



ZONING BOARD OF APPEALS AGENDA

SEPTEMBER 21, 2016

7:00 PM

CITY HALL

- A. Roll Call**
- B. Approval of Minutes: July 20, 2016**
- C. Old Business: (None)**
- D. New Business:**

V2016-005 3699 Allenhurst Dr. Request to encroach into the required 50 ft. stream buffer in order to accommodate a rear yard deck expansion for property located at 3699 Allenhurst Dr. in Dist. 6, Land Lot 303, Parcel 128, Peachtree Corners, GA

- E. City Business Items: (None)**
- F. Comments by Board Members.**
- G. Adjournment.**

CITY OF PEACHTREE CORNERS
ZONING BOARD OF APPEALS MINUTES
July 20, 2016

The City of Peachtree Corners held a Zoning Board of Appeals meeting. The meeting was held at City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, GA, 30092. The following were in attendance:

Zoning Board of Appeals: Wayne Knox, Post B
Marcia Brandes, Post A
Amreeta Regmi, Post C
Matthew Gries, Post D
James Blum, Post E - Absent

Staff: Diana Wheeler, Com. Dev. Director
Kym Chereck, City Clerk

AGENDA: Approval of the July 20, 2016 agenda.

MOTION TO APPROVE THE JULY 20, 2016 AGENDA.

By: Marcia Brandes

Seconded: Amreeta Regmi

Vote: (4-0) (Brandes, Regmi, Knox, Gries)

MINUTES: Approval of April 20, 2016 Minutes and May 4, 2016 Minutes.

MOTION TO APPROVE THE APRIL 20, 2016 AND MAY 4, 2016 MINUTES.

By: Marcia Brandes

Seconded: Amreeta Regmi

Vote: (3-1) (Brandes, Regmi, Knox) (Gries abstained)

NEW BUSINESS:

1. V2016=004 Peachtree Marketplace.

Request to increase the amount of wall signage from 200 square feet to 379.5 square feet and reduce the front setback from 38.8 feet to 10 feet and reduce the side yard setback from 10 feet to 5 feet for property located at 6131 and 6141 Peachtree Parkway in District 6, Land Lots 283, 285, and 374, Peachtree Corners, GA.

Diana Wheeler, Community Development Director, provided background information regarding the applicant's request. The applicant is requesting variances in order to exceed the maximum wall signage allowed and reduce

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required setbacks as follows: 1) a total of 379.5 square feet of wall signs on the new LA Fitness building instead of the maximum 200 square feet, 2) a side setback of 5 feet instead of the required 10 feet on the new LA Fitness and Aspen Dental buildings, and 3) a front setback of 10 feet instead of the required 38.8 feet on the Aspen Dental outparcel building. After reviewing the applicant's proposal and the variance criteria, staff found that the setback variance request for both the side and front can be supported, as there are hardship conditions unique to this property. A variance for some of the added wall signs requested on the LA Fitness building can also be supported to help with driver safety where visibility is hampered by topography and landscaping. However, a wall sign on the west (rear) side of the building will likely have limited benefit and contribute little to driver safety. Approaching the LA Fitness building from Ryan Rd. in either direction, the driver would see either the south side sign or the north side sign before reaching the sign on the west side of the building. This means that unless viewed from the office building across Ryan Road, the sign on the west side of the building would serve a redundant purpose since, on approach, one of the other LA Fitness signs would be visible first.

The applicant, Mr. Jacob Khotoveli, was present at the meeting. Mr. Khotoveli stated that he would like the sign on the rear of the building, facing Ryan Road, to be approved since it is a regularly traveled road, and access to the site. Mr. Khotoveli stated that it is especially traveled by people who miss the turn on Holcomb Bridge Road and circle around onto Ryan Road.

Chairman Knox opened the floor to anyone wanting to speak in favor or opposition to the application. There were no comments.

A motion was made after discussion concerning, among other items, the importance of the access to the property from Ryan Road.

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND APPROVE THE APPLICATION BEFORE IT ON THE BASIS THAT (1) THERE ARE EXTRAORDINARY OR EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION BECAUSE OF ITS SIZE, SHAPE OR TOPOGRAPHY; AND, (2) THE APPLICATION OF THE ZONING RESOLUTION TO THIS PARTICULAR PIECE OF PROPERTY WOULD CREATE AN UNNECESSARY HARDSHIP; AND, (3) SUCH CONDITIONS ARE PECULIAR TO THE PARTICULAR PIECE OF PROPERTY INVOLVED; AND, (4) SUCH CONDITIONS ARE NOT THE RESULT OF ANY ACTIONS OF THE PROPERTY OWNER; AND, (5) RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD NOR IMPAIR THE PURPOSES OR INTENT OF THIS RESOLUTION.

By: Marcia Brandes

Seconded: Matthew Gries

Vote: (4-0) (Brandes, Gries, Knox, Regmi)

CITY BUSINESS ITEMS:

Diana Wheeler, Community Development Director, informed the Board that there would be no meeting in August.

The Zoning Board of Appeals meeting concluded at 7:55 PM.

Approved,

Attest:

Wayne Knox, Chairman

Kym Chereck, City Clerk

V2016-005
3699 Allenhurst Dr.

**City of Peachtree Corners
Zoning Board of Appeals
September 21, 2016**

CASE NUMBER:	V2016-005
PROPERTY LOCATION:	3699 Allenhurst Drive 6th District, Land Lot 303, Parcel 6303128 Lot 35
CURRENT ZONING:	R75
PARCEL SIZE:	.74 acres
PROPERTY OWNER:	Christopher and Stephanie Moder
APPLICANT:	Chris Moder

REQUEST

The applicant requests a stream buffer variance of approximately 10 ft. in order to expand an elevated outdoor deck on the rear of his house. The variance would allow the existing deck to increase in width from 10 ft. to 18 ft. in order to better accommodate the 5-foot turning radius of his daughter's wheelchair. Currently, access to the backyard is difficult for the applicant's handicapped daughter; however, the additional deck space would give her the opportunity to spend more time outdoors.

