CITY OF SMYRNA
COMMUNITY DEVELOPMENT
MEMORANDUM

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To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director
        Caitlin Crowe, Planner I
        Joey Staubes, AICP, Planner II

Date: November 21, 2022

RE: VARIANCE CASE V22-055
        1921 Sadler Drive – Allow encroachment into the 75-foot impervious surface area
        setback

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BACKGROUND

The applicant is requesting a variance to allow encroachment into the City's 75-foot impervious setback to allow for the construction of a new swimming pool at 1921 Sadler Drive. The City's stream buffers are controlled by Chapter 46, Article VI.

The variance requests were denied by a vote of 3-0 at the August 24, 2022 meeting of the License and Variance Board. The homeowner, Wayne S. Melnick of 1921 Sadler Drive, has appealed that decision.

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ANALYSIS

The subject parcel is a 0.23-acre lot located on the north side of Sadler Drive (see Figure 1). A stream runs through the northern border of the property and continues through the adjacent western and eastern properties as well as a 15-foot drainage easement just north of the deck on the rear of the home. The subject parcel and all adjoining parcels to the east, south, and west are zoned RDA and are occupied by single-family detached residences within the Stonecrest Manor subdivision. The adjacent parcel to the north is in Unincorporated Cobb County and is currently vacant.

The applicant is proposing to build a 691 square foot inground swimming pool and accompanying decking in the rear yard. Due to the existing stream, the rear yard is encumbered by the State's 25-foot undisturbed stream buffer, the City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious setback. Thus, the applicant will require relief from the City's Stream Buffer Protection Ordinance in order to construct the pool and decking in the rear yard. However, due to the physical constraints of the site, including the size of the lot and existing home, there is no feasible area to install proper mitigation on the property to offset the disturbance to the buffer. After a site visit on August 15, 2022, the Assistant City Engineer made the determination that the 25-foot and 50-foot buffers are currently properly vegetated and facilitate the protection of water quality and aquatic habitat, so a buffer remediation plan would also not be applicable. After the site visit and review of the plans, the Assistant City Engineer

cannot support the variance due to a lack of a feasible mitigation plan. After the request was tabled at the October 3, 2022 Mayor & Council meeting, staff has coordinated additional meetings with the pool contractor to determine if other options are available for mitigation of the encroachment in the 75-foot impervious coverage setback. The contractor has proposed replacing concrete at the front and side of the property with permeable pavers. However, due to the slope of the lot, those pavers would offer no remedy to the impervious coverage setback encroachment because that section is already draining towards the street. Due to the site constraints, staff does not believe there are sufficient alternatives to mitigate the encroachment of the 75-foot impervious coverage setback.

Per Section 46-160(b.1) within the Stream Buffer Protection Ordinance, variances may be granted "where a parcel was platted prior to the effective date of this article, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the community development department finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, the license and variance board may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel." Since the property was originally platted in 2006, after the Stream Buffer Ordinance was enacted in 2005 and no mitigation plan has been proposed for the property, staff cannot support a variance request at the subject property. Community Development believes the hardship is self-created, as the lot of record has existed after the Stream Buffer Protection Ordinance was adopted. Without a mitigation plan to offset any potential effects of the buffer encroachment, staff cannot assume that there would be no negative impacts to adjacent properties if approved and cannot recommend approval.

STAFF COMMENTS

The applicant is requesting relief from the City's 75-foot impervious surface area setback to install a pool and decking in the rear yard. According to Section 46-160 of the Stream Buffer Protection Ordinance, variances must be reviewed under the following standards: (a) the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; (b) the locations of all streams on the property, including along property boundaries; (c) the location and extent of the proposed buffer or setback intrusion; (d) whether alternative designs are possible which require less intrusion or no intrusion; (e) the long-term and construction water-quality impacts of the proposed variance; (f) whether as a result of an exchange of buffer area the net buffer area is not reduced; and (g) whether issuance of the variance is at least as protective of natural resources and the environment. Engineering and Community Development have reviewed the request against the variance review standards and found it to not be in compliance with the standards due to the lack of a mitigation plan to offset any effects. After a review of the standards above, Community Development believes that the encroachment may adversely affect surrounding residents; therefore, staff recommends **denial** of the requested variance.
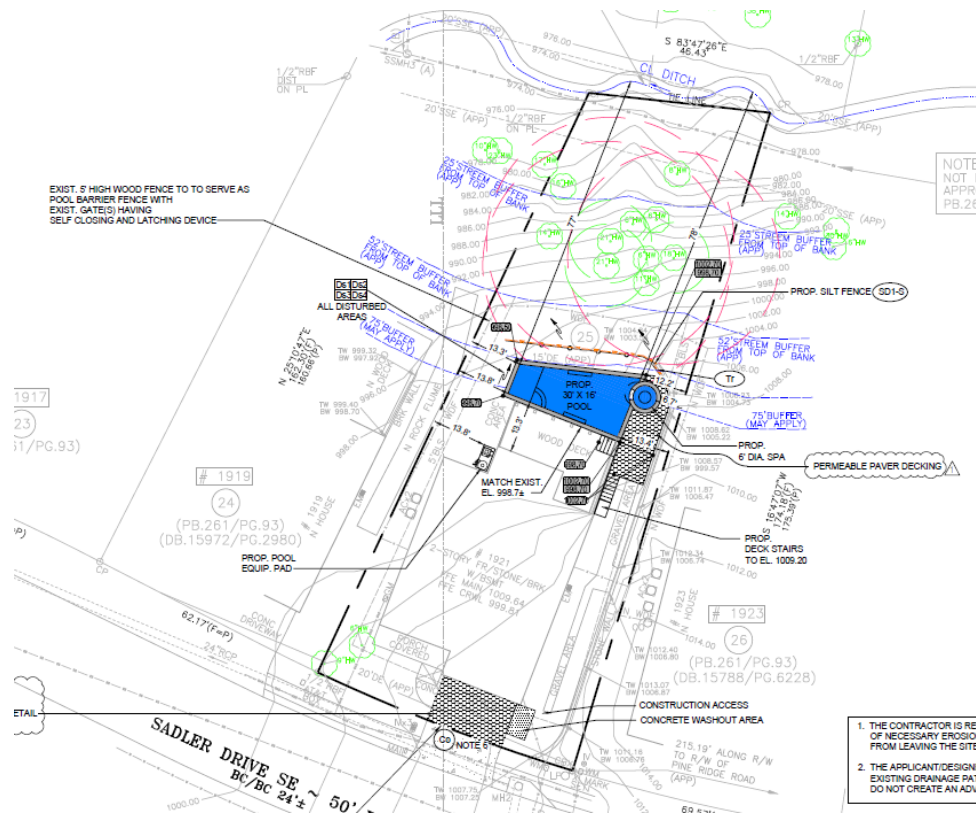
Figure – 1

Figure – 2
Site Plan

Figure – 3
Subject Property

Figure – 4
Adjacent Property across Sadler Drive

Figure – 5
Adjacent Property to the West

Figure – 6
Adjacent Property to the East