



***Board of Zoning Appeals Public Hearing
November 15, 2016 — 7:00 P.M***

CASE NUMBER:	V-16-030
PROPERTY LOCATION:	1060 Vintage Club Drive Johns Creek, GA 30097 1st District, 1st Section, Land Lot 365
CURRENT ZONING:	CUP (Community Unit Plan) Conditional
PARCEL SIZE:	0.35 Acres
PROPERTY OWNERS:	James Mola
STAFF RECOMMENDATION:	DENIAL

REQUEST

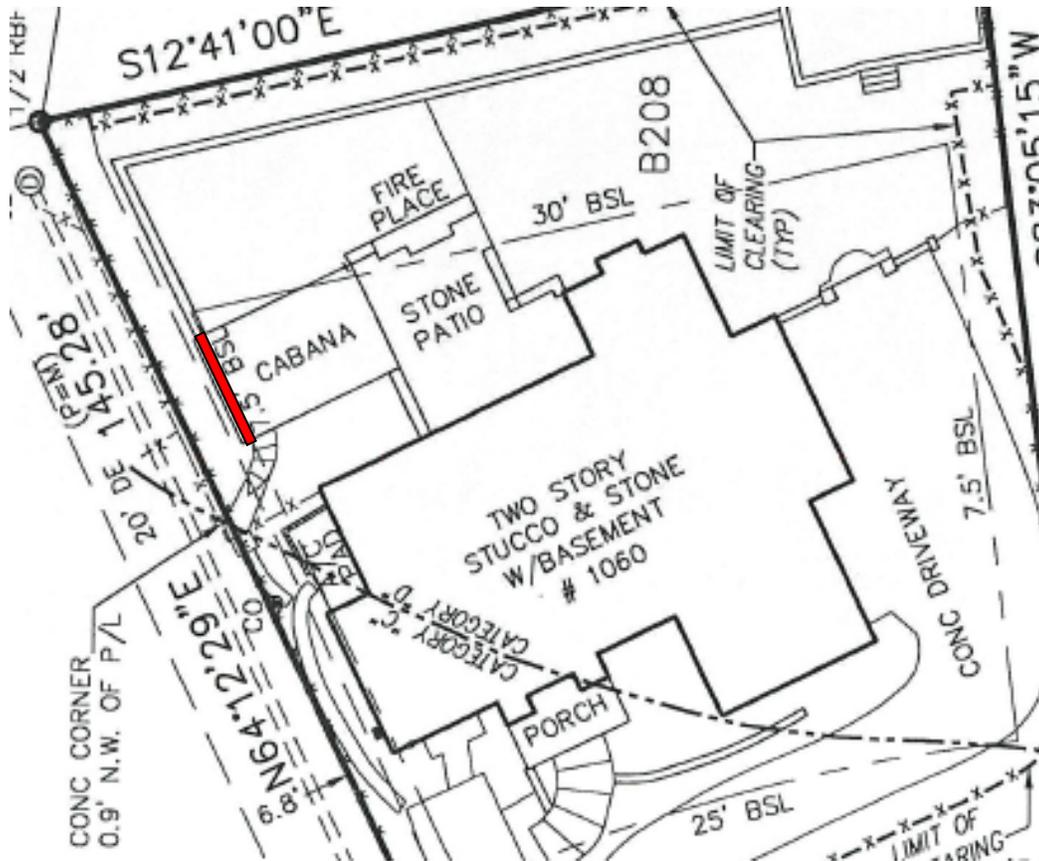
The existing residence, located at 1060 Vintage Club Drive, was constructed in 1990 and is approximately 4,300 square feet. The applicant is requesting a variance to allow a 24' x 16' gazebo addition to an existing patio in the rear yard, and to encroach approximately 1.5' into the 7.5-foot side yard setback on the northwestern side of the property. In the CUP zoning district, accessory structures may be located within the side or rear yards subject to perimeter and minimum yard setbacks, per section 11.1.4.L of the City of Johns Creek Zoning Ordinance. If approved, the gazebo would be setback 6' from the side property line.

BACKGROUND

The subject property, 1060 Vintage Club Drive, is lot number B208, within pod 12 of the St. Ives subdivision; and is currently zoned CUP (Community Unit Plan) Conditional.

Staff notes this is an after-the-fact request, as the existing gazebo has already been installed by the applicant. In this instance, the existing dwelling and a nonconforming deck were constructed on the property by a previous owner; however, a complaint was made after the new owners removed the deck and constructed the gazebo, in both instances, building permits from the City of Johns Creek were not obtained. It appears the existing gazebo has been constructed in the same footprint as the previous deck; however the previous deck was nonconforming, as it encroached 1.5 feet into the side setback. The existing gazebo is approximately 384 square feet, the portion of the gazebo that requires a variance is approximately 24 square feet as shown in Figure 1. The remaining 360 square feet of impervious meets all other zoning requirements.

