



***Board of Zoning Appeals Public Hearing
August 16, 2016 — 7:00 P.M***

CASE NUMBER:	V-16-017
PROPERTY LOCATION:	1187 Composer Lane Johns Creek, GA 30022 1st District, 1st Section Land Lot 193
CURRENT ZONING:	R-5A (Single-Family Dwelling) Conditional
PARCEL SIZE:	.18 Acres
PROPERTY OWNER(S):	Charles Wooton and Aaron Newport
STAFF RECOMMENDATION:	DENIAL

REQUEST

The subject property, located at 1187 Composer Lane, includes an existing 3,012 sq. ft. single-family residence constructed in 2006. The applicant is requesting a variance to allow an existing pool deck to encroach into the required ten-foot 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 deck encroaches approximately 8’ into the required ten foot side setback on the western side. (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, unless a perimeter setback is required. This subdivision was platted with a perimeter setback; however the applicant obtained a variance in October of 2015 to install a pool, pool deck, and pool equipment in the perimeter setback. This variance, is for the pool deck, which currently is setback approximately 2’ from the western (side) property line, and 10’ from the northern (rear) property line.

BACKGROUND

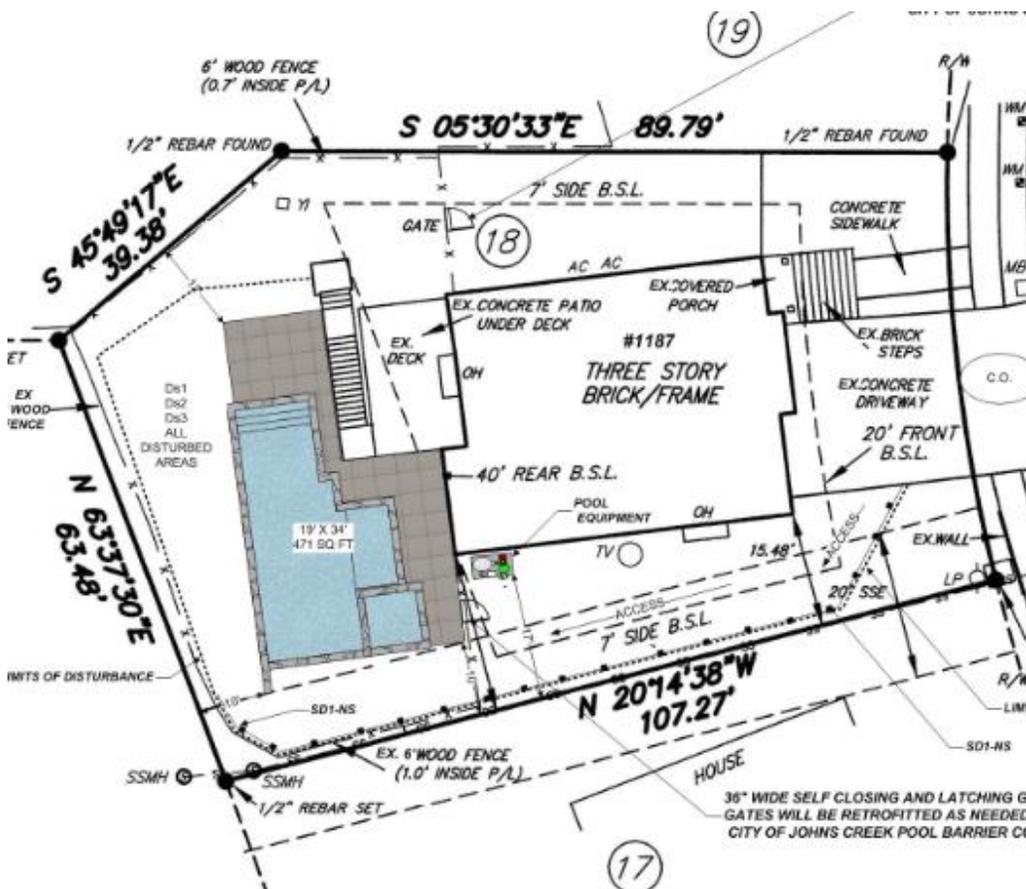
The subject property, 1187 Composer Lane, is Track 14 within the Jones Bridge Estate subdivision. The subject property is on the west side of Jones Bridge Road, approximately .2 miles south of its intersection with Kimball Bridge Road.

