

**VARIANCE  
APPLICATION**

Community Development

4800 Ashford Dunwoody Road | Dunwoody, GA 30338  
Phone: (678) 382-6800 | Fax: (770) 396-4828

Project #: \_\_\_\_\_ Date Received: \_

Type:

Type of Request:  Chapter 16-Streams  Chapter 16-Other  Chapter 20-Signs  Chapter 27-Zoning  
Code section from which variance is sought: 16-78  
Nature of Request: Stream buffer variance for patio project completed in April 2024

Project:

Name of Project / Subdivision: Dunwoody Heights Subdivision Zoning: R-100  
Property Address / Location: 5626 Bunky Way, Dunwoody, GA 30338  
District: 18th Land Lot: 376 Block: \_\_\_\_\_ Property ID: 18 376 0150

Owner Information:

Owner's Name: Hugh M. + Betty F. Davenport  
Owner's Address: 5626 Bunky Way, Dunwoody, GA 30338  
Phone: 678-644-6877 Fax: \_\_\_\_\_ Email: davenportthm@gmail.com

Applicant Information:  Check here if same as Property Owner

Contact Name: PAUL OZIO  
Address: 207 BEAUMONT AVE, DECATUR, GA 30030  
Phone: 404-378-3047 Fax: \_\_\_\_\_ Email: PAUL OZIO@OZIO

Terms & Conditions:

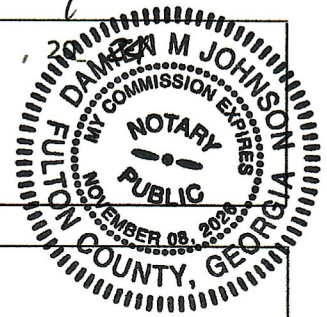
LANDSCAPE ARCHITECTS.COM

I hereby certify that to the best of my knowledge, this application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinance. I understand that failure to supply all required information (per the relevant Applicant Checklists and Requirements of the Dunwoody Zoning Ordinance) will result in the rejection of this application.

Applicant's Name: Paul Ozio  
Applicant's Signature: [Signature] Date: 10/31/24

Notary:

Sworn to and subscribed before me this 31 Day of October  
Notary Public: Damen M Johnson  
Signature: [Signature]  
My Commission Expires: 11-8-26



Office Use:

Application Fee Paid  Public Notice Fee Paid (\$450) Fee: \$ \_\_\_\_\_  
Payment:  Cash  Check  CC Date: \_\_\_\_\_  
 Approved  Approved w/ Conditions  Denied Date: \_\_\_\_\_

## ADDITIONAL VARIANCES

Community Development

4800 Ashford Dunwoody Road | Dunwoody, GA 30338

Phone: (678) 382-6800 | Fax: (770) 396-4828

Type:

Type of Request:  Chapter 16-Streams  Chapter 16-Other  Chapter 20-Signs  Chapter 27-Zoning

Code section from which variance is sought: Chapter 27-58

Nature of Request: Rear setback variance for corner of patio completed in April 2024.

Type:

Type of Request:  Chapter 16-Streams  Chapter 16-Other  Chapter 20-Signs  Chapter 27-Zoning

Code section from which variance is sought: \_\_\_\_\_

Nature of Request: \_\_\_\_\_

Type:

Type of Request:  Chapter 16-Streams  Chapter 16-Other  Chapter 20-Signs  Chapter 27-Zoning

Code section from which variance is sought: \_\_\_\_\_

Nature of Request: \_\_\_\_\_

Type:

Type of Request:  Chapter 16-Streams  Chapter 16-Other  Chapter 20-Signs  Chapter 27-Zoning

Code section from which variance is sought: \_\_\_\_\_

Nature of Request: \_\_\_\_\_

Type:

Type of Request:  Chapter 16-Streams  Chapter 16-Other  Chapter 20-Signs  Chapter 27-Zoning

Code section from which variance is sought: \_\_\_\_\_

Nature of Request: \_\_\_\_\_

Type:

Type of Request:  Chapter 16-Streams  Chapter 16-Other  Chapter 20-Signs  Chapter 27-Zoning

Code section from which variance is sought: \_\_\_\_\_

Nature of Request: \_\_\_\_\_

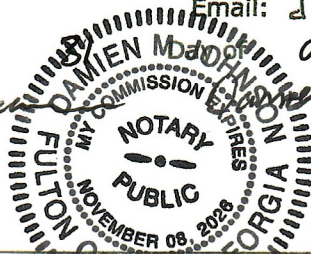
**Property Owner(s)  
Notarized Affidavit**

