



License and Variance Board Meeting - Final

July 10, 2024
10:00 AM

-
- D. **V24-054** Public Hearing - Variance Request - V24-054 - Allow encroachment into the City's 50-foot undisturbed stream buffer - Land Lot 530 - 1153 Rhyne Chase - Frank Pologruto



City of Smyrna

Issue Sheet

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

File Number: V24-054

Agenda Date: 7/10/2024

In Control: License and Variance Board

File Type: Variance Item

Agenda Section:
Formal Business

Agenda Number: D.

Department: Community Development

Agenda Title:

Public Hearing - Variance Request - V24-054 - Allow encroachment into the City's 50-foot undisturbed stream buffer - Land Lot 530 - 1153 Rhyne Chase - Frank Pologruto

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 to retain a deck at 1153 Rhyne Chase. 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 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 variance with the following conditions:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.
2. A determination by the Georgia Environmental Protection Division shall be made as to whether mitigation will be required for encroachment into the State's 25-foot steam buffer prior to issuance of the building permit.

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

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

Date: July 1, 2024

RE: VARIANCE CASE V24-054
1153 Rhyne Chase – Allow encroachment into the City’s 50-foot undisturbed stream buffer

BACKGROUND

The applicant is requesting a variance to allow encroachment into the City’s 50-foot undisturbed buffer to retain a deck at 1153 Rhyne Chase. The City’s stream buffers are controlled by Chapter 46, Article VI.

ANALYSIS

The subject parcel is a 0.24-acre lot located at the southeast side of the Rhyne Chase cul-de-sac in the Paces Springs 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 adjacent parcels to the north, east, and west are zoned RDA and are occupied by single-family detached residences. The adjacent property to the south is in Cobb County and is occupied by a baseball field for Rhyne Park.

The applicant originally submitted for permitting in July 2022 and was notified that a variance would be required prior to permit issuance. Based on aerial photos of the property, the deck was then constructed without a variance or the required permit. In March 2024, Code Enforcement issued a notice of violation to the subject property for working without a permit. Once alerted, the applicant moved forward with the variance application.

The applicant is proposing to retain the newly erected 286 square foot deck in its current location. 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 1998, 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 45%.

Roughly 140 square feet of the deck lies within the City’s 50-foot undisturbed buffer, whereas roughly 147 square feet is within the State’s 25-foot buffer. The City Engineer has determined that the encroachment into the City’s stream buffer is considered minor and is thus exempt from

the City's remediation requirements. In correspondence with the State's Environmental Protection Division (EPD), a Consent Order may be required, which has been added as a stipulation to the variance application.

Due to the existing stream buffers encumbering the entirety of the rear yard and the existing home, 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. 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 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 variance with the following conditions:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.
2. A determination by the Georgia Environmental Protection Division shall be made as to whether mitigation will be required for encroachment into the State's 25-foot stream buffer prior to issuance of the building permit.

