



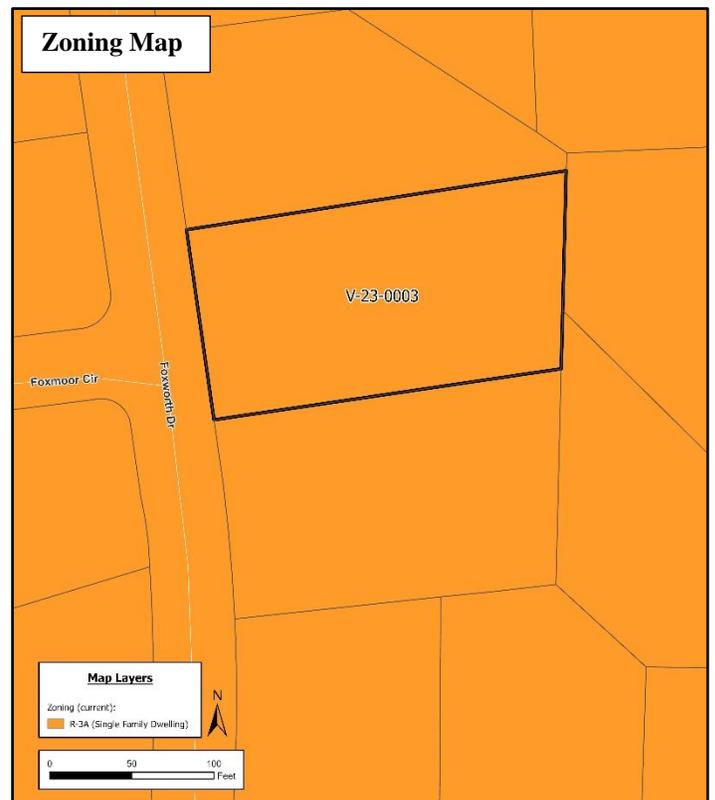
Johns Creek

Board of Zoning Appeals Meeting March 21, 2023

CASE NUMBER:	V-23-0003
PROPERTY LOCATION:	9705 Foxworth Drive, Johns Creek, GA 30022
CURRENT ZONING:	R-3A (Single-Family Dwelling District) Conditional
PARCEL SIZE:	0.600 Acres
PROPERTY OWNER:	Jesus Baron
VARIANCE REQUEST:	23.6-foot encroachment into the rear yard to construct a greenhouse
STAFF RECOMMENDATION:	DENIAL

Background

The subject property is zoned R-3A (Single-Family Dwelling District) Conditional and located in the Foxworth subdivision. The surrounding properties are zoned R-3A Conditional and developed with single-family detached homes.

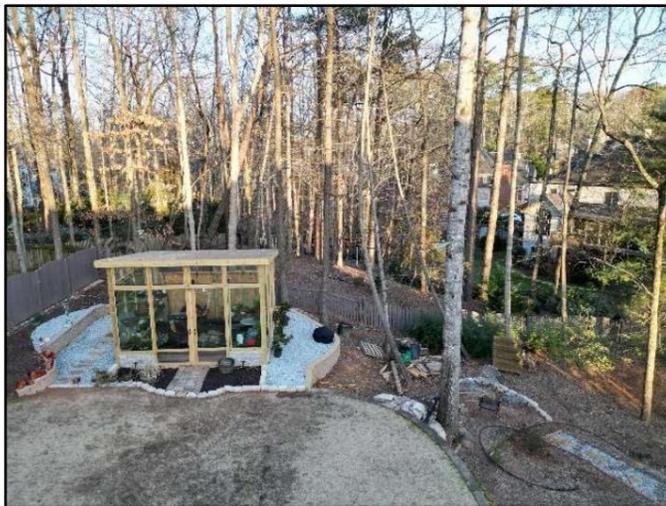


Community Development

In October 2022, the Applicant constructed a 210 square-foot greenhouse without acquiring a permit. The City issued a Stop Work Order on October 20, 2022, and subsequent a building permit was submitted by the Applicant on October 25, 2022. Staff's review of the submitted survey determined that the greenhouse encroached into the rear yard setback, thus requiring the Applicant to seek a variance for placement of the greenhouse in the current location.



Existing Project



Applicable Code Requirements

City of Johns Creek Code of Ordinances, Appendix A – Zoning, Article VI: Single-Family Dwelling Districts, Section 6.5. – R-3A Single-Family Dwelling District.

6.5.3. Development Standards.

D. Minimum Rear Yard: 35 feet

I. Minimum Accessory Structure Requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

Variance Request

The Applicant is requesting a variance to encroach 23.6 feet (shown in green arrow) into the 35-foot rear yard setback (shown as a blue dash line) to maintain a greenhouse (shaded in red) that was constructed without permit.

Variance Review Criteria

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

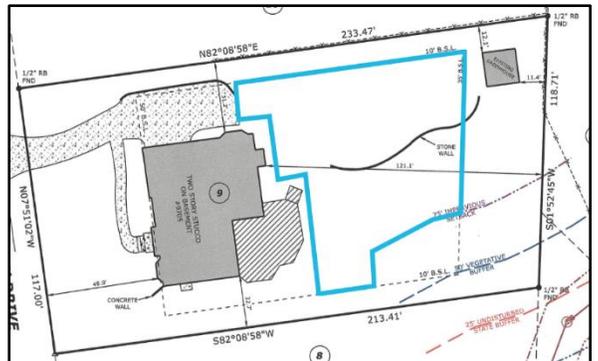
- a. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or
- b. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions 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

The proposed encroachment, if granted, would not be in harmony with the purpose or intent of the Zoning Ordinance. The 23.6-foot encroachment indicates the greenhouse would be placed only 11.4 feet away from the rear property line. Rear yard setbacks have been established to ensure adequate separation between structures are maintained, to minimize negative visual and noise impacts related to use of structures on adjacent properties. The intent of the Zoning Ordinance is to “promote or protect the health, safety, peace, security, good order, comfort, convenience and general welfare of the city and its inhabitants” (Article II, Section 2.1).

There are no extraordinary and exceptional conditions on the subject property that would create a hardship under the provision of the Zoning Ordinance. The property has approximately 6,600 square feet of buildable area (outlined in blue) to construct the greenhouse without seeking a variance.



Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **DENIAL** of V-23-0003. However, should the Board of Zoning Appeals feel compelled to approve the variance request, Staff would recommend the following condition:

- 1) The encroachment of the greenhouse shall not exceed 23.6 feet into the 35-foot rear yard setback, as shown on the site plan received by the Community Development Department on February 14, 2023.