



## 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 stream 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

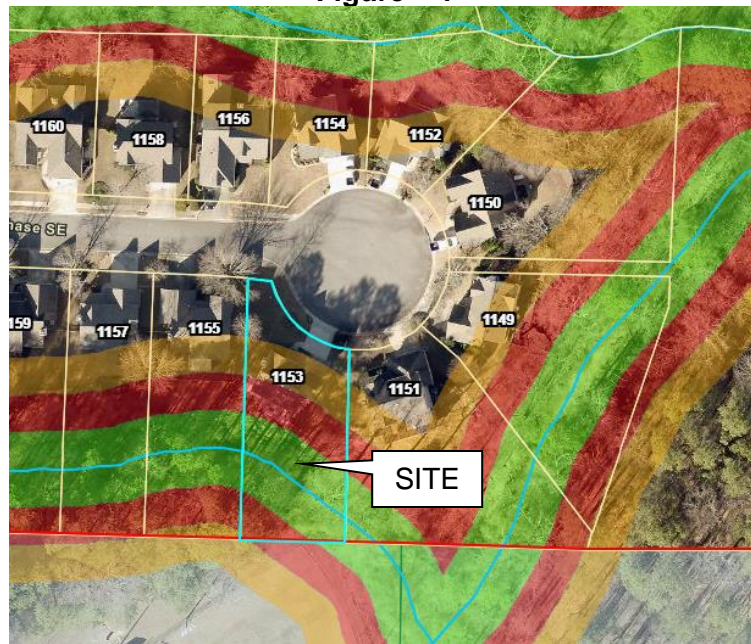


Figure – 2  
Site Plan





**Figure – 3**  
**Subject Property**



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



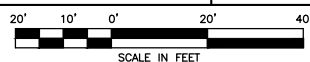


**Figure – 5**  
**Adjacent Property to the East**



**Figure – 5**  
**Adjacent Property across Rhyne Chase**

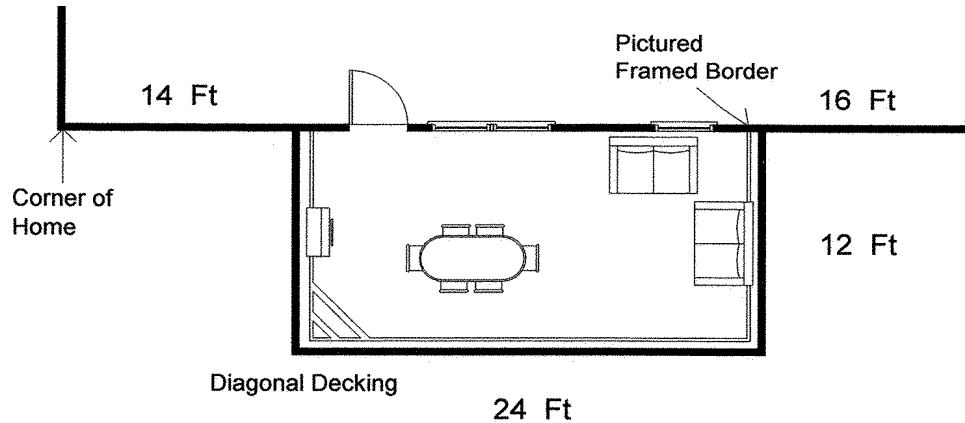






