

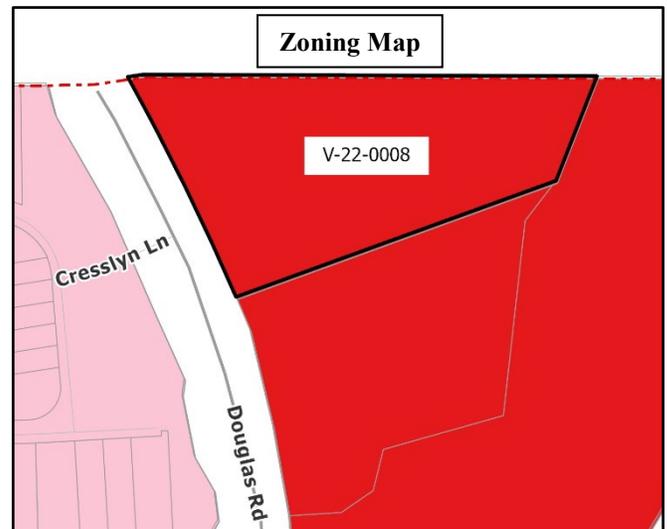
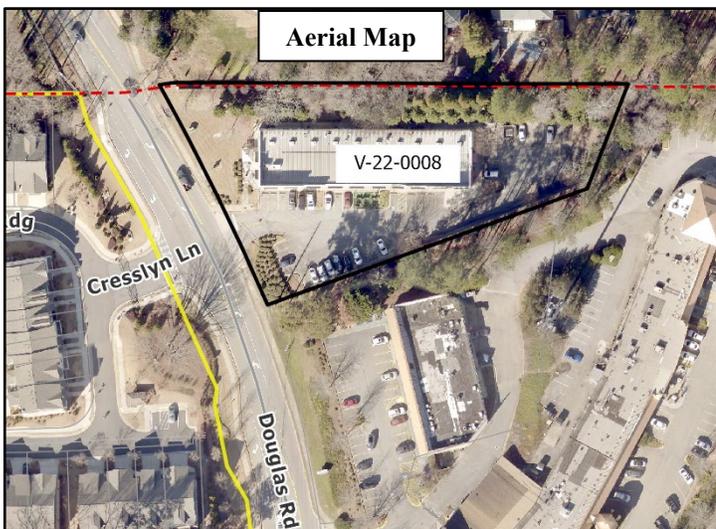
Johns Creek

Board of Zoning Appeals Meeting April 19, 2022

CASE NUMBER:	V-22-0008
PROPERTY LOCATION:	11890 Douglas Road, Suite 110, Johns Creek, GA 30005
CURRENT ZONING:	C-1 (Community Business District) Conditional
PARCEL SIZE:	1.483 Acres
PROPERTY OWNER:	Sid Tejpaul, SSD Properties, LLC
APPLICANT:	Roberto Borrelli
VARIANCE REQUEST:	To encroach 6 feet into the 40-foot front yard setback to construct a canopy structure for outdoor dining.
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is zoned C-1 (Community Business District) Conditional and is located northeast of the intersection of Douglas Road and Jones Bridge Road, and bounded to north by Leeward Walk subdivision in the City of Alpharetta.



In September 2021, a building permit to construct a canopy over an existing patio on the subject property was issued by the City of Johns Creek. Typically, a canopy is permitted to encroach into the front yard without a variance as it can be approved administratively. However, the City found from a random inspection of the property that the canopy structure, which was meant to remain open to the elements, was enclosed by the business owner (The Creek Café) to create a 220-square-foot enclosed patio space. During the inspection, it was found that the enclosed space with canopy encroached into the front yard setback. Subsequently, the City issued a Stop Work Order in February 2022, as the improvement was never inspected and a Certificate of Occupancy cannot be issued without a variance, since the scope of the building permit has been changed based

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on the actions of the applicant to enclose the outdoor patio area with canopy. The improvement to the site is now considered to be a building addition and not just an installation of a canopy over an existing patio, and a variance to encroach 6 feet into the 40-foot front yard setback is required for the Applicant to maintain the enclosed outdoor patio area with canopy as shown in the pictures below.



Applicable Code Requirement

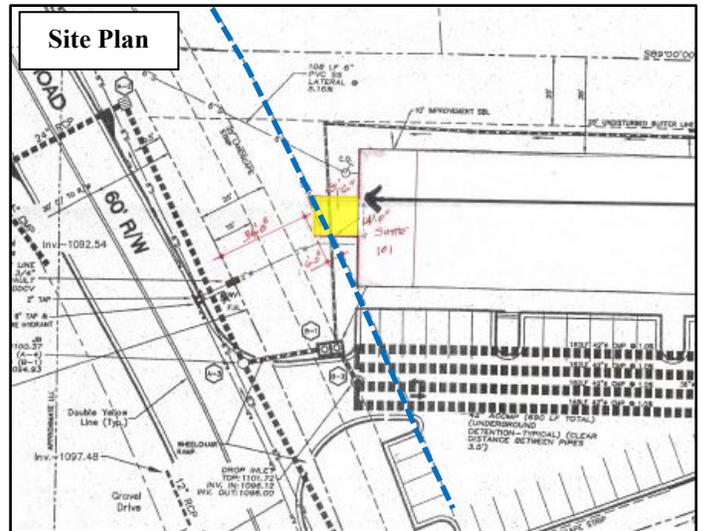
City of Johns Creek Code of Ordinances, Appendix A – Zoning, Article IX: Community Business Districts, Section 9.1. - C-1 Community Business District.

9.1.3. Development Standards.

- B. Minimum Front Yard: 40 feet

Variance Request

The Applicant is requesting a variance to encroach 6 feet into the 40-foot front yard setback (blue dash line) to maintain the 220 square-foot canopy enclosure on the outdoor patio (in yellow).



Variance Review Criteria

Zoning Ordinance Section 22.3.1 lists the following considerations for granting a variance:

- 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 Analysis

Front yard setbacks have been established for all commercial zoning districts to ensure adequate separation between streets, sidewalks and structures are maintained to provide a uniform appearance, screen surface parking lots and minimize visual impacts related to use of structures. The subject property as it exists will not be significantly altered by the enclosed canopy area as the existing patio was not expanded. Additionally, the

shopping center building with this proposed addition will still maintain adequate separation from the public right-of-way based on the existing placement and orientation of the building, which is a direct result of the shape of the parcel. Considering all these factors, along with staff's recommended condition to have additional vegetation planted around the area surrounding the enclosed outdoor canopy to mitigate any visual impacts from the street or to nearby properties, the proposed encroachment, if granted, would be in harmony with the purpose or intent of the Zoning Ordinance.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of V-22-0008 **subject to the following conditions:**

- 1) The encroachment of the enclosed canopy outdoor area shall not exceed 6 feet into the 40-foot front yard setback, as shown on the site plan received by the Community Development Department on March 8, 2022.
- 2) The Applicant shall plant a row of evergreen trees to provide sufficient screening of the enclosed canopy outdoor area along Douglas Road, subject to the approval of the Community Development Director. The evergreen species shall be selected from Appendix J of the City's Tree Preservation Administrative Guidelines.
- 3) The Applicant is required to obtain a revised building permit, have all required inspections approved and be issued a Certificate of Occupancy, prior to occupying and using the enclosed outdoor area.