



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

CASE NUMBER:	V-16-016
PROPERTY LOCATION:	4060 Falls Ridge Drive Johns Creek, GA 30022 1st District, 1st Section Land Lot 0100
CURRENT ZONING:	R-4A (Single Family Dwelling District) Conditional
PARCEL SIZE:	.362 Acres
PROPERTY OWNER(S):	Cathleen M. and Robert S. Puccini
STAFF RECOMMENDATION:	Denial

REQUEST

The subject property located at 4060 Falls Ridge Drive includes an existing 4,183 sq. ft. single-family residence constructed in 1995. The applicant is requesting a variance to allow an existing pool deck and pool equipment to encroach into the required ten-foot rear and side yard setback for all pools, pool equipment and their decks per Section 19.3.12.B.1 of the zoning ordinance. As currently constructed, the pool equipment encroaches 5'5" into the required ten foot rear setback, while the pool equipment and pool deck encroach 1' into the required ten foot side setback. (Note: The property was not developed in conformance with the approved building permit.) Typically, accessory structures are required to comply with primary building setbacks; however, Section 19.3.12.B.1 provides an exception for pools and their related equipment/structures allowing them to be located 10 feet from the rear and side property lines. Currently, the pool equipment at 4060 Falls Ridge Drive is setback 4'5" from the rear property line and 9'0" from the side property line while the pool deck is setback 9'0" from the side property line.

Staff notes that this an after-the-fact request. The building permit (# 15-2651) was approved on November 24, 2015 for the construction of the pool, pool deck and pool equipment. The approved permit meets all zoning requirements. However, construction on the site did not conform to the approved building permit. The pool patio is constructed with stone pavers and surrounds an 18' x 35' pool. In addition, a cooking station was installed on the east side of the rear elevation of the house which is indicated on the building permit.

The pool equipment pad is six feet long and two feet wide and is constructed of concrete with stone gravel surrounding the pad. The pool equipment was installed at the north east corner of the lot. The pool equipment consists of 2 pumps, heat pumps, heat filter and other equipment. Screening the pool equipment from the south (toward the applicant's property) is a 6'7" black wooden fence. No screening is provided from adjacent properties.

BACKGROUND

The subject property, 4060 Falls Ridge Drive, is lot number 177 within Unit Two of the Falls of Autry Mills subdivision. Pools, pool decks, and pool equipment are not required to adhere to building setbacks on detached dwelling lots, but must remain a minimum of 10 feet from the rear and side property lines.

Staff notes that this is an after-the-fact request, as the site was developed out of conformance with the approved building permit. The building permit for the pool, pool deck and equipment was submitted on November 17, 2015 to the Community Development Department. Upon review of the permit, staff noted that the pool patio/deck and pool equipment were less than 10 feet from the east and north property lines and therefore did not meet the required minimum 10 foot setback from all property lines. The applicant was notified on November 18, 2015, via email, that the pool patio and pool deck did not comply with the requirements of the zoning ordinance. In response, the application was revised and resubmitted on November 24, 2015 and was approved since the site plan was changed so that the pool patio and pool deck complied with the zoning ordinance.

The fence built to screen the pool equipment and a fire pit were also constructed without a permit. The fence was installed around the south side of the pool equipment. The fire pit was installed at the northeast side of the pool patio and to the south of the pool equipment. The fire pit and fence were not indicated on the approved building permit.

ADJACENT ZONING AND LAND USES

Adjacent properties to the north, south, east, and west are zoned R-4A Conditional and are in the Falls of Autry Mills subdivision as well.

APPLICABLE CODE REQUIREMENTS

City of Johns Creek Zoning Ordinance; Article XIX: Administrative Permits and Use Permit; Section 19.3.12: Swimming Pool, Private; B: Standards; 1: Detached Dwellings;

Detached Dwellings. Swimming pools shall be allowed in side and rear yards of single-family dwellings in any district and may also be allowed at the back of the house on a double frontage single-family residential lot as approved by the Department. Pools, pool equipment, and their decks must be a minimum of 10 feet from all property lines, except that when perimeter setbacks are required, for example in NUP and TR zoned districts, pools, pool equipment, and decks cannot be located in perimeter setbacks.

VARIANCE CONSIDERATIONS

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.

STAFF RECOMMENDATION

V-16-016, if granted, would not be in harmony with the general purpose and intent of the Zoning Ordinance. The ten-foot setback for pools, pool equipment, and their decks are intended to provide adequate separation between these accessory structures and adjacent properties. In this case, allowing pool equipment to be located 4'5" from the rear property line would not meet this intent.

