



***Board of Zoning Appeals Public Hearing  
April 19, 2016 — 7:00 P.M***

<b>CASE NUMBER:</b>	<b>V-16-011</b>
<b>PROPERTY LOCATION:</b>	<b>5285 Northwater Way, Johns Creek, GA 30097 1<sup>st</sup> District, 1st Section, Land Lot 250</b>
<b>CURRENT ZONING:</b>	<b>CUP (Community Unit Plan) Conditional</b>
<b>PARCEL SIZE:</b>	<b>.33 Acres</b>
<b>PROPERTY OWNERS:</b>	<b>Richard Owens</b>
<b>STAFF RECOMMENDATION:</b>	<b>DENIAL</b>

**REQUEST**

The existing residence, located at 5285 Northwater Way, was constructed in 1990 and is approximately 2,900 square feet. The applicant is requesting a variance to encroach more than 10-feet into the required rear yard in order to replace an existing deck that is deteriorating. The City of Johns Creek Zoning Ordinance allows a deck to encroach up to 10-feet into the rear yard, however, the proposed replacement deck encroaches 17'7". Therefore, the variance is to encroach an additional 7'7" into the rear yard. The proposed replacement deck is generally the same size and layout, however, a few minor changes are proposed. Changes include, but are not limited to, reducing the angle of the outside corners and removing the stairs. Only the eastern portion of the deck replacement, which is approximately 19'6" by 21'9", requires a variance. The western portion of the deck and the walkway comply with the Zoning Ordinance. The current deck was constructed prior to the incorporation of the City of Johns Creek.

The proposed deck encroaches into the sanitary sewer easement, but the applicant has obtained approval from the Fulton County Department of Public Works.

**BACKGROUND**

The subject property, 5285 Northwater Way, is lot number 2 within Unit 2, Section 4 of the Thornhill subdivision off of Old Alabama Road. There is a lake behind the subject property, however, no stream buffers exist since there is a wall around the lake which removes any point of wrested vegetation.

**ADJACENT ZONING AND LAND USES**

Adjacent properties to the north, south, east, and west are zoned CUP Conditional and are in the Thornhill subdivision as well.

**APPLICABLE CODE REQUIREMENTS**

City of Johns Creek Zoning Ordinance; Article VI: General Provisions; Section 4.3.4: Minimum building lines; B: Permitted Encroachments into Yards; 2: Single-family Residential and Townhouses used for single-family on individual lots of record.

Porches or decks attached to the main dwelling may extend no more than 10 feet into a minimum front or rear yard.

**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:

- 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; or

**STAFF RECOMMENDATION**

V-16-011, if granted, would not be in harmony with the general purpose and intent of the zoning ordinance. Decks are allowed to encroach into the rear yard in order to provide properties with flexibility for using their outdoor area. However, the intent is to not completely encroach. The eastern portion of the deck takes up the majority of the rear yard, ending at where the yard starts to slope down towards the lake.

Additionally, there are no extraordinary or exceptional conditions on the subject property due to its size, shape, or topography that would create an unnecessary hardship under the provisions of the Zoning Ordinance. Therefore the Department recommends **DENIAL** of V-15-028.

While Staff does not feel that the proposed deck replacement meets the criteria for a variance, the request is for a replacement of what is presently on the site (with minor changes to the layout). Therefore, the BZA may find that it is appropriate to grant a variance in this situation.

**RECOMMENDED CONDITIONS**

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of this request. If the Board were to approve the variance request, Staff recommends that approval be subject to the following conditions of approval:

- 1) The variance shall only apply to the deck as proposed on the site plan received by the Community Development Department on March 8, 2015.
- 2) Obtain required building permits from the City of Johns Creek Community Development Department.



## Community Development