

# CITY OF SMYRNA

## COMMUNITY DEVELOPMENT

### MEMORANDUM

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To: License and Variance Board

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

Date: April 23, 2024

**RE: VARIANCE CASE V24-028**  
**3430 Creatwood Trail – Allow encroachment into the City’s 50-foot undisturbed stream buffer**

**VARIANCE CASE V24-029**  
**3430 Creatwood Trail – Allow encroachment into the City’s 75-foot impervious surface setback**

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#### BACKGROUND

The applicant is requesting two variances to allow encroachment into the City’s 50-foot undisturbed buffer and 75-foot impervious surface setback to allow for the construction of a deck at 3430 Creatwood Trail. The City’s stream buffers are controlled by Chapter 46, Article VI.

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#### ANALYSIS

The subject parcel is a 0.32-acre lot located on the south side of Creatwood Trail in the Creatwood Forrest 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 all adjoining parcels are zoned R-15 and are all occupied by single-family detached residences.

In February 2024, Code Enforcement issued a notice of violation to the subject property for working without a permit. Once alerted, the applicant moved forward with building permits for an interior renovation and deck addition. Upon completion of the plan review, the applicant was notified that a variance would be required prior to permit issuance and a variance application was subsequently submitted later that month.

The applicant is proposing to retain the newly erected 196 square foot deck and accompanying stairs in its current location. The rear yard and a portion 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 1960, 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 35%.

The applicant will require relief from the City's stream buffer ordinance in order to retain the improvements in the rear yard. The applicant will mitigate the rear yard disturbance by creating extending the impervious setback on either side of the home to offset the total 249.75 square foot encroachment (148.4 square feet to the west and 102.4 square feet to the east). The new impervious area will be contiguous with the existing setback area and will require an update to and recording of the parcel plat to delineate the new impervious setback limits. The City Engineer has reviewed the application and accompanying mitigation plan and supports the method used for buffer mitigation per Georgia Stormwater Management Manual requirements.

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 outdoor amenity. Strict application of the ordinance would require the existing home to be removed and shifted north due to the existing stream buffers. Similar variances have been approved throughout the city when an appropriate mitigation method has been included. At the time of this report, Community Development has not received any calls in opposition to the request.

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#### **STAFF COMMENTS**

The applicant is requesting relief from the City's 75-foot impervious surface setback and 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 variances with the following conditions:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A plat shall be submitted to the City for approval and recorded with the Cobb County Superior Court to show the extension of the impervious surface setback prior to issuance of the building permit.

Figure - 1

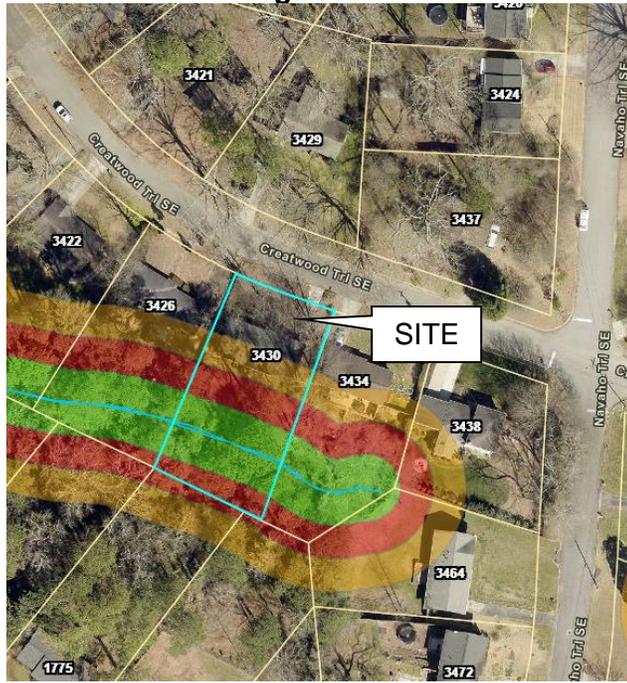
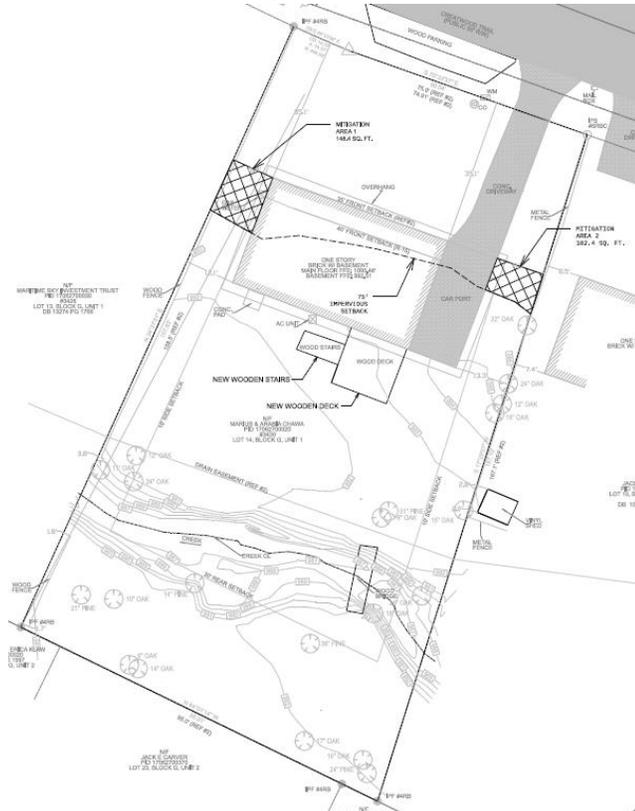


Figure - 2  
Site Plan



**Figure – 3  
Newly Built Deck**



**Figure – 3  
Subject Property**



**Figure – 4**  
**Adjacent Property to the East**



**Figure – 5**  
**Adjacent Property to the West**



**Figure – 5**  
**Adjacent Property across Creatwood Trail**

