Johns Creek

Board of Zoning Appeals Public Hearing
January 19, 2015 —7:00 P.M

CASE NUMBER:	**V-16-005**
PROPERTY LOCATION:	**670 Turbridge Court, Johns Creek, GA 30022** **1st District, 1st Section, Land Lot 98**
CURRENT ZONING:	**R-4A Conditional (Single Family Dwelling)**
PARCEL SIZE:	**0.472 Acres**
PROPERTY OWNERS:	**Robert Razzolini**
STAFF RECOMMENDATION:	**APPROVAL WITH CONDITIONS**

REQUEST

The existing residence, located at 670 Turbridge Court, was constructed in the early 1990s and is approximately 3,500 square feet. The applicant is requesting a stream buffer variance in order to encroach 46.5 feet into the 50-foot stream buffer and additional 25-foot impervious surface setback to allow for the construction of a new pool, pool deck, and pool equipment. The new pool area creates approximately 1715 square feet of new impervious surface within the stream buffer. The pool area complies with all other sections of the Zoning Ordinance.

The subject property, 670 Turbridge Court, is lot number 33 within Unit 1 of the Oxford Mill subdivision. This lot was originally platted in Fulton County without any stream buffers. Other portions of the neighborhood were platted with a 35-foot tributary buffer, but none of these areas are adjacent to the subject site. A City of Johns Creek Land Development Inspector conducted a site visit on November 24, 2015 and confirmed that there is a flowing stream behind the property which would require the 25-foot state buffer, the 50' City of Johns Creek undisturbed buffer, and the 75' City of Johns Creek no impervious surface setback.

The proposed construction would not encroach into the 25-foot state buffer. Portions of the existing home, garage, and driveway are currently located in the 50-foot stream buffer and the additional 25-foot impervious surface setback.

ADJACENT ZONING AND LAND USES

Adjacent properties to the north, south, east, and west are zoned R-4A Conditional and are in the Oxford Mill subdivision as well.

APPLICABLE CODE REQUIREMENTS

City Code; Chapter 109: Natural Resources & Environmental Protection; Article V: Stream Buffer Protection: Section 109-118: Land Development Requirements.

(i) 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.

(ii) 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 REQUIREMENTS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations include:

(i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.

(ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

ADDITIONAL STREAM BUFFER CONSIDERATIONS

Stream buffers are the areas of land immediately adjacent to the banks of state waters which facilitate the protection of water quality and aquatic habitat. Buffers also preserve green space, improve aesthetics, reduce stormwater runoff velocities, help control flooding, and keep stream water cool by providing shade. These buffers must remain undisturbed in their natural state during and after construction, however variances can be obtained that allow for encroachment under certain conditions. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25 foot buffers on both sides of a stream, measured from the point of wrested vegetation which is usually located at the tops of the banks. The City of Johns Creek requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited. Variance applications may be granted on a case by case basis provided the applicant submit information showing the location of the stream, the extent of encroachment, and documentation of the unusual hardship should the buffer be maintained. These variance applications must also provide mitigation measures to offset the impacts of land development or disturbance on the proposed property. Although allowed by ordinance, granting of stream buffer variances should be kept to a practicable minimum in order to preserve water quality and minimize flood risks from future, upstream development. The location and extent of buffer encroachment, long term water quality impacts, and potential, less intrusive alternate designs are all factors to be considered in determining whether to issue a variance. Stream Buffer Variances granted by the City of Johns Creek are subject to annual audits by the Metropolitan North Georgia Water Planning District and the EPD. The City must ensure that consistency and thorough examination to long term impacts are considered in order to justify granting variances.

STAFF RECOMMENDATION

The subject property was platted in Fulton County without any streams or stream buffers, however, a portion of the neighborhood was platted with a 35' tributary buffer. The applicant seeks to construct a pool and pool patio, with pool equipment, in their rear yard that would add 1715 square feet of new impervious surface and require a 46.5-foot linear encroachment into the 50-foot stream buffer and additional 25-foot impervious surface setback.