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. It appears that the site's topography did create some issues regarding installation of the pool equipment, pool and pool patio. However, the applicant graded the lot to become more suitable and could have been done more effectively to allow more appropriate placement of the pool equipment. In addition, the building permit was submitted with a site plan that met the required setbacks. Failure to comply with the approved permit does not equal a hardship. There appears to be other locations on the site that can accommodate the existing pool equipment.

Therefore, the Community Development Department recommends **DENIAL** of V-16-06, as the proposed variance request is not in harmony with the general purpose and intent of the Zoning Ordinance. It should be noted that the 1' encroachment of the pool patio is less impactful. The Board might find that with the existing landscaping and fence, the existing placement of the pool patio still meets the general purpose and intent of the Zoning Ordinance.

RECOMMENDED CONDITIONS

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of V-16-06.

If the Board were to approve the variance request in whole, Staff recommends that approval be subject to the following conditions:

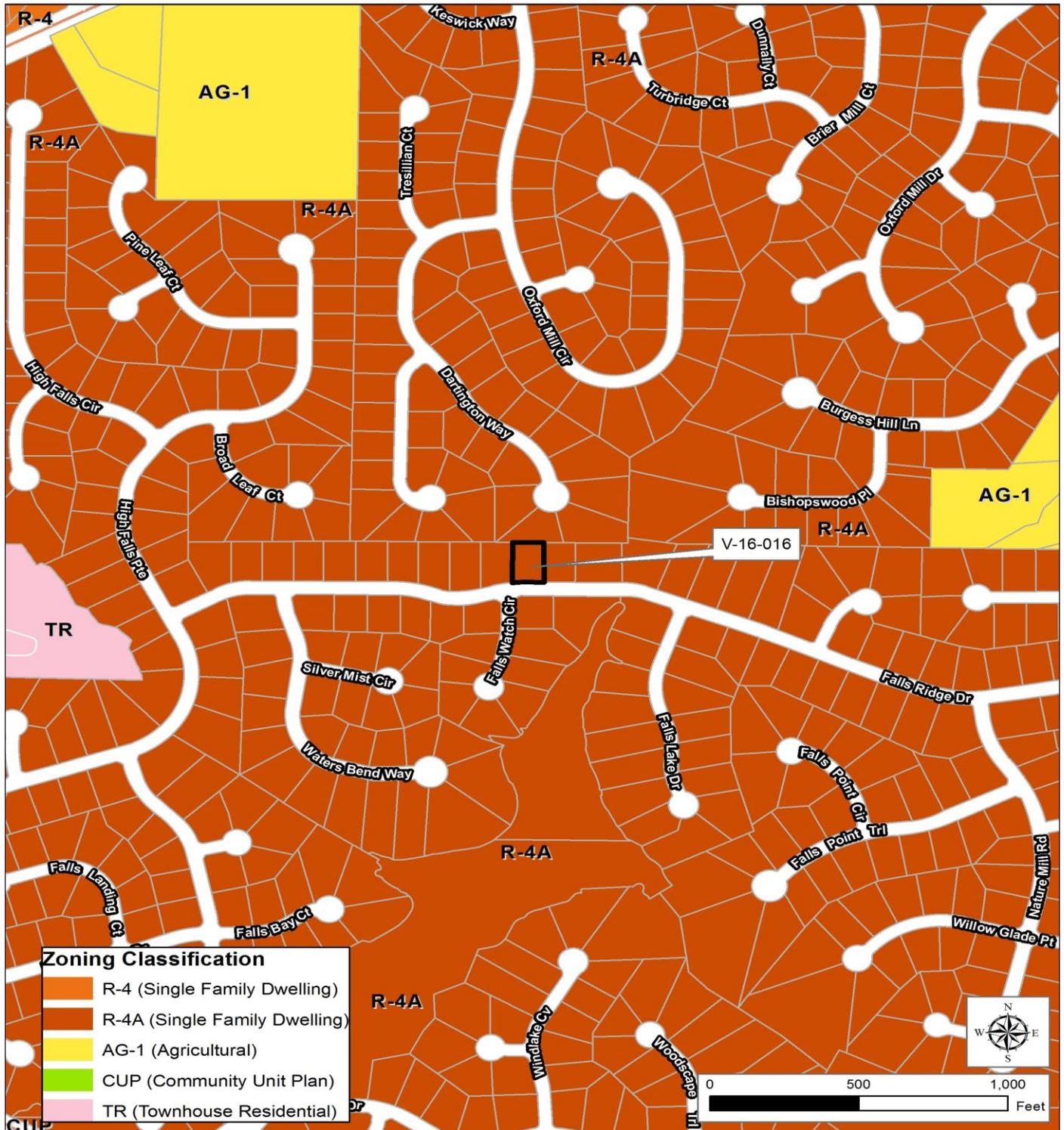
1. Pool equipment shall encroach no more than 4'5" in the rear yard setback for pools, pool patios and pool equipment.
2. Applicant shall install additional fencing and landscaping to the north of the pool equipment.
3. Pool patio shall encroach no more than 1' into the side yard setback for pools, pool patios and pool equipment
4. Obtain required building permits for fire place and fencing permits from the City of Johns Creek Community Development Department.

