



## License and Variance Board Meeting - Final

June 28, 2023  
10:00 AM

- 
- A. **V23-044** Public Hearing - Variance Request - V23-044 - Allow encroachment into the 50-foot undisturbed buffer and the 75-foot impervious surface area setback - Land Lot 598 - 3383 Kathy Lane - Jim Parks



# City of Smyrna

## Issue Sheet

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

File Number: V23-044

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**Agenda Date:** 6/28/2023

**In Control:** License and Variance Board

**File Type:** Variance Item

**Agenda Section:**  
Formal Business

**Agenda Number:** A

**Department:** Community Development

**Agenda Title:**

Public Hearing - Variance Request - V23-044 - Allow encroachment into the 50-foot undisturbed buffer and the 75-foot impervious surface area setback - Land Lot 598 - 3383 Kathy Lane - Jim Parks

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

**ISSUE AND BACKGROUND:**

The applicant is requesting a variance to allow encroachment into the City's 50-foot undisturbed buffer and the City's 75-foot impervious setback to allow for the rebuild of an existing deck. The City's stream buffers are controlled by Chapter 46, Article VI.

**RECOMMENDATION / REQUESTED ACTION:**

The applicant is requesting relief from the City's 50-foot undisturbed buffer and the City's 75-foot impervious surface area setback to rebuild an existing 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 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 is conditioned upon substantial compliance with the site plan submitted with the variance application.

# 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: June 13, 2023

RE: **VARIANCE CASE V23-044**  
**3383 Kathy Lane – Allow encroachment into the 50-foot undisturbed buffer and the 75-foot impervious surface area setback**

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#### BACKGROUND

The applicant is requesting a variance to allow encroachment into the City's 50-foot undisturbed buffer and the City's 75-foot impervious setback to allow for the rebuild of an existing deck. The City's stream buffers are controlled by Chapter 46, Article VI.

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#### ANALYSIS

The subject parcel is a 1.85-acre lot located near the intersection of Veneta Way and Kathy Lane (see Figure 1). A stream runs through the northern section of the property and continues through the adjacent properties to the north and west. The subject parcel and all adjoining parcels are zoned R-20 and are all occupied by single-family detached residences.

At the end of January 2023, Code Enforcement issued a notice of violation to the subject property for working without a permit. The applicant then subsequently submitted a building permit and variance application to rebuild the deck in May/June 2023.

The applicant is proposing to rebuild a 324 square foot deck in the rear yard which will be connected to an existing concrete pad. The existing house was constructed in 1974, prior to the adoption of the stream buffer ordinance in 2005. Per the property owner, the deck has also existed since the 1970s and is reflected on the most current plat, which was recorded in 2004. Currently, the rear yard is greatly encumbered by the State's 25-foot undisturbed stream buffer, the City's 50-foot undisturbed stream buffer and the City's 75-foot impervious surface area setback. No other variances are needed as the property is well below their impervious coverage maximum of 35%.

Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming stream buffer encroachment. 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, the property no longer remains

## VARIANCE CASE V23-044

June 13, 2023

Page 2 of 6

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 at least prior to 2004 and there is no addition of land disturbing activities or stormwater runoff, the City Engineer has determined that no remediation is required in order to support the variance.

The applicant will require relief from the City's stream buffer ordinance in order to rebuild the deck. Community Development believes the hardship is not self-created, as the lot of record has existed before the stream buffer ordinance was adopted. 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. Furthermore, the closest neighboring structure to the deck is almost 200 feet away, so any impacts would be very limited. 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 50-foot undisturbed buffer and the City's 75-foot impervious surface area setback to rebuild an existing 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 encroachment will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following conditions:

