

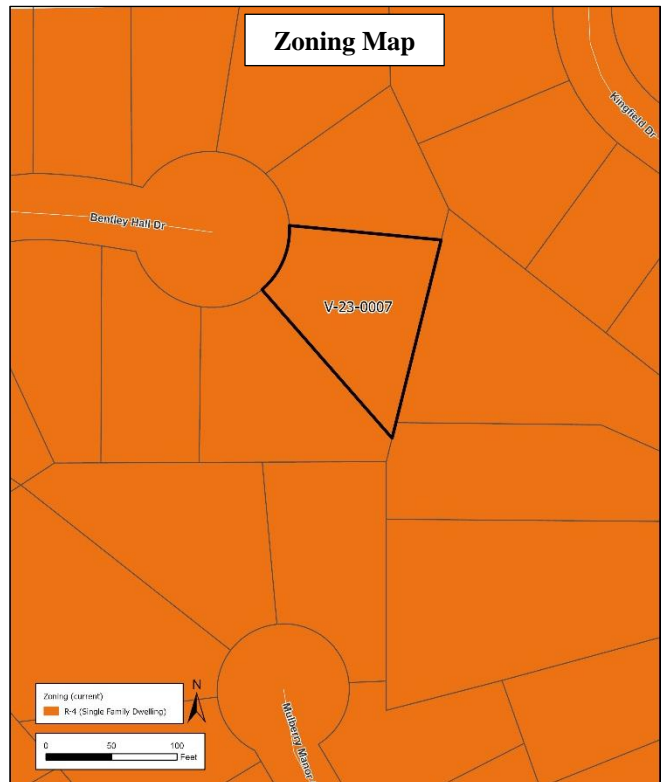


**Board of Zoning Appeals Meeting
June 20, 2023**

CASE NUMBER:	V-23-0007
PROPERTY LOCATION:	5350 Bentley Hall Drive, Johns Creek, GA 30005
CURRENT ZONING:	R-4 (Single-Family Dwelling District) Conditional
PARCEL SIZE:	0.276 Acres
PROPERTY OWNER:	Tanya and Demetrius Hutchinson
VARIANCE REQUEST:	Encroachment into the 75-foot stream buffer to expand an existing deck and bring the existing house into compliance
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is located in the Concord Hall subdivision and is zoned R-4 (Single-Family Dwelling District) Conditional. The subject lot was originally platted in Fulton County in 1991 showing a flood zone. Due to the application of the City's 50-foot undisturbed buffer and additional 25-foot impervious surface setback, the buffer encompasses half of the side and rear yard as well as a portion of the existing deck and home.



Community Development

Applicable Code Requirements

City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection, Section 109-118: Land Development Requirements.

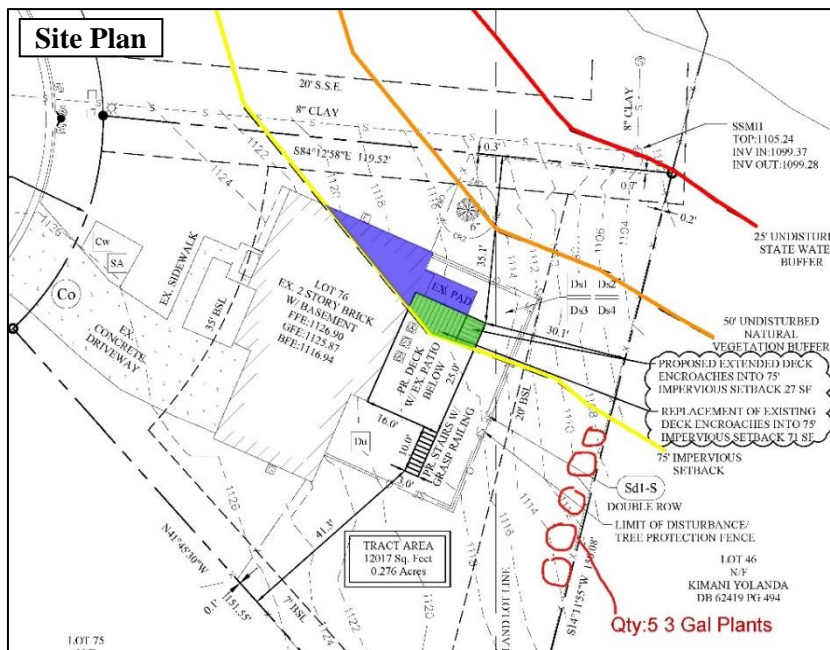
(a) *Buffer and setback requirements.*

- (1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

Variance Request

The Applicant is requesting to encroach 11.5 feet into the impervious surface setback to expand an existing deck (highlighted in green) and to bring the existing home (in blue) into compliance with the Stream Buffer Ordinance. The proposal will result in 322 sq. ft. of impervious surface in the impervious surface setback. However, the net increase of impervious surface in the stream buffer would only be 27 sq. ft., as 224 sq. ft. of the house already exists within the stream buffer and will remain as is, and 71 sq. ft. is associated with replacement of an existing deck.

The Applicant has not proposed any land disturbance within the City's 50-foot undisturbed buffer or the State's 25-foot stream buffer.



The Applicant has proposed to plant five, 3-gallon shrubs, along the east property line to offset stormwater and environmental impacts associated with requested encroachment into the stream buffer.

Stream Buffer Variance Review Criteria

City Code Section 109-118(b)(2) lists the following considerations for granting stream buffer variances:

- a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a buffer variance is granted; **or**
- b. Unusual circumstances when strict adherence to the minimal buffer requirements in the article would create an extreme hardship.

Staff Analysis

The subject property was platted in Fulton County in 1991 showing a flood zone. However, with the incorporation of the City, the stream buffer was expanded to 50 feet with an additional 25-foot impervious surface setback. The expansion of the stream buffer has created a hardship for the homeowner, as even portions of the existing deck and home fall within the 75-foot stream buffer, which would not be permitted today without seeking a stream buffer variance. Granting of this variance would bring the proposed improvement and existing house into compliance with the Stream Buffer Ordinance, while negligibly impacting the stream.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-23-0007, subject to the following conditions:

- 1) The proposed development shall not exceed the following encroachments, as shown on the site plan received by the Community Development Department on May 1, 2023:
 - a. 11.5 linear feet of encroachment into the 25-foot impervious surface setback
 - b. 322 square feet of impervious surface within the 25-foot impervious surface setback

- 2) A vegetative planting plan shall be submitted to the Community Development Department for approval by the Deputy Director, prior to the issuance of a building permit. Said plan shall be consistent with the mitigation plan received by the Community Development Department on May 1, 2023. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion for the deck.