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September 1, 2022

*Via email only* [hcorn@smyrnaga.gov](mailto:hcorn@smyrnaga.gov)

Mayor and City Council

City of Smyrna

c/o Heather Corn, [hcorn@smyrnaga.gov](mailto:hcorn@smyrnaga.gov)

Re: Variance Request, Melnick Residence, 1921 Sadler Drive, SE, Smyrna, Georgia

Your Honors:

I hope this correspondence finds you well. My wife, Laura, and I are appealing the denial of our requested zoning variance for 1921 Sadler Drive, Smyrna. When we purchased our home in late 2021, we did so with the express intent to build a beautiful and appropriate pool in our backyard. Prior to our purchase, we cleared our intent with the Stonegate Manor homeowner's association which provided us with all documents requiring submission in order to needed to obtain approval. We commissioned the necessary topographical survey and worked with Bellareed Luxury Pools to design a pool appropriate to our yard and property's space. We took care to ensure that we did not impact or otherwise encroach on the drainage easement in our back yard.

Once the pool design was complete, we submitted all required paperwork to our homeowner's association including the signatures and approvals of our next-door neighbors on either side of our home. After careful consideration, the homeowner's association granted the needed approval.

The final step prior to breaking ground was requesting a hardship variance. As part of the application process, we needed not only to obtain the approval of our next-door neighbors again, but also of all adjacent neighbors as well. As can be seen on our application, we obtained all needed approval signatures. Those neighbors who would be either directly or indirectly effected by the requested hardship variance had no objection to same.

The hardship for which this variance was requested resulted from conditions that are peculiar to our property. Specifically, the size of the property, the proximity of the 75' buffer and the lack of possibility to revegetate the buffer along with the drain easements that are in our front and backyards. Because of the unique conditions, there is no space for such mitigation.

In denying the variance, the zoning board felt that stormwater from our yard might flood the creek at the rear edge of our property. However, what the zoning board did not appreciate is the geography of the creek. As can be seen in the topographic survey, and as confirmed through an independent review performed by a civil engineer we engaged, the creek has an approximate 20 foot bank on either side. In addition, the total amount of land in our backyard that would be impacted by



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the project is less than 1,000 square feet. As a result, the amount of additional runoff that would be created by the project (especially when considering our plan to use permeable pavers) would be de minimus and the threat of flooding statistically insignificant. Finally, based on our understanding of the project, inclusive of the independent review, it appears as though the variance board did not consider the pool itself as an element of mitigation (in that it would absorb potential runoff).

If I can provide any additional information or be of further assistance, please do not hesitate to reach out to me. Otherwise, my wife and I would greatly appreciate reconsideration of the denial of the requested variance.

Thank you in advance for your consideration, and with best regards, I remain,

Very truly yours,

**FREEMAN MATHIS & GARY, LLP**

A handwritten signature in blue ink, appearing to read "Wayne S. Melnick", written over a horizontal line.

Wayne S. Melnick

WSM/idt

cc: Benton J. Mathis, Esq. (via email only)  
Daniel W. Lee, Esq. (via email only)  
Laura B. Melnick (via email only)  
Bellareed Pools (via email only)