

**GAINESVILLE PLANNING AND APPEALS BOARD
MINUTES OF MEETING
NOVEMBER 8, 2016**

CALL TO ORDER Chairman Carter at 5:30 p.m.

Members Present: Chairman Doug Carter, Vice-Chair Jane Fleming, Board Members George Hokayem, Connie Rucker, Eddie Martin, Sr., Carmen Delgado and Lemuel Betancourt

Members Absent: None

Staff Present: Community Development Director Rusty Ligon, Planning Manager Matt Tate and Recording Secretary Judy Foster

Others Present: Council Member George Wangemann

MINUTES OF OCTOBER 11, 2016

There was a motion to approve the minutes as presented.

Motion made by Vice-Chair Fleming
Motion seconded by Board Member Delgado
Vote – 7 favor

NEW BUSINESS

NOTE: Vice-Chair Fleming recused herself from the meeting at 5:34 p.m.

A. Stream Buffer Variance Request

- 1) Request from **Whitmire Homes, Inc.** to vary the stream buffer requirements on a 0.52± acre tract located on the south side of Dixon Drive, across from its intersection with Wessell Road (a/k/a **0 Dixon Drive NW**) having a zoning classification of Residential-I (R-I).

Ward Number: Five
Tax Parcel Number(s): 01-043-001-023
Request: Single-family home

Staff Presentation: Planning Manager Matt Tate gave the following staff presentation:

The applicant is proposing to vary a portion of the stream buffer from 75-feet to 25-feet in order to construct a single-family home. The subject property is 0.478± acre in size and was platted and recorded in 2004 prior to the current stream buffer requirements being adopted in 2005. The property is heavily wooded with terrain that slopes downward toward an existing 150± linear foot portion of perennial stream that feeds Lake Lanier. The surrounding and nearby uses include established single family homes, some of which are located within the local stream buffer requirements. The applicant is basing the hardship on the shape of the property and states the current building site would only allow a much smaller home that would be unfitting for the neighborhood. Given the stream buffer, topography, building setback requirements and the location of a 30-foot wide utility easement, there is only a 2,062 square feet, odd shaped area to construct a home.

The applicant has provided two concept plans. The applicant's *original* concept plan includes a one-story, ranch style home over a basement. A portion of the home and rear deck are located approximately 5-feet from the 25-foot state buffer. The overall buffer encroachment includes 1,845± square feet of area and 525± square feet within the non-impervious buffer area. The mitigation plan includes meeting the required soil erosion measures.

The applicant's *alternative* concept plan proposes a more traditional two-story home over a basement which reduces the overall building footprint. A corner of the home would be located approximately 20-feet from the 25-foot state buffer. The overall buffer encroachment includes 858± square feet of area and 30± square feet within the non-impervious buffer area. The mitigation plan includes meeting the required soil erosion measures but will include two rows of C-POP silt fencing and will design the storm water from the gutters and driveway areas to be piped to a storm water facility such as a rain garden.

The Planning Division staff is recommending **conditional approval** of the proposed stream buffer variance request based on the shape and slope of the property and the location of the existing sanitary sewer utility, with three conditions.

Applicant Presentation: **Tim Whitmire**, 4730 Mountain View Road, Oakwood, stated the buildable area for the subject property is narrow and long which does not fit the neighborhood very well so he requested a stream buffer variance in order to have a larger buildable area. He stated he is a hometown person and is serious about what he builds for people and doing what is best for each property, not just for how much profit he would gain. He stated he was available to answer any questions.

FAVOR: None

OPPOSE: **Heitzso**, 776 Circle Drive, stated his property is not adjacent to the subject property but is in close proximity and he is very familiar with the area. He asked if the records showed the same request coming before the Planning and Appeals Board a few years ago. Planning Manager Matt Tate clarified it was a different property, two homes down from the subject property, whereby the applicant requested to subdivide a lot. Heitzso felt it was important to conserve the corridor for the wildlife that travels along the stream from the lake such as deer, black bears, coyotes, foxes and other wildlife. He stated he was cautious of making exceptions which might set a precedent for future requests.

Mike Mauldin, 643 Dixon Drive, stated he lives right next door to the subject property and had two points of concern. He has been in the lawn landscape business for 35 years and felt that as close to the stream as the applicant has proposed to build, there would be erosion problems during clearing and grading, regardless of any control measures taken. Mr. Mauldin stated he has lived at his residence since 1955 and there are no other houses along Dixon Drive with another house built behind it. He felt it would destroy the privacy because Dixon Drive is such a busy thoroughfare so the only privacy is in the back yard. He stated he spoke with his neighbor who would have the proposed house in his back yard and they are both opposed to any house being built on the subject property because of the privacy and control aspects. Mr. Mauldin stated he has had problems with Mr. Whitmire in the past regarding issues along his property line which were never fixed, even when the City Marshalls became involved. Mr. Mauldin had to pay for trees and limbs to be removed which were overgrown from the subject property and was scratching vehicles coming in and out of his driveway. He had no reason to assume that whatever requirements were placed

on Mr. Whitmire, knowing that he had been unconcerned, untrustworthy and untruthful to him, that Mr. Whitmire would follow any rules and regulations required of him.

Cynthia Booth, 765 Circle Drive stated her house sits at the top of the hill on Circle Drive and looks down onto the adjacent subject property. She stated the stream snakes through her property as well where she has lived for 16 years. She stated they have had problems in the past with runoff from other construction upstream. She stated the wildlife and trees were the whole reason she built her home there and because it was a dead end street and protected. Mrs. Booth stated the trees would have to come down in order to build on such a small footprint. She stated the proposal was not in keeping with other homes in the Dixon Drive area since a house would be built directly behind another. She felt it would devalue the property and surrounding properties. She stated the proposal would destroy the natural order of things with the wildlife and the whole area which she loves, noting it was like a little forest behind her home and she does not want to see it destroyed.

Planning and Appeals Board Comments: Chairman Carter commented that the lot was originally platted in 2004 before the Unified Land Development Code was adopted in 2005. He stated he was on the Planning and Appeals Board at that time and clarified that with regards to variances, each request is always considered on a case by case basis and does not set a precedent for how other future requests are viewed. He stated that the City of Gainesville has a lot of creeks and streams in which a lot of homes could not have been built with current buffers without a variance.

There was a motion to approve the request with the following conditions:

Conditions

1. **The applicant shall be required to adhere to the alternative plan and mitigation standards as proposed by the applicant. The original plan submitted by the applicant is not an approved plan.**
2. **The proposed storm water area as shown on the alternative plan shall be constructed as a rain garden.**
3. **Prior to a permit being issued, all proposed soil and erosion measures must be reviewed and approved by the Gainesville Community Development Department and the Gainesville Department of Water Resources.**

Motion made by Board Member Martin

Motion seconded by Board Member Hokayem

Vote—3 favor (Martin, Hokayem, Carter), 3 opposed (Rucker, Delgado, Betancourt), 1 recusal (Fleming)

NOTE: According to the Unified Land Development Code, the request was automatically denied due to the tie vote.

NOTE: Vice-Chair Fleming returned to the meeting at 5:53 p.m.

B. Code Amendment Request

- 1) Request from the **City of Gainesville** to amend Article 9-18 of the Unified Land Development Code for the City of Gainesville, Georgia. The proposed amendment will repeal and replace Article 9-18 entitled "Sign Regulations" with a new Article 9-18 entitled "Signs and Advertising Devices."

Staff Presentation: Planning Manager Matt Tate requested this item be tabled until the December 13th PAB meeting to allow more review time.

There was a motion to table the Code Amendment request until the December 13, 2016, Planning and Appeals Board meeting.

Motion made by Board Member Rucker
Motion seconded by Board Member Delgado
Vote – 7 favor

ADJOURNMENT

There was a motion to adjourn the meeting at 5:54 p.m.

Motion made by Board Member Martin
Motion seconded by Board Member Betancourt
Vote – 7 favor

Respectfully submitted,

Doug Carter, Chairman

Judy Foster, Recording Secretary