Figure - 1

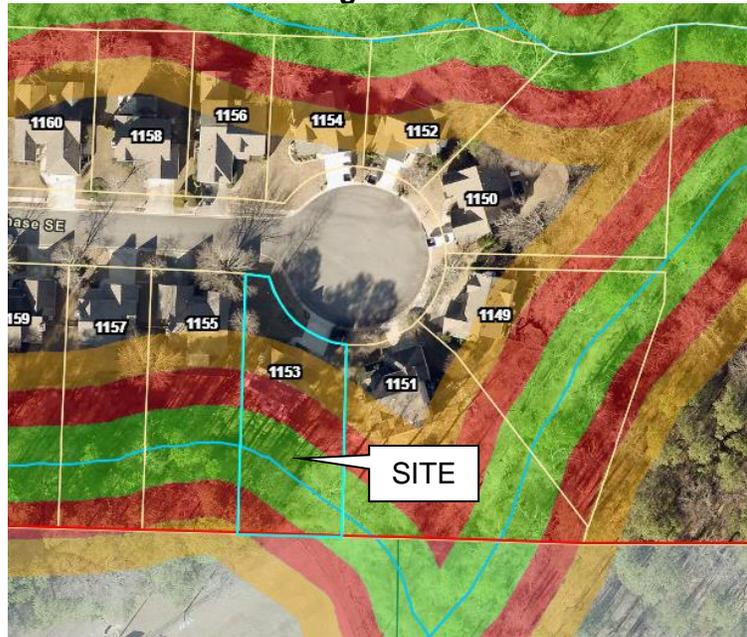


Figure - 2
Site Plan



Figure – 3
Subject Property



Figure – 4
Adjacent Property to the West

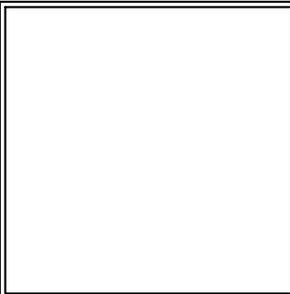


Figure – 5
Adjacent Property to the East



Figure – 5
Adjacent Property across Rhyne Chase





LEGEND

- RL DENOTES BUILDING LINE
- RL/W DENOTES PROPERTY LINE
- C DENOTES CENTERLINE
- BC DENOTES BACK OF CURB
- G DENOTES GUTTER
- EP DENOTES EDGE OF PAVING
- TW DENOTES TOP OF WALL
- BW DENOTES BOTTOM OF WALL
- X-X DENOTES FENCE
- RCP DENOTES REINFORCED CONCRETE PIPE
- CMP DENOTES CORRUGATED METAL PIPE
- PP DENOTES POWER POLE
- LP DENOTES LIGHT POLE
- GW DENOTES GUY WIRE
- P-P DENOTES POWER LINE
- PM DENOTES POWER METER
- PB DENOTES POWER BOX
- FO DENOTES FIBER OPTIC
- A/C DENOTES AIR CONDITION
- CB DENOTES CABLE BOX
- TB DENOTES TELEPHONE BOX
- GM DENOTES GAS METER
- GV DENOTES GAS VALVE
- GLM DENOTES GAS LINE MARKER
- WM DENOTES WATER METER
- WV DENOTES WATER VALVE
- FH DENOTES FIRE HYDRANT
- MW DENOTES MONITORING WELL
- HW DENOTES HEADWALL
- JB DENOTES JUNCTION BOX
- DI DENOTES DROP INLET
- S-S DENOTES SANITARY SEWER LINE
- SSMH DENOTES SANITARY SEWER MANHOLE
- CO DENOTES CLEAN OUT
- P.O.B. DENOTES POINT OF BEGINNING
- P.O.C. DENOTES POINT OF COMMENCEMENT

SURVEY NOTES

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES. UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. PLEASE CALL ALL LOCAL UTILITY PROVIDERS AND OR 811 FOR FURTHER INFORMATION.
2. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT A CURRENT TITLE SEARCH MAY DISCLOSE. FOR NEW PERMITS THE LOCAL ISSUING AUTHORITY MAY REQUIRE ADDITIONAL EASEMENTS NOT SHOWN.
3. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS RECERTIFICATION OF THE SURVEYOR NAMING SUCH PERSON, PERSONS OR ENTITY.
4. THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS GATHERED BY AN OPEN TRAVERSE AND HAS A CALCULATED POSITIONAL TOLERANCE OF 0.03 FEET. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 112,593 FEET. A GEOMAX ZOOM 90 SERIES ROBOTIC TOTAL STATION WITH CARLSON SURVEY 2 DATA COLLECTOR WERE USED IN THE COLLECTION OF FIELD DATA.
5. BASIS OF BEARINGS: PLAT BOOK 172 PAGE 30.
6. THIS PROPERTY IS SUBJECT TO CURRENT ZONING REGULATIONS AND RESTRICTIONS.
7. ALL REBARS SET ARE 1/2" REBARS UNLESS OTHERWISE NOTED.
8. THE EXISTENCE, SIZE, AND LOCATION OF IMPERVIOUS BUFFERS ARE SUBJECT TO FINAL DETERMINATION BY THE LOCAL ISSUING AUTHORITY, CITY, OR COUNTY.



REFERENCE MATERIAL

1. WARRANTY DEED IN FAVOR OF ROSALYN A SHEPHERD AND STERLING A SHEPHERD, III DEED BOOK 11303 PAGE 12 COBB COUNTY, GEORGIA

ZONING INFORMATION

CITY OF SMYRNA - RDA
 MINIMUM LOT AREA: 7,260 SQUARE FEET
 MINIMUM LOT WIDTH: 50 FEET
 MAXIMUM LOT COVERAGE: 45 PERCENT
 MINIMUM FRONT SETBACK: 25 FEET
 MINIMUM SIDE SETBACK: 5 FEET
 MINIMUM REAR SETBACK: 30 FEET
 MUST BE VERIFIED BY CITY OF SMYRNA PRIOR TO CONSTRUCTION.

FLOOD NOTE

THIS PROPERTY IS LOCATED IN A FEDERAL FLOOD AREA AS INDICATED BY F.I.R.M. OFFICIAL FLOOD HAZARD MAPS. COMMUNITY PANEL NO. 13067C0207J ZONE "AE" EFFECTIVE DATE: OCTOBER 5, 2018 COBB COUNTY, GEORGIA
 THE FLOOD INFORMATION ON THIS PLAT HAS BEEN DETERMINED AFTER REVIEW OF MAPS WHICH ONLY APPROXIMATE THE LOCATION OF THE APPLICABLE FLOOD HAZARD AREA. FOR MORE ACCURATE INFORMATION, A SECOND OPINION OF THE APPLICABLE FLOOD HAZARD AREA IS RECOMMENDED. FOR FURTHER INFORMATION CONTACT THE LOCAL DRAINAGE DEPARTMENT, CORPS OF ENGINEERS, AN INSURANCE COMPANY OR APPRAISER.