Figure 1. 24 square feet of impervious that does not comply with the side yard setbacks, shown in red.



ADJACENT ZONING AND LAND USES

Adjacent properties to the north, south, east, and west are single-family dwellings and are zoned CUP (Community Unit Plan District) conditional pursuant to Fulton County zoning case Z-91-057 and are located in the St. Ives subdivision as well.

APPLICABLE CODE REQUIREMENTS

City of Johns Creek Zoning Ordinance; Article XI: Community/Neighborhood/Mobile Home Districts; Section 11.1.4: Development Standards; L: Minimum Accessory Structure Requirements; Single-Family and Two-Family Uses:

Single-Family and Two-Family Uses: Accessory structures may be located within the side or rear yards subject to perimeter and minimum yard setbacks.

VARIANCE REQUIREMENTS

Staff is including the specific conditions that must be considered by the Board of Zoning Appeals in order to grant a variance. 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-16-030, if granted, would not be in harmony with the general purpose and intent of the Zoning Ordinance. Side yard setbacks are intended to provide adequate separation between accessory structures and adjacent properties. In this case, the existing gazebo encroaches approximately 1.5' into the required 7.5' northwestern side setback 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 a gazebo to be installed within the 7.5' building side setback. The fact that a previous owner installed an accessory structure without a permit does not constitute a hardship, as outlined by the variance considerations in Section 22.3.1 of the City of Johns Creek Zoning Ordinance. Staff has reviewed the site and there are no topography issues that would require the gazebo to be constructed in this location.

Therefore, the Community Development Department recommends **DENIAL** of V-16-030, 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.

