



***Board of Zoning Appeals Public Hearing
December 20, 2016 — 7:00 P.M***

CASE NUMBER:	V-16-032
PROPERTY LOCATION:	3121 Haynesbrooke Lane Johns Creek, GA 30022 1st District, 2nd Section, Land Lot 897
CURRENT ZONING:	TR (Townhouse Residential) Conditional
PARCEL SIZE:	0.13 Acres
PROPERTY OWNERS:	Philip Robb
STAFF RECOMMENDATION:	DENIAL

REQUEST

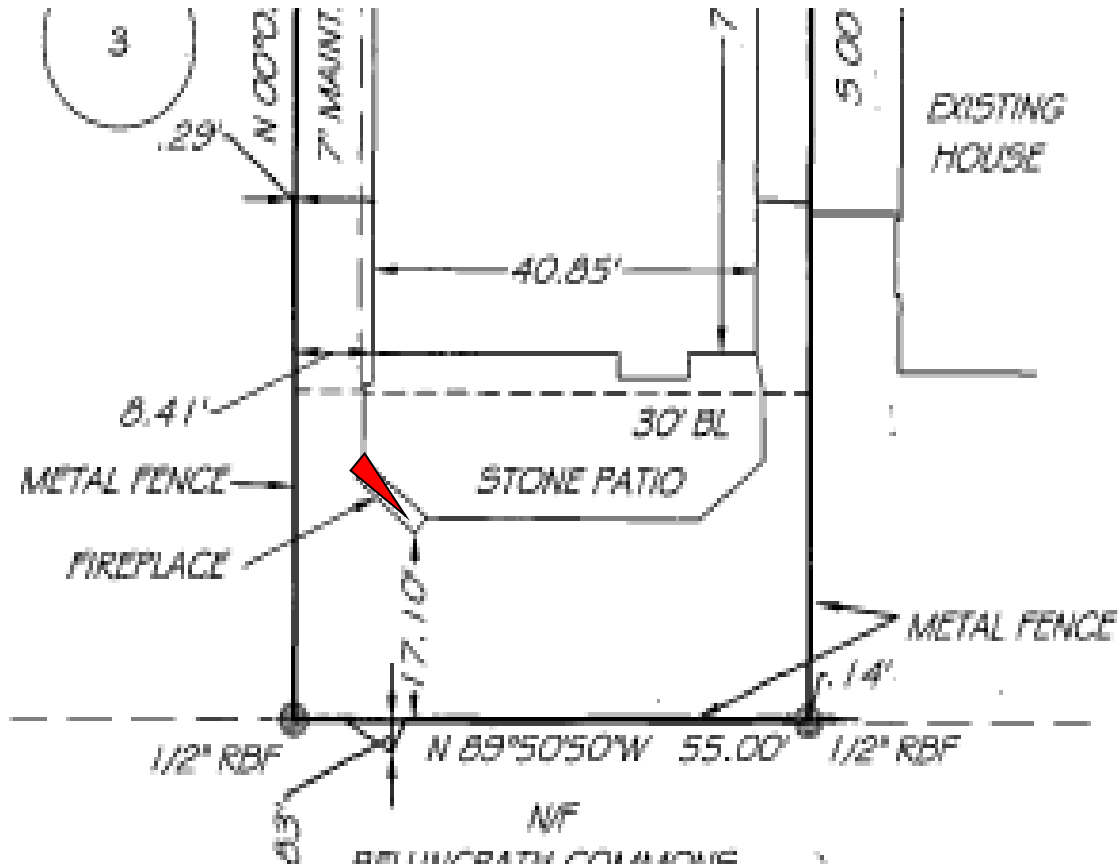
The existing residence, located at 3121 Haynesbrooke Lane, was constructed in 2011 and is approximately 4,000 square feet. The applicant is requesting a variance to allow an existing 2’x8’ outdoor fireplace in the rear yard, and to encroach approximately 1’ into the 7-foot side yard setback on the western side of the property. In the TR zoning district, accessory structures may be located within the side or rear yards subject to perimeter and minimum yard setbacks, per section 7.2.3.J of the City of Johns Creek Zoning Ordinance, however, section 4.3.4.B.2 of the Johns Creek Zoning Ordinance states “outdoor fireplaces may only be located in the rear yard and in no case shall an outdoor fireplace be located closer than 10 feet to a property line.” If approved, the outdoor fireplace would be setback 6’ from the side property line.

BACKGROUND

The subject property, 3121 Haynesbrooke Lane, is lot number 4, of the Haynesbrooke subdivision; and is currently zoned TR (Townhouse Residential) Conditional.

Staff notes this is an after-the-fact request, as the existing fireplace has already been installed by the applicant. In this instance, the existing dwelling and fireplace were constructed on the property in 2012 and a complaint was made by an adjacent neighbor for the fireplace being constructed too close to the property line. After investigating the complaint, it was confirmed building permits from the City of Johns Creek were not obtained. The existing fireplace is approximately 16 square feet, the portion of the fireplace that requires a variance is approximately 10 square feet as shown in Figure 1. The remaining 6 square feet of impervious meets all other zoning requirements.

Figure 1. 10 square feet of impervious that does not comply with the side yard setbacks, shown in red.



ADJACENT ZONING AND LAND USES

Directly adjacent to the site, on the north, east, and west are townhouses, zoned TR (Townhouse Residential) conditional, pursuant to Fulton County zoning case Z-05-047 in the Haynesbrooke Subdivision. Other closely adjacent properties further to the north are AG-1. To the northeast and east, are single-family dwellings zoned R-4 (Single Family Dwelling) conditional, pursuant to Fulton County zoning case Z-80-148, in the Woodland Hills Subdivision. To the south are townhouses, zoned TR (Townhouse Residential) conditional, pursuant to Fulton County zoning case Z-99-102, in the Bellingrath Commons Subdivision. To the west are single-family dwellings and are zoned NUP (Neighborhood Unit Plan) conditional pursuant to Fulton County zoning case Z-99-135 in the Woodvale Subdivision.