LOCATION AND BACKGROUND

The property is located in the Peachtree Station subdivision at Allenhurst Drive near Peachtree Corners Circle. The house was built in 1980 with a setback on the lot about 100 feet deeper than most other homes in the subdivision due to the presence of an underground spring at the front of the property. In addition, the property also has a 20-foot sanitary sewer easement along the north property line and a 20-foot drainage easement on the west property line.

The applicant would like to expand an existing, elevated, outdoor deck on the rear of the house from 463 square feet to 706 square feet. The improvements would add 243 square feet of space and involve adding an overhang roof over the deck, part of which could be screened-in at a later date.

The city's stream buffer ordinance requires a 50-foot setback from streams. However, the existing residence and deck were constructed in 1980, before the city's or county's ordinance. Adopted in 1981, O.C.G.A. 12-5-453 requires a 25-foot stream buffer. The proposed deck expansion would encroach a maximum of eight feet into the 25-foot stream buffer.

VARIANCE REQUIREMENTS

Sec. 1605.3 identifies specific findings that must be made in order for a variance to be granted. These findings are as follows:

- A. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and
- B. the requirements on this particular piece of property would create an unnecessary hardship, and
- C. such conditions are peculiar to the particular piece of property involved, and
- D. such conditions are not the result of any actions of the property owner, and
- E. relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Resolution.

ANALYSIS

The home was constructed prior to the adoption of city and state laws regarding stream protection. Due to sloping topography and the location of the home deep in the lot, there are conditions which make expanding the deck on this property difficult. What is possible for other homes in the neighborhood, has not been possible for this home due to these constraints.

The applicant has a daughter who is confined to a power wheelchair. She has experienced difficulty navigating the rear deck, which is 10 feet in depth. With typical deck furnishings including chairs and a grill, there is little room to navigate a wheelchair.

In addition, there is a sanitary sewer to the north and a drainage easement to the west which further serve to confine the applicant's "backyard." With the proposed expansion, the deck would encroach about 10 feet into the buffer, but in a very limited way. The encroachment would not extend along the entire backyard, but only in very small areas.

CONCLUSION

After reviewing the applicant's proposal and the variance criteria, staff finds that the buffer encroachment request is justified, as there are extraordinary conditions unique to the property that are not the result of any action of the property owner. If approval of the variance is considered, the following conditions are recommended:

1. Any specimen tree removal must be permitted by the city arborist.
2. Disturbance shall be limited to small holes for deck posts, or footings, and shall be performed manually, not with heavy equipment.



CITY OF
**Peachtree
CORNERS**
Innovative & Remarkable

**CITY OF PEACHTREE CORNERS
COMMUNITY DEVELOPMENT**

147 Technology Parkway, Suite 200, Peachtree Corners, GA 30092
Tel: 678.691.1200 | www.peachtreecornersga.gov

Case Number: V2016-005 Received Date: 7-29-2016 Hearing Date: 9-21-2016

**Variance Application from the Zoning Resolution (STREAM BUFFER PROTECTION)
(Zoning Board of Appeals) ORDINANCE**

Please complete this application & submit it with all attachments as stated in the Variance Application Guidelines. A variance cannot be processed unless all information accompanies the application; a variance from a condition of zoning or special use cannot be accepted.

Applicant Information	Property Owner Information
Name <u>Chris Moder</u>	Name <u>Christopher M. Moder</u> <u>Stephanie C. Moder</u>
Address (all correspondence will be mailed to this address): <u>3699 Allenhurst Drive</u>	Address <u>3699 Allenhurst Drive</u>
City <u>Peachtree Corners</u>	City <u>Peachtree Corners</u>
State <u>Georgia</u> Zip <u>30092</u>	State <u>Georgia</u> Zip <u>30092</u>
Phone <u>770-363-4363 (M)</u>	Phone <u>770-446-2048</u>
Contact Person Name: <u>Chris Moder</u> Phone: <u>770-363-4363</u>	
Email Address: <u>CMmoder@gmail.com</u>	
Applicant is the (please check or circle one of the following): <input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> Owner's Agent <input type="checkbox"/> Contract Purchaser	

Address of Property 3699 Allenhurst Drive, Peachtree Corners, GA 30092
 Subdivision or Project Name Peachtree Station Lot & Block 35-A
 District, Land Lot, & Parcel (MRN) 6th District, Land Lot 303 PARCEL 128
 Proposed Development Deck renovation and expansion
 Permit Number (if construction has begun) _____
 Variance Requested Stream Buffer

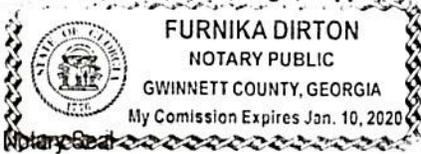
A complete application includes the following:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Application Form (1 original and 9 copies) | <input checked="" type="checkbox"/> Application Fee |
| <input checked="" type="checkbox"/> Site Plan and/or Boundary Survey (1 original and 9 copies) | <input type="checkbox"/> Adjacent owner(s) written support (1 original and 9 copies) |
| <input checked="" type="checkbox"/> Letter of Intent (1 original and 9 copies) | <input checked="" type="checkbox"/> Additional Documentation as needed |
| <input checked="" type="checkbox"/> Signed & notarized Certification page | |



Applicant Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608).

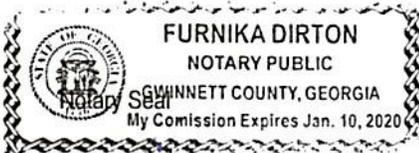


Christopher M. Moder 7-29-16
Stephanie C. Moder
Signature of Applicant Date
Christopher M. Moder
Stephanie C. Moder
Typed or Printed Name & Title

[Signature] 7-29-16
Signature of Notary Public Date

Property Owner Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608). I, as the property owner, authorize the above noted applicant to represent me with regards to this application.



Christopher M. Moder 7-29-16
Stephanie C. Moder
Signature of Property Owner Date
Christopher M. Moder
Stephanie C. Moder
Typed or Printed Name & Title

[Signature] 7-29-16
Signature of Notary Public Date

Community Development Use Below Only

Fees Paid: \$100 By: [Signature]

Related Cases & Applicable Conditions:

Variance Description: _____

**Chris Moder Family Residence Deck Renovation
Letter of Request for a Variance to the
City of Peachtree Corners Stream Buffer Ordinance**

**3699 Allenhurst Drive
Peachtree Corners, Georgia 30092**

July 29, 2016

Scope of the Request

I am requesting from the City of Peachtree Corners' Zoning Board of Appeals a variance to the City stream buffer ordinance requiring a 50-foot undisturbed buffer and 75-foot impervious setback, in order to allow for an approximately 243 SF expansion of an elevated outdoor deck attached to the back side of my home. The house was constructed around 1980, on Lot 35, Block A, Unit 3 within the Peachtree Station subdivision, prior to the establishment of the stream buffer regulations. The planned improvements require an additional 80 SF (which includes nine SF of roof overhang that could be constructed associated with a screened-in portion of the deck in the future) to be added to the original / existing deck within an area that was later designated as a part of the 25-foot State stream buffer. It is my understanding that this additional encroachment area of 80 SF is less than the 100 SF EPD threshold and is therefore exempt from State variance purview (provided that the City of Peachtree Corners is a certified Local Issuing Authority).

Context

The house was built with a setback on the lot about 100 feet deeper than most of the other homes throughout the subdivision. I was informed by a neighbor who lived on an adjacent lot during the house construction that an underground spring was encountered, as the site was being graded for the basement. The decision was made to refill the excavation and re-site the house's footprint well toward the back of the lot. In addition to the groundwater in the front yard, the site is bounded by a 20-foot sanitary sewerage easement along the northern property line, a 20-foot storm water drainage easement along the southern property line, and a meandering stream in the back that generally runs along the western property line (refer to the site plan attached).

Existing Hardship

The constraints posed by the topography and easements required that the house be built closer to the back of the property and stream than the other adjacent homes which, subsequently, created the situation where the property improvements were located within the buffer zones that were established at a later date (after I purchased the house). The other houses in the area are not restricted in making similar types of improvements that I am proposing which require the variance. Restrictions to the plans proposed would significantly reduce the enjoyment and value of the property.

Topography and proximity to the stream significantly limits ground-level activities that can be accommodated in the backyard. This area of the yard facilitates only limited passive activities. Access to the area is very difficult for my daughter who is confined to a wheelchair. Her use of the deck, accessed from the main level of the house, is the only way she can enjoy the experience of her home's backyard. Her power wheelchair requires a five-foot turning radius, and with the furnishings typically associated with a back deck, there is very little room for her to safely and comfortably maneuver her wheelchair.

Impact Mitigation

The proposed improvements would not have detrimental impacts on surrounding properties or the stream being protected. If relief is granted, the backyard will remain in its primarily natural state. Improvements will not be visible from any other houses on adjacent properties.

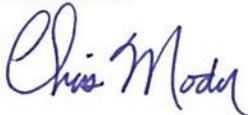
Only small holes to accommodate deck posts/footings will be needed (with very limited ground disturbance) and will be installed without the use of heavy machinery. The small amount of soil excavated will be placed directly in a wheelbarrow and relocated to the front yard. No plants or tree canopy will be removed. The attached pictures show the location of the proposed deck posts and the existing tree canopy to be maintained. 10 Autumn Ferns will also be planted along the stream bank, at its closest point to the deck.

Consideration of Alternative Plans

The construction of the deck anywhere else would not be practical and would not avoid the 50-foot / 75-foot buffer zones. The house's floorplan and existing well-established vegetation preclude other siting alternatives in the backyard. The shallow side yard's set-back restrictions would not allow for the deck construction on the northern side of the house. The driveway location and stream buffer restrictions would not allow deck construction on the southern side of the house.

The additional area proposed is considered to be the minimum area needed to accommodate the outdoor uses. The additional area is needed in order to allow my daughter's power wheelchair to navigate the space safely. The expanded area also allows for the enjoyment of the property in ways other property owners are able to, without the need to more intensively use the ground near the stream by my family and future property owners.

Respectfully Submitted –
Chris Moder



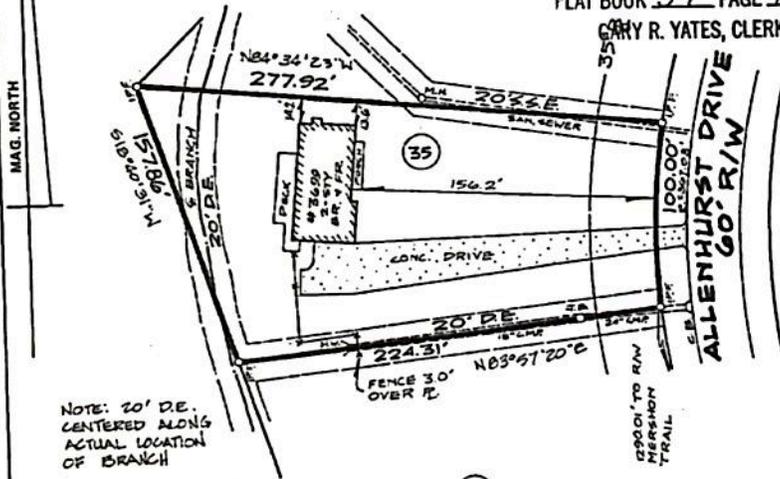
CMmoder@Gmail.com
770-363-4363 (Mobile)