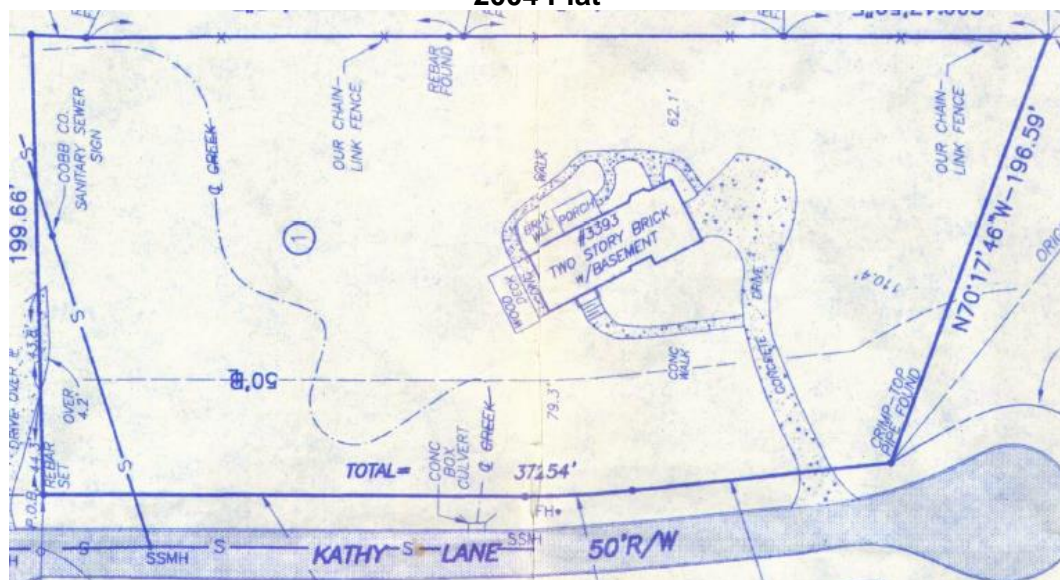
1. Approval of the requested variance is conditioned upon substantial compliance with the site plan submitted with the variance application.



Figure – 1



Figure – 2  
2004 Plat





**Figure – 3**  
**Subject Property**



**Figure – 4**  
**Fence Reconstruction**





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



**Figure – 6**  
**Adjacent Property to the South**





**Figure – 7**  
**Adjacent Property across Kathy Lane**



**Figure – 8**  
**Adjacent Property across Kathy Lane**



Variance Application

VAR-23-21

Submitted On: Jun 5, 2023

Applicant

 Jim Parks  
 4043146833  
@ jimdparks@gmail.com

Primary Location

3383 KATHY LN SE  
SMYRNA, GA 30080

Applicant Information

First Name

Jim

Last Name

Parks

Street Address

3383 Kathy Lane

City

Smyrna

State

Ga

Zip Code

30080

Email

Jimdparks@gmail.com

Phone Number

4043146833

Are you the titleholder of the subject property?

Yes

Property Information

Property Address

3383 Kathy Lane

Description of Requested Variances

Stream buffer variance

Comprehensive Narrative

In rendering its decisions, the License and Variance Board shall consider the following factors:

1. Whether there are extraordinary and exceptional conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district.
2. Whether any alleged hardship which is self-created by any person having an interest in the property or is not the result of mere disregard for or ignorance of the provisions from which relief is sought.
3. Whether strict application of the relevant provisions of the zoning code would deprive the applicant of reasonable use of the property for which the variance is sought.
4. Whether the variance proposed is the minimum variance which makes possible the reasonable use of the property.

A comprehensive narrative detailing the extraordinary and exceptional conditions which will necessitate a nonconforming use.

Deck patio replacement using exact location and dimensions of previous deck/ patio.

## Acknowledgement

Applicant further affirms they are aware that any knowingly false statement made in the permit application may subject said applicant to prosecution for violation of Georgia Criminal Code, Section 16-10-20 (False Swearing) and a possible fine of not more than \$1,000.00 or imprisonment for not less than one (1) nor more than five (5) years, or both.

**Applicant Signature:**

true



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Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
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Total Postage and Fees	\$4.78	

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Postage \$0.63

Total Postage and Fees \$4.78

To: Property owner  
 1513 Veneta Way  
 Smyrna, Ga. 30080

Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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☐ Certified Mail Restricted Delivery \$0.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.63

Total Postage and Fees \$4.78

To: Property owner  
 429 Kathy Ln.  
 Smyrna, Ga. 30080

Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



SMYRNA  
 850 WINDY HILL RD SE  
 SMYRNA, GA 30080-1910  
 (800)275-8777

06/06/2023

12:37 PM

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1		\$0.63

Smyrna, GA 30080  
 Weight: 0 lb 0.30 oz  
 Estimated Delivery Date  
 Thu 06/08/2023  
 Certified Mail®  
 Tracking #:

Total \$4.78

First-Class Mail® Letter 1 \$0.63

Smyrna, GA 30080  
 Weight: 0 lb 0.30 oz  
 Estimated Delivery Date  
 Thu 06/08/2023  
 Certified Mail®  
 Tracking #:

Total \$4.78

Grand Total: \$9.56

Credit Card Remit  
 Card Name: VISA  
 Account #: XXXXXXXXXXXX6147  
 Approval #: 01186D  
 Transaction #: 747  
 AID: A0000000031010

Chip



NOTIFICATION OF CONTIGUOUS OCCUPANTS  
OR LANDOWNERS

By signature, it is hereby acknowledged that I have been notified that Jim D. Parks

3383 Kathy Ln. Smyrna, Ga.

Intends to make an application for a variance for the purpose of Stream buffer  
for deck / patio replacement

on the premises described in the application.

NAME

JANIS BOCK & JESSICA BOCK

ADDRESS

3355 KATHY LANE



2022 COBB COUNTY PROPERTY TAX BILL

Pay online at [www.cobbtax.org](http://www.cobbtax.org) or (866) 729-2622  
See the back of this bill for important information.

736 Whitlock Ave, Ste 100 • Marietta, GA 30064  
(770) 528-8600 • [tax@cobbtax.org](mailto:tax@cobbtax.org)



Pay Online

CARLA JACKSON  
Tax Commissioner

HEATHER WALKER  
Chief Deputy

**Payment Due October 15, 2022**

Payment must be received or **USPS Postmarked** by the due date. Metered or kiosk postmarks are not proof of timely mailing.

PROPERTY OWNER(S)	ADDRESS	DUE DATE	AMOUNT
PARKS JOYCE	3383 KATHY LN	10/15/2022	\$4,999.99

PARCEL ID	FAIR MARKET VALUE	ASSESSED VALUE	ACREAGE	TAX DISTRICT	HOMESTEAD EXEMPTION
17059800200	\$456,870	\$182,748	1.83	City of Smyrna	None

TAXING AUTHORITY	ASSESSED VALUE	-	EXEMPTION	=	NET ASSESSMENT	x	MILLAGE RATE	=	TAXES DUE
SCHOOL	\$182,748	-	\$0	=	\$182,748	x	0.018900	=	\$3,453.94

Levied by the **Cobb County Board of Education** representing approximately 69.08% of your taxes due.

COUNTY GENERAL	\$182,748	-	\$0	=	\$182,748	x	0.008460	=	\$1,546.05
COUNTY BOND	\$182,748	-	\$0	=	\$182,748	x	0.000000	=	\$0.00
COUNTY FIRE	N/A	-	N/A	=	N/A	x	N/A	=	N/A

Levied by the **Board of Commissioners** representing approximately 30.92% of your taxes due.

TAX YEAR	PARCEL ID	DUE DATE	APPEAL AMOUNT	TOTAL TAXES DUE
2022	17059800200	10/15/2022	Pay: N/A or	\$4,999.99

Payment must be received or **USPS Postmarked** by the due date. Metered or kiosk postmarks are not proof of timely mailing.

TAX YEAR	PARCEL ID	DUE DATE	APPEAL AMOUNT	TOTAL TAXES DUE	AMOUNT ENCLOSED
2022	17059800200	10/15/2022	Pay: N/A or	\$4,999.99	

Late fees apply after October 17, 2022  
(See back of Bill)



"RE202217059800200"  
17059800200 000000000000000000

**2022 Cobb County Property Tax Bill**

24654

PARKS JOYCE  
OR CURRENT PROPERTY OWNER  
3383 KATHY LN  
SMYRNA GA 30080-4502

paid  
10/14/22  
on line



**IS YOUR INFORMATION UP TO DATE?**

☐

My mailing address  
has changed.

☐

I no longer own  
this property.

DATE MOVED: \_\_\_\_\_

NEW MAILING ADDRESS: \_\_\_\_\_

Signature: \_\_\_\_\_



CITY OF SMYRNA  
 Tax Department  
 PO Box 1226  
 Smyrna, GA 30081-1226  
 770-434-6600

2022 Property Tax Notice

PARKS JOYCE  
 3383 KATHY LN  
 SMYRNA, GA 30080-4502

Please Make Check or Money Order Payable to:  
 City of Smyrna Tax Department

**HOMESTEAD EXEMPTIONS AVAILABLE:**  
 1) \$10,000 Age sixty-two (62) or older by January 1.  
 2) \$22,000 Disabled with limited income.  
 3) As a result of the City of Smyrna Taxpayer Reassessment Relief Act, after proper application has been made, when your homestead property is reassessed your homestead exemption will automatically increase by the same amount.

If you are eligible for one of these exemptions you must apply for the exemption by April 1st in order to receive the exemption in future years.

If you are a new property owner as of January 1, you need to file a change of ownership with the Cobb County Tax Office by April 1st.

## 2022 City of Smyrna Property Tax Notice

Bill No.	Property Description	Map Number	Fair Mkt Value	Assessed Value	Exempt Value	Taxable Value	Millage Rate	Tax Amount
13001	3383 KATHY LN STREET LIGHT RESIDENTIAL EXEMPTIONS: H1 RESIDENTS 62 YEARS AND OLDER	17-0598-0-0200	456,870.00	182,748.00	10,000.00	172,748.00	8.99	1,553.00 42.00

Pay online at <http://portal.smyrnaga.gov/MSS/citizens/default.aspx>

Important Messages - Please Read

Taxes not paid by the due date are subject to a 5% penalty after 120 days with an additional 5% assessed after each successive 120 days up to a maximum of 20% of the principal due. In addition, interest will be assessed based on an annual calculation of the Federal Prime Rate plus 3%. This interest rate is charged per month based on the principal due. FICA charges are a one-time charge of \$25.00

Any questions concerning payment instructions, ownership, or mailing address changes should be directed to The City of Smyrna Tax Department at 770-434-6600

If there is a question concerning the assessment of your property, please contact the Cobb County Tax Assessor's Office at 770-528-3100

Total of Bills by Tax Type

Pen	0.00
Int	0.00
Fees	0.00
Adjustments	0.00
Payments	0.00
Back Taxes	0.00
<b>TOTAL DUE</b>	<b>1595.00</b>
<b>DATE DUE</b>	<b>11/15/2022</b>

PARKS JOYCE

DATE MOVED:



[illegible]

FILED ON 12-16-09  
RAT FAX 250 046 055  
CPH 2004-228397  
JAY C. STANBROOK, CLERK

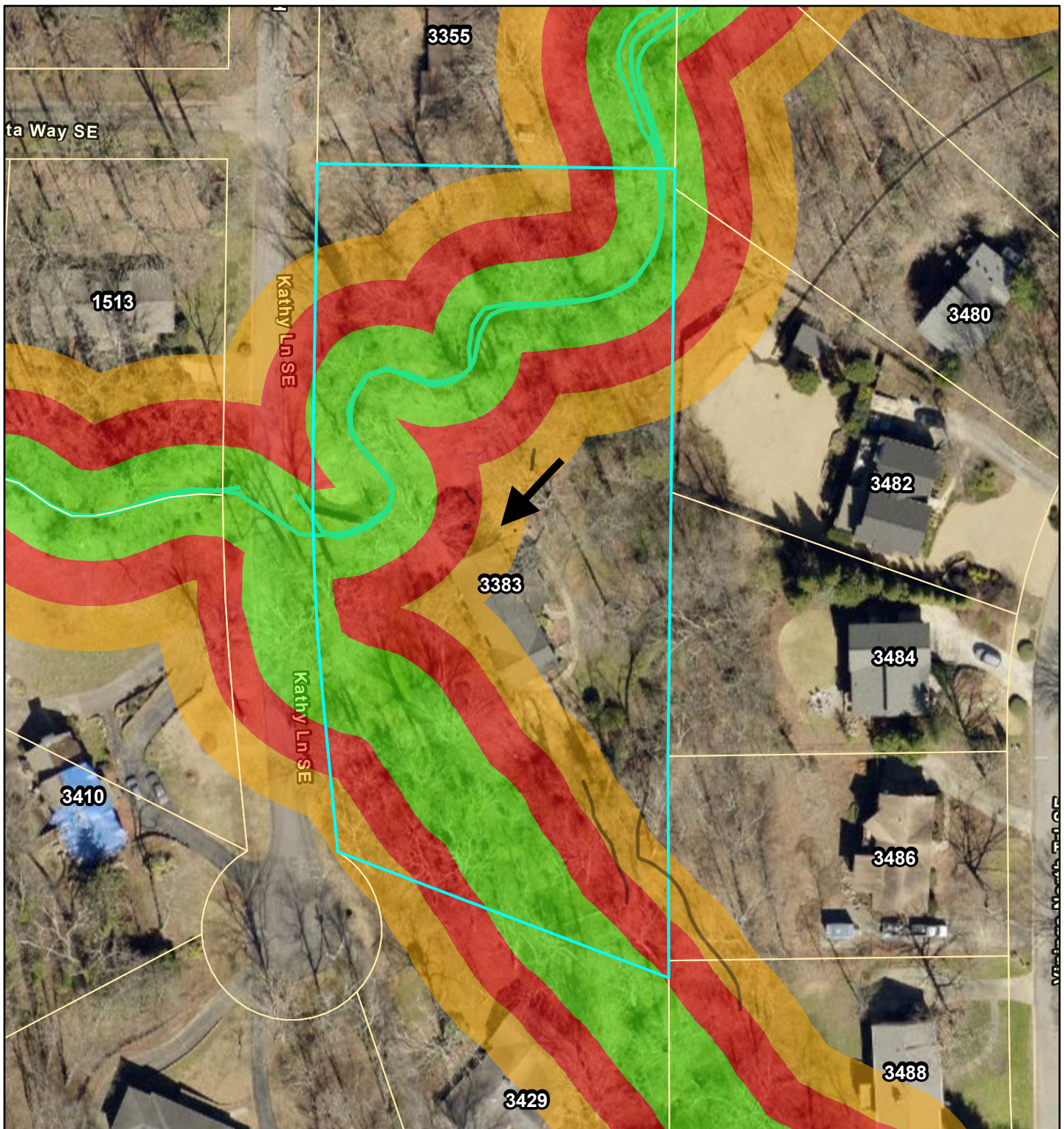
~~MAGNETIC~~



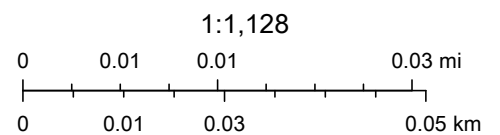




# City of Smyrna



6/1/2023, 12:20:27 PM



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17059800200

creek

34" elevation

3383 Kathy Ln.  
Swynna, Ga.  
#17059800200

11" elevation

x x

Replacement  
deck/patio  
(same dimensions as original)  
no stairs  
not attached to house  
previous deck/patio site

27'

x x x

existing  
sidewalk  
(no changes)

8'

12.5'

34" elevation

11" elevation

House (side of house)

FREQUENT