Community Development  
4800 Ashford Dunwoody Road | Dunwoody, GA 30338  
Phone: (678) 382-6800 | Fax: (770) 396-4828

The owner and petitioner acknowledge that this application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for variance(s), and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

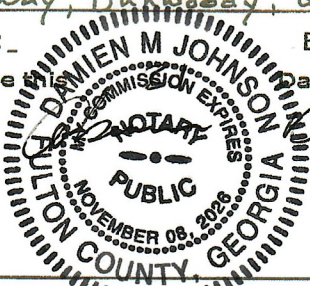
**Property Owner (If Applicable):**

Owner Name: Hugh M. Davenport  
 Signature: Hugh M. Davenport Date: 10/31/2024  
 Address: 5626 Bunky Way, Dunwoody, GA 30338  
 Phone: 678-644-6877 Fax:  Email: davenport+h@gmail.com  
 Sworn to and subscribed before me this 31 day of October, 2024  
 Notary Public: Damien M Johnson



**Property Owner (If Applicable):**

Owner Name: Betty F. Davenport  
 Signature: Betty F. Davenport Date: 10/31/2024  
 Address: 5626 Bunky Way, Dunwoody, GA 30338  
 Phone: 770-656-8032 Fax:  Email: bettyfdavenport@gmail.com  
 Sworn to and subscribed before me this 31 day of October, 2024  
 Notary Public: Damien M Johnson



**Property Owner (If Applicable):**

Owner Name: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_  
 Sworn to and subscribed before me this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_  
 Notary Public: \_\_\_\_\_

# Campaign Disclosure Statement

Community Development  
 4800 Ashford Dunwoody Road | Dunwoody, GA 30338  
 Phone: (678) 382-6800 | Fax: (770) 396-4828

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Dunwoody City Council or a member of the City of Dunwoody Planning Commission?  YES  NO

**Applicant/Owner:** *Hugh + Betty Davenport*

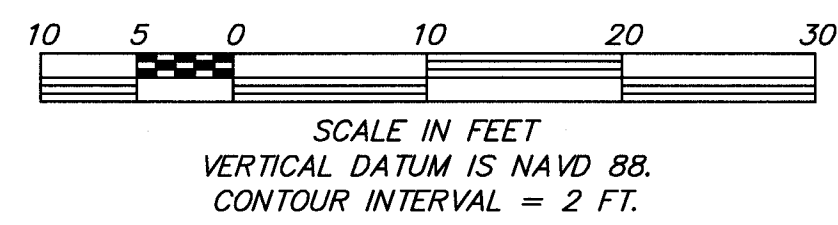
Signature:	<i>Hugh Davenport Betty Davenport</i>	Date: <i>10/29/24</i>
Address:	<i>5626 Bunky Way, Dunwoody, GA 30338</i>	

If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

# BOUNDARY RETRACEMENT & TOPOGRAPHIC SURVEY FOR HUGH M. DAVENPORT & BETTY F. DAVENPORT

(BEING LOT 7, DUNWOODY HEIGHTS SUBDIVISION)  
LOCATED IN LAND LOT 376  
18th DISTRICT, CITY OF DUNWOODY  
DEKALB COUNTY, GEORGIA  
OCTOBER 7, 2024 1"=10'



RECORD NORTH

**LOT COVERAGE CALCULATIONS:**

HOUSE FOOTPRINT	= 2,301 S.F.
SCREEN PORCH	= 200 S.F.
CONCRETE DRIVE	= 2,520 S.F.
FRONT PAVEMENT WALK	= 164 S.F.
FRONT STEPS/STOOP/LEDGE	= 93 S.F.
REAR ROCK WALKS/STEPS/PATIOS	= 518 S.F.
CONCRETE PAD	= 16 S.F.
WALLS/BORDERS	= 105 S.F.
STEPPING STONES	= 85 S.F. ±
AcS	= 18 S.F.
<b>TOTAL</b>	<b>6,020 S.F. ± OF 23,794 = 25.3% TOTAL LOT COVERAGE</b>

NOTE: RIVER ROCK AND RIPRAP USED FOR RUNOFF REDUCTION NOT COUNTED TOWARD LOT COVERAGE.

**SITE DATA:**

ZONING:	R-100
MINIMUM SETBACKS:	
STREET	= 35 FEET
SIDE YARD	= 10 FEET
REAR	= 40 FEET
REAR (ACCESSORY)	= 10 FEET
MAXIMUM LOT COVERAGE	= 35%

**ABBREVIATIONS ~**

ABL = ABELIA	HYD = HYDRANGEA
AUC = AUCUBA	ICV = IRRIGATION CONTROL VALVE
AHT = AMERICAN HOLLY	IMP = IMPATIENS
AZ = AZALEA	IPF = IRON PIN FOUND
BB = BARBERRY	JAS = JASMINE
BE = BESON	JH = JAPANESE HOLLY
BEG = BEGONIA	JM = JAPANESE MAPLE
BHF = BURFORD HOLLY	JUN = JUNIPER
BIR = BIRCH	LIR = LIROPE
BP = BRADFORD PEAR	LL = LAWN LIMITS
BW = BOXWOOD	MAG = MAGNOLIA
CAL = CALADIUM	MAP = MAPLE
CAM = CAMELLIA	NAN = NANDINA
CE = COTONEASTER	OGR = OREGON GRAPE HOLLY
CD = CEDAR	OTL = OTTOLUYREN LAUREL
CHY = CHERRY	P = PINE
CH = CHINESE HOLLY	PHO = PHOTINIA
CM = CHESTNUT	POP = POPLAR
CHO = CHESTNUT OAK	RHO = RHODODENDRON
CJ = CRYPTOMERIA JAPONICA	RO = RED OAK
CL = CHERRY LAUREL	RT = RED TIP
CO = CLEAN OUT	SC = SWEET GUM
CM = CRAPE MYRTLE	SO = SCARLET OAK
DG = DWARF GARDENIA	SPIG = SPIGOT
DS = DOWNSPOUT	SPK = SPRINKLER
DW = DOGWOOD	SW = SOURWOOD
EL = ELAEAGNUS	UDS = UNDERGROUND DOWNSPOUT
EM = ELECTRIC METER	UNK = UNKNOWN
ET = EXTERIOR THRESHOLD	VIN = VINCA
FF = FINISH FLOOR	VLR = VARIEGATED LIROPE
FOR = FORSYTHIA	VP = VARIEGATED PRIVET
GE = GOLDEN EUONYMUS	VW = VENT WELL
GLF = GROUND LIGHT FIXTURE	WAO = WATER OAK
GM = GAS METER	WLO = WILLOW OAK
HB = HACKBERRY	WU = WILLOW
HEM = HEMLOCK	WM = WATER METER
HIC = HICKORY	WO = WHITE OAK
HHL = HELLERLI HOLLY	WP = WHITE PINE
HOS = HOSTA	WW = WINDOW WELL
HLY = HOLLY	YI = YARD INLET

**GENERAL NOTES~**

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS AN ANGULAR ERROR OF 1.8 SECONDS PER ANGLE POINT AND A PRECISION RATIO OF 1 IN 32,778. IT HAS BEEN ADJUSTED USING THE COMPASS RULE.

EQUIPMENT USED TO OBTAIN THESE MEASUREMENTS WAS A TRIMBLE S5 ROBOTIC TOTAL STATION.

THE DATA SHOWN ON THIS PLAT HAS A CLOSURE PRECISION RATIO OF 1 IN 234,781.

UNLESS OTHERWISE INDICATED, ALL I.P.'S ARE 1/2" REBAR.

BEARINGS ARE CALCULATED FROM ANGLES TURNED FROM A SINGLE REFERENCE BEARING.

ACCORDING TO THE CURRENT "F.I.A. OFFICIAL FLOOD HAZARD MAP", COMMUNITY PANEL NO. 1308BC 0133 J, DATED MAY 16, 2013, THIS PROPERTY IS NOT IN AN AREA HAVING SPECIAL FLOOD HAZARDS.

ALL MATTERS OF TITLE ARE EXCEPTED.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH, THERE MAY BE EASEMENTS OR OTHER ENCUMBRANCES NOT SHOWN.

