



**CITY OF SNELLVILLE  
PLANNING & DEVELOPMENT DEPARTMENT  
BOARD OF APPEALS**

**VARIANCE CASE SUMMARY**

**January 14, 2025**

**CASE NUMBER:** #BOA 25-01

**VARIANCE REQUEST:** From Sec. 403-1.4.A. (Stream Buffer and Setback Requirements) to encroach into the 50-foot stream buffer and 75-foot impervious surface setback

**LOCATION:** **0.41± Acre Lot 3 Block A Unit One Country Farms Subdivision, 3020 Country Farms Drive, Snellville, Georgia**

**TAX PARCEL:** R5004 070

**CURRENT ZONING:** RS-15 (Single-family Residential) District

**PROJECT:** **Covered Deck Addition, New Deck and New Stairs**

**APPLICANT/PROPERTY OWNER:** Odilia Correa-Villalobos  
678-471-3802  
Snellville, Georgia

**RECOMMENDATION:** **Denial**



**CITY OF SNELLVILLE  
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**VARIANCE CASE ANALYSIS**

**January 14, 2025**

**TO:** Snellville Board of Appeals

**REGULAR MEETING DATE:** January 14, 2025

**FROM:** Jason Thompson, Director  
Department of Planning and Development2

**CASE NUMBER:** **#BOA 25-01**

**FINDINGS OF FACT:**

The Department of Planning and Development has received a variance application from Odilia Correa (property owner) requesting variance from Sec. 403-1.4.A. (Stream Buffer and Setback Requirements) of Article 3 of Chapter 400 of the Snellville Unified Development Ordinance to allow encroachment of 350 sq. ft. into the 50-foot undisturbed stream buffer and encroachment of 959 sq. ft. into the 75-foot impervious surface setback for the addition of a new covered deck, new deck and new stairs to the rear of the two-story with basement single-family residential dwelling.

The subject property is located in the Country Farms Subdivision, platted December 30, 1987 and located off Springdale Drive near the intersection of Lenora Church Road and Pate Drive, Snellville. The single-family residential lot contains a 3,294± sq. ft. two-story with basement single-family dwelling constructed in 1992. Serving as the southeastern lot boundary for the lot and other lots in the Country Farms subdivision is No Business Creek flowing south to Norris Lake then merging with the Yellow River. Just east and opposite the creek is 30-acres of granite outcropping known as Baker's Rock (formerly serving as Snell's quarry in the late 1800's and

early 1900's) which the city purchased in 1994 for conservation and natural preservation purpose.

A portion of the lot lies within a FEMA/FIRM Special Flood Hazard Area (Zone AE) with limits of the floodplain indicated by the black hatching on the 2024 aerial parcel map (right).

At the time of the 1987 subdivision Final Plat, the stream was protected by a 25-foot undisturbed stream buffer, measuring 25-feet on each side of the stream bank. Later in 2001, this buffer was increased to 50-feet and added a 75-foot impervious surface setback as required by the Metropolitan North Georgia Water Planning District.



The current property owners purchased the property in September, 2019 with construction of the covered rear deck, new deck and stairs occurring sometime between years 2022-2023 without obtaining an approved building permit from the city. After receiving an anonymous complaint in May 2024, Snellville Code Enforcement investigated and opened a case for construction without an approved building permit. The case remains open pending outcome of the variance hearing.

Further, lots that lie within a floodplain are further regulated by the City's Floodplain Management Ordinance in UDO Sec. 403-4 (Floodplain Protection) and applicable with any development activities on a site with an Area of Special Flood Hazard.

**REQUEST:**

The applicant is requesting relief from the Article 3 of Chapter 400 of the Snellville Unified Development Ordinance, as follows:

- Variance from Sec. 403-1.4.A. (Stream Buffer and Setback Requirements) to allow encroachment of 350 sq. ft. into the 50-foot undisturbed stream buffer and encroachment of 959 sq. ft. into the 75-foot impervious surface setback for the addition of a new covered deck, new deck and new stairs to the rear of the two-story with basement single-family residential dwelling.

**STANDARDS FOR CONSIDERATION:**

Pursuant to Sec. 103-7.2.B of Chapter 100 of the UDO, the City of Snellville Zoning Ordinance, the City finds the following standards are relevant in considering all applications for a Variance.

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district;

Applicant Response: *Property is built on lower level than rest of properties on subdivision and sit lower and closer to setback stream buffer.*

2. That literal interpretation of the provisions of this UDO would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this UDO;

Applicant Response: *Provisions would deprive my family to have a place and or structure to where we can gather and use of space. Land on back of property is unusable due to flood zone and rock erosion. Home is built on a downhill slope. Bamer walls are being washed away with rain, deck allows for solid platform.*

3. That the special conditions and circumstances do not result from the actions of the applicant; and

Applicant Response: *Porch and deck built are not built in flood zone or neighboring tenants or disturbing vegetation.*

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.

Applicant Response: *Approval of variance will add property value and provide more potential to home usage without disturbing any zoning/residential structures or land.*

#### **VARIANCE ANALYSIS:**

Variances from the requirements of Sec. 403-1.4 (Stream Buffer and Setback Requirements) may only be granted in accordance with the following:

1. Where a lot was platted before May 23, 2005, and its shape, topography or other existing physical condition prevents land development consistent with Sec. 403-1.4, and the Director finds and determines that the requirements of this section 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 lot.
2. Variances will be considered only in the following cases:

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

The city's Stream Buffer Protection Ordinance allows for the continued lawful use of the property and dwelling, originally constructed in 1992 for single-family residential use and considered a legal non-conforming "grandfathered" use. However, expansion of the non-conforming use with 350 sq. ft. additional encroachment into the 50-foot undisturbed stream buffer and 959 sq. ft. additional encroachment into the 75 foot impervious surface setback for the newly constructed covered deck, deck and stairs does not negate use of the property as originally intended, but does limit any expansion of the use in the rear of the dwelling.

Further, the applicant has not provided any mitigation plans to reduce adverse impact of the additional impervious cover within the stream buffer and impervious surface setback.

#### **STAFF RECOMMENDATION:**

In support of the key implementation strategy for the No Business Creek Character Area to "*maintain and protect 50-foot stream buffers along No Business Creek*" identified in the Snellville 2045 Comprehensive Plan, the Department of Planning and Development recommends **DENIAL** of variance from Sec. 403-1.4.A. (Stream Buffer and Setback Requirements) to allow encroachment of 350 sq. ft. into the 50-foot undisturbed stream buffer and encroachment of 959 sq. ft. into the 75-foot impervious surface setback for the non-permitted addition of the new covered deck, new deck and new stairs to the rear of the single-family residential dwelling.

The Department further recommends within 30-days of the variance hearing, the property owner shall submit to the Planning Department for review and approval application(s) for:

- a) Demolition Permit and all required plans and/or scope of work for the demolition of all new construction including covered deck, new deck, and stairs.
- b) Building Permit and all required construction plans to allow for the restoration of the rear dwelling exterior including rear deck and stairs to the pre-existing conditions<sup>1</sup> as shown in the photos in Exhibit "A".

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<sup>1</sup> Per ICC 2012 International Residential Code with 2015 and 2020 Georgia Amendments (aka Prescriptive Deck Details).

EXHIBIT "A"

