



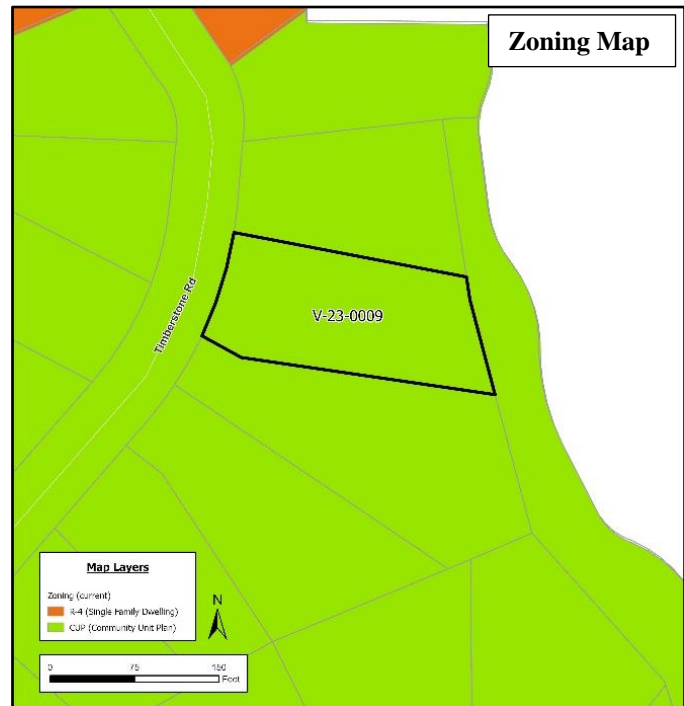
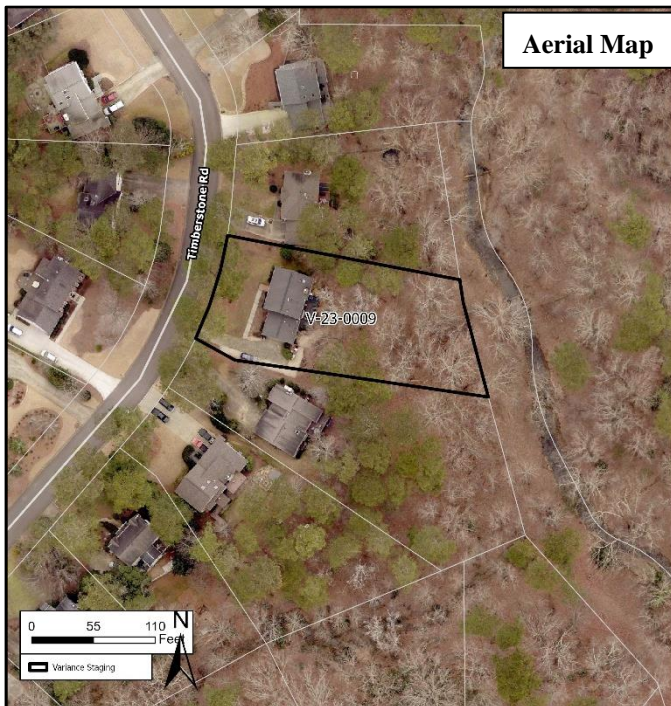
Johns Creek

Board of Zoning Appeals Meeting August 15, 2023

CASE NUMBER:	V-23-0009
PROPERTY LOCATION:	10565 Timberstone Road, Johns Creek, GA 30022
CURRENT ZONING:	CUP (Community Unit District) Conditional
PARCEL SIZE:	0.557 Acres
PROPERTY OWNER:	Jim and Ann Venable
VARIANCE REQUEST:	12.5-foot encroachment into the 150-foot DNR stream buffer to construct a sunroom
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The subject property is located in Timberstone subdivision and is zoned CUP (Community Unit Plan District) Conditional. The subject lot was originally platted in Fulton County in 1979 with a creek and preserved open space. Due to the application of the Georgia Department of Natural Resources (DNR) Small Water Supply Watershed of a 100-foot undisturbed buffer and additional 50-foot impervious surface setback, the buffer encompasses the entirety of the rear yard and a portion of the existing deck.



Community Development

Applicable Code Requirements

City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection

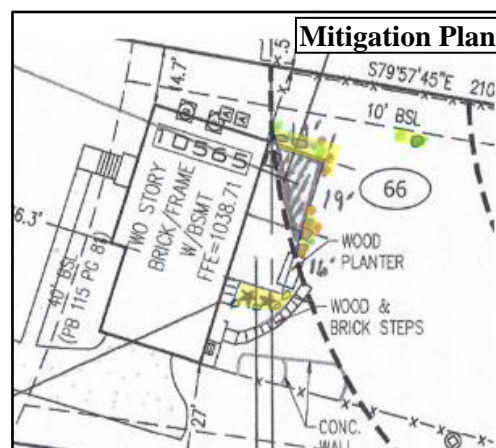
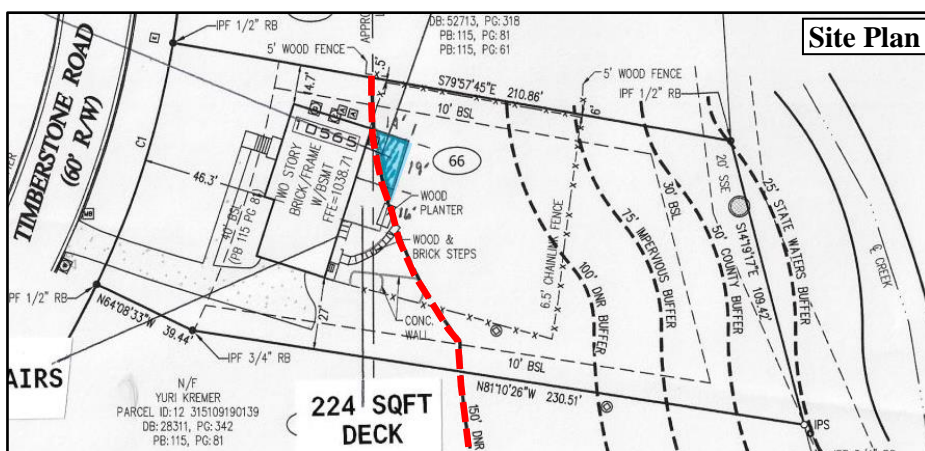
Section 109-119: Compatibility with other buffer regulations and requirements.

- (a)(2) DNR Part 5 Criteria for Small (under 100 square miles) Water Supply Watersheds Authorized under Part V of the Georgia Planning Act of 1989, these criteria require 100-foot undisturbed buffers and 150-foot setbacks on all perennial streams within seven miles upstream of a public water supply reservoir or public water supply intake. Beyond seven miles, the required buffer is 50 feet and the required setback is 75 feet. Equivalent protection measures can be adopted with approval from Georgia DCA and DNR.

Variance Request

The Applicant is requesting to encroach 12.5 feet into the 150-foot DNR stream buffer (shown in red dashed line) to construct a sunroom. The proposal will result in 168 square feet of impervious surface (shown in blue) within the stream buffer. The Applicant has not proposed any land disturbance within the 100-foot undisturbed DNR stream buffer.

In order to offset stormwater and environmental impacts associated with the proposed encroachment into the stream buffer, the Applicant has proposed to install 1 Dogwood tree, 6 shrubs, and 68 square feet of ground cover (highlighted below in yellow) near the proposed sunroom.



Stream Buffer Variance Review Criteria

City Code Section 109-119(c)(1) lists the following considerations for granting DNR stream buffer variances:

- When a property's shape, topography or other physical conditions existing in December 1990 prevent land development unless a buffer variance is granted.
- Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship. Hardships shall be evaluated in accordance with the following:
 - If the applicant complies with the buffer widths and required practices, he or she cannot make reasonable use of his or her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance;
 - The variance is the minimum possible deviation from the buffer widths that shall make reasonable use of the property possible;
 - The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, and the applicant did not cause the hardship;

4. The variance is in harmony with the general purpose and intent of the DNR Water Supply Watersheds;
5. In granting the variance, the public safety and welfare have been assured, and the quality of downstream water, including but not limited to water used to supply public drinking water, has been maintained or improved; and
6. The applicant certifies that the applicant has not and does not intend to apply for a variance from the minimum buffer requirements contained in the Georgia Erosion and Sedimentation Control Act for the same stream(s) for which a variance is sought pursuant to this section.

Staff Analysis

The subject property was platted in Fulton County in 1979 with a creek and preserved open space. Since the property is located within a small water supply watershed, the Georgia Department of Natural Resources (DNR) required the 100-foot undisturbed buffer and additional 50-foot impervious surface setback to be applied. The presence of these stream buffers has rendered a hardship on the property, as the entire rear yard is located within the 150-foot DNR buffer. The proposed 168 square feet of encroachment into the 150-foot DNR stream buffer presents the minimum encroachment required into the buffer to allow for reasonable use of the property, while maintaining harmony with the general purpose and intent of the DNR Water Supply Watersheds.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-23-0009, 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 and date stamped on June 28, 2023:
 - a. 12.5 linear feet of encroachment into the 150-foot DNR stream buffer; and
 - b. 168 square feet of impervious surface within the 150-foot DNR stream buffer.
- 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 and date stamped on June 28, 2023. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion for the sunroom.