OWNERS OF RECORD: HUGH M. DAVENPORT & BETTY FIELDS DAVENPORT

REFERENCES:  
1) PB 88, PG. 77  
2) PB 88, PG. 40  
3) PB 87, PG. 121 (FOR P.O.B.)  
4) DB 5910, PG. 238 (SEWER EASEMENT)

TAX ID NUMBER: 18 376 01 150

STORM AND SEWER LINES: UNABLE TO FIND SEWER MANHOLE IN BACK YARD OF SUBJECT PROPERTY AND STORM STRUCTURE ON NEIGHBORING PROPERTY ACROSS THE STREET, THEREFORE THE SANITARY SEWER LINE AND 54 INCH R.C.P. ON SOUTHWEST SIDE OF THE HOUSE ARE SHOWN APPROXIMATELY. THE 15 FOOT S.S.E. AND 25 FOOT D.E. ARE ALSO SHOWN APPROXIMATELY. ALL ARE SHOWN BASED ON SCALING FROM THE REFERENCED DOCUMENTS ABOVE.

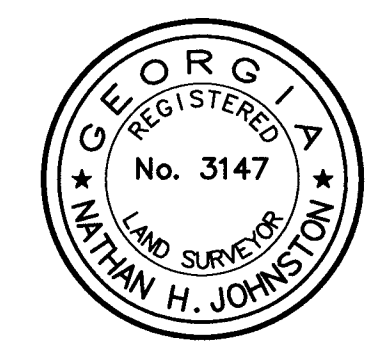
STATE WATERS: THE EXISTENCE AND LOCATIONS OF STATE WATER BUFFERS ARE SUBJECT TO DETERMINATION BY THE CITY OF DUNWOODY AS THE LOCAL ISSUING AUTHORITY. FOR THIS SURVEY THE BUFFERS ARE SHOWN BEING TRIMMED AT A LINE DRAWN PERPENDICULAR TO THE SECTION OF STREAM WITH RIPRAP ON THE EASTERLY BANK. COORDINATION WITH THE CITY IS RECOMMENDED TO CONFIRM THE INTERPRETATION OF THESE BUFFERS.

THE SURVEY AND PLAT SHOWN HEREON IS NOT INTENDED FOR USE OR RELIANCE BY ANY PARTIES OR ENTITIES NOT SPECIFICALLY LISTED IN THE TITLE AND/OR CERTIFICATION. UNAUTHORIZED THIRD PARTIES SHALL INDEMNIFY AND HOLD BARTON SURVEYING, INC. HARMLESS AGAINST ANY AND ALL LIABILITY FOR ANY LOSS ARISING OUT OF, OR RELATED TO, RELIANCE BY ANY THIRD PARTY ON ANY WORK PERFORMED THEREUNDER, OR THE CONTENTS OF THE SURVEY. THE FIELD DATE LISTED ON THIS SURVEY IS THE APPLICABLE DATE OF CERTIFICATION, RATHER THAN THE DATE OF SIGNATURE.

AREA = 23,794 SQ. FT.  
0.546 ACRE

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBMIT OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN G.C.G.A. SECTION 15-6-67.

**NATHAN H. JOHNSON** 10-25-2024  
NATHAN H. JOHNSON, GA. RLS No. 3147



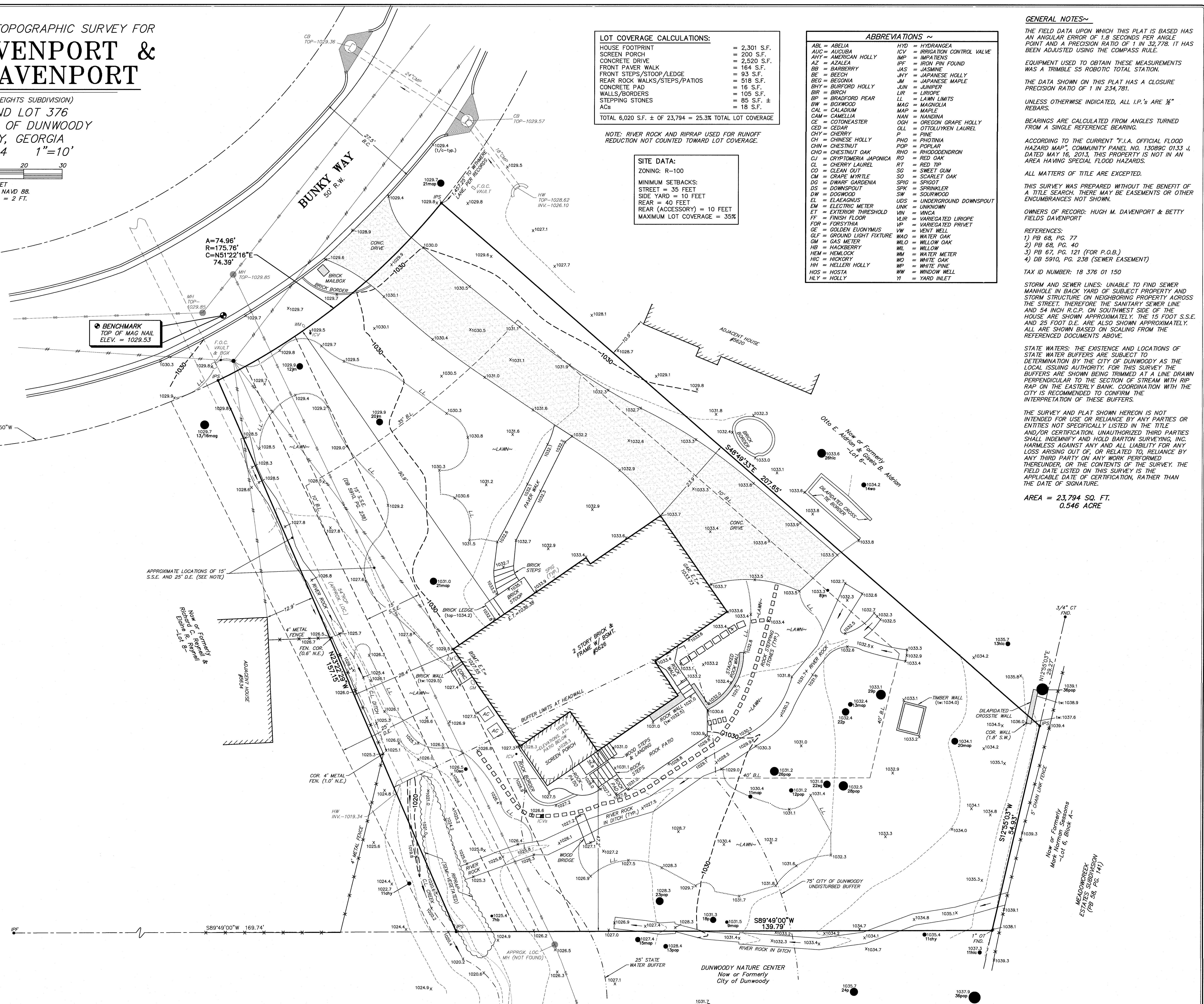
**LEGEND**

IPF	= 1/2" REBAR FND.
IPS	= 1/2" REBAR SET
R.W.	= RIGHT OF WAY
SSE	= SANITARY SEWER EASEMENT
DE	= DRAINAGE EASEMENT
L.L.L.	= LAND LOT LINE
C.L.	= CENTERLINE
CT	= CRIMP TOP PIPE
OT	= OPEN TOP PIPE
OMP	= CORRUGATED METAL PIPE
RCP	= REINFORCED CONCRETE PIPE
DI	= DROP INLET
JB	= JUNCTION BOX
MH	= MANHOLE
CB	= CATCH BASIN
BM	= BENCHMARK
PP	= POWER POLE
FH	= FIRE HYDRANT
CMF	= CONCRETE MONUMENT FND.
B.C.	= BACK OF CURB
E.P.	= EDGE OF PAVEMENT
FEN	= FENCE
O.H.	= OVERHEAD ELEC. SERVICE LINE
B.L.	= BUILDING LINE
U.G.	= UNDERGROUND POWER LINE
TX	= TRANSFORMER

ADDRESS:  
5626 BUNKY WAY  
DUNWOODY, GA 30338

JOB # 24-017 DRAWN BY: NJ FIELD CREW: JE  
FIELD DATE: 10-7-24 PLAT PREPARED: 10-11-24

**BARTON SURVEYING INC.**  
3005 HOLLY SPRINGS PARKWAY, SUITE 101  
CANTON, GEORGIA 30115  
(770) 345-2810  
(LICENSE No. LSF 000151)



Hugh and Betty Davenport, 5626 Bunky Way, Dunwoody, GA 30338

### **Letter of Intent for Stream Buffer Variance (Chapter 16)**

We are the owners of 5626 Bunky Way, Dunwoody, GA, where we have lived since 1986. We have applied for a variance to the stream buffer applicable to our property to allow the encroachment in the 75' stream buffer of a patio that we had built in the period from November 2023 to April 2024. As shown in the survey and photos submitted with our application, the patio is immediately behind a sunroom on the back of our house with a lower level that is mostly under the floor of an elevated screened porch that is adjacent to the sunroom. The sunroom is also elevated but the space beneath it is enclosed. The new patio is reached by wooden steps coming down from a landing at a door to the screened porch, and the lower level is reached by stone steps from the upper patio.

