

CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM

To: License and Variance Board

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

Date: October 9, 2023

RE: VARIANCE CASE V23-069
3351 Lee Street – Allow encroachment into the City’s 50-foot undisturbed stream buffer

BACKGROUND

The applicant is requesting to encroach into the City’s 50-foot undisturbed stream buffer to expand the existing deck on a single-family residence at 3351 Lee Street. The property received approval for two variances in August 2015 to construct a new two-car garage (Variance Case-V15-036 and V15-037), which constituted a front setback reduction and 50-foot and 25-foot stream buffer encroachments, respectively. Since the proposed deck extension is outside the scope and stipulations of the originally approved variances, the applicant is required to request another variance.

ANALYSIS

The subject parcel is a 0.42-acre lot located on the east side of Lee Street (see Figure 1). The subject parcel and adjacent parcel to the south are zoned R-15. The adjoining parcels to the north, east, and west are all zoned R-20. All parcels, including the subject parcel, are occupied by single-family detached residences.

The rear yard of 3351 Lee Street is greatly encumbered by the State’s 25-foot stream buffer, the City’s 50-foot undisturbed stream buffer, and the City’s 75-foot impervious surface area setback. In August 2015, the subject property was granted two variances in order to build a new two-car garage within the front setback and 25-foot and 50-foot stream buffers. The variances were granted with several stipulations for stormwater management, to include a pervious paver patio and rain garden in the rear. The current applicant is proposing to renovate the existing rear deck for more usability by enclosing the existing 144 square foot deck to make a sunroom and adding an additional 216 square foot deck. Since this expansion is outside the scope of the original variance application and thus outside the scope of the site’s stormwater management, a new variance is required. No other variances are needed as the proposed expansion is within the setbacks and the property is below their impervious coverage maximum of 35%.

The Stormwater Ordinance does not differentiate between replaced and new impervious area. 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 enclosed and a new deck added on, the property no longer remains legally nonconforming. However, since the existing single-family home and deck were expanded with the previously approved variances, the hardship is not self-created.

The applicant will require additional relief from the City’s stream buffer ordinance in order to make the improvements in the rear yard. The applicant has proposed several options for mitigation to include adding a third rain garden, modifying the existing rain gardens, and adding four dry wells. The City Engineer has reviewed the application and accompanying mitigation options and supports the methods proposed for buffer mitigation with the condition that a full mitigation plan be submitted prior to building permit issuance.

Due to the existing stream buffers in the rear yard, Community Development believes this is the minimum variance needed to allow for any expansion of the outdoor amenity. Strict application of the ordinance would deny the applicant the ability to extend the deck in the rear yard due to the existing stream buffers. Similar variances have been approved throughout the city when an appropriate mitigation method has been included. Community Development has not received any calls in opposition to the request.

STAFF COMMENTS

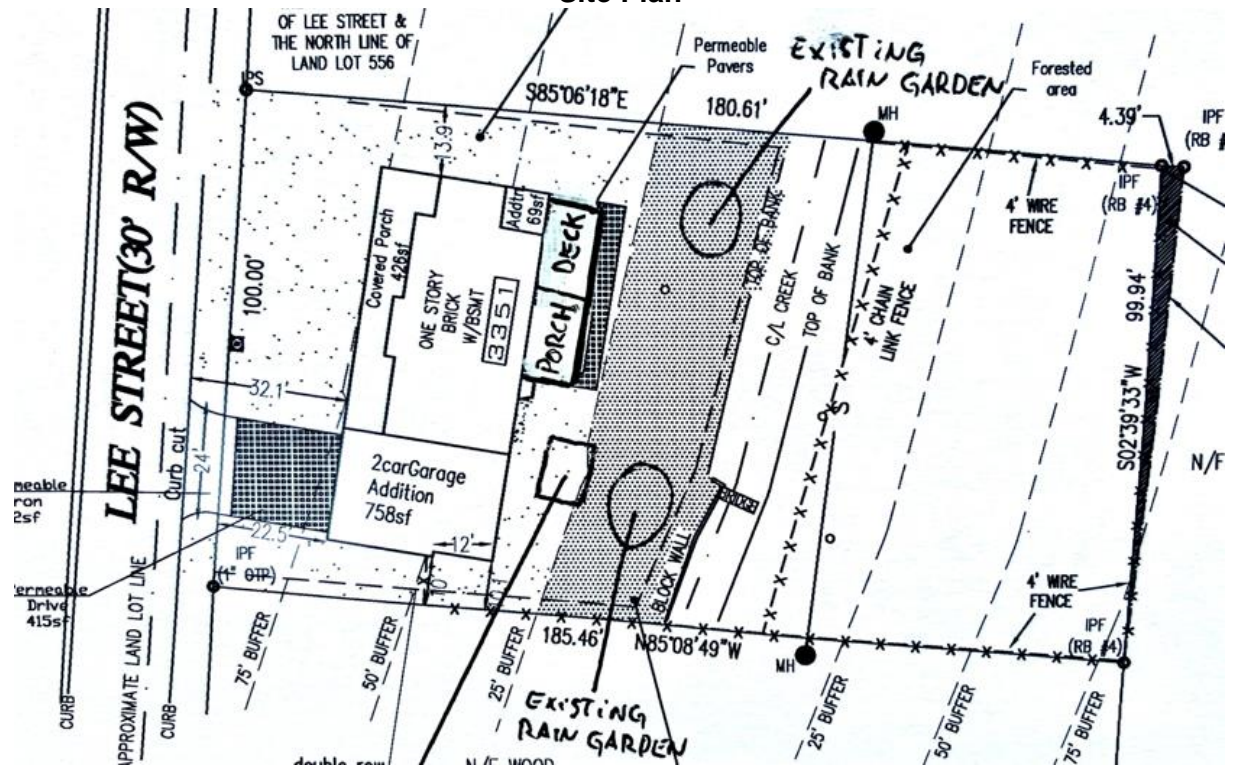
The applicant is requesting relief from the City’s 50-foot undisturbed stream buffer to expand the deck in the rear yard. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances 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 variance needed. After a review of the standards above, Community Development believes that the additional encroachment will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following conditions:

1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan and elevations submitted with the variance application.
2. The applicant shall submit a full stormwater mitigation plan, to be reviewed and approved by the City Engineer, prior to issuance of the building permit.
3. A Stormwater Inspection and Maintenance Agreement must be completed and recorded with the Cobb County Superior Court and an as-built certification statement submitted to Community Development prior to completion of the building permit.

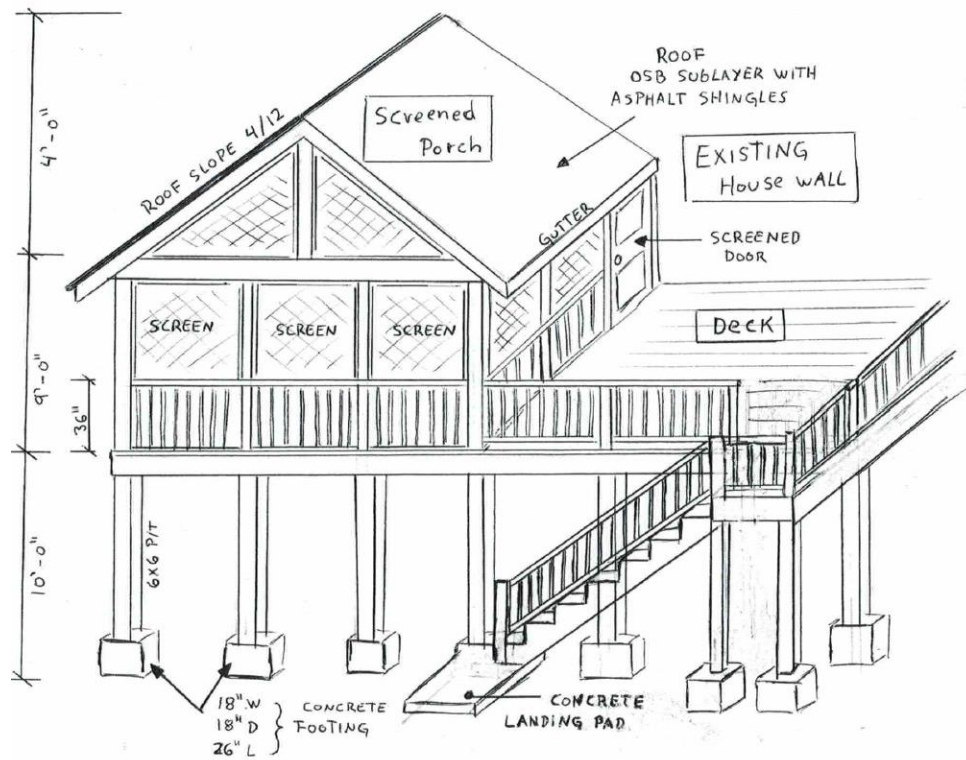
Figure – 1



Figure – 2
Site Plan



**Figure – 3
Elevation**



**Figure – 4
Subject Property**



Figure – 5
Adjacent Property to the North



Figure – 6
Adjacent Property to the South



Figure – 7
Adjacent Property across Lee Street