If the Board were to approve the variance request in part, Staff recommends that approval be subject to the following conditions:

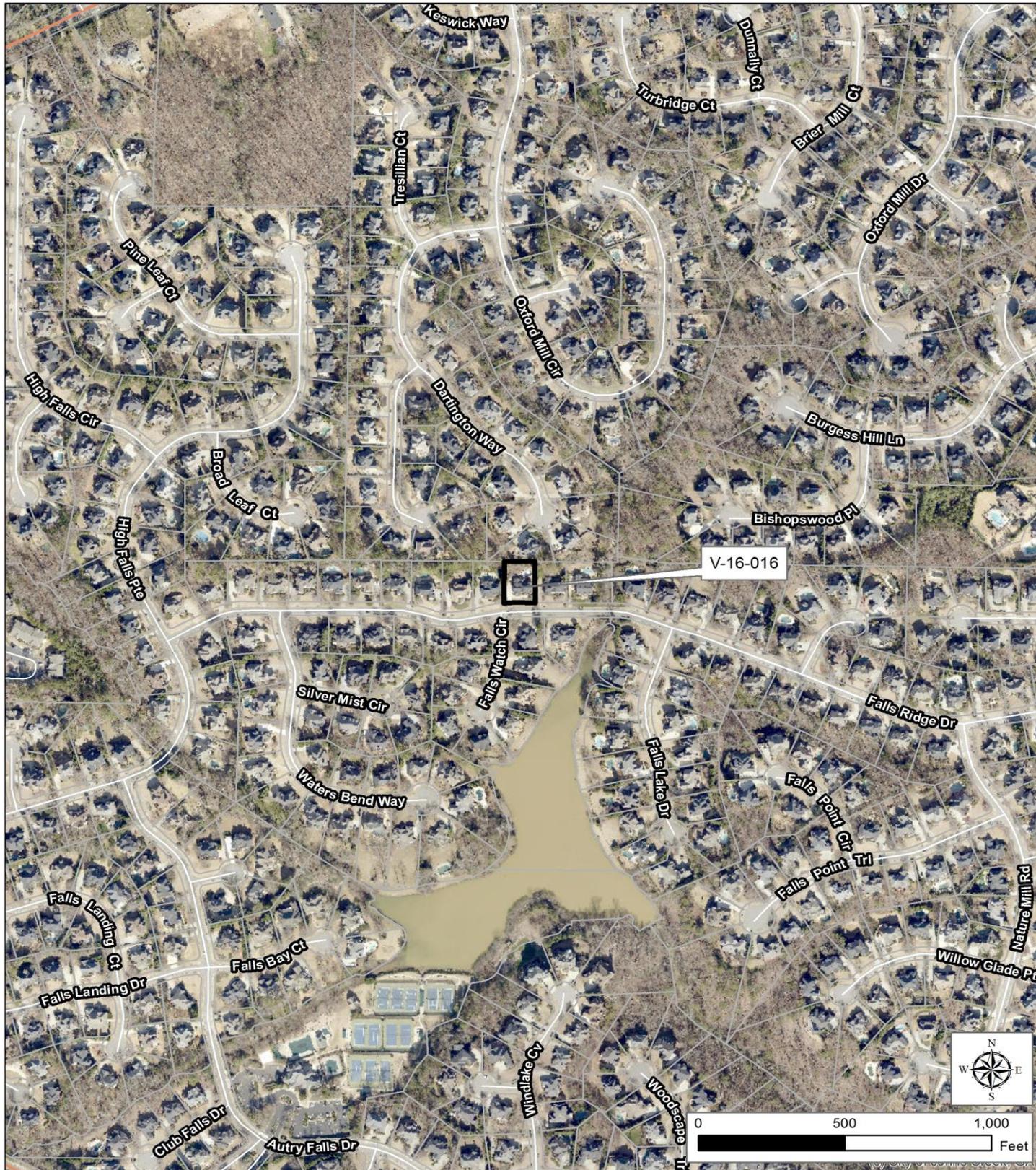
1. Pool patio shall encroach no more than 1' into the side yard setback for pools, pool patios and pool equipment

2. Obtain required building permits for fire place and fencing permits from the City of Johns Creek Community Development Department.
3. The existing pool equipment shall be relocated per the Zoning Ordinance.

V-16-016



Community Development



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