOCATION:	110 Compton Hall Drive, Johns Creek, GA 30005
CURRENT ZONING:	R-4 (Single-family Dwelling District) Conditional
PARCEL SIZE:	0.241 Acres
PROPERTY OWNER:	Fraidoon Izadi
VARIANCE REQUEST:	To allow for encroachment into the 75-foot stream buffer to replace an existing retaining wall and stabilize the rear yard
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is located in the Concord Hall subdivision and is zoned R-4 (Single-Family Dwelling District) Conditional. The 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, existing house and a portion of the driveway. Staff would note that the Board of Zoning Appeals granted a variance (V-23-0018) on November 21, 2023, to the subject property, allowing for encroachment into the 75-foot stream buffer to construct a deck.



Community Development

Earlier this year, the property owner started replacing the old crosstie wall by installing a wood retaining wall that encroached into the 75-foot stream buffer without acquiring a permit. The City issued a Stop Work Order on February 9, 2024, and subsequently, the property owner submitted an as-built survey that shows the new disturbance and retaining wall encroaching into the 75-foot stream buffer, thus requiring the Applicant to seek a variance to maintain these improvements in their current location.



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.

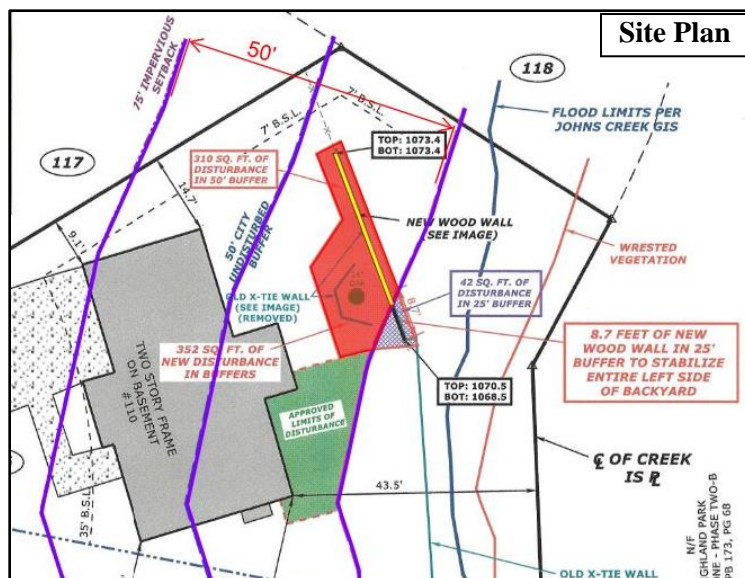
(a) *Buffer and setback requirements.*

- (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 construct a wood retaining wall (shown in yellow). The proposal will result in approximately 310 square feet of new disturbance (shown in red) and 36 square feet of total impervious surface in the City’s stream buffer.

The Applicant has proposed to plant one dogwood tree, 11 azalea shrubs and 120 square feet 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 the house and portions of driveway fall within the 75-foot stream buffer, which would not be permitted today without seeking a stream buffer variance. The Applicant is seeking a stream buffer variance to replace the old crosstie wall and install a wood retaining wall to minimize soil erosion and stabilize the rear yard. Granting this variance would bring the proposed improvement into compliance with the Stream Buffer Ordinance, while negligibly impacting the stream. Staff would note that the extent of the new retaining wall (approximately 8.7 linear feet and 42 square feet of disturbance) encroaching into the State buffer is not related to this variance, and any future improvement considered within the 25-foot State buffer will require a variance directly from the State's Environmental Protection Division.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-24-0002, 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 March 6, 2024:
 - a. 50 linear feet of encroachment into the City's stream buffer;
 - b. 310 square feet of new disturbance within the stream buffer; and
 - c. 36 square feet of total impervious surface, within the stream buffer.
- 2) A vegetative planting plan shall be submitted to the Community Development Department, as part of the Minor Land Disturbance Permit. Said plan shall be consistent with the mitigation plan received by the Community Development Department on March 6, 2024. The final vegetative planting shall pass City inspection prior to the closeout of the Minor Land Disturbance Permit.