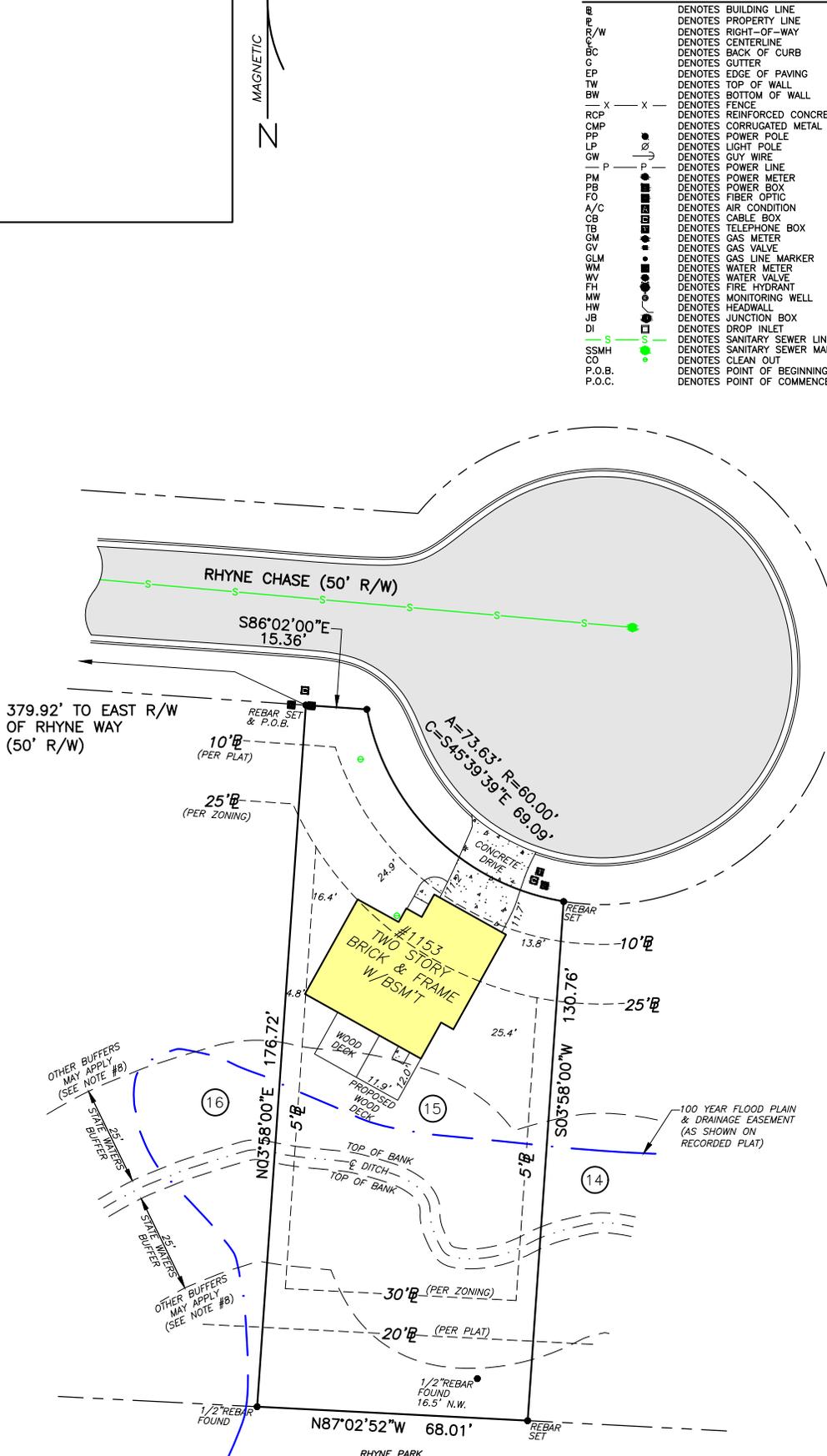


Michael R. Noles
 Georgia RLS #2646
 Member SAMSOG

SURVEYOR'S CERTIFICATE

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Regulation for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

Michael R. Noles
 Michael R. Noles Georgia RLS No. 2646 7-6-22



REVISIONS	DATE
1 PROPOSED WOOD DECK	5-7-24



McClung Surveying Services, Inc.
 4833 South Cobb Drive Suite 200
 Smyrna, Georgia 30080 (770) 434-3383
 www.mcclungsurveying.com Certificate of Authorization #LSF000752

