

**MINUTES  
CITY OF SUWANEE, GEORGIA  
ZONING APPEALS BOARD MEETING  
August 16, 2022**

**PLANNING AND ZONING APPEALS BOARD MEMBERS:** Present: Donald Lee, David Sullivan, Ray Brown, Paul Alznauer, and Beth Lembo. Staff members present: Alyssa Durden and MaryAnn Jackson.

**CALL TO ORDER**

David Sullivan called the meeting to order at 6:30 p.m.

**ADOPTION OF THE AGENDA**

*Donald Lee moved to approve the agenda as presented, second by Ray Brown. Motion carried 5-0.*

**APPROVAL OF MINUTES**

*Ray Brown moved to approve the June 21, 2022 minutes, second by Beth Lembo. Motion carried 5-0.*

**OLD BUSINESS**

**NEW BUSINESS**

V-2022-009- Owner: Victor and Merly Mejia. Applicant: Merly Mejia. The applicant requests a variance from the City of Suwanee Stream Buffer Protection Ordinance to allow for encroachment into the impervious setback of an unnamed tributary of Suwanee Creek for the construction of a single family home and an accessory structure. The site contains approximately 2.6 acres in Land Lot 210 of the 7<sup>th</sup> District and is located at 742 White Street.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from the City of Suwanee's Stream Buffer Protection Ordinance to allow for construction within a required impervious stream buffer. The construction would include a new single family home and accessory structures. The 2.23 acre property is located at 742 White Street in Old Town just north of White Street Park.

The applicant plans to demolish an existing home on the subject property and then construct a new approximately 3,700 square foot single family home facing White Street and three accessory structures that would be located between the new home and Buford Highway. The proposed accessory structures include a swimming pool, an approximately 1,200 square foot guest house, and an approximately 200 square foot greenhouse.

The subject property is unique in that it has road frontages on 2 public roads, Buford Highway and White Street. Additionally, the property has a stream that runs along the southern property line which it shares with White Street Park, and it has another stream that runs adjacent and parallel to Buford Highway.

The subject property is zoned R-100 (Single Family Residential District). A vacant church

(zoned R-100) is located to the west across White Street and the Gwinnett County Schools Training Building (zoned O-I) is located to the east across Buford Highway. Harvest Farm, the City's community garden within White Street Park is adjacent to the property to the south. There are two parcels adjacent to the subject property to the north, one that fronts White Street and one that fronts Buford Highway. The property that fronts White Street is occupied by a single-family home that faces White Street and an accessory building located behind the home (Zoned R-100). The property that fronts Buford Highway is vacant (Zoned R-100). The remaining parcels to the north from the subject property to Davis Street along White Street are zoned R-100 and occupied by single family detached homes, and accessory structures.

The subject property is encumbered by two unnamed tributaries of Suwanee Creek. One of these tributaries runs across the entire frontage of the subject property parallel to Buford Highway. A gravel/dirt driveway with access to Buford Highway currently crosses this stream. This crossing is allowed by the Stream Buffer Protection Ordinance. The second tributary runs along the southwestern property line that separates the subject property from White Street Park. The required stream buffer along these two tributaries combined with the R-100 building setback requirements reduce the buildable portion of the 2.23-acre property to roughly 0.6 acre. The property will also require a new septic system that will occupy approximately 1/3 of this buildable area. Soils test have been performed indicating that this needs to be located at the front of the property adjacent to White Street. This further reduces the buildable area.

The City of Suwanee Stream Buffer Protection Ordinance requires a 50-foot wide undisturbed buffer (Section 4.1.1) supplemented by an additional 25-foot wide buffer (Section 4.1.2) that may be graded but cannot include any impervious cover (examples of impervious cover include buildings, parking lots, driveways, etc.) along all streams.

The applicant proposes to concentrate their development on the buildable portion of the property in the northeast corner of the subject property. Due to the property constraints, the applicant requests a variance for two small encroachments into the 25-foot impervious setback portion of the stream buffer in two locations in order to accommodate their home design. The first encroachment (1,219.65 square feet) is to accommodate a portion of the main house. The second encroachment (662.38 square feet) is for a portion of the guest house and a portion of the adjacent parking pad for the guest house. The total buffer disturbance area is approximately 1,882 square feet (.04 acre). All of the 50-foot undisturbed buffer directly adjacent to the stream would be preserved.

The City's Stream Buffer Protection Ordinance grants the Zoning Board of Appeals the authority to grant variances. In this case, the subject stream buffers and building setbacks consume roughly 75% of the property, significantly reducing the amount of buildable land available. In this case the combination of regulations requiring the 75-stream buffer and the 50-foot setback off both Buford Highway and Lawrenceville-Suwanee Road, along with the required location of the septic field at the front of the property creates a hardship for the property owner. Preserving this buffer in its entirety reduces the ability of the applicant to implement their reasonable property improvement plans for the 2.23-acre property.

In conclusion, the subject property is impacted severely by two streams, 2 public road setbacks, and the area needed for the septic system. This reduces the buildable area of the property to a

limited portion of the site. The proposed development will not encroach into the 50 feet directly adjacent to the streams, which will remain undisturbed as required and protect the streams. Approval of this variance will allow encroachment into the 25-foot impervious setback in only two small areas. As such, staff recommends approval with conditions.

The applicant had an arborist examine the trees on the property, including in the stream buffer. The trees that were dead or dying have been removed by the applicant.

Ray Brown asked if a condition needed to be added to reinstate that the 50 foot undisturbed buffer will be preserved. Alyssa Durden stated that it would not hurt to add that reinstatement.

David Sullivan asked about erosion control on the property. Alyssa Durden explained that the site will be inspected by the City of Suwanee Inspections Department. Once construction is complete, the home owner is required to replant or reseed to prevent erosion.

David Sullivan asked if the stream is active. Alyssa Durden stated that the stream is active but the applicant is not encroaching into the stream. The applicant has expressed an interest in restoring portions of the stream.

Beth Lembo asked if there is some type of report from the arborist hired by the applicants. Alyssa Durden shared the report from the arborist listing trees that were unhealthy or dead on the property and a corresponding plan that highlighted these unhealthy or dead trees that were removed within the stream buffer.

Beth Lembo mentioned that she had driven by the site and noticed that there were some trees down in the stream buffer. She asked what the plan is for those trees within the stream buffer. Ms. Durden stated that the applicant would be able to answer that question.

Ms. Lembo stated that the conditions require a double row of silt fence, but there is only one row currently. Alyssa Durden explained that if the variance is approved, the applicant will be required to have a double row of silt fence. Beth Lembo said that she noticed a tree trunk within the buffer and would like to know what is the plan to clean up the area. Ms. Durden stated that the applicant has plans to clean up the area. However, they have been asked to stay out of the buffer area until the variance has gone before the board. Ms. Lembo stated that she would like to add a condition that anything in the buffer that is a result of construction be cleaned up.

Donald Lee asked Ms. Durden if soil samples are needed to ensure structural integrity of structures that would encroach into the stream buffer since it is near the stream. Ms. Durden stated that the applicant's contractor will handle that.

Beth Lembo asked if the applicants had considered any alternative house designs so that they would not have to disturb the buffer. Alyssa Durden stated that this is their preferred design. This design is a one-story home. Ms. Lembo stated that the home is encroaching almost completely to the edge of the 25-foot buffer.

David Sullivan called upon the applicant.

Victor and Merly Mejia, 742 White Street, Suwanee, GA. Mrs. Mejia stated that they chose this particular home design because it is a ranch style home. They are both in their 50's and stairs will soon become an issue. They plan to live in the home for a very long time so a ranch home is their preference. The home is beautiful and will fall in line with all the other beautiful homes in the area. The guest house had to be squeezed into the top corner of the property. The soil test was done. The best place for the septic system is in the front so that pushed the house and guest house back. The tree that is down in the buffer was already down when they bought the property. They plan to remove it. The second row of silt fence will be put up. The 50 foot that is closer to the creek has already been seeded and covered with wheat straw. The applicant stated that it is her intention to beautify the property and want to look into preserving the creek.

Beth Lembo asked the applicants how they plan to remove the kudzu without contaminating the stream. Mrs. Mejia stated that kudzu is easier to deal with in the winter. They plan to remove it by hand.

David Sullivan called for opposition. There was none.

***Ray Brown moved to approve V-2022-009 with amended conditions, second by Beth Lembo. Motion carried 5-0 (additions = bold).***

1. The limits of disturbance within the stream and required stream buffers shall be generally consistent with the areas indicated in "Exhibit A."
2. Erosion control measures shall include a double row of silt fence within any portion of buffer area impacted by construction. Within 14 days of land disturbance activities disturbed area must be mulched or vegetated.
3. **All of the 50 foot buffer adjacent to the stream shall remain undisturbed.**
4. **Any debris created by construction between the silt fence and stream should be cleaned up.**

V-2022-010- Owner: Victor and Merly Mejia. Applicant: Merly Mejia. The applicant requests a variance from Section 501 of the City of Suwanee Zoning Ordinance to allow for a swimming pool located outside of a rear yard. The site contains approximately 2.6 acres in Land Lot 210 of the 7<sup>th</sup> District and is located at 742 White Street.

V-2022-011- Owner: Victor and Merly Mejia. Applicant: Merly Mejia. The applicant requests a variance from Section 501 and Section 604 of the City of Suwanee Zoning Ordinance to allow for an accessory structure exceeding 800 square feet and accessory structures located outside of a rear yard. The site contains approximately 2.6 acres in Land Lot 210 of the 7<sup>th</sup> District and is located at 742 White Street.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 501 and Section 604 of the City of Suwanee Zoning Ordinance to allow for the construction of a swimming pool and two accessory structures located outside of a rear yard, including an

accessory structure that exceeds 800 square feet. The 2.23-acre property is located at 742 White Street in Old Town.

The property contains approximately 2.23 acres and is a “thru lot” that has 2 road frontages, one on White Street and the other on Buford Highway. There are existing driveways providing access to the property from both roads. The result is that the lot does not have a rear yard. The property contains a one-story house that faces White Street. The applicant plans to demolish an existing home on the subject property and then construct a new approximately 3,700 square foot single family home facing White Street and three accessory structures that would be located between the new home and Buford Highway. The proposed accessory structures include a swimming pool, an approximately 1,200 square foot guest house, and an approximately 200 square foot greenhouse.

The subject property is unique in that it has road frontages on 2 public roads, Buford Highway and White Street. Additionally, the property has a stream that runs along the southern property line which it shares with White Street Park, and it has another stream that runs adjacent and parallel to Buford Highway.

The subject property is zoned R-100 (Single Family Residential District). A vacant church (zoned R-100) is located to the west across White Street and the Gwinnett County Schools Training Building (zoned O-I) is located to the east across Buford Highway. Harvest Farm, the City’s community garden within White Street Park is adjacent to the property to the south. There are two parcels adjacent to the subject property to the north, one that fronts White Street and one that fronts Buford Highway. The property that fronts White Street is occupied by a single-family home that faces White Street and an accessory building located behind the home (Zoned R-100). The property that fronts Buford Highway is vacant (Zoned R-100). The remaining parcels to the north from the subject property to Davis Street along White Street are zoned R-100 and occupied by single family detached homes, and accessory structures.

Section 501 and 604 of the Zoning Ordinance regulate the size and location of accessory structures in the R-100 (Residential Single Family District) zoning district. The regulations require that accessory structures be located in a rear yard and be no more than 800 square feet. The purpose of these regulations is to prevent swimming pools and accessory structures from being located in front yards throughout the City. Since the property has two road frontages and does not have a rear yard, a variance from this regulation is needed to build accessory structures. An additional variance is needed to allow the guest house to exceed 800 square feet.

White Street is lined with single family homes and would be the appropriate choice for a front for the subject property. The portion of the property directly adjacent to Buford Highway and White Street Park contain two stream buffers that are wooded, so the proposed accessory buildings would be somewhat screened and setback over 120 feet from Buford Highway and 150 feet from White Street Park.

Approval of the request to locate an accessory dwelling unit that exceeds 800 square feet in the proposed location is not likely to negatively impact nearby properties due to the vegetation and size of the property and the distance of the proposed building from the road and other nearby homes. Accessory buildings are permitted uses in all of the City’s residential zoning districts.