LOT 35
BLOCK A
UNIT THREE
SUB. PEACHTREE STATION

AREA=

The field data upon which this plat is based has a closure precision of one foot in 1,000.00 feet and an angular error of 2 seconds per angle point and was adjusted using the Compass Rule.
This plat has been calculated for closure and is found to be accurate within one foot in 1,000.00 feet.
Equipment used: Topcon GTS 28 Total Station.

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY GA
DATE 6-30-93 TIME 4:00 PM
PLAT BOOK 59 PAGE 94-B
GARY R. YATES, CLERK



NOTE: 20' D.E. CENTERED ALONG ACTUAL LOCATION OF BRANCH

NOTE: THIS SURVEY IS TO SUPERSEDE PLAT BOOK 20, PAGE 201.

J. Leigh Sanders 6-30-93
Dept. of Planning & Development

This is to certify that this property (is not) in a special flood hazard area as shown on the applicable "FIA Official Flood Hazard Map".

40180-81

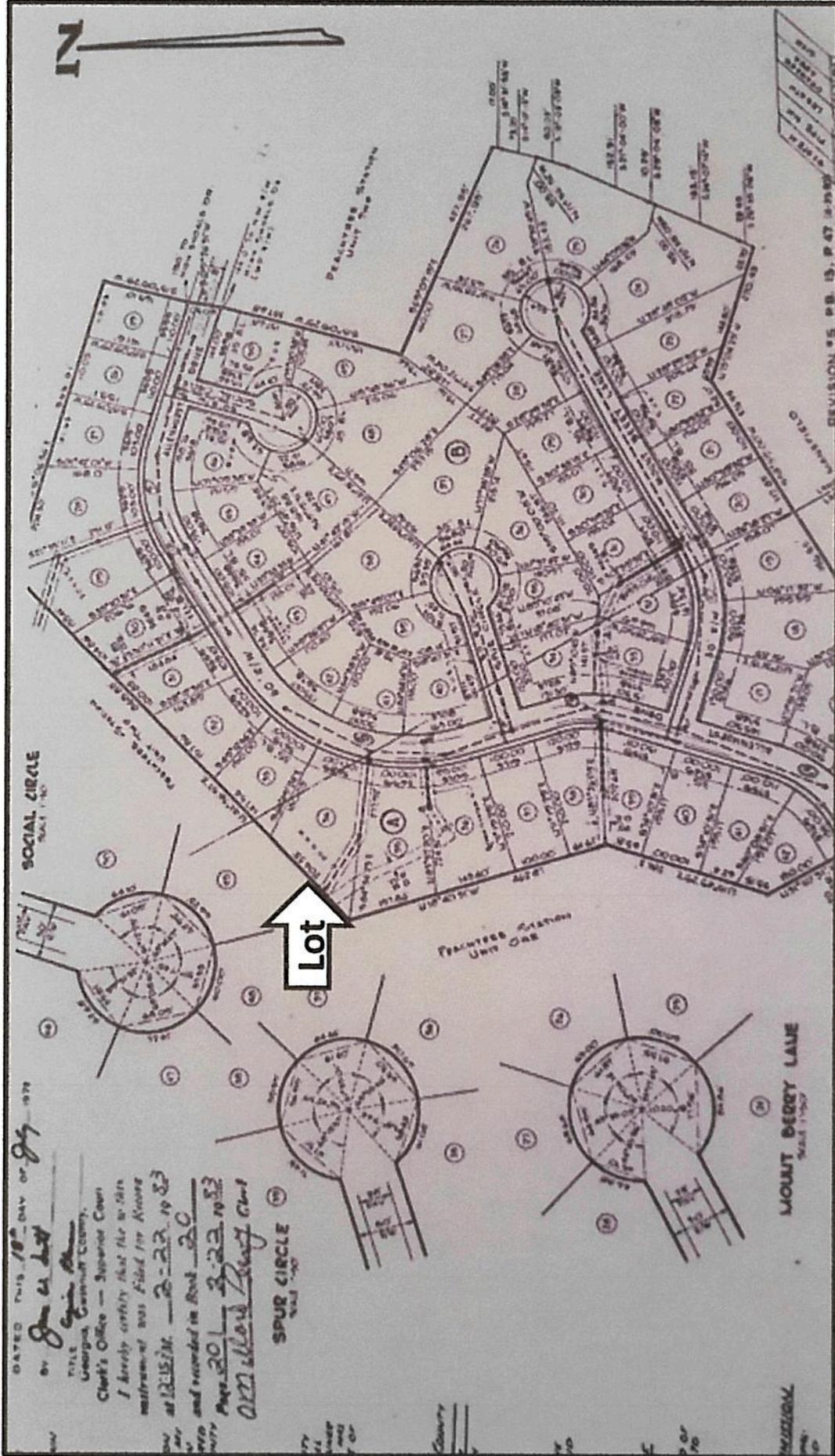
PROPERTY OF
CHRISTOPHER M. MODER & STEPHANIE C. MODER
LAND LOT 303, 6TH DISTRICT
GWINNETT COUNTY, GEORGIA
SCALE 1" = 60' DATE: MARCH 2, 1993
REG. LAND SURVEYOR NO. 1999

THE CARTER GROUP, INC.
IN MY OPINION THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED.