The sunroom and screened porch are not original to the house. In 1999 and 2008 we added those features through renovations permitted through Dekalb County. When we became the owners in 1986, the house in the rear had a wooden deck that was 12' deep by 39' wide and had wooden steps on one side and in the middle leading to the yard. In 1999 we replaced the deck with the sunroom and an adjacent deck with steps leading down to a lower approximately 8' by 8' deck. In 2008 we had the deck adjacent to the sunroom converted to a screened porch as part of a larger renovation of the interior of the house. The footprint of the sunroom and screened porch is essentially the same as the deck that was behind the house when we bought it.

When we began considering the patio project in 2023, we were unaware of the City of Dunwoody's stream buffer ordinance. Our main objective in pursuing the project was to obtain a backyard seating area that would allow us to enjoy our view of woods in the Dunwoody Nature Center, which is adjacent to the back of our property on the right side as you face the front of the house. We also wanted (1) to reduce erosion occurring at the brick wall coming down from the base of the sunroom caused by water flowing off the sunroom roof when rain was heavy enough to fill the gutters and (2) to deter rodents from burrowing under that brick wall into the enclosed space beneath the sunroom, which space has a dirt floor. Our property slopes from left to right (viewed from the front) and we had to take that slope into account in the design of the patio. Before the patio project, the door to the screened porch opened to a landing with wooden steps leading down to an 8' by 8' wooden deck with further steps from that deck to the backyard. The small size of that deck precluded its being used for more than holding a gas grill. The steps to the back yard were not convenient for reaching the enclosed area under the sunroom that we use to store yard tools.

We approached the patio project by talking to a landscape contractor who had done a backyard project for one of our neighbors that we thought was well done. The contractor helped us develop a design that would be accessible from our screened porch and would accommodate the slope of our lot. As part of our discussions with the contractor, we specifically asked if any permits would be required and indicated we wanted to comply with any applicable permitting requirements. He advised us that no permits would be needed. We proceeded with the patio project on that basis with the work starting in November 2023 and being completed in April 2024.

In June 2024, the City of Dunwoody ran an article about the stream buffer rules in its weekly D-News email newsletter about events going on in the city. We saw that article and realized that we had a potential issue with the stream buffer ordinance. This article appeared while we were out of town for several weeks. Once we returned, we contacted the City and were referred to the City Engineer. We met with the City Engineer and a member of the zoning group on July 10, 2024. We learned that we likely did need a

variance from the stream buffer regulation. We then pursued getting a current survey and determining what we needed to do to apply for a variance.

As noted, we have lived on this property since 1986. When we moved in, the stream at the right rear side of our property was bordered by trees and other mature undergrowth. In 1987 Dekalb County sought an easement from us for a sewer line to be installed across the side of our property between our house and the stream and the culvert the stream enters roughly adjacent to the back wall of the house. The sewer line was being installed to connect a neighborhood on the other side of the Nature Center property to the existing sewer lines in the street in front of our house. That sewer line was installed in the early 1990s. As part of the installation process, the County's contractor removed all the trees and other vegetation along the side of the stream on our property and extending into the Nature Center Property. The area cleared was roughly 30' wide. After installation of the sewer line, no significant vegetation remained near the bank of the stream on our property. The only effort to restore vegetation was to throw out a layer of grass seed.

Since then, we have through the years installed plants, added mulch, and enabled nature to revegetate the stream bank. Our efforts have resulted in a large amount of vegetation along the creek bank, as shown by the pictures submitted with our application. We have planted native ferns as well as hydrangeas, irises, and other flowering plants. We try to keep debris from building up at the mouth to the culvert so that the flow is not restricted. We love the view from our backyard and enjoy the wildlife, such as bullfrogs, that the stream attracts.

