

# 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

Date: December 29, 2020

**RE: VARIANCE CASE V21-005**  
**1254 Grand View Drive – Allow encroachment into 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 and hot tub at 1254 Grand View Drive. The City's stream buffers are controlled by Chapter 46, Article VI.

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#### **ANALYSIS**

The subject parcel is located on the south side of Grand View Drive (see Figure 1). A stream runs through the southern end of the property and continues through the adjacent properties to the east and west. The subject parcel and all adjoining parcels are zoned RDA and are part of the Vinings Estates subdivision. All are occupied by single-family detached residences. The subject property is 0.47 acres (20,589 square feet).

The applicant is proposing to build a 664 square foot pool and accompanying 38 square foot hot tub in the rear yard. The existing house was constructed in 2003, prior to the adoption of the stream buffer ordinance in 2005. Currently, the rear yard is greatly encumbered by the State's 25-foot stream buffer, the City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious setback. The applicant has designed the pool to stay out of the 25-foot and 50-foot undisturbed buffers but encroaches into the 75-foot impervious surface area setback. An existing wooden retaining wall is currently within the 75-foot and 50-foot buffers; however, retaining walls are exempt from the stream buffer ordinance. The retaining wall will remain on the subject property.

The applicant will require relief from the City's stream buffer ordinance in order to construct the pool and hot tub in the rear yard. The applicant has taken several measures to avoid further encroachment into the stream buffer, including building the pool 3 feet from the existing decking and raising the rear edge of the pool out of the ground to reduce any negative impacts to the stream. The applicant will also mitigate the rear yard disturbance by installing an infiltration trench. The City Engineer has reviewed the application and accompanying mitigation plan and supports the methods used for buffer mitigation.

Community Development believes the hardship is not self-created, as the lot of record has existed before the stream buffer ordinance was adopted. Community Development believes this is the minimum variance needed to make the rear yard functional, and that there should be no negative impacts to adjacent properties if approved. Community Development has not received any calls in opposition to the request.

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#### **STAFF COMMENTS**

The applicant is requesting relief from the City's 75-foot impervious setback to install a pool and spa in the rear yard. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. At the time of this report, Community Development has not received any calls in opposition to the request. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following conditions:

1. Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.
2. An Inspection and Maintenance Agreement must be completed and filed with Cobb County prior to issuance of a pool permit.

Figure - 1

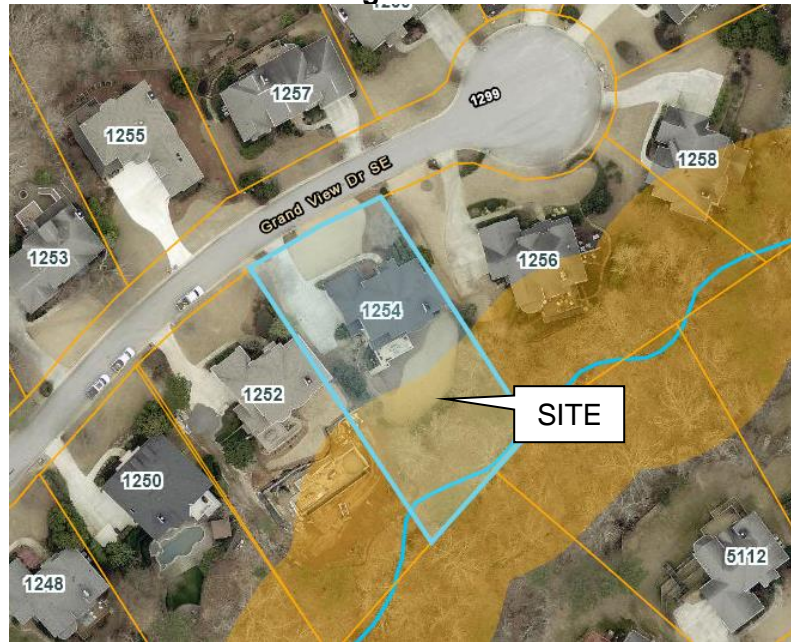
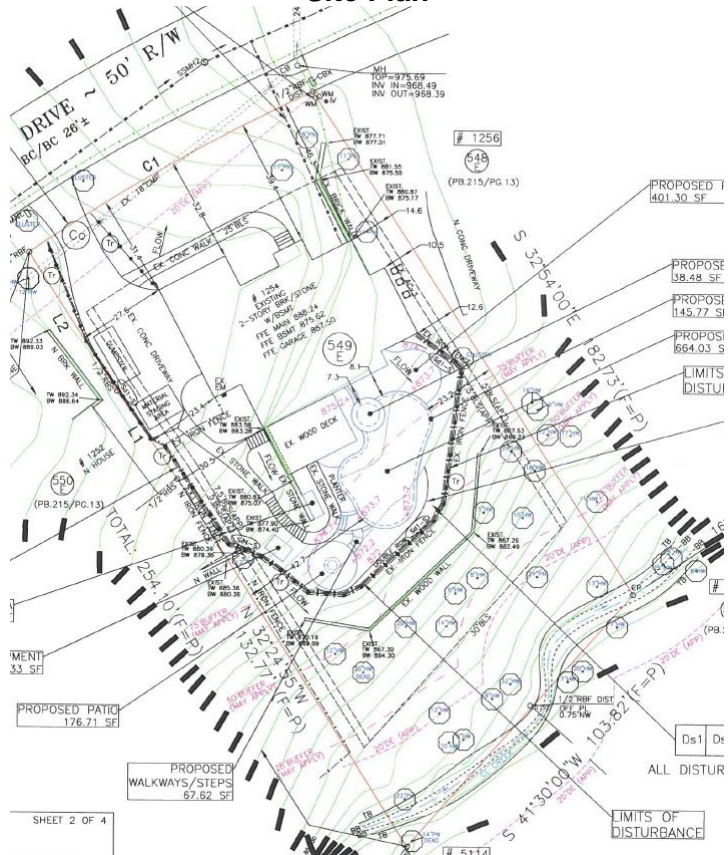


Figure - 2  
Site Plan





**Figure – 3**  
**Subject Property**



**Figure – 4**  
**Adjacent Property across Grand View Drive**



**Figure – 6**  
**Adjacent Property to the South**

