

# **Board of Zoning Appeals Meeting August 19, 2025**

CASE NUMBER: V-25-0005

PROPERTY LOCATION: 9470 Dominion Way, Johns Creek, GA 30022

CURRENT ZONING: R-4A (Single-Family Dwelling District) Conditional

PARCEL SIZE: 0.34 Acres

PROPERTY OWNER: Joseph and Kathryn Gazzillo

**VARIANCE REQUEST:** Encroachment into the 75-foot stream buffer to construct

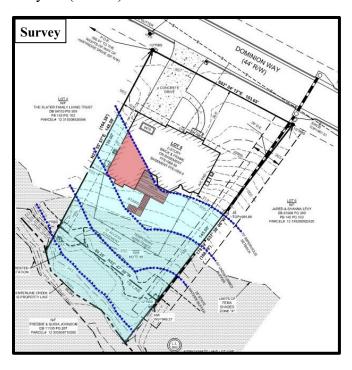
a deck

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

## **Background**

The subject property is located in the Hartridge neighborhood and zoned R-4A (Single-Family Dwelling District) Conditional. The lot was originally platted in 1985 by Fulton County showing a 100-year floodplain and Hico Creek, a Chattahoochee River tributary establishing the rear property line. Due to the application of the City's 50-foot undisturbed buffer and additional 25-foot impervious surface setback, the stream buffer encompasses approximately 55% of the property, including a portion of the existing home (in red), existing deck (in brown), and the entire rear yard and a portion of side yard (in blue).





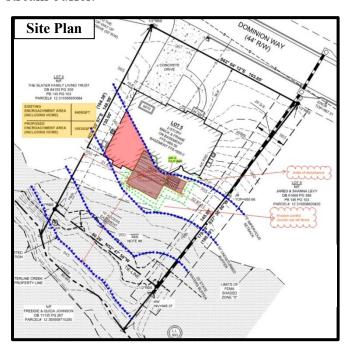
#### **Applicable Code Requirements**

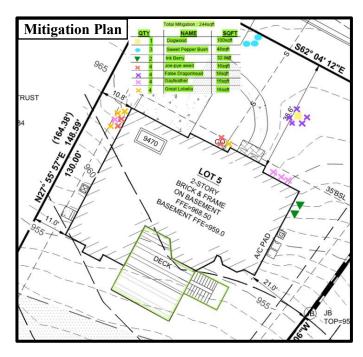
City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection, Section 109-118: Land Development Requirements.

- (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 25 feet into the City's 75-foot stream buffer to replace an existing deck and construct a new deck and stairs in the rear yard and to bring the existing home (in red) into compliance with the Stream Buffer Ordinance. The proposed improvements will result in 1,053 square feet of impervious surface in the stream buffer, which includes 840 square feet of the existing portion of the home and deck within the stream buffer, and net increase in impervious surface of 213 square feet. The Applicant has not proposed any land disturbance within the City's 50-foot undisturbed buffer or the State's 25-foot stream buffer.





To offset the stormwater and environmental impacts associated with the requested stream buffer encroachment, the Applicant proposes to plant one small tree, 5 shrubs, and 64 square feet of groundcover plants to provide a total of 244 square feet 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 subject property was platted in Fulton County in 1985 showing a 100-year floodplain and a Chattahoochee River tributary forming the rear property line. With the incorporation of the City, the stream buffer was expanded to 50 feet with an additional 25-foot impervious surface setback on both sides of the stream. The expansion of the stream buffer has created hardship for the homeowner, as the buffer encompasses nearly 55% of the property, including portions of the existing home and side yard, entire rear-yard, and existing deck. The existing deck would not be permitted today without seeking a stream buffer variance. Granting this variance would allow for the construction of the proposed deck and bring the 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-25-0005, 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 and date stamped on July 1, 2025:
  - a. 25 linear feet of encroachment into the stream buffer.
  - b. 1,053 square feet of total impervious surface, including 213 square feet of net new impervious surface, associated with the new deck and stairs within the stream buffer.
- 2) A vegetative planting plan shall be submitted to the Community Development Department, as part of the Building Permit application. Said plan shall be consistent with the mitigation plan received by the Community Development Department on July 1, 2025. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion.