

VARIANCE(S):

V-2022-006

**CITY OF SUWANEE
VARIANCE ANALYSIS**

CASE NUMBER: V-2022-006

REQUESTS: TEMPORARY CHAIN LINK FENCE

APPLICABLE SECTION: SECTION 610. FENCES AND WALLS

LOCATION: 265 B BROGDON ROAD

DISTRICT/LAND LOT: 7-235-118

ZONING: M-1 (LIGHT INDUSTRY DISTRICT)

DEVELOPMENT: EXISTING LANDSCAPE COMPANY

APPLICANT: MULCH-IT, LLC
265 B BROGDON ROAD
SUWANEE, GA 30024

OWNER: JOHN BARRETT
3455 SEXTON WOODS DRIVE
CHAMBLEE, GA

CONTACT: NOEL SESMAS
PHONE: 770-289-1149

RECOMMENDATION: APPROVAL WITH CONDITIONS

ANALYSIS:

The applicant seeks a variance from Section 610 of the City of Suwanee Zoning Ordinance in order to allow for a temporary chain link fence along a public road. The subject property is located at 265 Brogdon Road. The business is a landscape materials business. The business enclosed their property in 6-foot tall chain link fence, including along Brogdon Road. The applicant indicates that they are leasing the subject property for 2 years with the lease set to expire in November of 2023.

Section 610 of the City of Suwanee Zoning Ordinances regulates fences and walls in the City. Section 610 states, "In a yard abutting a public street only decorative fences or walls shall be allowed. No fence or wall within a yard abutting a public street shall be constructed of woven wire or metal fabric (chain-linked, hog wire, barbed wire, or razor wire, etc.)" (pg. 113). The Ordinance also states, "In a yard abutting a public street no fence or wall shall exceed 4 feet in height..." The Ordinance then proceeds to list several exemptions all of which apply only to

residential lots. The fence on the subject industrially zoned property is 6 feet tall and constructed of woven wire. As such a variance is required in order to keep the fence.

The City of Suwanee does not require a permit in order to install a fence. However, fences are required to comply with City ordinances. In this case the applicant installed the fence without understanding the regulations. The City identified that the chain link fence installed on the subject property does not comply with the requirements of the ordinance and asked the applicant to remove the fencing. The applicant is seeking to keep the fencing for the remainder of their lease on the property. Keeping the chain linked fence would require approval of a variance to deviate from the Zoning Ordinance prohibition of woven wire or metal fabric fences constructed in a yard abutting a public street.

The subject property is located along the industrial Brogdon Road Corridor. The subject property abuts the Norfolk Southern rail line to the south. To the north/west of the subject property, across Brogdon Road, is a large light manufacturing facility zoned M-1. To the east of the subject property, along Brogdon Road and off Capital View Drive, are several light industrial uses all zoned M-1.

The applicant indicates that the reason for the fencing is to ensure the security of the materials stored on site and to prevent people from dumping garbage on the property. The City has previously approved variances for fencing in yards abutting a public street taller than 4 feet in height for security purposes. In the prior cases, the applicants requested fencing that is 8 feet tall, but agreed to a decorative style. These fences can be seen on the south side of Satellite Boulevard between Lawrenceville-Suwanee Road and McGinnis Ferry Road. The applicant is proposing a shorter 6 foot tall, chain link fence, but they are only wanting to keep the fence for the remainder of their lease, which is set to expire in November of 2023.

The City's Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. The zoning ordinance also states that variances may be granted when relief would not cause substantial detriment to the public good nor impair the purposes or intent of the Zoning Ordinance.

In conclusion, the subject property does not appear to have a situation which rises to the level of hardship. There are no apparent unusual or extraordinary conditions that would warrant approval of a variance. The fencing regulations are available for all property owners to review and staff is available to explain the regulations if you do not understand them. While the chain link fencing is unsightly, it is located in a less visible area that is also a more industrial area of Suwanee. The applicant is not intending to keep the fencing indefinitely. Provided the applicant is willing to remove the fencing prior to the end of their lease in November of 2023, staff does not object to the temporary fencing. Therefore, staff recommends **APPROVAL WITH CONDITIONS** of V-2022-006.

V-2022-006

Approval of a variance to allow for a 6-foot-tall chain link fence in a yard abutting a public street subject to the following conditions:

1. No additional fencing shall be installed on the property.
2. Fencing shall be maintained. Damaged or rusted fencing shall be replaced or repaired in a timely manner.
3. If the fencing remains in place as of December 1, 2023, then the City shall be authorized to enter the property and remove the fence. The City may place a lien on the property or cash a performance surety in order to recover the cost of removing the fence.
4. Prior to January 1, 2023, the property owner shall provide a right of entry to the City for the purposes of removing the fence if it is still in place on December 1, 2023.
5. A surety in the amount of \$5,000 shall be provided to the City. The purpose of the surety shall be to ensure that the fencing is well maintained and to ensure that the fencing is removed prior to the end of the applicant's lease in November of 2023. This surety shall be provided within 60 days of variance approval.

