



Technical Panel

Chapter 74 Article VII
Riparian Buffer Requirements

Determination Report

Atlanta City Code Section 74-311

Application No: 2020-05

111 Valley Road

October 21, 2020

1. Background and legislative context

The purpose of this report is to document the determination made by the Technical Panel (“Panel”) pursuant to section 74-311 of the Atlanta City Code (“Code”) following the public notice and comment period required by section 74-310 of the Code.

2. Project description

The applicant seeks to construct a new single-family house, driveway, pool and pool deck on an existing lot of record. The applicant states that the architect has worked to design the house, stairs, wall, and driveway with minimal encroachment into the stream buffer; however, based on the location of the stream and stream buffer, 8,865 sf of impervious surface will need to encroach into the 75 ft buffer. An authorized encroachment into the stream buffer is required to do this work.

This same project has been previously reviewed and approved by the Technical Panel after the applicant made certain modifications. That previous decision was overruled upon appeal to the Commissioner, who determined that there were minor technical violations of the process.

This application is a resubmittal of the previously reviewed and approved proposal.

3. Certification of completion of public notice

The Panel has reviewed the certification dated April 30, 2020 as provided by the applicant as required by section 74-310(d) of the Code.

The Panel determines, in accordance with section 74-311(a) of the Code, that the public notice required section 74-310 of the Code has been completed.

4. Consideration of public comments

Annexure A to this report contains the Panel’s consideration of public comments made with respect to the application, as required by section 74-311(b) of the Code.

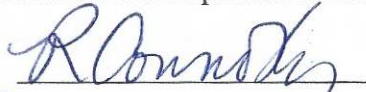
5. Findings

The Panel makes the following findings of fact and conclusions:

- The consideration of the public comments is as noted in Annexure A to this report.
- The Technical Panel is persuaded that the applicant has minimized the impact on the stream buffer to the extent practicable, and that the proposed mitigation is appropriate.

6. Determination

The Panel determines in accordance with section 74-311 of the Code, having considered the public comments (if any) and having made findings of fact and conclusions in this report, to issue the authorized encroachment as requested in the application with no conditions.

Authorized Signature: 
Name: R. CONNOLLY

Annexure A

Consideration of public comments

Section 74-311(b)

#	Date	Submitter	Issue	Response
1	4-22-20	Ms. Emily C. Perkins Executor for 130 Blackland Drive	<p>Writer is opposed to an AE.</p> <p>“Adding significant impervious area and encroaching on the stream buffer will cause more flooding than the existing flooding on Valley Road.”</p> <p>“Precedent would be set if you allow the applicant to combine lot portions in order to label a new lot as an existing lot, thereby following the less stringent regulations for existing lot variances...”</p>	<p>Writer provides no documentation or explanation of how or why flooding would be increased. (All new construction must meet City of Atlanta stormwater regulations.) Writer’s property is not adjacent to any stream and is 80 vertical feet above the subject property.</p> <p>City Attorneys have determined in the past that increasing the size of an existing lot does not qualify as a “new lot of record” within the definitions of this ordinance. The additional area added to this parcel increases rather than decreases the flexibility of the design and allow for less buffer encroachment than the previous lot configuration.</p>
2	4-21-20	Nancy Field & Michael Schulder 98 Valley Road	<p>Letter of opposition.</p> <p>Argues that “...no genuine “hardship” exists...”</p>	<p>Technical Panel previously determined in its meeting of February 7, 2020 that the lot configuration constituted a hardship.</p>
3	4-22-20	Mr. Michael McWilliams 110 Blackland Drive	<p>Letter of opposition.</p> <p>Writer states that there are existing flooding problems in the area and contends that the new house will make flooding worse.</p>	<p>Writer’s property is on a side branch of the stream in question and is 55 vertical feet above the proposed site. Writer provides no documentation or explanation of how or why flooding will be worsened, nor provides any credential to demonstrate that the statement is based on anything beyond a layman’s personal belief.</p>

#	Date	Submitter	Issue	Response
4	4-14-20	Ms. Gail Wilson 3519 Valley Road	<p>Writer is opposed. “The stream buffer provides protection against flooding and this situation directly affects me. I am one of the repetitive loss flood properties in this watershed. Flooding results in this watershed when storms release in excess of 1 inch of water during rainfall. Any rain over 1 inch leads to aggravated flooding.”</p> <p>Writer offers commentary about the inadequacy of the City’s stormwater requirements.</p>	The writer’s property is 1/3 mile upstream from, and 15 vertical feet higher than the subject property, and upstream of the Habersham Road culvert. The writer’s property is within a mapped FEMA floodplain. Engineering review has determined that activity at 111 Valley Road will not impact flooding a 3519 Valley Road.
5	4-6-20	Mr. Lawton Jordan Attorney for Deborah Levine	“It has come to my client’s attention that there has been a push to approve this Application, in spite of her opposition and that of others, despite the fact that such matters have been paused due to pandemic-related slowdown of City activities. ... we are opposed to providing special treatment to this Application.”	The Technical Panel is not aware of any push to approve or of any special treatment given to this or any application. All processes were frozen in place as a result of the Mayors Executive Order regarding meeting during the pandemic. All applications have been treated equally.
6	3-10-20	Mr. Lawton Jordan Attorney for Deborah Levine	<p>Suggests that the stormwater management system have greater capacity.</p> <p>Request that the driveway be located away from his client.</p>	<p>The Technical Panel has determined that:</p> <ul style="list-style-type: none"> - The proposed stormwater management system is appropriate for the site. Details will be enforced in the Building Permit review process. - The proposed driveway is located appropriately for the stream crossing
7	<p>March 13 2020 March 15 2020 April 3 2020 April 8 2020 April 17 2020</p>	<p>Ms. Kimberly Z. Shorter P.E.</p> <p>Ms. Shorter is a professional engineer that is either a</p>	Multiple letters and emails. Referencing, repackaging, and resending previous letters and email by other.	Technical Panel previously determined in its meeting of February 7, 2020 that the lot configuration constituted a hardship.

#	Date	Submitter	Issue	Response
		consultant for or is a member of the Tuxedo Park Civic Assoc.	Argues that the applicant has not demonstrated a hardship per the criteria of the ordinance. Suggest that additional stormwater management capacity is needed.	Applicant has provided additional stormwater management capacity beyond the minimum required by the City Code. The Technical Panel has determined that this extra capacity is appropriate for the conditions.
8	April 21, 2020	Hakim Hilliard, Attorney for Katie Kittredge, 122 Blackland Rd, NE Adjoining property owner.	Argues that due to recent modification of the property line, the lot should not qualify as an existing lot of record. Adjoining property owner will be harmed. (Harm not specified.) Approval would deny adjoining property owner equal protection under laws per US Constitution.	Previous opinion by the City Law Department has advised that subdivision of a parcel would create a new lot of record, but a minor modification of a property line or the increase of a property size does not create a new lot of record for purposes of Stream Buffer consideration. Question of Constitutionality are referred to the Law Department.

Annexure B

Conditions

Section 74-311(b)(2)

The following conditions are imposed on the authorized encroachment:

- None