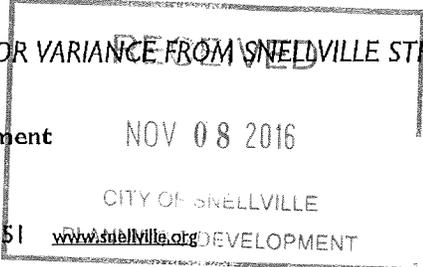




# BOARD OF APPEALS APPLICATION

APPLICATION FOR VARIANCE FROM SNELLVILLE STREAM BUFFER ORDINANCE

City of Snellville  
Planning & Development Department  
2342 Oak Road, 2<sup>nd</sup> Floor  
Snellville, GA 30078  
Phone 770.985.3514 Fax 770.985.3551



DATE RECEIVED:  
1589 BENHAM DR 46  
#1600518 BOA VARIANCE/APPEAL - BOA 16-09  
PARCEL-5041 374 SHADOWBROOK CROSSING

**Applicant** is: (check one)  Owner's Agent  Contract Purchaser  Property Owner

**Owner** (if not the applicant):  check here if there are additional property owners and attach additional sheets.

<u>Planners and Engineers Collaborative</u> Name (please print) <u>350 Research Court</u> Address <u>Norcross, GA 30092</u> City, State, Zip Code <u>770-451-2741</u> <u>770-451-3915</u> Phone Number(s)      Fax	<u>Steve Check (Jen Partners)</u> Name (please print) <u>840 Nettlebrook Lane</u> Address <u>Milton, GA 30004</u> City, State, Zip Code <u>770-480-4940</u> Phone Number(s)      Fax
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Contact Person: MATT KACZENSKI, P.E. Phone: 770-451-2741 Fax: 770-451-3915  
 Cell Phone: 678-910-1899 E-mail: mkaczenski@pecatl.com

### Property Information:

Address of Property: 1589 Benham Drive City: Snellville Zip Code: 30078  
 District: 5 Land Lot: 41 Parcel: 374 Size in Acres: 0.22 Number of Existing Structures: 0

The Subject property  IS  IS NOT a Lot/Parcel of Record. If yes, date platted: 11-25-15 Plat Book: 135 Page No.: 17

PROPERTY  IS  IS NOT LOCATED WITHIN A 7 MILE RADIUS OF THE BIG HAYNES CREEK.  
 PROPERTY  IS  IS NOT LOCATED WITHIN A 7 MILE RADIUS OF THE BIG HAYNES CREEK WATERSHED PROTECTION AREA.

Has this property been reviewed by any City Board, Commission, Mayor and Council within the past 24-months?  No  Yes (If yes, please describe: \_\_\_\_\_ File Number: \_\_\_\_\_)

Description of Stream Buffer Variance Requested: Request to encroach into the 75' impervious buffer by +/- 124 square feet by construction of a single family house with deck and stairs on the rear of the house.

### Variations will be considered only in the following cases:

- a. When a property's shape, topography or other physical conditions existing at the time of adoption of this Article prevents land development unless a buffer variances is granted; and
- b. Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

Variations will not be considered when, following adoption of this Article, actions of any property owner of a given property have created conditions of a hardship on that property.

**PUBLIC HEARING REQUIREMENT DETERMINATION. CHECK THE SITUATION THAT APPLIES:**

- The project identified on page one involves the construction of one (1) single family home for residential use by the owner of the subject property on a parcel that was platted prior to the effective date of this ordinance (5/23/2005).

*[§26-505(b)(1)] The project involves the construction of one (1) single family home for residential use by the owner of the subject property on a parcel that was platted prior to the effective date of this Article (5/23/2005), and its shape, topography or other existing physical condition prevents land development consistent with this Article, and the Department of Planning and Development finds and determines that the requirements of this Article prohibit the otherwise lawful use of the property by the owner, the Board of Appeals may grant a variance from the buffer and setback requirements hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.*

- The project identified on page one does not involve construction of one (1) single family home for residential use by the owner of the subject property on a parcel that was platted prior to the effective date of this ordinance.