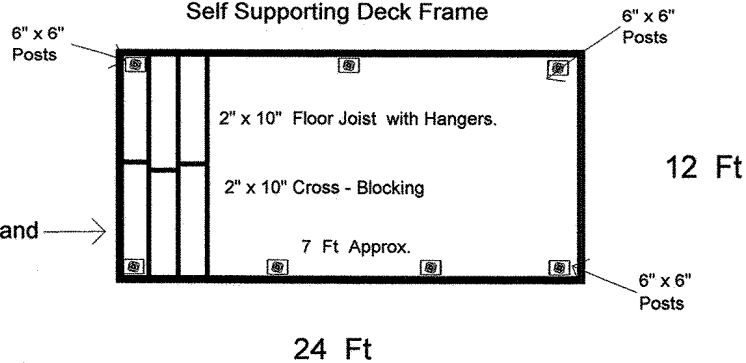
## Rosalyn & Sterling Shepperd

1153 Rhyne Chase  
Smyrna, GA 30082



### Framing Detail

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



Decks and More, Inc

Frank Pologruto  
770-235-6929

### 1st Drawing

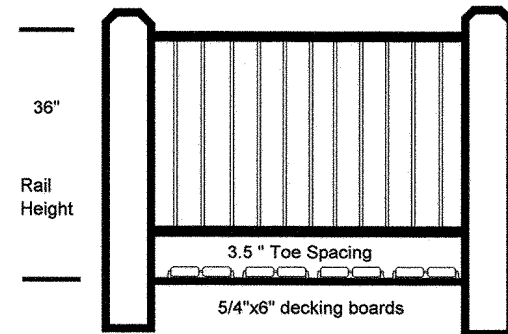
Deck 12' x 24' = 288 Sq ft  
Free-Standing Deck

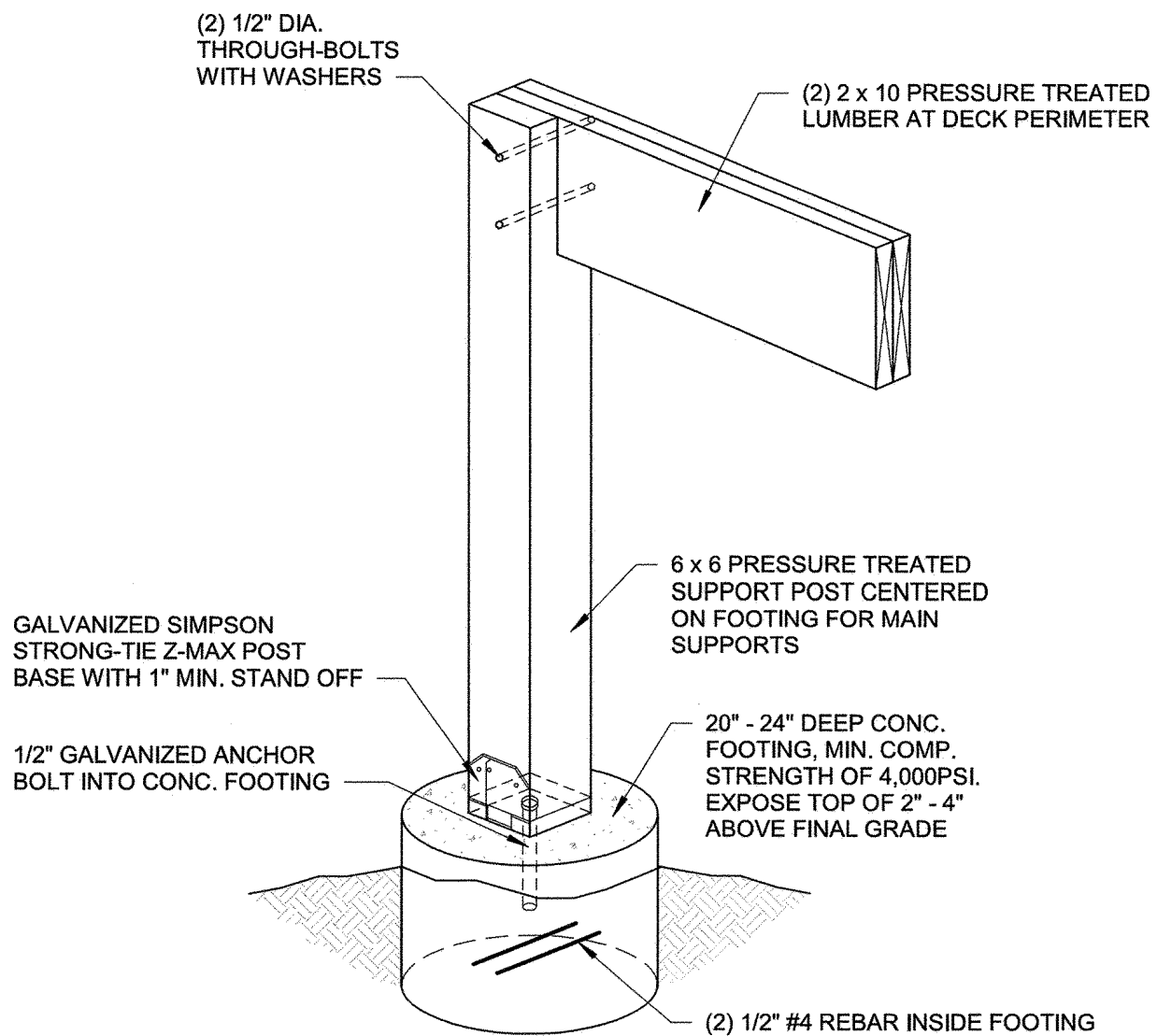
### Materials List

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.

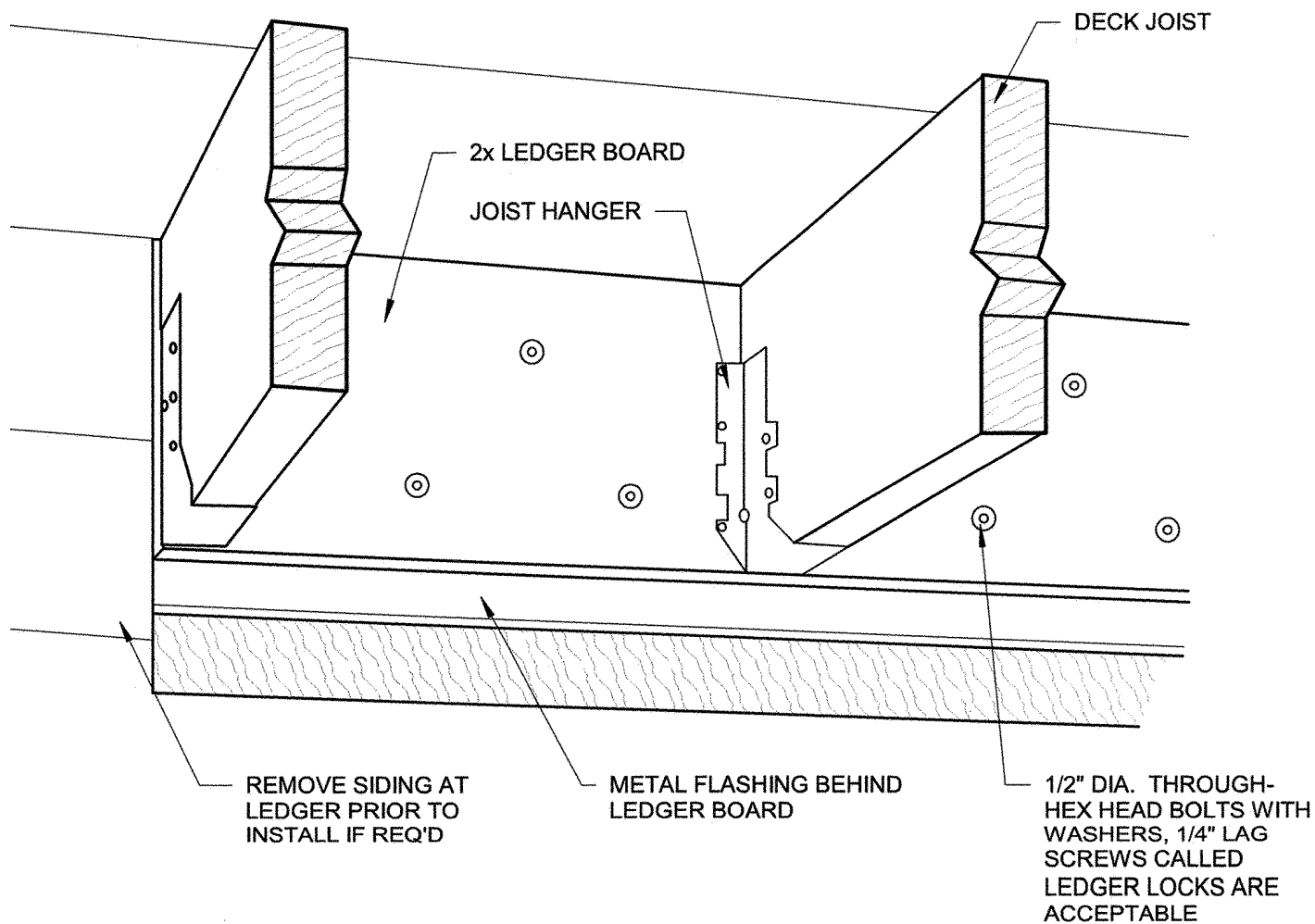
### Handrail Detail

Fortress Black Aluminum Rails  
3.5" Spacing between rails / balusters

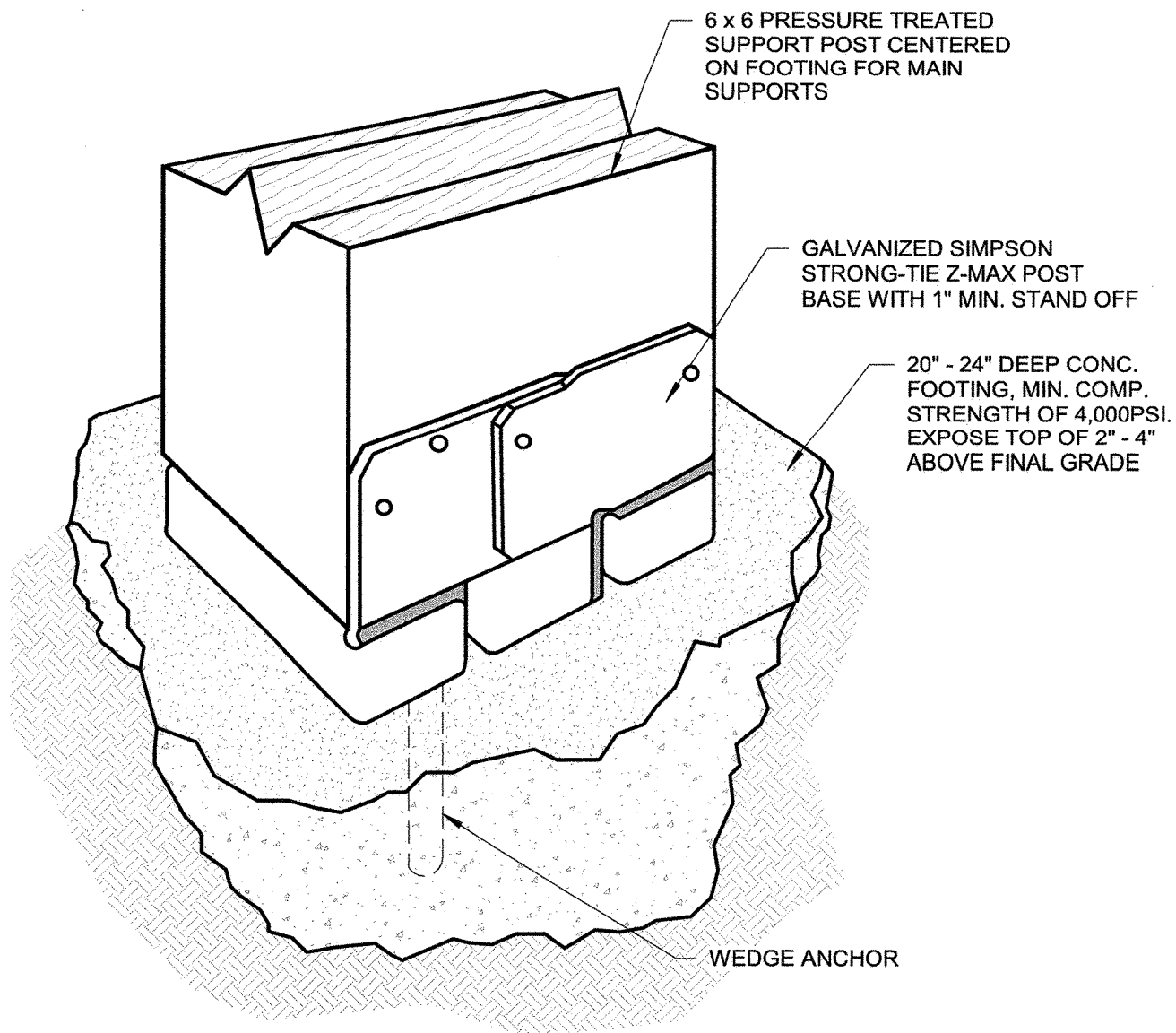




## FOOTING AND BEAM CONNECTIONS



## 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 12:59 PM

Product	Qty	Unit Price	Total
---------	-----	------------	-------

First-Class Mail® Letter	1		\$4.40
--------------------------	---	--	--------

Marietta, GA 30090  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date:  
Wed 05/15/2024

