

VARIANCE(S):

V-2024-001

**CITY OF SUWANEE
VARIANCE ANALYSIS**

CASE NUMBER: V-2024-001

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
2365 BROGDON ROAD
SUWANEE, GA 30024

OWNER: JOHN T. BARRETT
3455 SEXTON WOODS DRIVE
CHAMBLEE, GA 30341

CONTACT: NOEL SESMAS
PHONE: 770-655-9397

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. In 2022, the applicant requested a variance for this temporary chain link fence along the subject property. The request was approved by the ZBA with a condition limiting the approval to December 2023. The applicant has extended their lease of the property for two more years and is requesting a new variance to keep the fence for two more years.

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 did not comply with the requirements of the ordinance and asked the applicant to remove the fencing back in 2022. The applicant sought a variance to keep the fencing for the remainder of their lease on the property which was projected to end in November of 2023. The variance (V-2022-006) was approved to keep the fencing for the remainder of their lease on the property. However, the applicant has now renewed their lease through November 2025 and is seeking another variance to keep the fence. 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 a variance (V-2022-006) for this fence, but the conditions only permitted the fence until November 2023. The City has also 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’s fence is 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 now set to expire in November of 2025.

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 fence has already been in place for the past year. 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 2025, staff does not object to the temporary fencing. Therefore, staff recommends **APPROVAL WITH CONDITIONS** of V-2024-001.

V-2024-001

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, 2025, 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, 2026, 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, 2025.
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 2025. 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 SUWANEE 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: 2365 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 Dr.
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 30024

LAND DISTRICT 7th LAND LOT 235 PARCEL 118 LOT _____

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) N/A

ZONING M1

VARIANCE REQUESTED Property lease renewed through November 30, 2025
Requesting temporary six-foot chain link fence currently installed
to remain for remainder of lease/occupancy

NEED FOR VARIANCE This fence provides protection of our assets
and helps to prevent potential trespassers, vandalism, and property damage. The
fence also deters unauthorized dumping of trash/debris outside of business hours.

***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.**

APPLICANT CERTIFICATION

The undersigned below is authorized to make this application and is aware that an application or re-application for the same type of variance affecting the same land or any portion thereof shall not be acted upon within twelve (12) months from the date of last action by the Board of Appeals, unless waived by the Board of Appeals. An application or reapplication shall not be acted upon in less than (6) months from the date of the last action by the Board of Appeals.



[Signature] 11-28-23
Signature of Applicant Date

Noel Sesmas
Typed or Printed Name and Title

[Signature] 11/28/23
Signature of Notary Public Date

Notary Seal

PROPERTY OWNER CERTIFICATION

The undersigned below, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for the same type of Variance affecting the same land or any portion thereof shall not be acted upon within twelve (12) months from the date of last action by the Board of Appeals unless waived by the Board of Appeals. An application or reapplication shall not be acted upon in less than six (6) months from the date of the last action by the Board of Appeals.