Staff notes that this an after-the-fact request. 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 all property lines, unless a perimeter setback is required. The Jones Bridge Estates subdivision does have a 40-foot perimeter setback. Perimeter setbacks in R-5A zoned subdivisions are intended to protect neighboring subdivisions from

potentially higher-intensity development. The subject property's rear yard is located on the north perimeter of the Jones Bridge Estates subdivision, zoned R-5A (Single-Family Dwelling District) Conditional, and was therefore subject to a 40-foot perimeter setback, causing need for a variance to construct a pool in that location. In October, 2015, the applicants received a variance (V-15-017) to build a pool in the perimeter setback on their property. The neighboring subdivision is Summit Point, which is currently under development. This subdivision, along with the subject property, and properties adjacent to the subject property in Jones Bridge Estates, is zoned R-5A conditional. The intensity of development in the two neighboring subdivisions is similar, eliminating the need to buffer a denser neighborhood from a larger lot subdivision. At the time of the previous variance request, the applicant proposed that the pool, pool deck, and pool equipment would be at least 10 feet from all property lines and meet all other requirements of the zoning ordinance. Because of this, staff supported V-15-017.

The building permit for the pool, pool deck, and pool equipment was submitted on August 21, 2015 to the Community Development Department. The permit (# 15-1487) met the approved variance site plan and conditions and was approved by staff on October 28, 2015. However, it was not constructed in accordance with the approved building permit. The applicants' proposed construction was located 10' from the rear property line, 10' from the western side property line, and 12' from the eastern side property line. Yet, the pool patio was constructed 10' from the rear property line, 10' from the western side property line, and 12' from the eastern side property line (see figure 1). The pool patio is constructed with stone pavers, which are not set in concrete, and surrounds a 471 square-foot pool.

Figure 1. Approved variance plan/building permit plan.



ADJACENT ZONING AND LAND USES

The subject property is zoned R-5A (Single-Family Dwelling District) conditional pursuant to Fulton County zoning case Z-99-015, and is located in the Jones Bridge Estates subdivision, on the west side of Jones Bridge Road approximately 0.2 miles south of its intersection with Kimball Bridge Road. The subject property and properties to the east, west, and south are developed with single-family homes zoned R-5A in Jones Bridge Estates. The adjacent and nearby property to the north is also zoned R-5A, part of the single-family residential Summit Point subdivision, is currently in development. The parcel in Summit Point adjacent to the subject property is approximately 0.2 acres in area and is to be developed with a detached single-family residence.

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 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.

STAFF RECOMMENDATION

V-16-017, 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 the pool patio to be located 2' from the side 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 which would allow the pool patio to be installed within 10' of the side property line. Furthermore, the building permit was submitted with a site plan that met the required setbacks, clearly showing that the proposed project could be

constructed on the property without the need for additional variances. Failure to comply with the approved permit does not make for a hardship.

Therefore, the Community Development Department recommends **DENIAL** of V-16-017, as the proposed variance request is not in harmony with the general purpose and intent of the Zoning Ordinance, nor are there any extraordinary or exceptional conditions on the site which would create an unnecessary hardship.