Certified Mail®  
Tracking #:  
9589 0710 5270 0705 4312 43

Total			\$5.06
-------	--	--	--------

First-Class Mail® Letter	1		\$4.40
--------------------------	---	--	--------

Smyrna, GA 30082  
Weight: 0 lb 0.50 oz  
Estimated Delivery Date:  
Wed 05/15/2024

Certified Mail®  
Tracking #:  
9589 0710 5270 0705 4312 43

Total			\$5.06
-------	--	--	--------

First-Class Mail® Letter	1		\$4.40
--------------------------	---	--	--------

Smyrna, GA 30082  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date:  
Wed 05/15/2024

Certified Mail®  
Tracking #:  
9589 0710 5270 0705 4312 43

Total			\$5.06
-------	--	--	--------

First-Class Mail® Letter	1		\$4.40
--------------------------	---	--	--------

Smyrna, GA 30082  
Weight: 0 lb 0.50 oz  
Estimated Delivery Date:  
Wed 05/15/2024

Certified Mail®  
Tracking #:  
9589 0710 5270 0705 4312 43

Total			\$5.06
-------	--	--	--------

First-Class Mail® Letter	1		\$4.40
--------------------------	---	--	--------

Smyrna, GA 30082  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date:  
Wed 05/15/2024

Certified Mail®  
Tracking #:  
9589 0710 5270 0705 4312 43

Total			\$5.06
-------	--	--	--------

First-Class Mail® Letter	1		\$4.40
--------------------------	---	--	--------

Smyrna, GA 30082  
Weight: 0 lb 0.40 oz  
Estimated Delivery Date:  
Wed 05/15/2024

Certified Mail®  
Tracking #:  
9589 0710 5270 0705 4312 43

Total			\$5.06
-------	--	--	--------

Grand Total			\$16.46
-------------	--	--	---------

Debit Card Refit			\$10.45
------------------	--	--	---------

Card Name: VISA  
Account #: XXXXXXXXXXXXXXX  
Approval #: 059900  
Transaction #: 1416

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
2022	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	463.24	0.00	0.00
2005	RE-R	1032915	N	1153 RHYNE CHSE	472.51	0.00	0.00
2004	RE-R	1017195	N	1153 RHYNE CHSE	493.12	0.00	0.00
2003	RE-R	1001977	N	1153 RHYNE CHSE	497.25	0.00	0.00
					499.82	0.00	0.00
TOTAL DUE NOW					0.00	0.00	0.00
TOTAL UNPAID					0.00	0.00	0.00

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

*ALL Taxes are paid in Full. Lobby's are paid in Full Also.*

*Mich Hickenbottom 5-6-24*

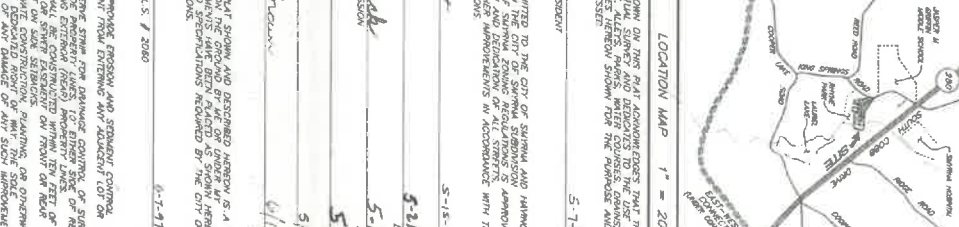


Michael D. Hickenbottom, CFO  
Accounting Coordinator  
678-631-5325  
mhickenbottom@smyrnaga.gov

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

LOCATED IN L.L. 530 & 51  
20TH DISTRICT, 2ND SECTION  
CITY OF  
F.K.A. (HINEMWOOD)  
**PACES SPRINGS**  
SOUTHERN PLANT OF  
100' 120'  
7'

HAS BEEN QUIT CLAIMED BY \_\_\_\_\_ PAGE \_\_\_\_\_



1