The final plat on record at the City of Johns Creek illustrates that under the original plat, the new pool area could have been completed without the need for a variance. With the verification of a flowing stream behind their property, approximately 50-percent of the property is now located within a stream buffer. The Department would note that the applicant has submitted a replanting plan to mitigate the proposed 1715-square-foot intrusion into the stream buffer with an assortment of large trees, small trees, shrubs, and groundcover. It appears that this plan meets the stream buffer mitigation that is required.

In light of the subject property having had the ability to implement the proposed improvement on the lot without a variance based on the original final plat and the applicant's agreement to implement an adequate mitigation plan; the Department of Community and Development recommends **APPROVAL WITH CONDITIONS** of this request.

The Department would note that, should the variance be granted by the Board of Zoning Appeals on the merits of this request, the proposed mitigation plan must be executed on the site without removal of existing vegetation and the use of heavy machinery.

RECOMMENDED CONDITIONS

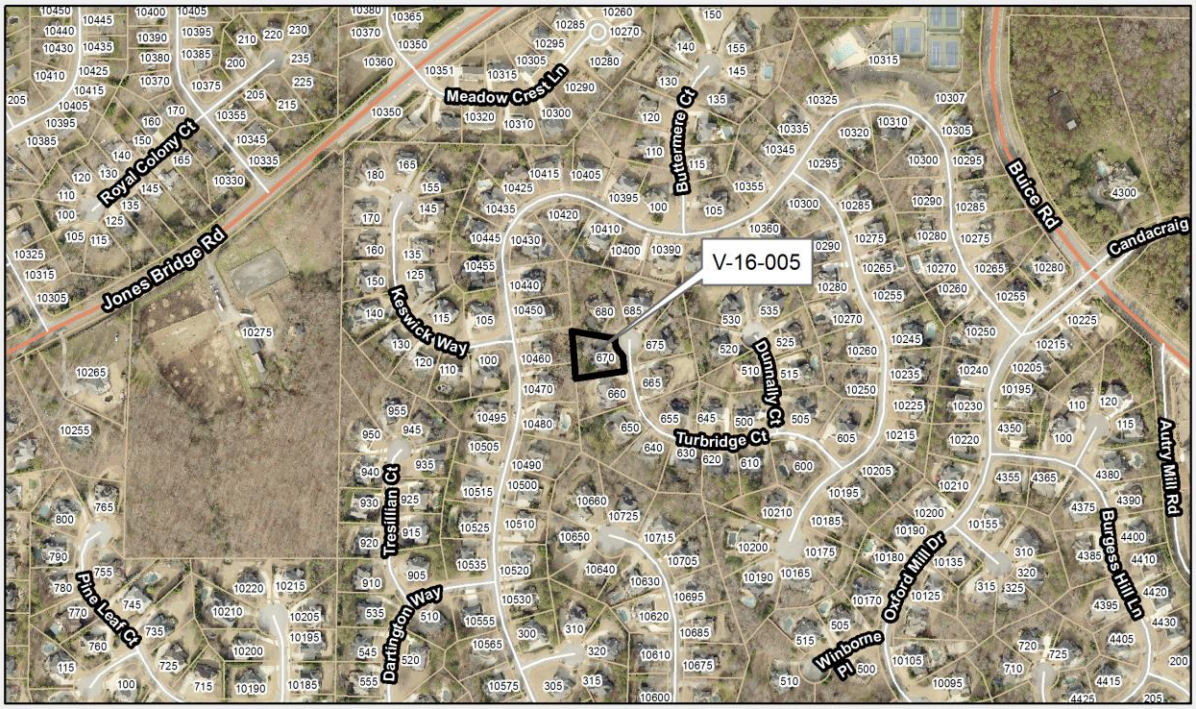
Based upon the findings and conclusions herein, Staff recommends **APPROVAL with conditions** of this request, subject to the following conditions of approval:

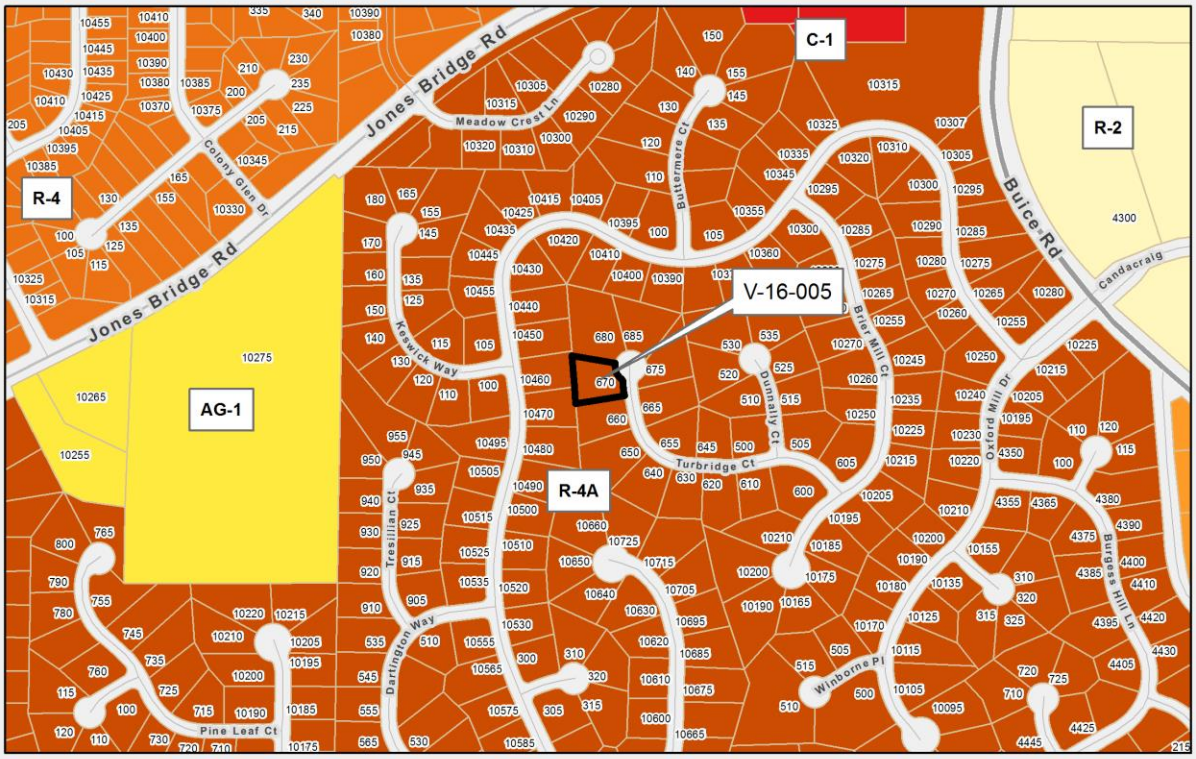
1) The pool area shall encroach no more than 46.5 linear feet into the 50-foot stream buffer and additional 25-foot impervious surface setback, as shown on the site plan received on December 8, 2015.

2) Obtain required building permits from the City of Johns Creek Community Development Department prior to commencement of construction.

3) No disturbance can occur with the 25-foot state buffer.

4) The applicant is required, prior to issuance of a certificate of completion, to replant vegetation on the subject property to offset any adverse impact associated with the additional impervious surface closer to the stream. Replanting of vegetation shall be consistent with the submitted mitigation plan dated January 5, 2015 or an alternative plan approved by the City Arborist.


V-16-005
Meadow Crest Ln
Royal Colony Ct
Jones Bridge Rd
Buttermere Ct
Buice Rd
Candacraig
Keswick Way
Dunnally Ct
Turbridge Ct
Tresillian Ct
Dartington Way
Pine Leaf Ct
Oxford Mill Dr
Winborne Pl
Burgess Hill Ln
Autry Mill Rd


C-1
R-2
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AG-1
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V-16-005
Jones Bridge Rd
Meadow Crest Ln
Colony Glen Dr
Buttermere Ct
Buice Rd
Candacraig
Keswick Way
Brier Mill Ct
Dunnally Ct
Turbridge Ct
Oxford Mill Dr
Tresillian Ct
Dartington Way
Winborne Pl
Burgess Hill Ln
Pine Leaf Ct