[Signature] 11/28/23
Signature of Applicant Date

JOHN T. BARRETT
Typed or Printed Name and Title

[Signature] 11/28/23
Signature of Notary Public Date

Notary Seal

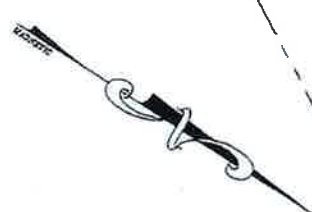
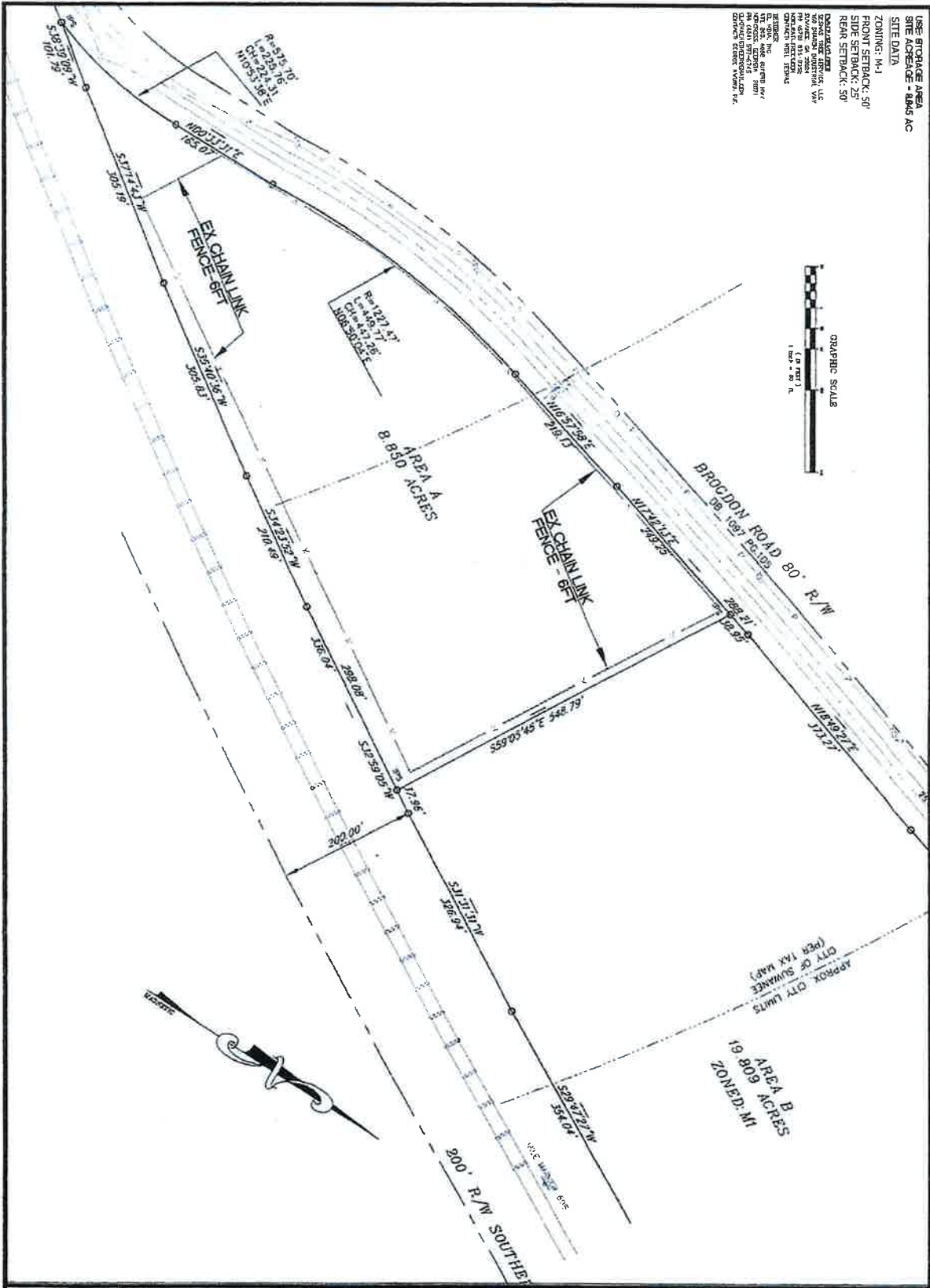
DEPARTMENT OF PLANNING AND DEVELOPMENT USE ONLY

Case Number _____	Variance _____	Administrative _____
Date Rec'd _____	Rec'd By _____	Hearing Date _____
Amount Rec'd _____	Receipt _____	

ACTION TAKEN _____

SIGNATURE _____ DATE: _____

USE STORAGE AREA
 SITE LICENSE - 8885 AC
 SITE DATA
 ZONING: M-1
 FRONT SETBACK: 50'
 SIDE SETBACK: 25'
 REAR SETBACK: 50'






	DATE	NO	DESCRIPTION	SITE PLAN EXT FENCE LINE SHEET TITLE	SESMAS TREE SERVICE 265 BROGDON RD SUWANEE GA 30024 PARCEL ID 7-235-18	EL MINA, INC SUITE 203, BUFORD HWY. NORCROSS, GA 30071	
	04/27/22						
	DATE	NO	DESCRIPTION				

V-2024-001

Location Map V-2024-001

Legend

-  Subject Property
-  City Parcels
-  City Limits



0 250 500 1,000 Feet



Zoning Map V-2024-001

Legend



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



0 187.5 375 750 Feet