RECOMMENDED CONDITIONS

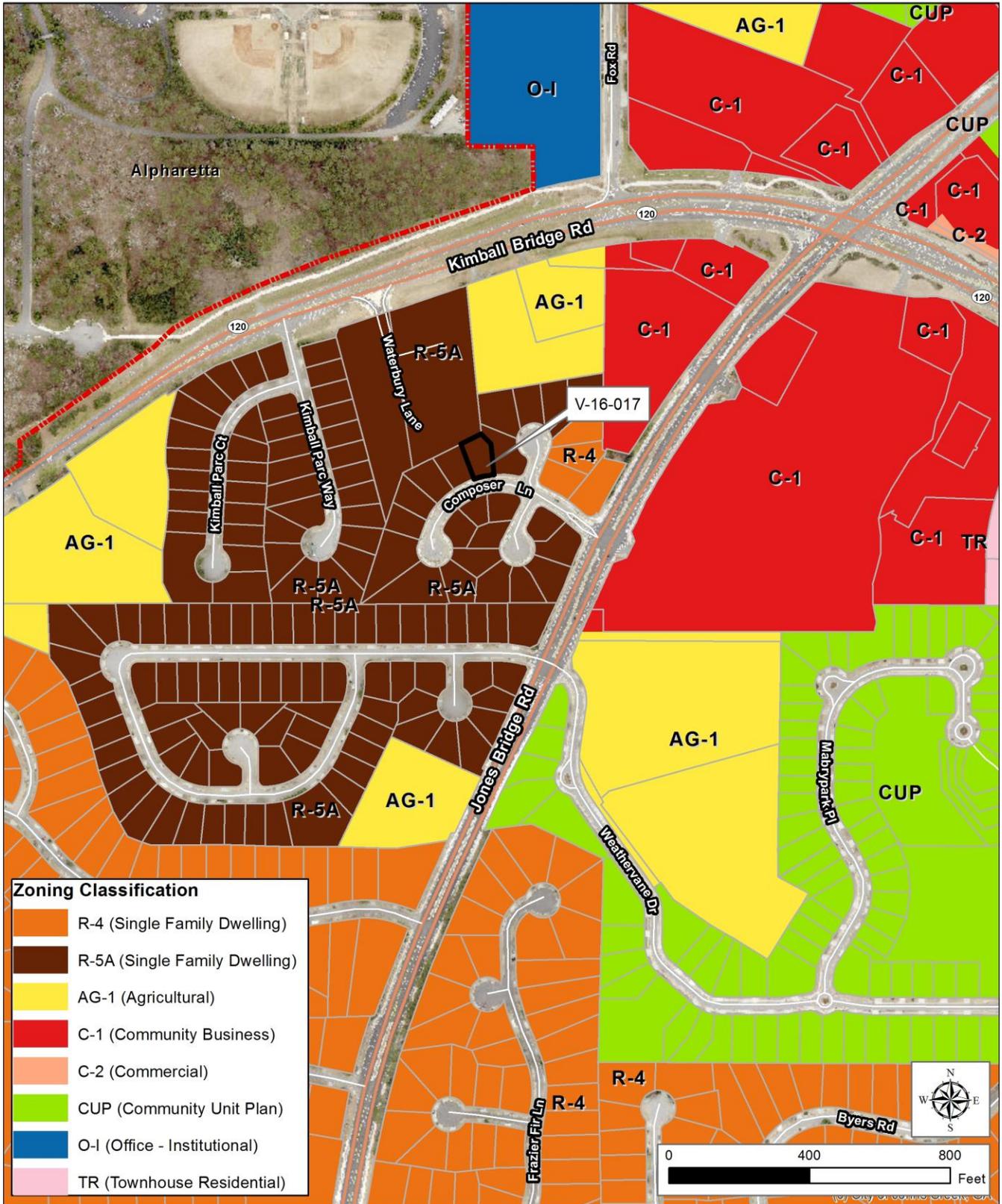
Based upon the findings and conclusions herein, Staff recommends **DENIAL** of V-16-017.

Should the Board feel compelled to approve the variance request, Staff recommends that approval be subject to the following conditions:

1. Pool patio shall encroach no more than 8' into the western side yard setback for pools, pool patios, and pool equipment.
2. Pool patio shall not encroach past the 10' setback on the north and east sides.



Community Development



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