



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

CASE NUMBER:	V-24-0011
PROPERTY LOCATION:	9450 Colonnade Trail, Johns Creek, GA 30022
CURRENT ZONING:	CUP (Community Unit Plan District) Conditional
PARCEL SIZE:	0.932 Acres
PROPERTY OWNER:	Bryan P. Lipscomb
VARIANCE REQUEST:	To allow 6.5-foot encroachment into the 7.5-foot side yard setback to construct a cabana and a deck
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is in the Country Club of the South subdivision and is zoned CUP (Community Unit Plan District) Conditional, pursuant to Fulton County rezoning case, 1994Z-0055. The subject property is a corner lot and bounded by Old Southwick Pass to the east, Colonnade Trail to the south, a single-family detached home to the west and the Country Club of the South golf course to the north.



In January 2024, the Applicant was found to have constructed a pool cabana and the associated deck on the subject property without obtaining a permit. A Stop Work Order was issued to the property owner on January 17, 2024, as a result of an investigation of a complaint received by the City. Subsequently, the property owner submitted an as-built survey and it was determined by staff that the deck and pool cabana encroached into the 7.5-foot side yard setback, thus requiring the Applicant to seek a variance to maintain the structures in their current location.

Variance Review Criteria

Section 22.3.1 of the Zoning Ordinance lists the following considerations for granting a variance:

- a. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or
- b. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public.

Staff Analysis

The side yard setback exists to ensure that adequate separation between structures is maintained and to minimize negative visual and noise impacts related to the use of structures on adjacent properties. The Applicant's Letter of Appeal indicates that the 30-year-old deck and pergola needed extensive repairs. The proposed deck and cabana, which are similar in size and are located in the same general area as the previous deck and pergola provide an improved structural design that complements the overall character of the house and the neighborhood. Additionally, the proposed structures would continue to maintain the distance separation (approximately 49 feet) from the dwelling unit on the adjacent property to the west (shown in the aerial imagery below). Staff is of the opinion that the proposed side yard encroachment would be in harmony with the general purpose and intent of the Zoning Ordinance and is not anticipated to adversely impact the adjacent property.



Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-24-0011, subject to the following conditions:

- 1) The proposed deck and cabana shall not exceed the 6.5 linear feet of encroachment into the side yard setback, as shown on the site plan received by the Community Development Department and date stamped on September 30, 2024.
- 2) The Applicant shall plant a row of evergreen trees along the entire length of the deck encroachment (approximately 31 feet) into the side yard setback, as shown on the deck renovation plans received by the Community Development Department and date stamped on September 30, 2024. The plant material must be a minimum 5 feet in height at the time of planting and the final planting shall pass City inspection prior to the issuance of a Certificate of Completion for the proposed deck and cabana.