

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

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

Date: August 28, 2024

RE: VARIANCE CASE V24-073
1088 Parkview Place – Allow encroachment into the City’s 50-foot undisturbed stream buffer

VARIANCE CASE V24-074
1088 Parkview Place – Allow encroachment into the City’s 75-foot impervious surface setback

BACKGROUND

The applicant is requesting two variances to allow encroachment into the City’s 50-foot undisturbed buffer and City’s 75-foot impervious surface setback to rebuild a deck at 1088 Parkview Place. The City’s stream buffers are controlled by Chapter 46, Article VI.

ANALYSIS

The subject parcel is a 0.25-acre lot located on the west side of Parkview Place in the Parkview Village subdivision (see Figure 1). A stream runs through the rear of the property and continues through the adjacent properties to the north and south. The subject parcel and adjacent parcels to the north, east, and south are zoned RDA whereas the adjacent properties to the west are zoned R-15; all properties are occupied by detached single-family homes.

The applicant is proposing to replace an existing roughly 294 square foot deck with a roughly 364 square foot deck which will be half open-air deck and half a screened-in porch. 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 2004, prior to the Stream Buffer Protection Ordinance in 2005, the hardship is not self-created. No other variances are needed as the property is below their impervious coverage maximum of 45%.

Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming stream buffer encroachments. Additionally, per Section 1102, “no nonconforming building, structure or use shall be extended, nor shall its total value be enhanced, unless such extensions or alterations conform with the provisions of this ordinance.” Since the deck is being completely rebuilt with the addition of a screened-in

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porch, the property no longer remains legally nonconforming. However, since the existing single-family home and deck were already non-conforming, the hardship is not self-created.

Since the stream buffer encroachment occurred in 2004 and the additional land disturbing activity is considered minor and over previous impervious material, the City Engineer has determined that no remediation is required in order to support the variances.

Due to the existing stream buffers encumbering the entirety of the rear yard and the existing home, Community Development believes these are the minimum variances needed to allow for any replacement of the existing deck 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 and City's 75-foot impervious surface setback to install a deck and screened porch 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 variances with the following conditions:

1. Approval of the requested variances shall be conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Figure - 1

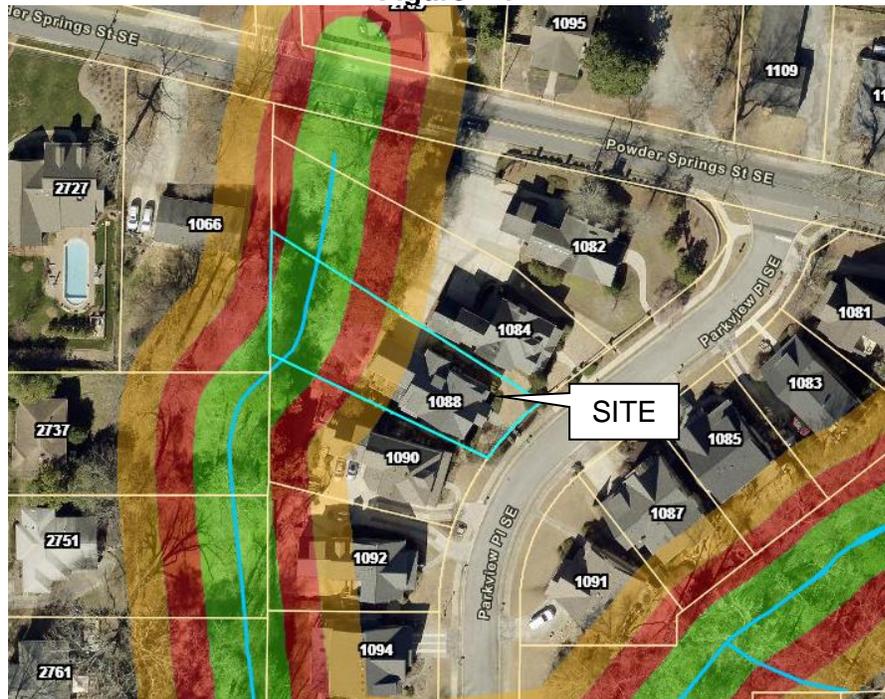


Figure - 2
Site Plan

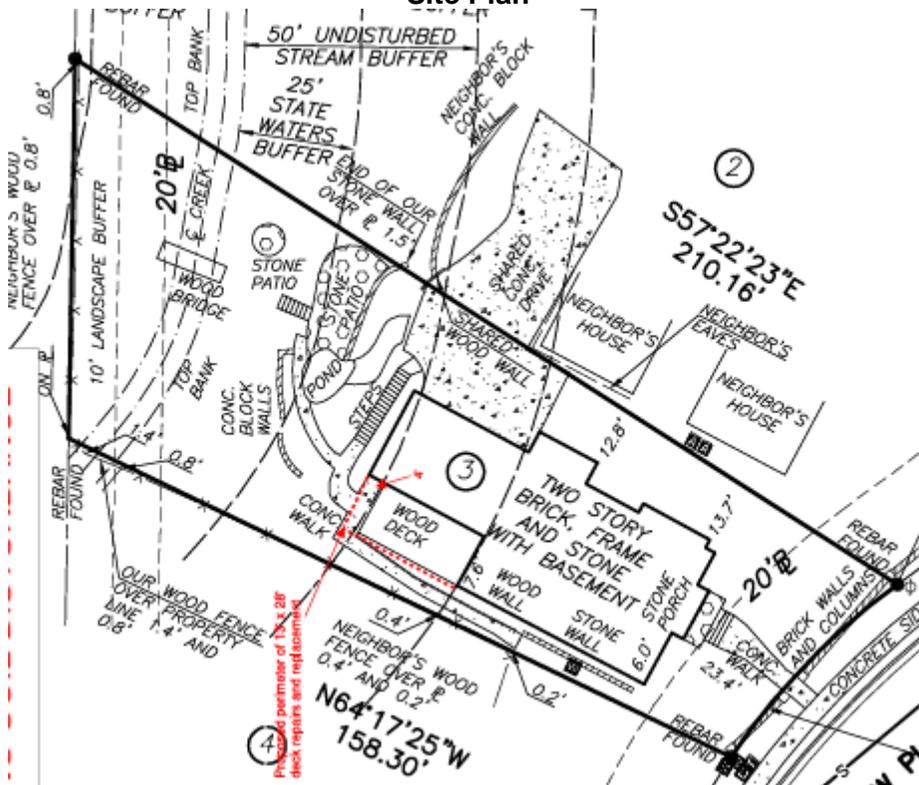


Figure – 3
Subject Property



Figure – 4
Adjacent Property to the North



Figure – 5
Adjacent Property to the South



Figure – 5
Adjacent Property across Parkview Place