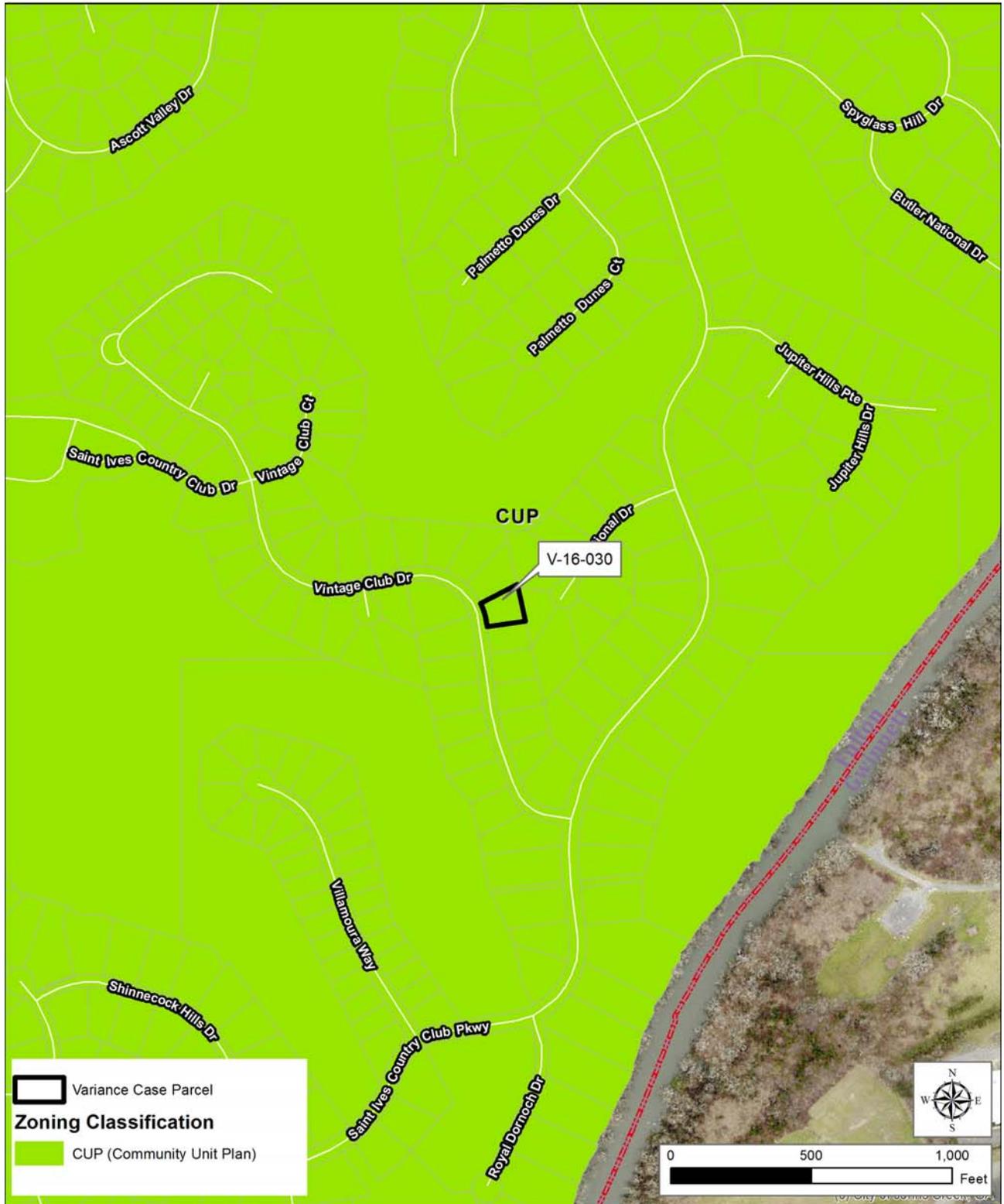
RECOMMENDED CONDITIONS

Based upon the findings and conclusions herein, Staff recommends **DENIAL**.

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

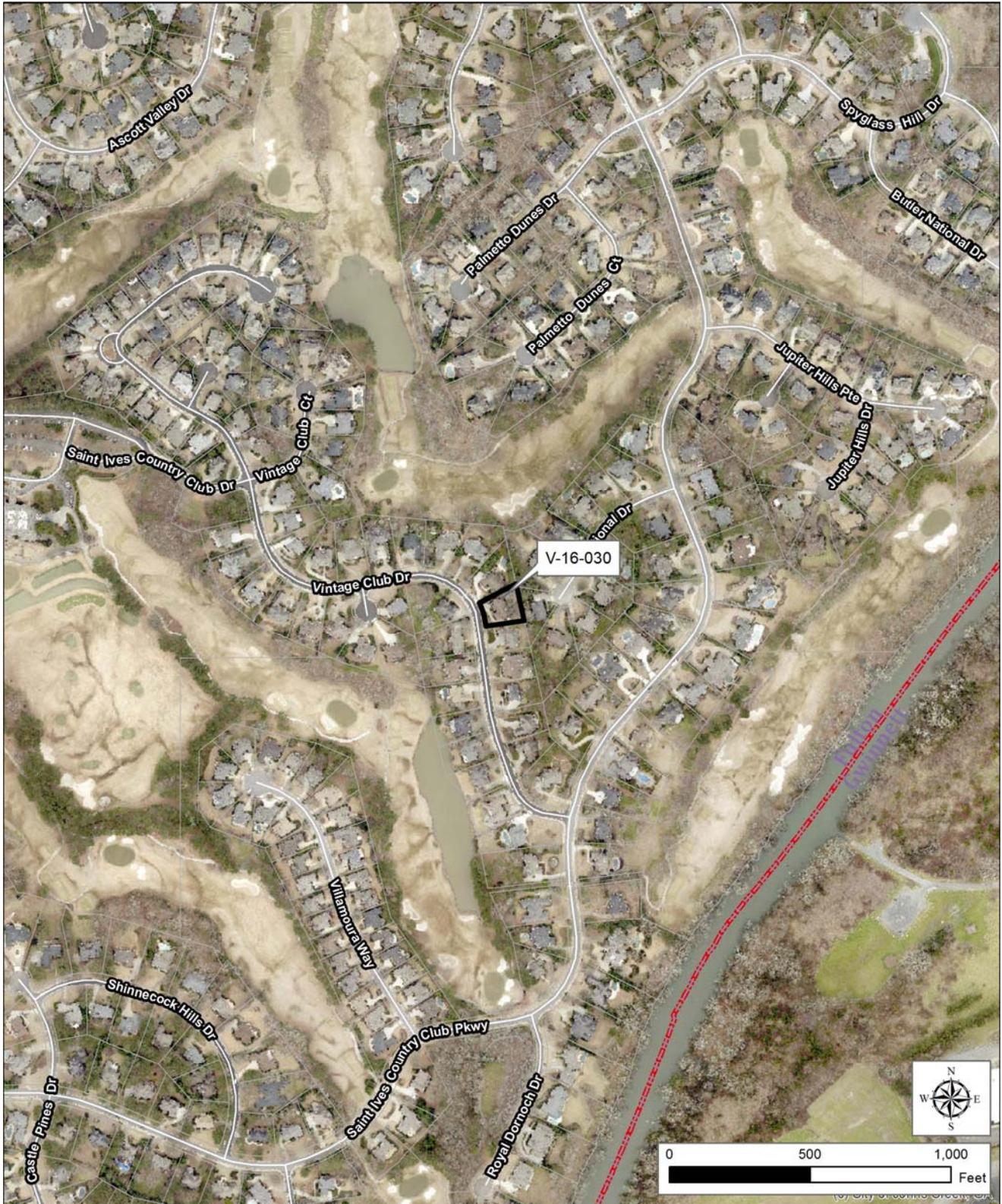
1. Existing gazebo shall encroach no more than 1.5' into the northwestern side yard setback.
2. Obtain required building permits from the City of Johns Creek Community Development Department prior to commencement of construction.

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