*[§26-505(b)(2)] Except as provided above, the Board of Appeals shall grant no variance from any provision of this Article without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Board of Appeals. The City of Snellville shall give public notice of each such public hearing in a newspaper of general circulation within the City. The City shall require that the applicant post a sign giving notice of the proposed variance and the public hearing at least 15-days prior to the date of the hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.*

A VARIANCE from the terms of the Snellville Zoning Ordinance shall not be granted by the Board of Appeals unless and until:

1) Please state any special conditions and circumstances of the site, its shape or topography that apply to the property covered by this application which do not apply to other properties in the same zoning district. This particular site is located adjacent to a buffered stream segment, thus the construction of a structure on this site will necessitate an encroachment into this buffer.

2) In what way do these circumstances deprive the property covered by this application of privileges which are possessed by other properties in the same zoning district, thereby creating an unnecessary hardship? These circumstances are unique to this and a relative few other sites which are adjacent to buffered stream segments. Most properties are not located in such relation to buffered streams and thus do not require any variance.

3) Does granting the variance request give the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district?  YES  NO If no, why not? The granting of this variance  
only allows the construction of a single family home and other appurtenances typical  
of other lands, structures, and/or buildings in this same district.

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**Please Note:** Non-conforming uses of adjacent properties cannot be considered as grounds to justify a variance. Peculiar conditions or circumstances which are the result of actions of the owner of property covered by this application cannot be considered as grounds justifying a variance. A "use variance", i.e. a variance for the purpose of using land or a structure, or combination thereof for a purpose prohibited by the present zoning classification of the property covered by this application will not be granted.

#### REQUIRED ATTACHMENTS:

- a) Existing Conditions Site Survey that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey prepared within the past 6-months from the date of variance application; [§26-505(b)(3)(a)]
- b) Description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; [§26-505(b)(3)(b)]
- c) Detailed Site and Concept Plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated; [§26-505(b)(3)(c)]
- d) Documentation of unusual hardship should the buffer be maintained; [§26-505(b)(3)(d)]
- e) At least one alternative Site and Concept Plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible; [§26-505(b)(3)(e)]
- f) Calculation of the total area and length of the proposed intrusion (include on detailed Site and Concept Plan and on alternative Site and Concept Plan); [§26-505(b)(3)(f)]
- g) A stormwater management site plan, if applicable; and [§26-505(b)(3)(g)]
- h) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed [§26-505(b)(3)(h)]

*ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW: Any person aggrieved by a decision or order of the Department of Planning and Development may appeal in writing within 30-days after issuance of such decision or order to the City and shall be entitled to a hearing before the Board of Appeals, as prescribed in Article XIV of the Snellville Zoning Ordinance. Any person aggrieved by a decision or order of the City, after exhausting all administrative remedies, shall have the right to appeal to the courts as provided by law.*

SLV Georgia 1 LLC

RESOLUTIONS

**WHEREAS**, the Manager of SLV Georgia 1 LLC, a Georgia limited liability company (the "Company"), is SLV Manager LLC, a Delaware limited liability company (the "Manager"), and the sole member of the Company is Saguaro Land Ventures LLC, a Delaware limited liability company (the "Member"), and this certification of the Resolutions set forth hereinafter is signed by Ethan Leibowitz as Authorized Signatory of SLV Manager LLC, a Delaware limited liability company, in its capacity of Managing Member of the Manager of the Company, and by Ethan Leibowitz as Authorized Signatory of SLV Manager LLC, a Delaware limited liability company, in its capacity as Manager of the Member of the Company.

**THEREFORE**, the undersigned, do hereby consent to, ratify, adopt and certify for the records of the Company, the following as actions of the Company:

**RESOLVED**, that Steve Check is hereby appointed Vice President of the Company;

**FURTHER RESOLVED**, that the Company enter into certain agreement(s) to acquire certain real property totaling approximately 60± acres located in Snellville, Georgia, and to be known as Eastside Villages, which property is more particularly described on Exhibit A attached hereto (the "Property"), and other agreements relating to the development and sale of lots to be developed within the Property, including, but not limited, to an Assignment and Assumption of Purchase and Sale Agreement, Option Agreement and Construction Agreement;

**FURTHER RESOLVED**, that the Company may purchase the Property in one or more closings; and

**FURTHER RESOLVED**, that any officer of the Company, including, but not limited to, Steve Check, in his capacity as Vice President of the Company, or Reuben Leibowitz, Ethan Leibowitz or Adam Peterson in any capacity as specified above or other capacity, shall be authorized to execute any documents, instruments, resolutions, or certificates that are necessary or advisable in connection with the acquisition of the Property and the development and sale thereof, including, without limitation, any Assignment and Assumption Agreement and Assumption of Purchase and Sale Agreement, Option Agreement, Construction Agreement, settlement statements, closing documents of any kind and/or any other related or advisable documents, and that such acts of any of the foregoing parties shall be binding on the Company.

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**LEGAL DESCRIPTION - LOT 46**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 41 of the 5th District, City of Snellville, Gwinnett County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, commence from an iron pin set at the intersection of the Northeastern Right-of-Way line of Tree Lane and the Northern Right-of-Way line of New Hampton Dr (Right-of-Way Varies); thence along a direct tie, North 07 degrees 09 minutes 35 seconds East a distance of 570.97 feet to a point and the TRUE POINT OF BEGINNING, from the TRUE POINT OF BEGINNING as thus established; thence North 26 degrees 28 minutes 59 seconds West a distance of 74.70 feet to a point; thence North 59 degrees 58 minutes 49 seconds East a distance of 117.94 feet to a point; thence North 59 degrees 55 minutes 21 seconds East a distance of 8.46 feet to a point; thence South 29 degrees 59 minutes 41 seconds East a distance of 74.65 feet to a point; thence South 60 degrees 01 minutes 04 seconds West a distance of 130.98 feet to a point and the TRUE POINT OF BEGINNING.

Said tract containing 0.220 acres (9,600 square feet).



# ACCOUNT DETAIL



[View/Pay Your Taxes / Account Detail](#)

## Tax Account

**Mailing Address:**

SLV GEORGIA 1 LLC  
680 5TH AVE FL 25  
NEW YORK, NY 10019-5431

[✉ Change Mailing Address](#)

**SITUS:**

1589 BENHAM DR

**Tax District:**

SNELLVILLE

**Parcel ID**

R5041 374

**Property Type**

Real Property

**Last Update**

11/8/2016 3:35:33 PM

**Legal Description**

L46 SHADOWBROOK CROSSING PH I

## Tax Bills

Note: Four years of tax information is available online. Email [tax@gwinnettcountry.com](mailto:tax@gwinnettcountry.com) to request other years.

Tax Year	Net Tax	Total Paid	Penalty/Fees	Interest	Due Date	Amount Due
2016	\$1,084.43	\$1,090.29	\$0.00	\$0.00	10/15/2016	\$0.00
<b>Total</b>						\$0.00

Shadowbrook Lot 46

The property shape is rectangular. It covers 9,600 square feet (0.22 acres) and has 74.65' of proposed street frontage. The property was previously developed and is part of an existing subdivision. There are no existing structures. It has a storm drainage pipe crossing through it. This property slopes downwards to the northeast, towards the stream. It covers two soil series regions: GgB2 (K=0.28) and GeC2 (K=0.20). Permanent grassing has been planted as part of the overall subdivision site development.

Should the buffer be maintained, this lot will sit vacant and undeveloped, presenting an eye store to nearby residents, affecting the taxable potential of the property, and negatively impacting values of nearby properties as the subdivision develops.

There is no alternate site configuration that does not encroach upon the 75' impervious buffer. The lot size and setbacks will not permit any modification of the location of the proposed structure such that the buffer will not be affected.

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