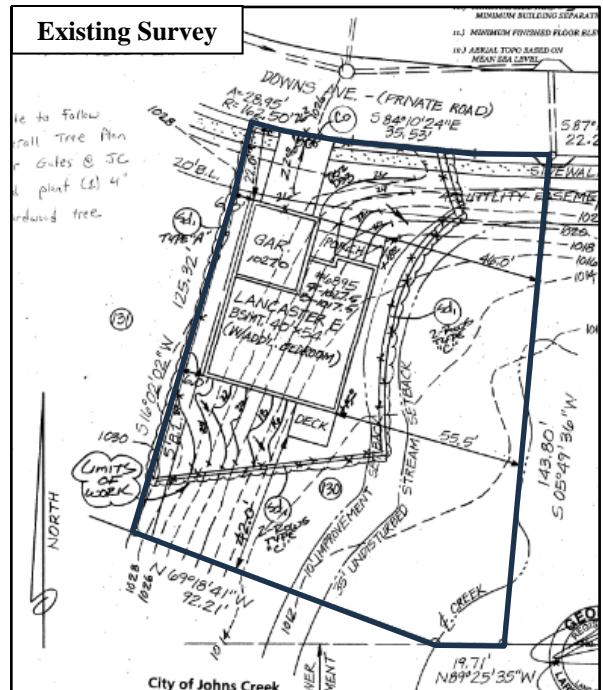


**Board of Zoning Appeals Meeting
November 19, 2024**

CASE NUMBER:	V-24-0009
PROPERTY LOCATION:	6895 Downs Avenue, Johns Creek, GA 30097
CURRENT ZONING:	CUP (Community Unit Plan District) Conditional
PARCEL SIZE:	0.307 Acres
PROPERTY OWNER:	Tejas Sarvaiya
VARIANCE REQUEST:	Encroachment into the 75-foot stream buffer to construct an outdoor patio, a pathway, and retaining walls
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is in The Gates at Johns Creek subdivision and is zoned CUP (Community Unit Plan District) Conditional. The lot was originally platted in 2007 showing a 35-foot undisturbed stream setback with an additional 10-foot improvement setback. Due to the application of the City’s 50-foot undisturbed buffer and additional 25-foot impervious surface setback, the stream buffer encompasses more than half of the existing home and deck, and the proposed outdoor patio, pathway, and retaining walls.



Earlier this year in March, the property owner began construction of an outdoor patio, retaining walls, and walkways without a permit, into the 75-foot impervious surface setback and 50-foot undisturbed portion of the stream buffer. The City issued a Notice of Violation (NOV) on March 26, 2024, and subsequently, the property owner submitted an as-built survey showing improvements encroaching into the 75-foot impervious surface setback and the City's 50-foot undisturbed buffer, thus requiring the Applicant to seek a stream buffer variance from the City to maintain these improvements in their current location.



Improvements in the Yard



Applicable Code Requirements

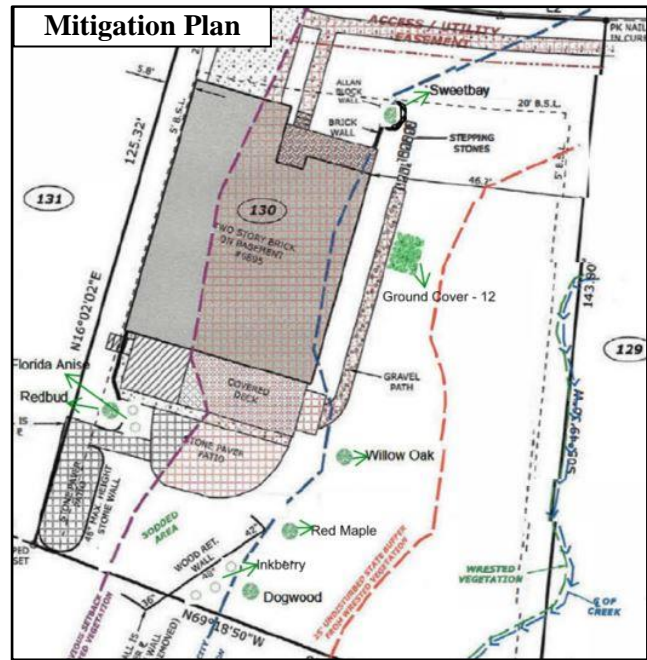
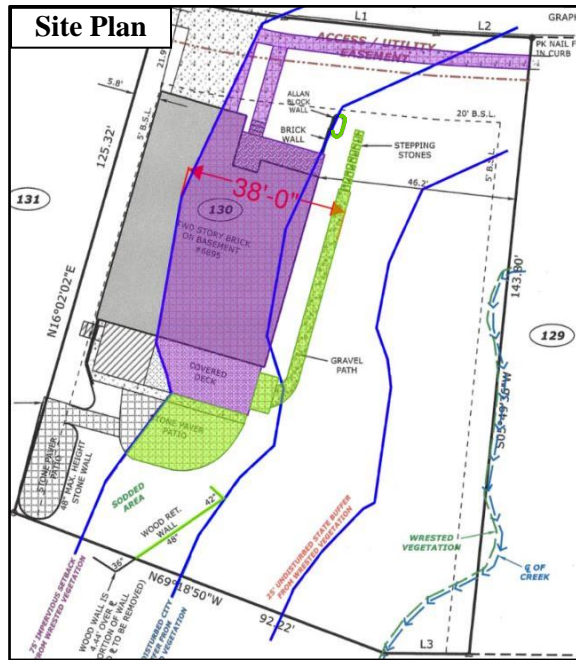
City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection, Section 109-118: Land Development Requirements.

(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 wretched 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 38 feet into the City's 75-foot stream buffer for an outdoor patio, a gravel pathway, and wood and stone retaining walls (shown in green) to bring them into compliance with the Stream Buffer Ordinance. The proposal will result in approximately 158 square feet of new disturbance and 2,558 square feet of total impervious surface in the City's stream buffer, which includes the existing portion of the home, deck, porch, driveway and front walkway (2,032 square feet shown in purple). The overall net increase of impervious surface in the stream buffer, however, would only be 526 square feet. The Applicant has not proposed any land disturbance within the State's 25-foot stream buffer.



To offset the stormwater and environmental impacts associated with the requested stream buffer encroachment, the Applicant has proposed planting 2 large trees, 3 small trees, 80 sq. ft. of shrubs, and 48 sq. ft. of ground cover, providing a total of 828 sq. ft. of planted area.

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 survey of the subject property identifies a creek with wrested vegetation meandering along the east property line all the way towards the southeast corner of the property. The application of the 50-foot undisturbed buffer with an additional 25-foot impervious surface setback extends the buffers to the existing portions of home, deck and driveway. The extension of the stream buffer has created hardship for the homeowner, as nearly 80 percent of the subject property including existing and proposed improvements fall within the 75-foot stream buffer, which would not be permitted today without seeking a stream buffer variance. Granting 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 recommend **APPROVAL** of V-24-0009, subject to the following conditions:

- 1) The proposed development shall not exceed the following encroachments, as shown on the as-built survey received by the Community Development Department on September 23, 2024:
 - a. 38 linear feet of encroachment into the stream buffer.
 - b. 160 square feet of new disturbance within the stream buffer.

- c. 2,560 square feet of total impervious surface, including 526 square feet of net new impervious surface, associated with the outdoor patio, gravel pathway, and retaining walls within the stream buffer.
- 2) A vegetative planting plan shall be submitted to the Community Development Department, as part of the Building Permit. Said plan shall be consistent with the mitigation plan received by the Community Development Department on September 26, 2024. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion.