



License and Variance Board Meeting - Final

September 11, 2024
10:00 AM

D. V24-069 Public Hearing - Variance Request – V24-069 - Allow rear setback reduction from 20 feet to 16 feet - Land Lot 487 - 0.70 acres - 3028 Trae Court - Ari Kowalsky



City of Smyrna

Issue Sheet

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

File Number: V24-127

Agenda Date: 9/11/2024

In Control: .

File Type: Variance Item

Agenda Section:

Formal Business

Department: Community Development

Agenda Title:

Public Hearing - V24-069 - Allow rear setback reduction from 20 feet to 16 feet - Land Lot 487 - 0.70 acres - 3028 Trae Court - Ari Kowalsky

Ward 3 Councilmember - Travis Lindley

ISSUE AND BACKGROUND:

The applicant is requesting a variance to reduce the rear setback from 20 feet to 16 feet to build a deck on the rear of 3028 Trae Court. The subject property was approved in 2020 (zoning case Z20-004) with conditions, one of which required a rear setback of 20 feet.

RECOMMENDATION / REQUESTED ACTION:

The applicant is requesting to deviate from the development standards established by zoning case Z20-004 for the rear setback of 20 feet to erect a deck on the rear of a new home in the Trae Court subdivision. 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 encroachments will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

1. Approval is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.
2. An Engineer's Letter with a detail showing the depth of the sanitary sewer pipe and its zone of influence in relation to the house foundation shall be submitted prior to building permit issuance.
3. An as-built survey shall be submitted to Community Development prior to the foundation pour inspection.
4. Survey stakes must be installed to reflect the edge of the sanitary sewer easement and must be



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maintained throughout construction.

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

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

Date: August 29, 2024

RE: VARIANCE CASE V24-069
3028 Trae Court – Reduce the rear setback from 20 feet to 16 feet

BACKGROUND

The applicant is requesting a variance to reduce the rear setback from 20 feet to 16 feet to build a deck on the rear of 3028 Trae Court. The subject property was approved in 2020 (zoning case Z20-004) with conditions, one of which required a rear setback of 20 feet.

ANALYSIS

The subject parcel is located on the south side of the Trae Court cul-de-sac (see Figure 1). The subject parcel and adjacent parcels to the north and west are zoned RM-10-C and are within the Trae Court subdivision, all of which will be occupied with detached single-family homes. The adjacent parcel to the east is zoned R-15 and is also occupied by a detached single-family home. The adjacent property to the south is zoned RHR and is occupied by the Mitchell's Park apartment complex.

The subject property has a 20-foot sanitary sewer easement on the western side of the property and a 12-foot drainage easement and 10-foot landscape buffer in the rear. Due to the reduced buildable area, the proposed home footprint nearly touches all required setbacks while still maintaining the 22-foot minimum driveway. Each home in the subdivision has either a deck or patio in the rear for an outdoor amenity. Of the eight permitted homes thus far (out of eleven in the subdivision), the average patio size is 182 square feet, with the smallest patio being 160 square feet due to its location on the corner of Trae Court and Church Street. Since patios that are flush to the ground are not required to meet building setbacks, each previously permitted patio has been almost fully in the rear setback. Due to the topography in the rear of the subject property, a patio would not have been feasible. To maintain a consistent product throughout the subdivision, the applicant has requested a rear setback reduction of 4 feet to build a 136 square foot deck on the rear of the house on both the first and second floor. If the home were to be shifted north to provide more room for a deck, two additional variances would have been required to reduce the driveway length and reduce the front setback. Thus, to reduce the scope and number of variances, the applicant has requested the rear setback reduction.

The foundation of the home is touching the sanitary sewer easement. The Public Works Assistant Director and Chief Building Official have both reviewed the application and can support the

request with the stipulation that an Engineer's Letter be provided to ensure that if the full 20-foot sanitary sewer easement was used, the foundation of the house would not be compromised.

Community Development believes that the encroachment will not adversely affect the surrounding residents, as the nearest structure at the Mitchell Park apartments is over 50 feet away and across a private roadway. With a 4-foot encroachment on the rear of home at the back of the subdivision, the requested variance for the encroachment will not be noticeable to the general public. At the time of this report, Community Development has not received any calls in opposition to the request.

STAFF COMMENTS

The applicant is requesting to deviate from the development standards established by zoning case Z20-004 for the rear setback of 20 feet to erect a deck on the rear of a new home in the Trae Court subdivision. 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 encroachments will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following condition:

1. Approval is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.
2. An Engineer's Letter with a detail showing the depth of the sanitary sewer pipe and its zone of influence in relation to the house foundation shall be submitted prior to building permit issuance.
3. An as-built survey shall be submitted to Community Development prior to the foundation pour inspection.
4. Survey stakes must be installed to reflect the edge of the sanitary sewer easement and must be maintained throughout construction.

Figure – 1



Figure – 2
Site Plan

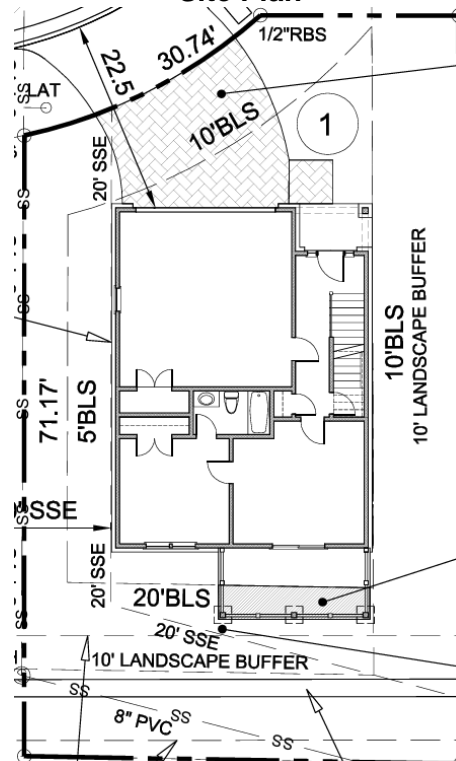


Figure – 2
Front Elevation



Figure – 3
Subject Property



Figure – 4
Adjacent Property to the West

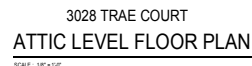
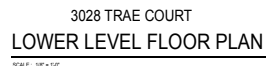


Figure – 5
Adjacent Property to the East

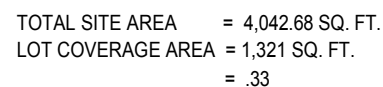


Figure – 6
Adjacent Property across Trae Court





HOUSE AREA SUMMARY	
MAIN LEVEL	= 647 sf
UPPER LEVEL	= 1,022 sf
ATTIC LEVEL	= 811 sf
LOWER LEVEL	= 579 sf
<hr/>	
TOTAL HEATED AREA	= 3,059 sf
<hr/>	
GARAGE	= 443 sf
FRONT PORCH	= 42 sf
DECKS	= 408 sf
UTILITY	= 22 sf



3028 TRAE COURT
SITE PLAN
SCALE: 1" = 10'-0"

LAND LOT : 487
DISTRICT : 17
ZONING : RM-10 (CONDITION)

[illegible]

These Drawings Are
Instruments of Service
and Are The Property
of The Architect.
These Drawings May Not
Be Reproduced or Used
Without His Expressed
Written Permission.

David E. Surface - Architect, P.C.
936 Besse Way
Locust Grove, Georgia 30248
Phone: 678-414-4330
E-Mail: desarch@bellsouth.net



SEAL

PROJECT TITLE
SPECULATIVE RESIDENCE
3028 TRAE COURT
LOT 1
SMYRNA, GEORGIA 30080
for
ARI KOWALSKI



JOB NO. 22-10-L1	DATE 8-23-24
SHEET TITLE SITE PLAN, FLOOR PLANS & FRONT ELEVATION	
SHEET NO. A-1	OF 1 SHEETS

Variance Application

VAR-24-52

Submitted On: Aug 5, 2024

Applicant

 Ari Kowalsky
 4046615482
@ arijay@bellsouth.net

Primary Location

3028 TRAE CT SE
SMYRNA, GA 30080

Applicant Information

First Name

Ari

Last Name

Kowalsky

Street Address

840 Monroe Circle NE, Unit B

City

Atlanta

State

GA

Zip Code

30308

Email

arijay@bellsouth.net

Phone Number

404-661-5482

Are you the titleholder of the subject property?

No

Titleholder Information

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

Trae Court Development LLC

Street Address

840 Monroe Circle NE, Unit B

City

Atlanta

State

GA

Zip Code

30308

Email Address

arijay@bellsouth.net

Phone Number

404-661-5482

Property Information

Property Address

3028 Trae Court SE, Smyrna GA 30080

Description of Requested Variances

To allow rear deck of proposed residence to encroach rear building setback by 6'

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.

--

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 zoning calls for a 22' driveway and 2 car garage facing the street. Since the lot is very narrow and limited in depth, in addition it falls off sharply at the rear, we are requesting a variance to build the rear deck in the rear setback. Without this variance, it is unlikely for the prospective homeowners to have any usable outdoor space. It should be noted that the existing detention pond close to this lot is positioned further back towards the rear property line as to what the proposed deck would be. It should also be noted that the living space is not big enough to enable us to sacrifice interior usable space to allow for a rear deck. The posts of the proposed deck would be within the private drainage easement, however they would not affect the drainage swell that is required as per the site plan.

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, Ari Kowalsky as Manager Trae Court Developmet LLC, swear that I am the Property Owner of the property

located at: 3028 Trae Court SE, Smyrna, GA 30080

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): Ari Kowalsky

Address: 840 Monroe Cir NE, Unit B, Atlanta GA 30308

Telephone: 4046615482 Email: arijay@bellsouth.net

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.)

Signature of Property Owner

840 Monroe Cir NE, Unit B

Address

Ari Kowalsky as manager

Name of Property Owner (print clearly)

Atlanta, GA 30308

City, State, Zip

**NOTIFICATION OF CONTIGUOUS OCCUPANTS
OR LANDOWNERS**

By signature, it is hereby acknowledged that I have been notified ~~at~~ Trae Court Development LLC

Intends to make an application for a variance for the purpose of _____

Reduce the rear setback

on the premises described in the application.

NAME

ADDRESS

James Scott Fagan

1102 Church St SE Smyrna GA 30080

Received - V. Williams

1119 Medlin St, Smyrna GA 30080

Please have adjacent property owners sign this form to acknowledge they are aware of your variance request. You may also provide certified mail receipts of notification letters sent to adjacent properties. Notification letters shall include a description of the requested variance, the License and Variance Board Meeting date and time, and a copy of the completed variance application. Adjacent and adjoining properties include any property abutting the subject property as well as any properties directly across a street.



**APPLICATION FOR VARIANCE
TO THE CITY OF SMYRNA**

Type or Print Clearly

APPLICANT: Trae Court Development LLC

Representative's Name (print): Ari Kowalsky

Address: P O Box 889083 Atlanta GA 30356

Business Phone: 404-661-5482 Cell Phone: 404-661-5482 Home Phone: _____

E-Mail Address: arijay@bellsouth.net

Signature of Representative: 

TITLEHOLDER: Trae Court Development LLC

Address: P O Box 889083 Atlanta GA 30356

Business Phone: 404-661-5482 Cell Phone: 404-661-5482 Home Phone: _____

Signature: 

VARIANCE:

Present Zoning: RM10 Type of Variance: Reduce the rear setback

Explain Intended Use: Construct a rear deck for proposed new house

Location: 3028 Trae Court SE Smyrna GA 30080 (Lot # 1)

Land Lot(s): 71, 72, 73, 74 District: 17th Size of Tract: 0.092 Acres

CONTIGUOUS ZONING

North: RM10

East: R15

South: Multifamily

West: RAD

**ZONING ORDINANCE
SECTION 1403 VARIANCE REVIEW STANDARDS**

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.

Please include your narrative here, or you may submit a typed narrative as a supplement to this application.

COMPREHENSIVE NARRATIVE

The zoning calls for a 22' driveway and 2 car garage facing the street. Since the lot is very narrow and limited in depth, in addition it falls off sharply at the rear, we are requesting a variance to build the rear deck in the rear setback. Without this variance, it is unlikely for the prospective homeowners to have any usable outdoor space. It should be noted that the existing detention pond close to this lot is positioned further back towards the rear property line as to what the proposed deck would be. It should also be noted that the living space is not big enough to enable us to sacrifice interior usable space to allow for a rear deck. The posts of the proposed deck would be within the private drainage easement, however they would not affect the drainage swell that is required as per the site plan.

Munis Self Service

Real Estate (Your House or Land)

View Bill

As of	8/5/2024
Bill Year	2023
Bill	17630
Owner	TRAE COURT DEVELOPMENT LLC
Parcel ID	17048700460

[View payments/adjustments](#)

Installment	Pay By	Amount	Payments/Credits	Balance	Interest	Due
1	11/15/2023	\$962.47	\$962.47	\$0.00	\$0.00	\$0.00
TOTAL		\$962.47	\$962.47	\$0.00	\$0.00	\$0.00

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