



# City of Smyrna

## Issue Sheet

A Max Bacon  
City Hall  
2800 King Street  
Smyrna, GA 30080

File Number: V24-059

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**Agenda Date:** 5/22/2024

**In Control:** License and Variance Board

**File Type:** Variance Item

**Agenda Section:**  
Formal Business

**Agenda Number:** {{item.number}}

**Department:** Community Development

**Agenda Title:**

Public Hearing - Variance Request - V24-036 - Allow encroachment into the City's 75-foot impervious surface setback - Land Lot 525 - 3370 Lee Street - Thomas Strength

***Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

**ISSUE AND BACKGROUND:**

The applicant is requesting three variances to allow for the construction of a new swimming pool in the rear yard of 3370 Lee Street: to allow a second accessory structure, allow encroachment into the City's 50-foot undisturbed buffer, and allow encroachment into the City's 75-foot impervious surface setback. Variances (V17-004 through 006) were previously approved on the property in 2017 for a garage and master suite addition to the property which encroached into the City's stream buffers as well as the side setback. As part of the previous building permit approval, the applicant at the time was to install an infiltration pit in the rear yard to mitigate the stream buffer encroachment. There is no record that this was ever constructed or currently exists on the property. Section 501 controls the maximum allowable number of accessory structures while the City's stream buffers are controlled by Chapter 46, Article VI.

**RECOMMENDATION / REQUESTED ACTION:**

The applicant is requesting relief from the City's 75-foot impervious surface setback, the City's 50-foot undisturbed stream buffer, and the City's accessory structure ordinance to install a pool 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. Additionally, according to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum



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variance needed.

After a review of the standards above from both ordinances, Community Development and the City Engineer believe that the encroachments will not adversely affect surrounding residents nor the existing stream; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval of the requested variances shall be conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. If any part of the retaining wall falls within the 20-foot sanitary sewer easement and work must occur within the area, the retaining wall may be required to be moved at the property owner's expense.
3. Survey stakes must be installed to reflect the edge of the sanitary sewer easement and maintained throughout construction.
4. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court prior to issuance of the building permit and an as-built certification statement submitted to Community Development prior to issuance of the Certificate of Completion.
5. The Stormwater quality infiltration trench shall be sized to mitigate the 75-foot impervious setback and 50-foot undisturbed buffer encroachments. The square footage of the encroachment shall be the minimum area routed to the infiltration trench.
6. Appropriate measures shall be included in the final engineering design to allow for infiltration, but also protect the structural integrity of the proposed retaining wall and pool wall. The infiltration trench final design shall include a method for overflow.