



Lorraine Cochran-Johnson

Chief Executive Officer

DeKalb County Zoning Board of Appeals
Department of Planning & Sustainability
178 Sams Street,
Decatur, GA 30030

Wednesday, December 10, 2025

Planning Department Staff Analysis



Juliana
Njoku

Interim
Director

N4. Case No: A-25-1247836

Parcel ID(s): 15 119 01 192

Commission District 03 Super District 06

Applicant: **Chris Protos**
2008 Lee Road SE
Smyrna, GA 30080

Owner: **Atlanta Creekside Partners, LLC**
6504 Aria Village Drive
Sandy Springs, GA 30034

Project Name: **2462 Adair Ridge Court – Rear setback reduction for an existing residence**

Location: 2462 Adair Ridge Court, Decatur, GA 30034

Requests: Application by Chris Protos to request variance from Section 27-2.2.1 of the DeKalb County Zoning Ordinance to decrease the rear setback from 40 feet to 24.8 feet for an existing single-family residence within the R-75 (Residential Medium Lot-75) zoning district.

Staff Recommendation: Approval with Conditions.

Conditions:

1. The variance shall be limited to the requested rear setback for the existing home as shown on the site plan *Creekside Gresham FKA: Mill Commons Subdivision Lot 15 dated 8/6/2025*.
2. A survey or engineered site plan shall be submitted to verify the minimum rear yard setback required; variance shall only apply to the confirmed dimension necessary to accommodate the existing home as built.
3. The variance relief shall not extend to any other accessory structures or improvements on the property.

STAFF FINDINGS:

The subject property is in the R-75 (Residential Small Lot- 75) zoning district within the *Mill Commons Subdivision Project*. In 2025, a staking miscommunication led to the front porch not being included when the foundation was formed and poured, resulting in a rear setback encroachment. The applicant requests a variance from Section 27-2.2.1 of the DeKalb County Zoning Ordinance to reduce the rear setback by approximately 15 feet so the home may remain as built. No additions are proposed. The builder notes that all other homes in the subdivision met required setbacks; this lot is an isolated error caused by the engineer/survey team, not the owner or builder.

1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district, as distinguished from a special privilege or convenience sought by the property owner.

The lot measures approximately 11,628 square feet in area which meets the required minimum 10,000 square foot lot size for the R-100 zoning district. However, the lot frontage is approximately only 38 feet, compared to the standard R-75 minimum frontage of 75 feet. This discrepancy is due to the subdivision design, creating an irregular shaped site(s) along this portion of the cul-de-sac. Additionally, the subject sites encroachment arose from a professional layout error (engineer/survey) not by action of the current owner. The builder advised that all other homes built in this project complied with R-75 setbacks - this site is an outlier. The reduced dimensions and irregular lot shape may limit the functional building envelope of the property, and the professional error was not created by the current owner in relation to the setback requirements established by ordinance.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located:

The applicant seeks a reduction of the required rear yard setback from 40 feet to approximately 25 feet (per the survey *Creekside Gresham FKA: Mill Commons Subdivision Lot 15*) to allow an existing single-family home to remain as built. This reduction represents the minimum relief necessary to accommodate the existing house, which may require a partial demolition and structural reconstruction of the finished dwelling. The variance does not seek a special privilege but would allow this home the same residential use functionally enjoyed throughout the subdivision while remaining materially consistent with the district pattern.

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located:

The reduction of the rear setback will not alter the visual character of the streetscape or public right-of-way. The existing home was established as part of a larger project and will be compatible in scale and appearance with the surrounding single-family homes. The reduction only applies to the rear yard and is unlikely to negatively affect adjacent properties or public welfare. A letter of support has been submitted on behalf of the Creekside Gresham HOA supporting the variance and understanding the error which occurred during construction. Additionally, the applicant is willing to accept reasonable conditions (e.g., evergreen screening and stormwater best practices at downspouts) to ensure there is no adverse impact to adjacent property.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:

Strict application of the 40-foot rear yard setback would require partial demolition and structural reconstruction of a finished dwelling to regain approximately 15-feet in the rear yard. This may qualify as an unnecessary and extraordinary burden that similarly situated homes in the same zoning district and subdivision do not face, which may present an undue hardship.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

The requested variance is consistent with the intent of the zoning ordinance and the DeKalb County Comprehensive Plan. The reduction of the 40-foot setback to an existing single-family home, while not ideal as a newly built home, still maintains the suburban character of the neighborhood and supports the broader overall project within Creekside at Gresham. The modification respects the partially established development pattern of the subdivision and does not introduce incompatible land uses.

FINAL STAFF ANALYSIS:

The applicant is requesting a reduction of the required rear yard setback to allow an existing home to remain as built. Staff's review indicates that while the application requested a reduction from 40 feet to 24.8 feet, the discrepancy is due to professional error done during the staking of the building footprint. Additionally, Staff recommends that the exact setback be verified by a professional surveyor or engineer prior to permitting. The Letter of Intent suggests the reduction is 5.2 feet, however, the survey displays the building to be located 24.8 feet from the rear property line. Staff reviews applications based on submitted surveyed site plans by the Applicant when determining variance requests.