Standards for Consideration

Pursuant to Section 2009A of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in considering all applications for a Variance.

- A. Will approval of the variance unreasonably increase the congestion in public streets?**

Approval of this variance would not increase the congestion in public streets.

- B. Will approval increase the danger of fire or endanger public safety?**

Approval of this variance would not increase the danger of fire or endanger public safety.

- C. Will approval unreasonably diminish or impair established property values within the surrounding area?**

Provided the fencing is temporary, is well maintained, and removed within a reasonable time period approval of the variance would not unreasonably diminish or impair property values within the surrounding area.

- D. Will approval in any other aspect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City?**

Approval of the variance would not impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

**APPLICATION FOR VARIANCE FROM THE
CITY OF SUWANEЕ ZONING BOARD OF APPEALS**

Please complete this application and submit with all necessary attachments as stated on the Variance Information Form (please type or print)

APPLICANT INFORMATION

Name: Mulch-It LLC
Address: 265 B Brogdon Rd
City: Suwanee
State: GA
Phone: 770-289-1149
E-mail address: Info@mulch-it.com

OWNER INFORMATION

Name: John T. Barrett
Address: 3455 Sexton Woods Drive
City: Chamblee
State: GA
Phone: 770-789-8458

CONTACT PERSON: Noel Sesmas PHONE: 770-655-9397

ADDRESS OF PROPERTY 265 B Brogdon Rd Suwanee, GA 30043

LAND DISTRICT 7th district LAND LOT 235 PARCEL 118 LOT _____

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) N/A

ZONING M1

VARIANCE REQUESTED Six feet chain link fence for the remainder of our lease, our lease will end on November 30th, 2023.

NEED FOR VARIANCE We are asking for a variance to allow us to have a temporary chain link fence, the fence will not only protect our assets but it will also prevent random people from disposing trash and debris in our yard.

***A VARIANCE FROM A CONDITION OF ZONING CANNOT BE ACCEPTED.
SECTION 2007, APPLICANT AND/OR A REPRESENTATIVE.**

*****The property owner, applicant and /or a representative thereof shall be present at all meetings of the Zoning Board of Appeals, Planning Commission and/or Mayor and Council at which official action is requested on any variance or application for amendment. The failure of the property owner, applicant and/or a representative to attend such meetings shall result in the denial of said variance or application for amendment.**

May 2, 2022

City of Suwanee
Zoning Board of Appeals
330 Town Center Avenue
Suwanee, GA 30024

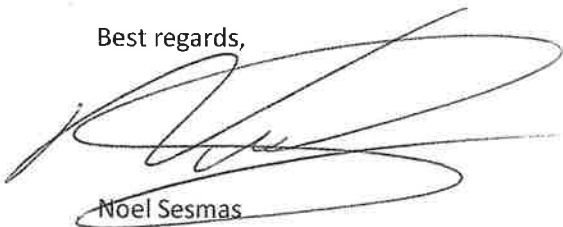
Letter of Intent for Fence Variance for:
Mulch-It LLC
265-B Brogdon Rd
Suwanee, GA 30319

Dear planning and Inspections department members,

I am writing to seek a fence variance for Mulch-It LLC located at 265- Brogdon Rd, Suwanee, GA 30024. Current zoning rules say that fences must be no more than 4 feet tall; I respectfully request a variance for a temporary 6 feet tall chain link fence to protect our assets and to prevent from trash and debris being disposed onto our yard after business hours/weekends. Unfortunately, we were forced to put up the fence after just a couple of weeks of moving in due to random people disposing of trash and debris in our yard and recent break ins to some industry partners. Allowing us to have a temporary fence would make us less vulnerable to break ins and littering. I would be able to sleep better at night knowing that the fence would provide a bit of protection to our yard/assets. Mulch-It has been in business for only a few months, and we cannot afford to invest thousands of dollars in a permanent ornamental fence. We are currently looking for a permanent home for Mulch-It LLC, our stay at 265-B Brogdon Rd is temporary, our lease expires November 2023.

Please feel free to reach out to me directly should you have any questions or concerns 770-655-9397 or info@mulch-it.com.

Best regards,



Noel Sesmas

V-2022.006

Legend



Subject Property



0 250 500 1,000 Feet





Zoning Map V-2022-006

Subject Property

ZONING

-
 C-1
 -
 C-2
 -
 C-2A
 -
 C-3
 -
 GCA
 -
 IRD
 -
 M-1
 -
 OI
 -
 OTCD
 -
 PMUD
 -
 R-100
 -
 R-140
 -
 R-75
 -
 R-85
 -
 RM6
 -
 RM8



0 290 580 1,160 Feet

