

CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM

To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director
Caitlin Crowe, Planner I

Date: July 1, 2024

**RE: VARIANCE CASE V24-054
1153 Rhyne Chase – Allow encroachment into the City’s 50-foot undisturbed stream buffer**

BACKGROUND

The applicant is requesting a variance to allow encroachment into the City’s 50-foot undisturbed buffer to retain a deck at 1153 Rhyne Chase. The City’s stream buffers are controlled by Chapter 46, Article VI.

ANALYSIS

The subject parcel is a 0.24-acre lot located at the southeast side of the Rhyne Chase cul-de-sac in the Paces Springs subdivision (see Figure 1). A stream runs through the rear of the property and continues through the adjacent properties to the east and west. The subject parcel and adjacent parcels to the north, east, and west are zoned RDA and are occupied by single-family detached residences. The adjacent property to the south is in Cobb County and is occupied by a baseball field for Rhyne Park.

The applicant originally submitted for permitting in July 2022 and was notified that a variance would be required prior to permit issuance. Based on aerial photos of the property, the deck was then constructed without a variance or the required permit. In March 2024, Code Enforcement issued a notice of violation to the subject property for working without a permit. Once alerted, the applicant moved forward with the variance application.

The applicant is proposing to retain the newly erected 286 square foot deck in its current location. The rear yard and a majority of the home itself is greatly encumbered by the State’s 25-foot undisturbed buffer, the City’s 50-foot undisturbed stream buffer, and the City’s 75-foot impervious surface setback, with no section of the rear yard untouched by stream buffers. Since the property was platted in 1998, prior to the Stream Buffer Protection Ordinance in 2005, the hardship is not self-created outside of starting the work without a permit. No other variances are needed as the property is below their impervious coverage maximum of 45%.

Roughly 140 square feet of the deck lies within the City’s 50-foot undisturbed buffer, whereas roughly 147 square feet is within the State’s 25-foot buffer. The City Engineer has determined that the encroachment into the City’s stream buffer is considered minor and is thus exempt from

the City's remediation requirements. In correspondence with the State's Environmental Protection Division (EPD), a Consent Order may be required, which has been added as a stipulation to the variance application.

Due to the existing stream buffers encumbering the entirety of the rear yard and the existing home, Community Development believes this is the minimum variance needed to allow for any outdoor amenity and that there should be no negative impacts to adjacent properties if approved. At the time of this report, Community Development has not received any calls in opposition to the request.

STAFF COMMENTS

The applicant is requesting relief from the City's 50-foot undisturbed stream buffer to install a deck in the rear yard. According to Section 46-160 of the Stream Buffer Protection Ordinance, variances must be reviewed under the following standards: (1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; (2) The locations of all streams on the property, including along property boundaries; (3) The location and extent of the proposed buffer or setback intrusion; (4) Whether alternative designs are possible which require less intrusion or no intrusion; (5) The long-term and construction water-quality impacts of the proposed variance; (6) Whether as a result of an exchange of buffer area the net buffer area is not reduced; and (7) Whether issuance of the variance is at least as protective of natural resources and the environment. After a review of the standards above, Community Development and the City Engineer believe that the encroachment will not adversely affect surrounding residents nor the existing stream; therefore, staff recommends **approval** of the requested variance with the following conditions:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.
2. A determination by the Georgia Environmental Protection Division shall be made as to whether mitigation will be required for encroachment into the State's 25-foot stream buffer prior to issuance of the building permit.

Figure – 1

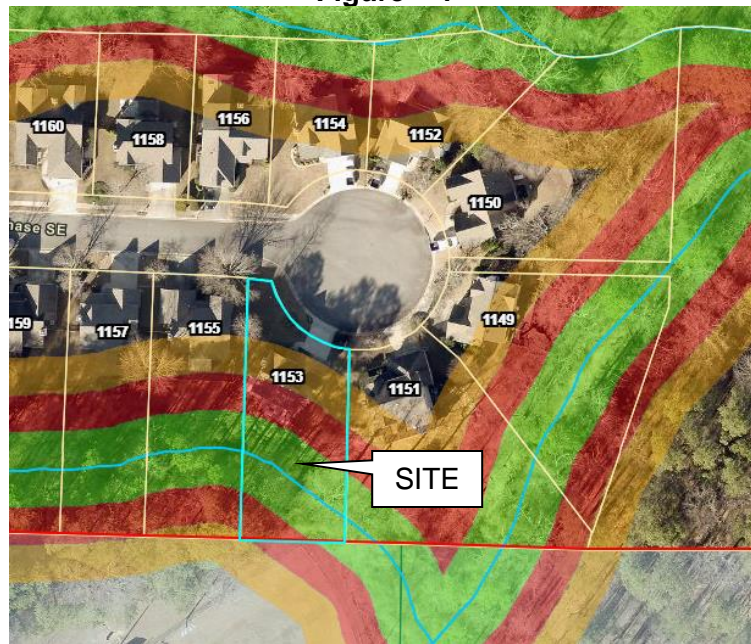


Figure – 2
Site Plan



Figure – 3
Subject Property



Figure – 4
Adjacent Property to the West



Figure – 5
Adjacent Property to the East



Figure – 5
Adjacent Property across Rhyne Chase

