

**VARIANCE(S):**

**V-2024-005**

**CITY OF SUWANEE  
VARIANCE ANALYSIS**

**CASE NUMBER:** V-2024-005

**REQUESTS:** HOUSE EXCEEDING MAXIMUM HEIGHT

**APPLICABLE SECTION:** SECTION 500.C

**LOCATION:** 3591 SMITHTOWN ROAD

**DISTRICT/LAND LOT:** 7-213-028

**ZONING:** R-140 (RESIDENTIAL SINGLE-FAMILY DISTRICT)

**DEVELOPMENT:** APPROXIMATELY 14,000 SQUARE FOOT HOUSE ADDITION

**APPLICANT/OWNER:** MANISH PATEL  
3591 SMITHTOWN ROAD  
SUWANEE, GA 30024

**CONTACT:** MANISH PATEL

**PHONE:** 678-790-0384

**RECOMMENDATION:** **DENIAL**

**ANALYSIS:**

The applicant seeks a variance from Section 500.C.7.a of the City of Suwanee Zoning Ordinance to exceed the maximum building height of 35 feet allowed in an R-140 zoning district. The applicant proposes an approximately 14,000 square foot house addition that includes a basement, 2 stories, and a covered staircase to allow for roof top access. The covered staircase brings the height of the building up to 39 feet and 7 inches. The subject property is located on the northeast corner of Smithtown Road and Westbrook Road and totals approximately 1.04 acres. The existing home totals approximately 2,500 square feet. Access is proposed off Westbrook Road.

The surrounding area consists of mostly single-family residential development. Across Smithtown Road to the south is an approximately 20-acre farm zoned GC-A (Gwinnett County Annexed – RA-200). The rest of the surrounding lots to the east, north, and west consist of single-family homes zoned R-140 (Residential Single-Family District).

Section 500.C of the Zoning Ordinance addresses the district development regulations for the R-140 Zoning District. This section details setbacks, minimum lot size, minimum lot width, minimum home size, and maximum height among other requirements. The maximum height for the R-140 Zoning District is 35 feet. Building height is not measured by the lowest point to the highest point. Instead, it is measured from the average elevation of the lowest floor up to the top of the roof for a flat roof. By that method the proposed home would be 39 feet and 7 inches tall. This includes the basement, 2 stories, and an enclosed staircase that allows for access to the rooftop. This exceeds that maximum height allowed by the R-140 District.

The Zoning Ordinance lists exemptions to the height requirements in Article X. Exemptions. Section 1000 lists all the exemptions, but the enclosed staircase does not appear to match any of those exemptions. As such, a variance would be needed to construct the home addition as proposed.

In the past, the city has approved variances for exceeding the maximum height for buildings with sharply pitched roofs or for sites constrained by stream buffer requirements. Neither of these circumstances are applicable to this request. If the visibility of the house was limited due to a combination of the size of the lot, the location of the house, and the screening provided by vegetation, then an argument could be made that the requested variance would not undermine the purpose of the Zoning Ordinance. However, in this case the home would be highly visible located on a prominent corner in the area. The height of the proposed addition would appear even more significant along Westbrook Road.

The City of Suwanee'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. In this case there is no hardship.

In conclusion, approval of a variance would not be appropriate at this location. There does not appear to be any hardship necessitating a variance. Therefore, staff recommends **DENIAL** of V-2024-005.

**Planing Department Recommendation  
V-2024-005**

The Planning Department recommends denial of a variance to exceed the maximum building height of 35 feet allowed in an R-140 zoning district. Should the board decide to approve a variance to allow for a building exceeding the maximum height, staff recommends the following condition(s):

1. Only one structure on the subject property may exceed the maximum building height.
2. The one structure exceeding the maximum building height shall be generally consistent with the proposal found in Exhibit 'A'. The building shall not exceed 40 feet in height.
3. The location of the building exceeding the maximum height shall be consistent with Exhibit 'B'.

## **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 unreasonably 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?**

Approval of this variance would likely not diminish nor impair property values within the 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 this variance would not impair the public health, safety, comfort, morals, or welfare.

**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: Manish Patel  
Address: 3591 Smithtown Rd  
City: Suwanee  
State: GA  
Phone: 678-790-0384  
E-mail address: map1300@gmail.com

**OWNER INFORMATION**

Name: Manish Patel  
Address: 3591 Smithtown Rd  
City: Suwanee  
State: GA  
Phone: 678-790-0384

CONTACT PERSON: Manish Patel

PHONE: 678-790-0384

ADDRESS OF PROPERTY 3591 Smithtown Rd, Suwanee, GA 30024

LAND DISTRICT \_\_\_\_\_ LAND LOT \_\_\_\_\_ PARCEL \_\_\_\_\_ LOT \_\_\_\_\_

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) Building Permit, PB24-0009

ZONING \_\_\_\_\_

VARIANCE REQUESTED Additional 4' and 7" enclosed stair case

\_\_\_\_\_  
\_\_\_\_\_

NEED FOR VARIANCE Covered stair case for roof top access

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**\*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.**

V. 2024.009

**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.



Notary Seal

[Signature] 3/4/24  
Signature of Applicant Date

Manish Patel, Owner  
Typed or Printed Name and Title

[Signature] 3-4-24  
Signature of Notary Public Date

**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.



Notary Seal

[Signature] 3/4/24  
Signature of Applicant Date

Manish Patel, Owner  
Typed or Printed Name and Title

[Signature] 3-4-24  
Signature of Notary Public Date

**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: \_\_\_\_\_

# Exhibit 'A'

## City of Suwanee

To The City of Suwanee,

Applying for a Variance for my house, as you see in the picture below we are higher 4' feet and 7" inches above as per the requirements. This space is not related to any living space, it's only a enclosed staircase going to the roof top.

I have also attached the site plan as well. If you can please consider and give us the approval for the building permit I would greatly appreciate it.






U-2024-005





# Location Map V-2024-005

## Legend

-  Subject Property
-  City Parcels
-  City Limits



# Zoning Map V-2024-005

## Legend