We offer this history of our backyard to point out that we have worked to avoid adverse impacts on the stream during the time we have lived on the property. Addressing the criteria for a stream buffer variance, we offer the following:

- (1) The patio project did not result in any impact upon the stream bank or soil stabilization or any runoff of sediment into the stream. We believe that the project did not decrease the removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff. Terrestrial habitat, food chain, and mitigation corridors were not damaged. The project should have no effect upon the buffering of flood flows, noise and visual barriers, or downstream water quality. While the patio project did add some hard surface area in the buffered area, it will reduce possible sediment caused by the erosion that was occurring at the base of the sunroom wall. The patio project will have no effect on threatened and endangered species.
- (2) When we bought our property, the 75' stream buffer requirement did not exist. That buffer encompasses roughly half of our back yard, including all the area behind the house up to where the garage adjoins the rest of the house. Without receiving a variance, we have no ability to have a patio area that connects directly to our sunroom or screened porch.
- (3) The variance we request does not go beyond the minimum necessary to cover our completed patio project. We do not believe the variance would grant us special privileges inconsistent with the limitations upon other properties that are similarly situated. We have nearby neighbors that have in-ground pools in their backyards and others have large decks or patios. The variance will allow us to make use of our backyard in a manner similar to our neighbors and many other property owners in Dunwoody.
- (4) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which our property is located.
- (5) The literal interpretation and strict application of the applicable provisions of the stream buffer ordinance would cause an extreme hardship to us. We would be unable to have a level seating area in our back yard to enjoy the woods behind us and the stream and would not be able to easily

access our backyard from the body of the house. We are both 69 years old. The patio project also benefits us by providing a stable pathway to cross behind our house without having to cross a sloping surface. We recognize that we are applying for a variance after the patio project has been completed, but if we were to try to remove the patio, that would likely be difficult to do without adversely affecting the buffered area due to the demolition work that would be required and the possibility of increased sediment runoff from the area covered by the patio.

### **Letter of Intent for Zoning Variance (Chapter 27)**

As shown by the survey, a corner of the upper patio extends beyond the 40' rear setback line. A portion of the lower patio and the steps leading to the lower patio also extend beyond the rear setback line but are below 30" in height and do not require a variance. The part of the upper patio beyond the rear setback line is approximately 12 square feet in area and is 36" in elevation at its highest point at the corner. We are requesting a variance from Chapter 27, Section 58 for the portion of the upper patio that extends over the rear setback line.

- (1) The grant of the variance will not be detrimental to the public health, safety, or welfare or injurious to property or improvements. The patio is intended for private use and has a railing.
- (2) The shape of our lot causes the rear setback line to be not far from the right rear of our house (viewed from the street). The variance request is based on conditions that are particular to our lot and are not generally applicable to other properties. We did not create those conditions. The small encroachment allows for the patio to be more regular in shape and to have more usable area where the steps come down from the screened porch. If our lot sloped less, the corner of the patio that extends into the rear setback would be below 30" in height and would not trigger the need for a variance. The other end of the patio is less than 12" above the adjacent ground.
- (3) Due to the size and shape of our lot, the strict application of the requirements of this zoning ordinance would deprive us of rights and privileges enjoyed by other similarly situated property owners by forcing us to adopt a more irregular shape to the patio and reducing the usable area where the steps come down to the patio from the screened porch.
- (4) The area of the patio that extends beyond the rear setback line is small and allows for a more regular shape to the patio. The requested variance does not go beyond the minimum necessary to afford relief, and it does not constitute a grant of special privilege to us inconsistent with the limitations on other residential properties in our area.
- (5) The literal interpretation and strict application of the applicable provisions of this zoning ordinance would cause us undue hardship and practical difficulty. We recognize that we are asking for this variance after the patio has been constructed. Had we been aware of the setback issue beforehand, changing the design to avoid the setback would have imposed an undue hardship and practical difficulties. Removing the approximately 12 square feet of surface area of the corner of the patio that is beyond the setback would have required that the existing corner with a 90-degree angle be replaced by two angled corners to avoid crossing the setback line. In addition to complicating construction, the resulting design would have reduced the usable space at that end of the patio, making the placement of seating in that corner difficult due to the location of the two sets of stairs., one coming down from the screened porch and the other leading to the lower patio.
- (6) Granting the requested variance would be consistent with the spirit and purpose of this zoning ordinance and the comprehensive plan. The variance will allow us to better utilize our backyard and our location adjacent to the woods of the Dunwoody Nature Center. Granting the variance contributes to the functionality and aesthetics of the patio.