NO. 93030028

McM: A



Partial Peachtree Station Subdivision Plat



Allenhurst Drive, through
Peachtree Station Subdivision

Moder Residence Deck Renovation

3699 Allenhurst Drive,
 Peachtree Corners, GA 30092
 Peachtree Station Subdivision,
 Lot 35 - Block A - Unit 3

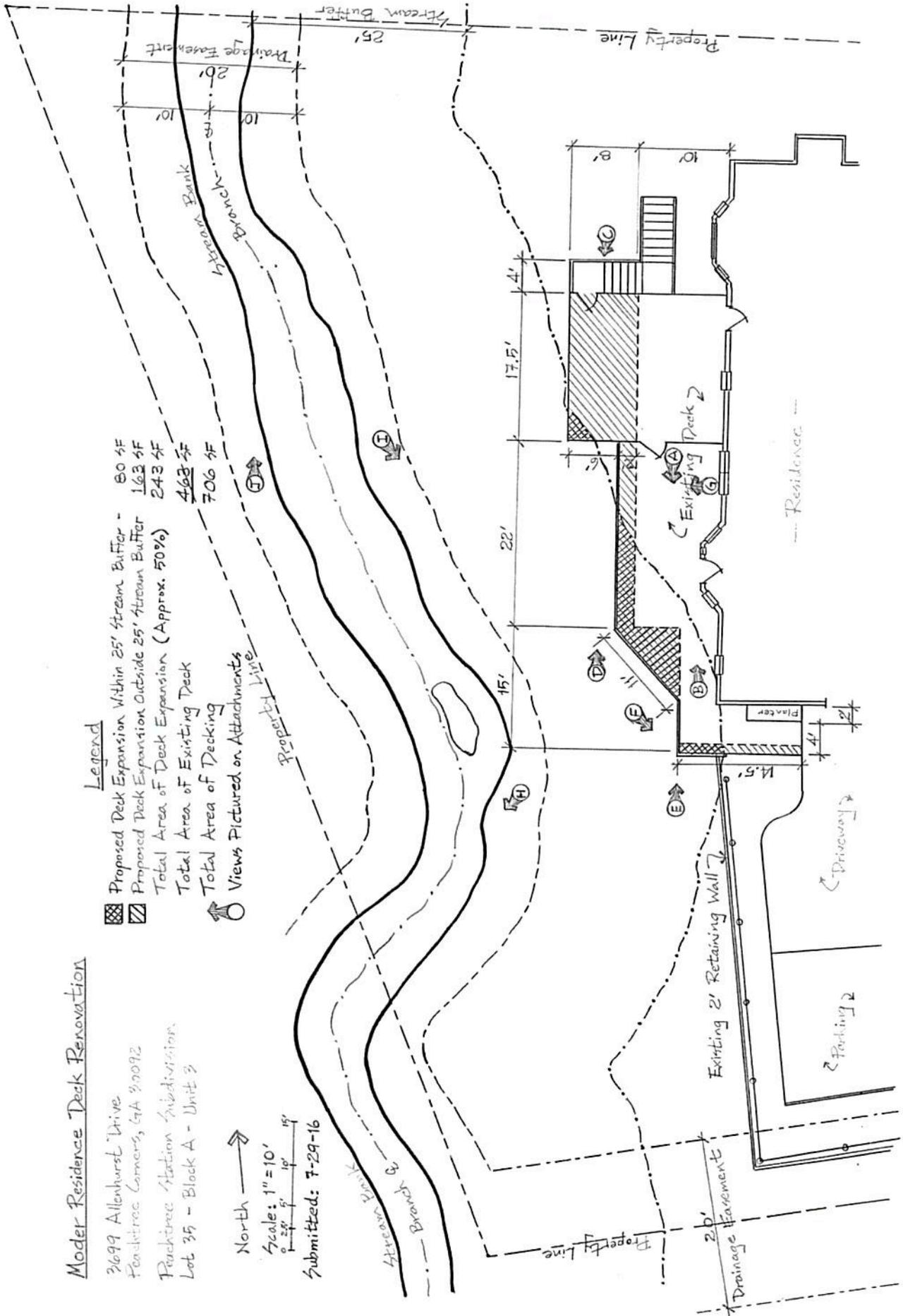
North →

Scale: 1" = 10'

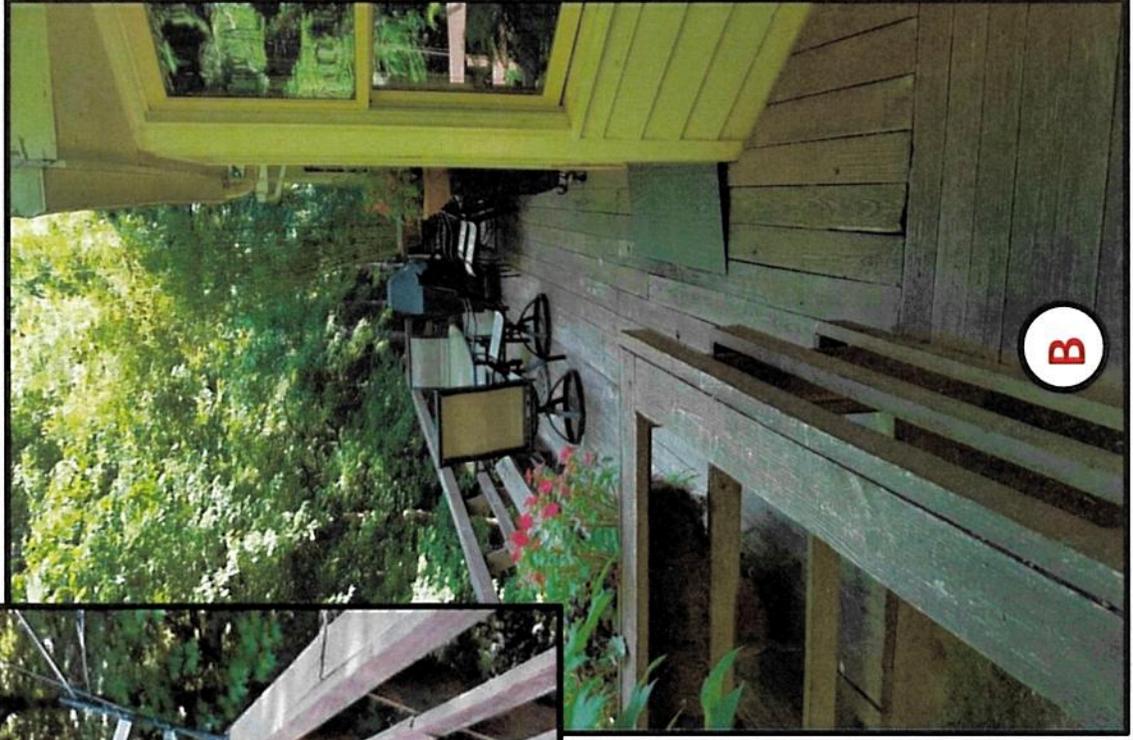
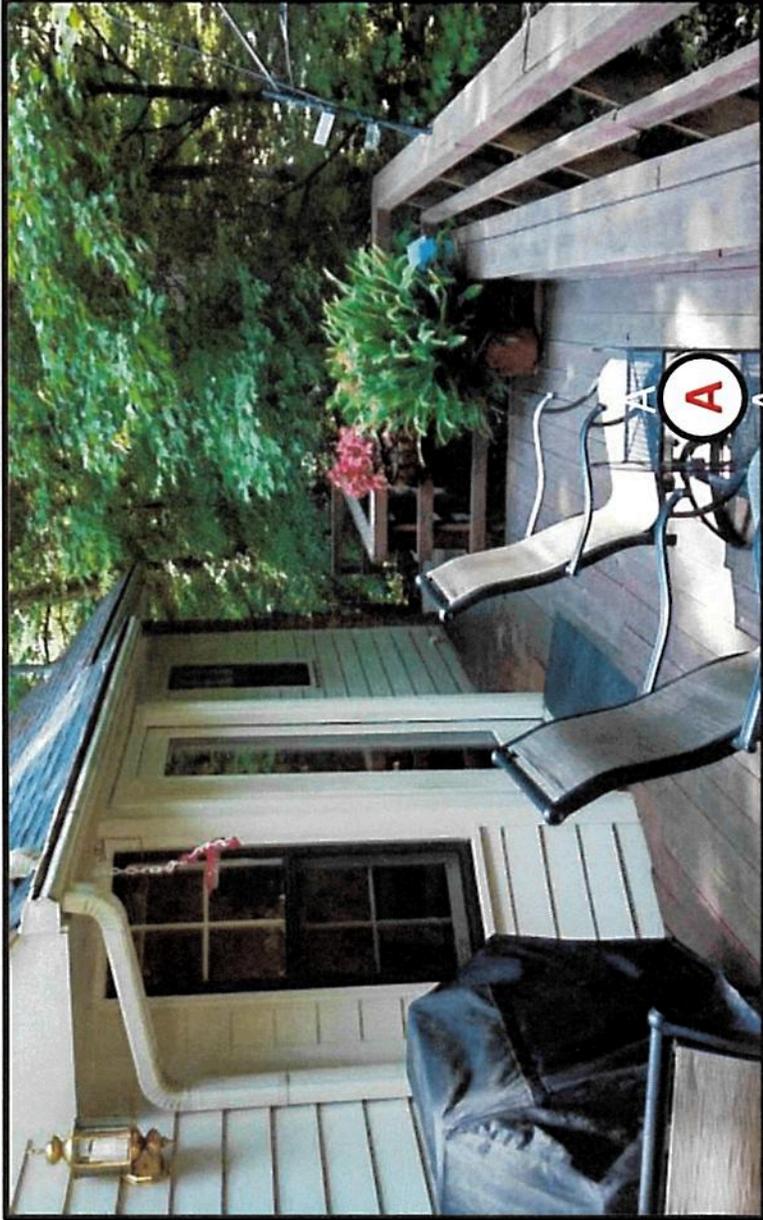
Submitted: 7-29-16

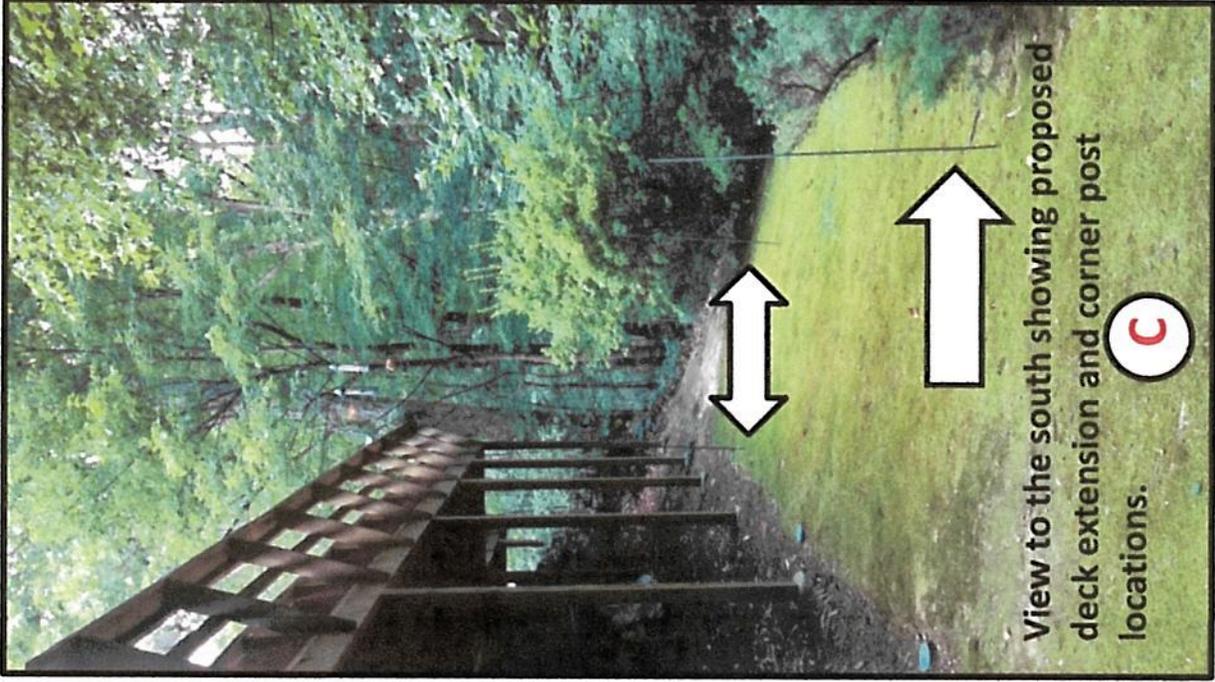
Legend

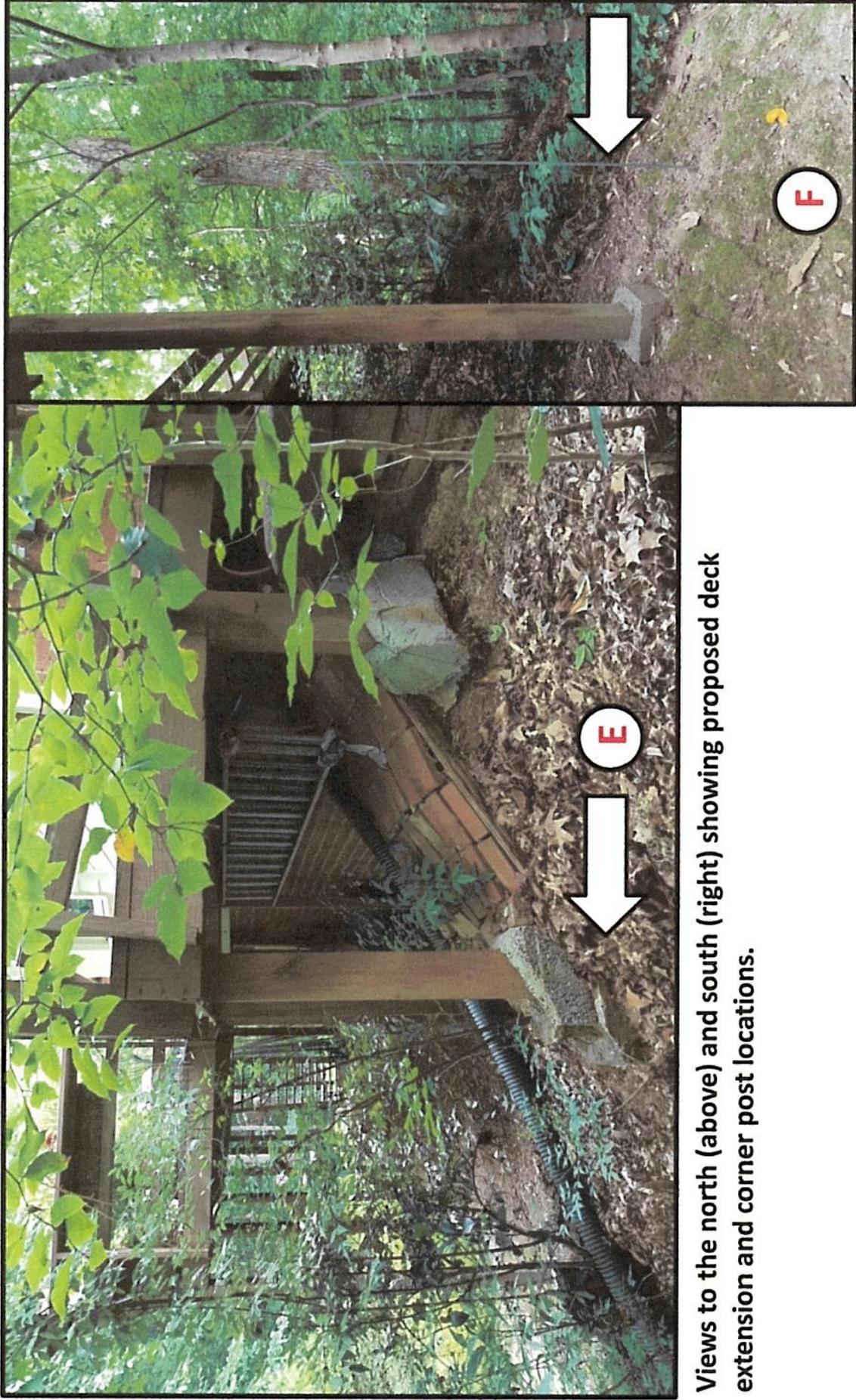
-  Proposed Deck Expansion Within 25' Stream Buffer - 80 sf
-  Proposed Deck Expansion Outside 25' Stream Buffer - 163 sf
- Total Area of Deck Expansion (Approx. 50%) - 243 sf
- Total Area of Existing Deck - 463 sf
- Total Area of Decking - 706 sf
-  Views Pictured on Attachments