APPLICABLE CODE REQUIREMENTS

City of Johns Creek Zoning Ordinance; Article IV: General Provisions; Section 4.3 Exceptions; 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:

Single-family Residential and Townhouses used for single-family on individual lots of record.

Outdoor fireplaces and outdoor uncovered kitchens, whether standalone or constructed as a part of a patio, retaining wall or other structure, may only be located in the rear yard and may extend no more than 10 feet into the minimum rear yard. In no case shall an outdoor fireplace be located closer than 10 feet to a property line.

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-16-032, if granted, would not be in harmony with the general purpose and intent of the Zoning Ordinance. Side yard setbacks and the requirement that outdoor fireplaces be at least 10' from all property lines are intended to provide adequate separation between accessory structures and adjacent properties. In this case, the existing fireplace encroaches approximately 1' into the required 7' western side setback as well as encroaches 4' into the required 10' setback from all property lines that outdoor fireplaces must comply with.

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 fireplace to be installed within 10' of a property line or the side setback. Staff has reviewed the site and there are no topography issues that would require the fireplace to be constructed in this location.

Therefore, the Community Development Department recommends **DENIAL** of V-16-032, 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

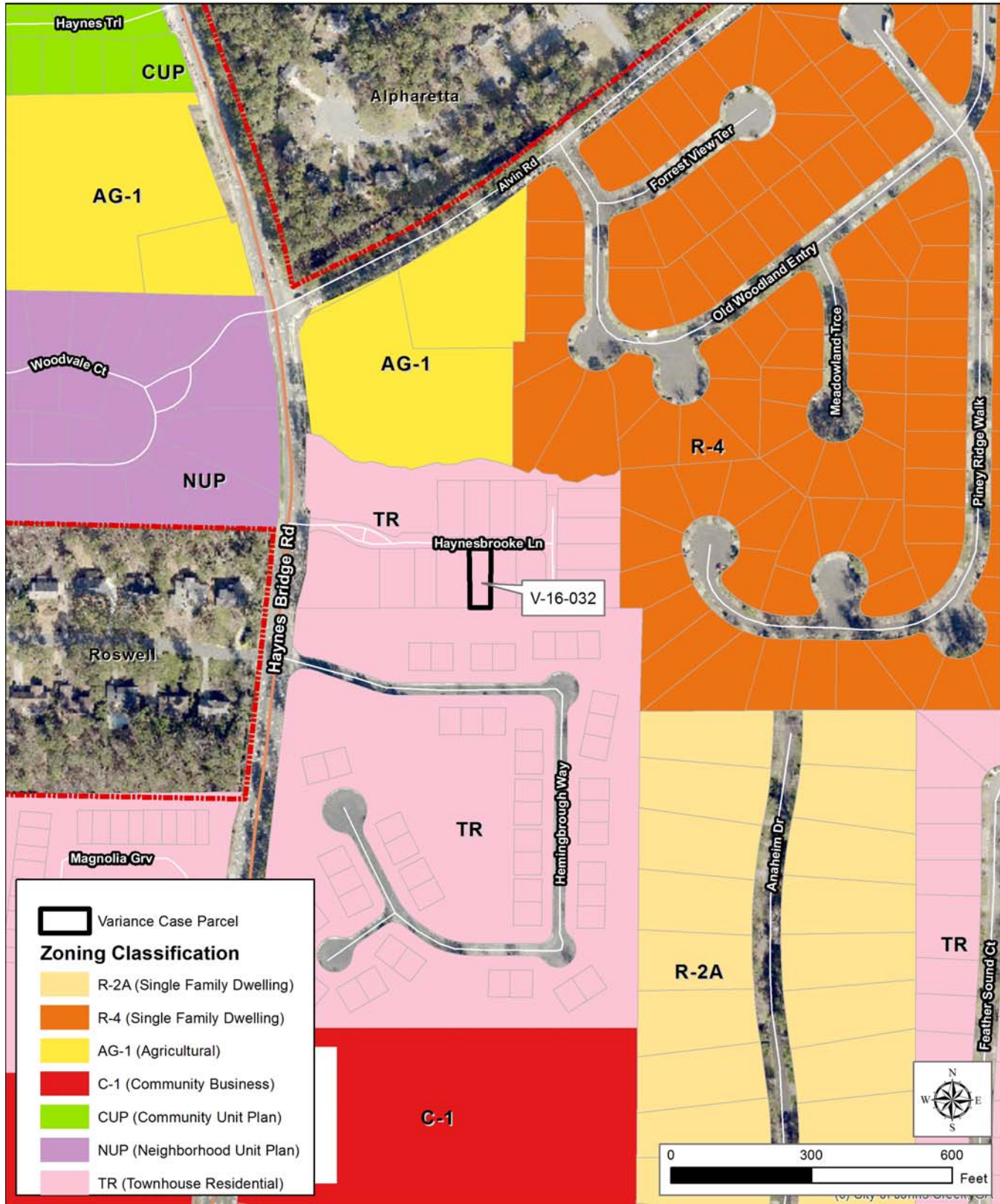
Based upon the findings and conclusions herein, Staff recommends **DENIAL**.

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

1. Existing fireplace shall encroach no more than 1' into the western side yard setback.
2. Existing fireplace may only be used with ceramic gas logs.

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

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Community Development

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