SURVEY FOR
 ROSALYN SHEPHERD
 STERLING SHEPHERD

1153 RHYNE CHASE S.E.
 SMYRNA, GEORGIA
 TOTAL AREA= 0.236± ACRES
 OR 10,284± SQ. FT.

LOT 15
 PACES SPRINGS
 (F.K.A. RHYNEWOOD)
 LAND LOT 530
 17TH DISTRICT 2ND SECTION
 COBB COUNTY, GEORGIA
 PLAT PREPARED: 7-6-22
 FIELD: 6-30-22 SCALE: 1"=20'
 PB 172 PG. 30
 JOB#259189

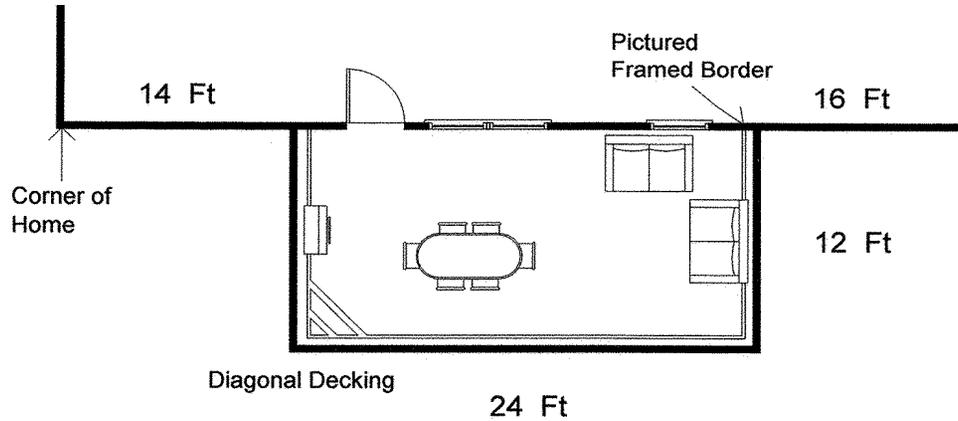


Rosalyn & Sterling Shepperd

1153 Rhyne Chase
Smyrna, GA 30082

1st Drawing

Deck 12' x 24' = 288 Sq ft
Free-Standing Deck

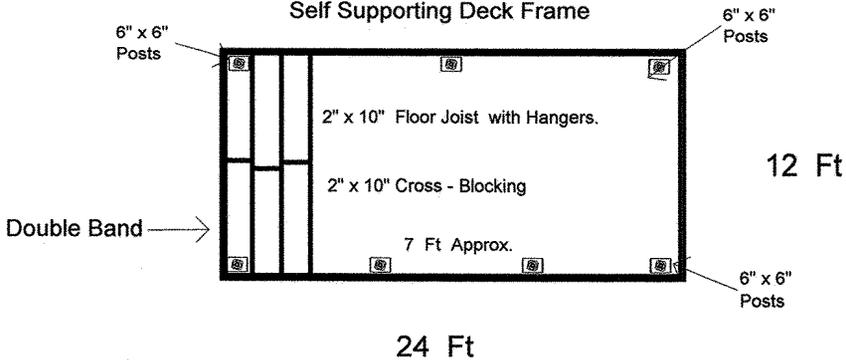


Materials List

- 6"x6" Main Supports #1 Grade Lumber
- 2"x10" Floor joists With Joist hangers Spaced 12" O. C.
- Pictured Framed Border
- 5/4"x6" MoistureShield Composite Decking
- Fortress Alum. Rails
- Double 2" x 10" Band at Perimeter of the Deck.

Framing Detail

2 x 10 Floor Joists 12" On Center
Self Supporting Deck Frame

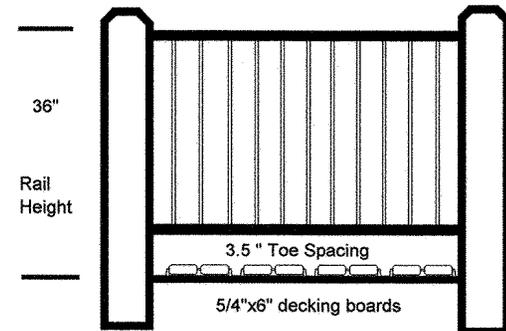


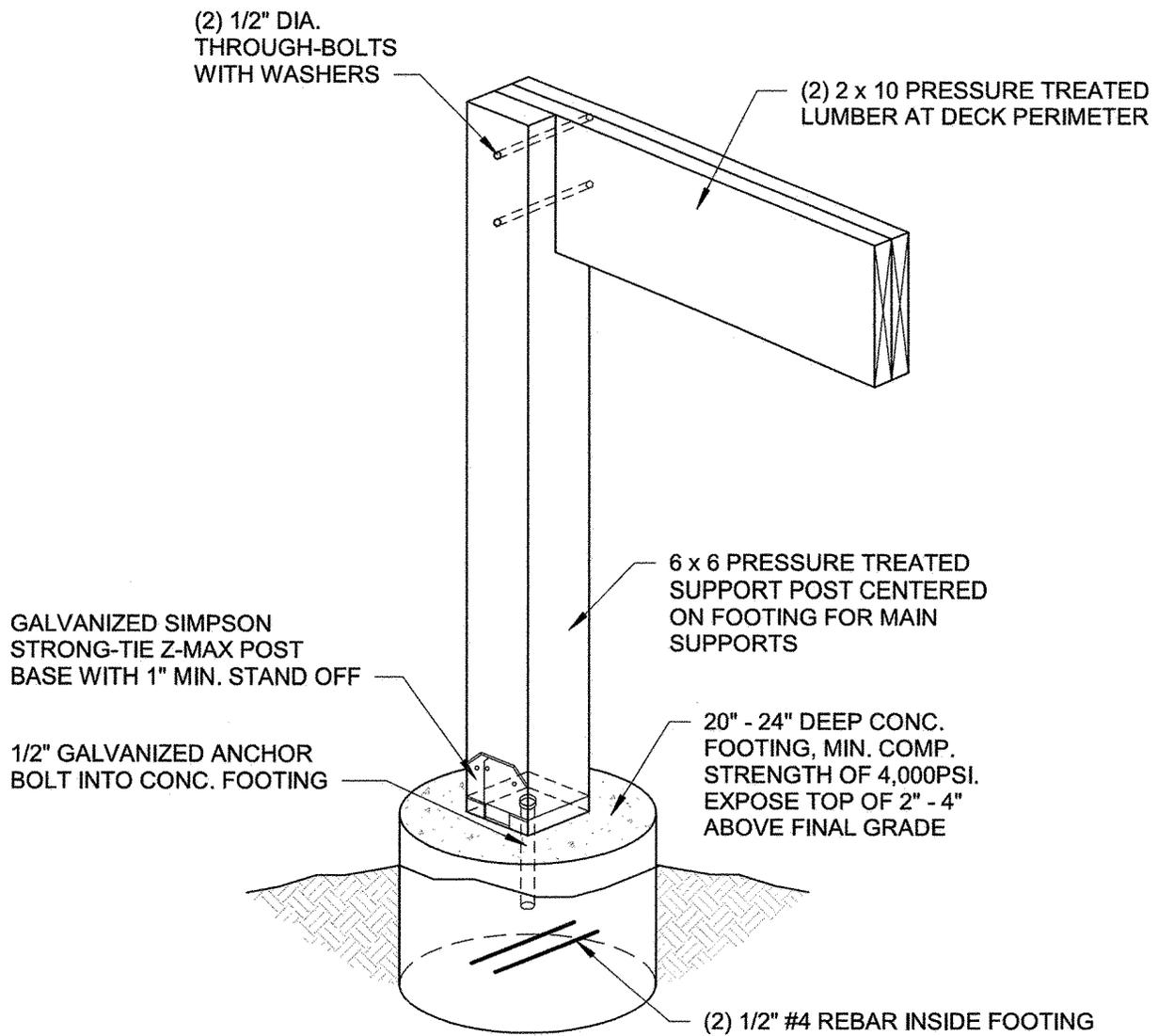
Decks and More, Inc

Frank Pologruto
770-235-6929

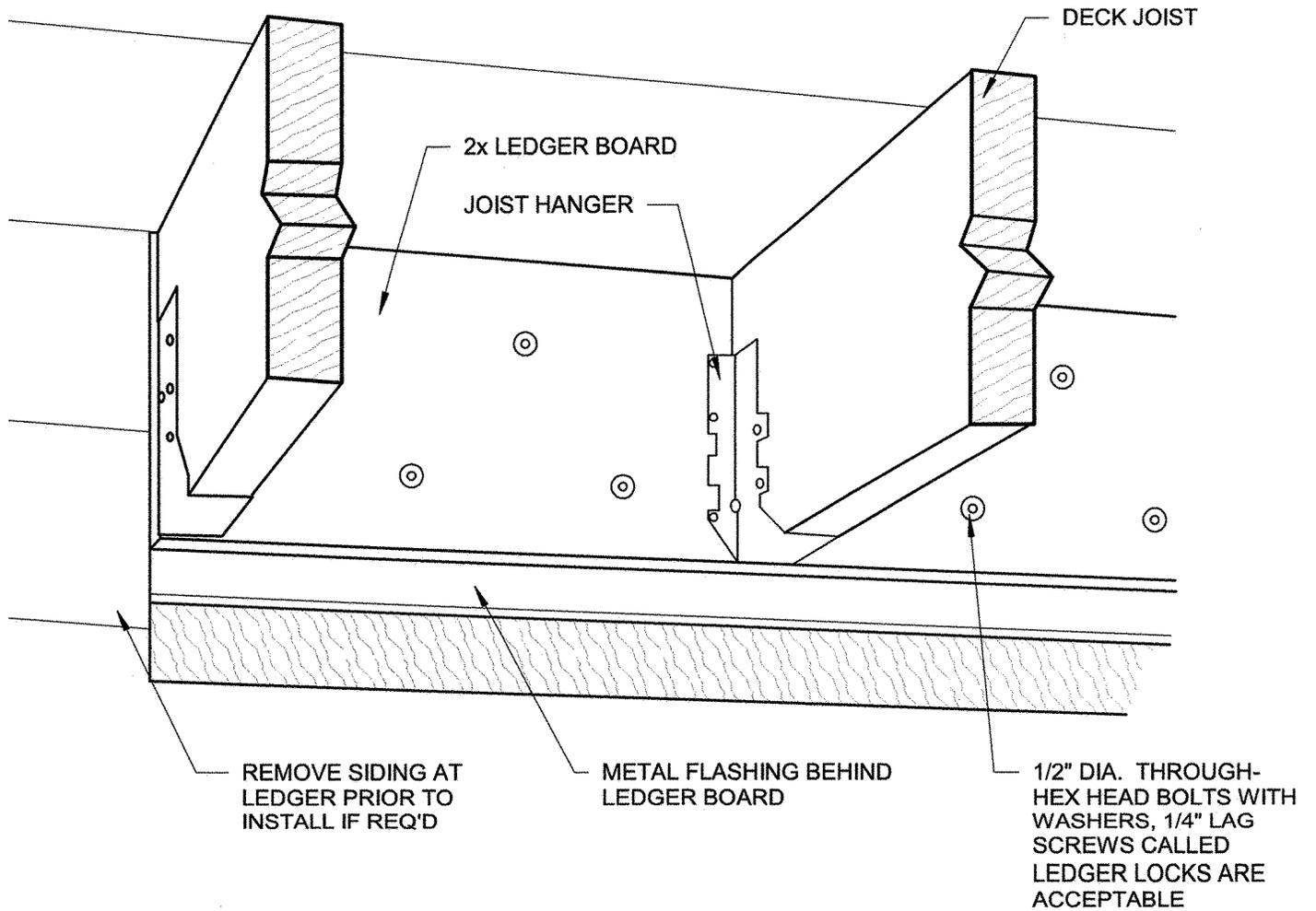
Handrail Detail

Fortress Black Aluminum Rails
3.5" Spacing between rails / balusters

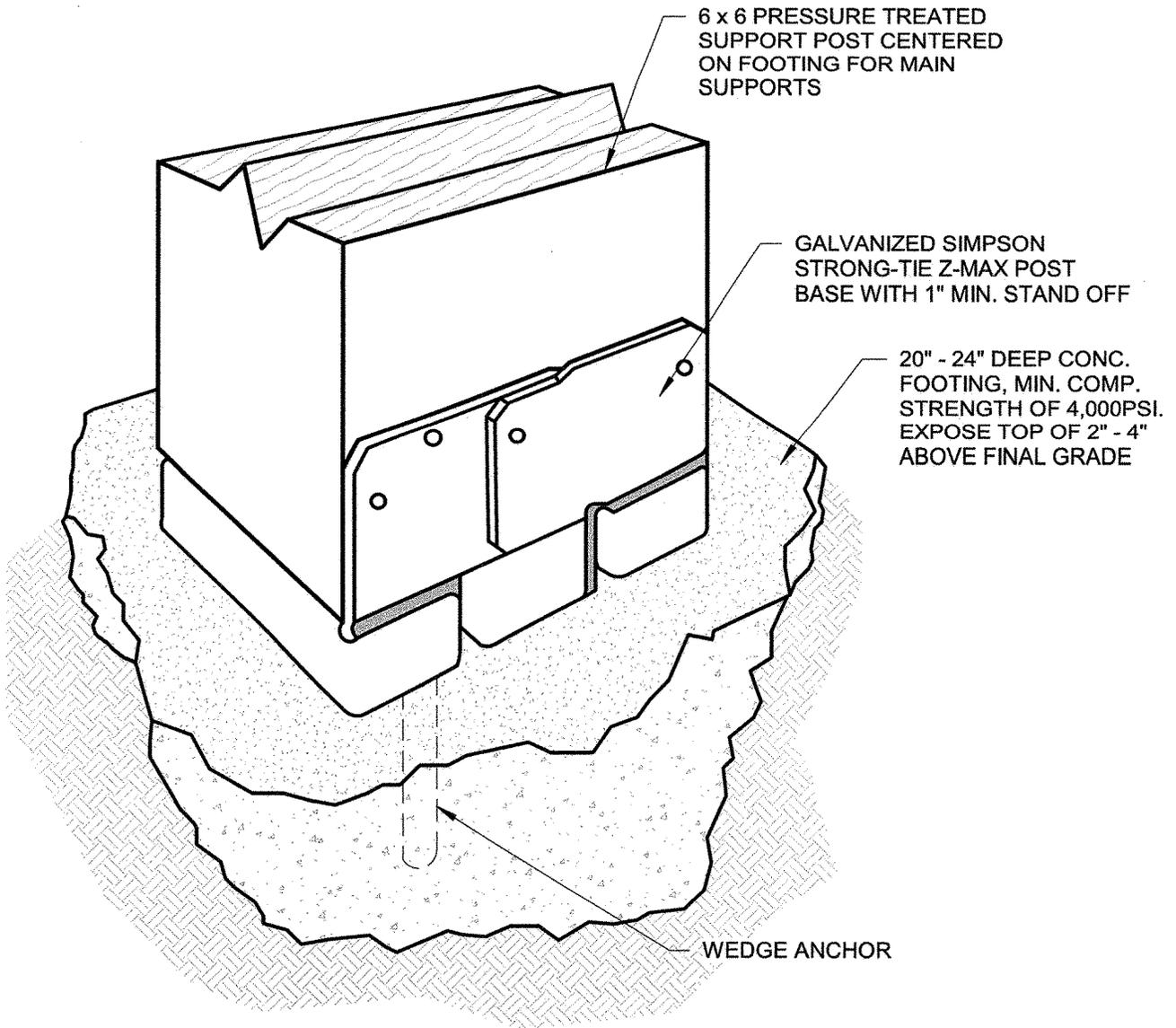




FOOTING AND BEAM CONNECTIONS



LEDGER CONNECTION DETAIL



FOOTING DETAIL

Variance Application**VAR-24-38**

Submitted On: May 16, 2024

Applicant

👤 Frank Pologruto
☎ 7702356929
@ frank1deck@gmail.com

Primary Location

1153 RHYNE CHASE SE
SMYRNA, GA 30082

Applicant Information**First Name**

Frank

Last Name

Pologruto

Street Address

1153 Rhyne chase

City

Smyrna

State

GA

Zip Code

30080

Email

frank1deck@gmail.com

Phone Number

770-235-6929

Are you the titleholder of the subject property?

No

Titleholder Information**Full Name (i.e., First and Last Name, or Name of Entity)**

Sterling & Rosalyn Sheppherd

Street Address

1153 Rhyne Chase

City

Smyrna

State

GA

Zip Code

30080

Email Address

rozshepp77@gmail.com

Phone Number

770-880-7949

Property Information**Property Address**

1153 Rhyne Chase Smyrna, GA 30080

Description of Requested Variances

the existng deck was built with the original home in 1998. We are simply requesting to remove the old deck and replace and build a new deck 12 ft x 24 ft. We are 83 feet form the rear property line and the total allowable Impervious surface 45 % = We currently at 32 % total Impervious surface.

we are encroaching the state water buffer by 6ft - 9ft

Please check the box below if the requested variance(s) includes an increase in the maximum impervious surface area or an encroachment into a City stream buffer.

false

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.

the existng deck was built with the original home in 1998. We are simply requesting to remove the old deck and replace and build a new deck 12 ft x 24 ft. We are 83 feet form the rear property line and the total allowable Impervious surface 45 % = We currently at 32 % total Impervious surface.

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



PROPERTY OWNER AUTHORIZATION

City of Smyrna Community Development Department, 3180 Atlanta Rd, Smyrna, GA 30080
Office Phone 770-319-5387 / Fax 770-431-2808

I, STERLING Sheppard, swear that I am the Property Owner of the property

located at: 1153 RHYNE CHASE Smyrna, GA 30082

as shown in the records of Cobb County, Georgia, which is the subject matter of the attached application.

I authorize the person named below to act as the applicant in pursuit of this application.

Name of Applicant (print clearly): STERLING Sheppard

Address: 1153 RHYNE CHASE Smyrna, GA 30082

Telephone: 770-712-0805 Email: ROZShepp77@gmail.com

I have read, understood, and answered the aforementioned items to the best of my knowledge. If I am found to have misrepresented myself on this affidavit or the attached application, I am aware I may be in violation of the City Code and run the risk of being issued a citation for violation of the City of Smyrna Code of Ordinances.

(Must be signed by the property owner. If the landowner is a corporation, the form must be signed by an officer of the corporation.)

STERLING Sheppard
Signature of Property Owner

1153 RHYNE CHASE
Address

STERLING Sheppard
Name of Property Owner (print clearly)

SMYRNA, GA 30082
City, State, Zip

POSTAL SERVICE

CONCORD SQUARE
 1315 S COBB DR SE STE 700
 SMYRNA, GA 30080-9597
 (800)275-8777

05/10/2024 12:58 PM

Product Qty Unit Price

First-Class Mail® 1 \$4.40
 Letter
 Marietta, GA 30090
 Weight: 0 lb 0.40 oz
 Estimated Delivery Date
 Wed 05/15/2024
 Certified Mail® \$4.40
 Tracking #:
 9589 0710 5270 0705 4312 00

Total \$5.00

First-Class Mail® 1 \$4.40
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 Certified Mail® \$4.40
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 9589 0710 5270 0705 4312 00

Total \$5.00

First-Class Mail® 1 \$4.40
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Total \$5.00

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 Wed 05/15/2024
 Certified Mail® \$4.40
 Tracking #:
 9589 0710 5270 0705 4312 00

Total \$5.00

Grand Total \$30.00

Debit Card Remit \$30.00
 Card Name: VISA
 Account #: XXXXXXXXXXXXXXX
 Approval #: 059900
 Transaction #: 1476

JAMES MALONE
 1151 RHYNE CHASE
 SMYRNA, GA 30082

1154 RHYNE CHASE
 SMYRNA, GA 30082

1155 RHYNE CHASE
 SMYRNA GA 30082

1156 RHYNE CHASE
 SMYRNA, GA 30082

COBB COUNTY PARKS + REC
 4145 King's Springs Road
 MARIETTA GA 30091-9611

1153 RHYNE CHASE
 SMYRNA GA 30082

City of Smyrna



Parcel Find

PARCEL: 17-0530-0-0180
 LOCATION: ** MULTIPLE **
 NAME: ** VARIOUS **

EFF DATE: 05/06/2024

YEAR	CAT	BILL #	SC REFERENCE	BILLED/ADJ	UNPAID BAL	DUE NOW
2023	RE-R	15716	N 1153 RHYNE CHSE	577.16	0.00	0.00
2021	RE-R	15463	N 1153 RHYNE CHSE	577.16	0.00	0.00
2021	RE-R	15198	N 1153 RHYNE CHSE	577.16	0.00	0.00
2020	RE-R	15085	N 1153 RHYNE CHSE	535.16	0.00	0.00
2019	RE-R	15010	N 1153 RHYNE CHSE	535.16	0.00	0.00
2018	RE-R	14869	N 1153 RHYNE CHSE	535.16	0.00	0.00
2017	RE-R	14814	N 1153 RHYNE CHSE	535.16	0.00	0.00
2016	RE-R	14475	N 1153 RHYNE CHSE	535.16	0.00	0.00
2015	RE-R	14368	N 1153 RHYNE CHSE	535.16	0.00	0.00
2014	RE-R	14313	N 1153 RHYNE CHSE	535.16	0.00	0.00
2013	RE-R	14117	N 1153 RHYNE CHSE	535.16	0.00	0.00
2012	RE-R	1153472	N 1153 RHYNE CHSE	535.16	0.00	0.00
2011	RE-R	1135895	N 1153 RHYNE CHSE	535.16	0.00	0.00
2010	RE-R	1118339	N 1153 RHYNE CHSE	535.16	0.00	0.00
2009	RE-R	1100842	N 1153 RHYNE CHSE	535.16	0.00	0.00
2008	RE-R	1083473	N 1153 RHYNE CHSE	535.16	0.00	0.00
2007	RE-R	1065970	N 1153 RHYNE CHSE	463.24	0.00	0.00
2006	RE-R	1048991	N 1153 RHYNE CHSE	472.51	0.00	0.00
2005	RE-R	1032915	N 1153 RHYNE CHSE	493.12	0.00	0.00
2004	RE-R	1017195	N 1153 RHYNE CHSE	497.25	0.00	0.00
2003	RE-R	1001977	N 1153 RHYNE CHSE	499.82	0.00	0.00

TOTAL DUE NOW 0.00
 TOTAL UNPAID 0.00

** END OF REPORT - Generated by Mike Hickenbottom **

All Taxes are paid in Full. Lobb's are paid in Full Also.

5-6-24

Mich Nubutee



2800 King Street
 Smyrna GA 30080

Michael D. Hickenbottom, CFO
 Accounting Coordinator
 678-631-5325
 mhickenbottom@smyrnaga.gov

www.SmyrnaGa.gov
 www.facebook.com/CityofSmyrnaGA
 www.twitter.com/SmyrnaNews