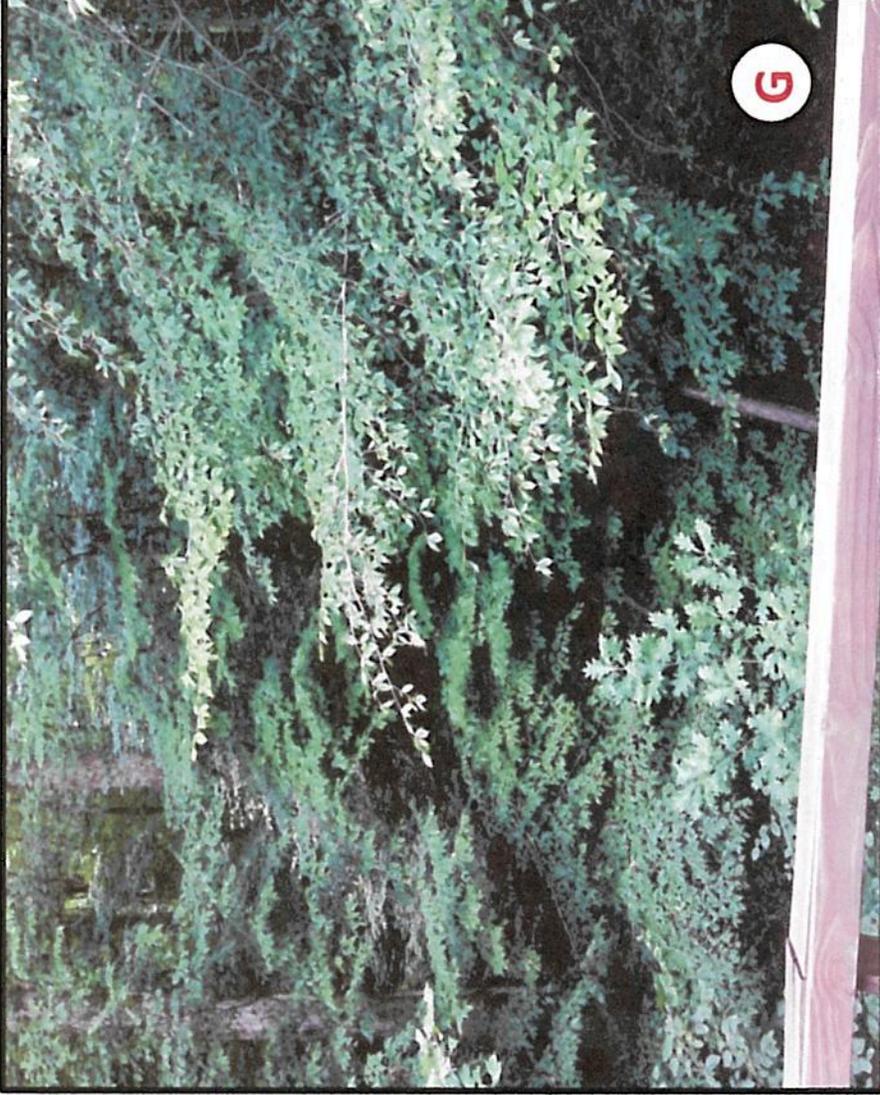
View of deck and entrance areas.
View to the south (left) and north
(below).







Views to the north (above) and south (right) showing proposed deck extension and corner post locations.

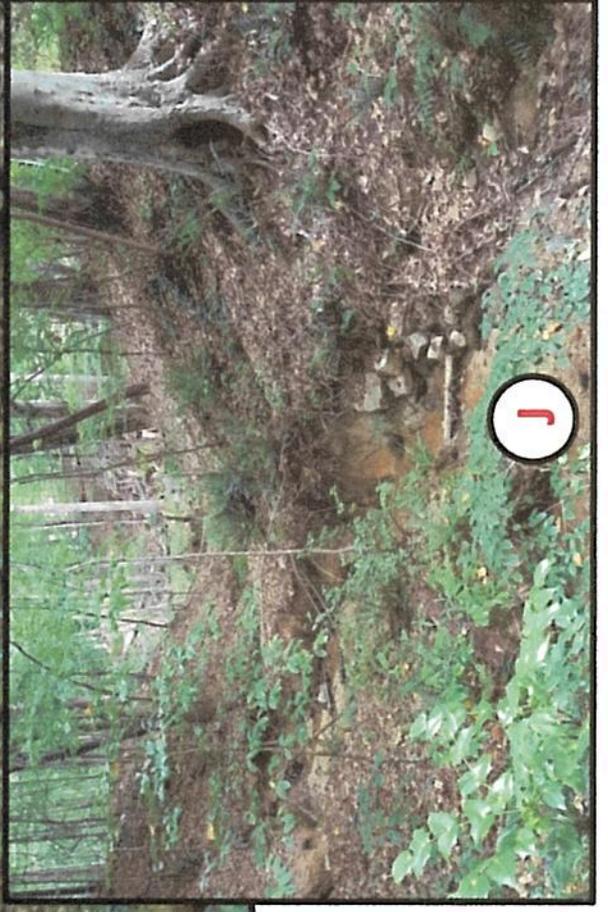


View from the house toward tree canopy (above) which will not be altered. View of streambed (right).





View to the south of stream bank (above). View to the north of stream bed (right). These natural buffer areas will not be disturbed in any manner.



PROPERTY LOCATION MAP

3699 Allenhurst Drive



CASE NUMBER: V2016-005

HEARING DATE: September 21, 2016

PROPERTY ADDRESS: 3699 Allenhurst Drive