

# **CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM**

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To: License and Variance Board

From: Ken Suddreth, Community Development Director  
Joey Staubes, AICP, Planner II

Date: February 3, 2017

**RE: VARIANCE CASE V17-008  
1747 Cedar Ridge Court – Allow encroachment into 50 ft. Undisturbed Stream Buffer and 75 ft. Impervious Setback.**

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## **BACKGROUND**

The applicant is requesting a variance to allow encroachment into the City's 50 ft. Undisturbed Stream Buffer. The applicant is proposing a deck in the rear yard at an existing single family residence. Regulations regarding stream buffers are located in Chapter 46, Article VI – Stream Buffer Protection.

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## **ANALYSIS**

The subject parcel is located at the cul-de-sac of Cedar Ridge Court (See Figure 1). The subject parcel and adjoining parcels are zoned R-20 and occupied by single family residences in the Cedar Cliff neighborhood.

The applicant is requesting a variance to allow encroachment into the City's 50 ft. Undisturbed Stream Buffer. The property is 0.50 acres and contains a two-story single family residence. The property is encumbered by a City Drainage and Sanitary Sewer Easement, 25 ft. State Buffer, 50 ft. City Buffer, and additional 75 ft. Impervious setback.

The home was built in the late 1970's and includes a 180 sq. ft. rear deck. The existing home and deck are within the Undisturbed Buffer and Impervious Setback. The applicant plans to build three additional multi-tiered decks in the rear yard, totaling approximately 930 sq. ft. Any addition at the rear of the property would require a variance from the City Undisturbed Buffer and Impervious Setback as any addition at the rear would require these variances.

The applicant has met with City Staff and modified the proposal to minimize impacts to the buffer and not to encroach the sewer easement or State Buffer. Aerial photography suggests the rear yard was cleared at some point and is therefore not in pristine condition. Since the home was constructed prior to the adoption of the stream buffer ordinance and the rear yard is not in pristine condition, staff supports the requested variance with the condition that no further land disturbance to the rear yard occurs outside of the submitted site plan, and the applicant

submits a plan for storm water retention and filtration and buffer restoration improvements thereby improving existing conditions.

Community Development and City Engineer believe the variance requested is the minimum variance needed, and will also improve existing buffer conditions on the subject property. The hardships on the subject property are not self-created as they have existed since the house was constructed. Approval should not set any negative precedent or create any adverse impacts on adjacent properties.

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## **STAFF COMMENTS**

The applicant is requesting to deviate from the stream buffer regulations established in Chapter 46, Article VI. The applicant requests encroachment into the city 50 ft. undisturbed buffer and 75 ft. impervious setback. 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 phone calls regarding the variance 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. Issuance of a building permit is contingent upon the submittal of a stormwater management and buffer restoration plan that meets the requirements of the City Engineer.

**Figure – 1**  
**Subject Property**



**Figure – 2**  
**Subject Property with Stream Buffers**



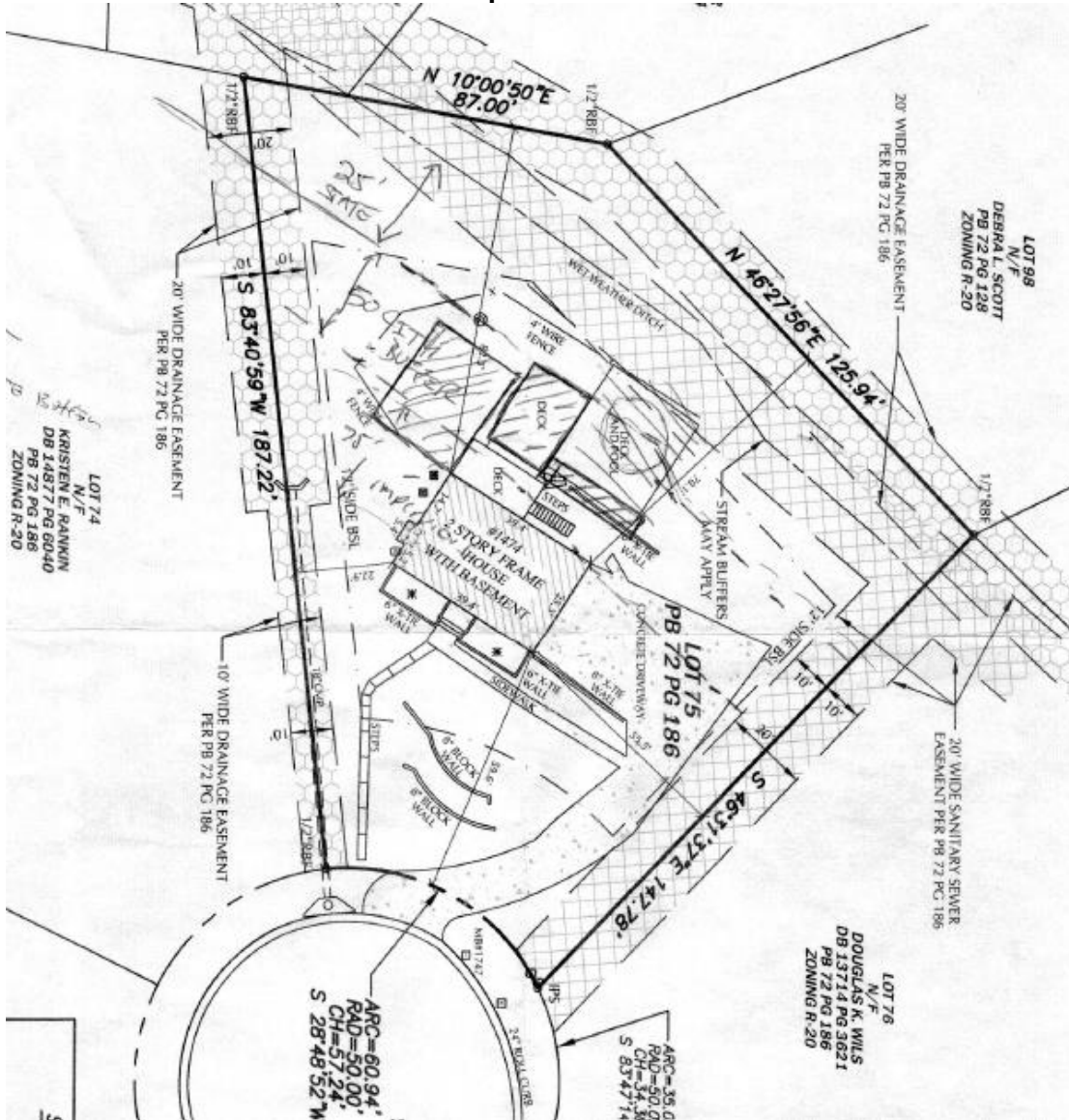
### Subject Property



### Adjoining Property



## Proposed Plan



**Figure – 6**  
**Deck Plan**