All of the residential zoning districts have the same standard for accessory buildings in terms of maximum size and location allowed. However, a 2.23-acre lot is more capable of accommodating a larger accessory building without negative impacts on adjoining properties than a half-acre lot in a subdivision. Although the yard facing Buford Highway is technically a front yard, the proposed accessory structures would be significantly setback from Buford Highway and White Street Park and somewhat screened by mature trees. A larger accessory structure would be consistent with the area. There are 15 accessory structures on properties along White Street, and 3 of these are over 800 square feet. The proposed development would be compatible with the character of Old Town and the historic rural nature of White Street.

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. A variance may be granted if the conditions are unique to the property and/or are unlikely to cause substantial detriment to the public good, or if the variance will not undermine the intent of the zoning ordinance.

Approval of these variances would not be a substantial detriment to the public good and would not undermine the intent of the zoning ordinance, which is to limit the size and location of accessory buildings on smaller lots in more densely populated neighborhoods. In this unique circumstance, the subject property fronts two public streets, White Street and Buford Highway. Buford Highway functions as a rear yard. As such, approval of these requests to locate a swimming pool, a guest house, and a greenhouse in a yard abutting a public street, Buford Highway, is not likely to negatively impact nearby properties. Furthermore, the stream buffers and large size of the property provide significant distance and screening of the larger guest house from surrounding properties. Additionally, there are several other examples of larger accessory structures, so the large guest house is consistent with the surrounding area. As such, staff recommends approval with conditions of V-2022-010 and V-2022-011.

Donald Lee asked about the elevation of the proposed accessory structure and which way the front of the structure would face. Donald Lee had a question about condition number 1 which states that the property line along Buford Highway shall be treated as the rear of the property. Would this condition apply to the other properties along Buford Highway? Alyssa Durden explained this condition would only apply to this property and that the other properties do not front both White Street and Buford Highway.

Beth Lembo asked about condition number 2 that states that the exterior material and architecture of accessory structures needs to match the main house. The driveway comes off of Buford Highway, so what is considered the front of the structure? Alyssa Durden stated that it is her understanding that the applicant has indicated that the front of the accessory structure would face Buford Highway. Ms. Lembo stated that the condition is unclear. Alyssa Durden explained that the City does not regulate where the front of an accessory structure is located. The City generally regulates size and location of the structure behind the main house. Along White Street, there are lots of barns and accessory structures. We have not regulated which way the front of these structures face. Ms. Lembo stated that she is uncomfortable with the idea of the frontage not being specified. Alyssa Durden explained that it will not be visible because of the stream buffer.

Mrs. Mejia shared an exhibit of the guest home with the Zoning Board of Appeals. Ms. Lembo asked the applicant what they are considering the front of the guest house. Mrs. Mejia stated that the back of the guest home would face Buford Highway, but if someone drove in from the Buford Highway side, they will see trees and greenery. The guest home will not be visible for everyone. The Buford Highway access will be for family access. Most visitors will come to the home off of White Street.

***Paul Alznauer moved to approve V-2022-010 with staff conditions, second by Ray Brown. Motion carried 5-0.***

1. The property line along Buford Highway shall be treated as the rear property line.
2. Accessory structures shall be located approximately as shown on the site plan labeled "Exhibit A."

***Paul Alznauer moved to approve V-2022-011 with staff conditions, second by Ray Brown. Motion carried 5-0.***

1. Only one accessory structure may exceed 800 square feet. This structure shall not exceed 1,200 square feet.
2. The exterior material of any accessory structures exceeding 200 square feet shall match the exterior material of the primary dwelling and the architecture of the accessory dwelling unit shall compliment the architecture of the primary dwelling. The architecture of the accessory dwelling unit is subject to the review and approval of the Planning Department.
3. Accessory structures shall be located approximately as shown on the site plan labeled "Exhibit A."

## **OTHER BUSINESS**

## **ANNOUNCEMENT**

## **ADJOURNMENT**

Donald Lee moved to adjourn 7:26 pm.