Staff finds that the request meets the criteria for variance approval, provided the relief is limited to the minimum necessary for an existing home to remain. The requested variance allows consistency with the residential character of the neighborhood, is supported by the HOA, and compatible with the intent of the zoning ordinance and comprehensive plan. Therefore, staff recommends **Approval with Conditions**.

Staff Recommendation: Approval with Conditions

Conditions:

1. The variance shall be limited to the requested rear setback for the existing home as shown on the site plan *Creekside Gresham FKA: Mill Commons Subdivision Lot 15 dated 8/6/2025*.
2. A survey or engineered site plan shall be submitted to verify the minimum rear yard setback required; variance shall only apply to the confirmed dimension necessary to accommodate the existing home as built.
3. The variance relief shall not extend to any other accessory structures or improvements on the property.

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING (VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)

Applicant and/or
Authorized Representative: Chris Protos

Mailing Address: 2008 Lee RD SE

City/State/Zip Code: Smyrna / GA / 30080

Email: admin@getpermissible.com

Telephone Home: _____ Business: 404-905-2207

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: Atlanta Creekside Partners, LLC

Address (Mailing): 6504 ARIA VILLAGE DR SANDY SPRINGS GA 30328

Email: quanyichao77@gmail.com Telephone Home: _____ Business: 404-618-6666

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 2462 ADAIR RIDGE CT City: Decatur State: GA Zip: 30034

District(s): 15 Land Lot(s): 119 Block: A Parcel: 15 119 01 192

Zoning Classification: R3 Commission District & Super District: 3 / 6

CHECK TYPE OF HEARING REQUESTED:

☒ X VARIANCE (From Development Standards causing undue hardship upon owners of property.)

☐ SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)

☐ OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS.

Email plansustain@dekalbcountyga.gov with any questions.

DEPARTMENT OF PLANNING & SUSTAINABILITY

ZONING BOARD OF APPEALS APPLICATION

AUTHORIZATION OF THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

DATE: 10/21/2025 _____

Applicant Yichao Qian
Signature: _____

DATE: _____

Applicant _____
Signature: _____

DEPARTMENT OF PLANNING & SUSTAINABILITY

ZONING BOARD OF APPEALS APPLICATION


AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property and that I authorize the applicant/agent to apply for a hearing to the Zoning Board of Appeals for the requests as shown in this application.

DATE: 10/20/2025

Applicant/Agent 
Signature: _____

TO WHOM IT MAY CONCERN:

(I)/ (WE): Yichao Qian
(Name of Owners) _____

being (owner/owners) of the property described below or attached hereby delegate authority to the above signed agent/applicant.



Notary Public



Owner Signature

Notary Public

Owner Signature

Notary Public

Owner Signature



LETTER OF INTENT

To: DeKalb County Zoning Board of Appeals

Via: Department of Planning & Sustainability (ZBA Application)

Subject Property: 2462 Adair Ridge Ct, Decatur, GA 30034 (Creekside Gresham, Lot 15)

Zoning District: R-75 (per as-built)

Request: Variance to **reduce the required rear yard setback from 40.0 feet to 34.8 feet** (maximum reduction **5.2 feet**) **limited to the existing, as-built dwelling footprint** as shown on the enclosed survey. This request is necessary to clear a certificate-of-occupancy (CO) hold and legalize the existing structure.

1) Background and reason for request

A new single-family home has been completed on the subject lot. After construction, the as-built survey documented that a small portion of the rear wall plane crosses the 40-foot rear building setback line by approximately **4.8 to 5.2 feet**. No additional additions or expansions are proposed; the home will remain exactly as built. The builder advises that **all other homes built by the same builder in this project complied with setbacks**; this lot is an **outlier** that occurred due to a **layout error by the engineer/survey team**, not an intentional siting decision by the owner or builder. The requested variance is narrowly drawn to match the **existing condition only** and does not authorize any future expansion within the reduced rear yard.

Note: Because the reduction exceeds the 10% administrative limit for yard variances, this request is properly before the **Zoning Board of Appeals** rather than through administrative variance. ([DeKalb County GA](#))

2) Requested action

Approve a variance to **reduce the rear yard setback from 40.0' to 34.8' (maximum 5.2')** solely where necessary to accommodate the existing dwelling footprint **as depicted on the "Final As-Built" by Keystone Land Surveying, Inc., dated 08/06/2025 (Creekside Gresham, Lot 15)**. No other encroachments are requested or authorized.

3) Findings addressing DeKalb Zoning Ordinance § 7.5.1(A) (ZBA variance criteria)

Per the Zoning Ordinance, the ZBA may grant variances upon written findings that all criteria in § 7.5.1(A)(1)–(5) are met. The following statements respond to each criterion. ([DeKalb County GA](#))

(1) Extraordinary or exceptional conditions; not created by owner/applicant; deprivation vs. special privilege.

The subject lot's **particular lot geometry and plat-established building setback line** interact with a standard home plan in a way that differs from other lots in the same project; the same model sited on other lots met all setbacks, underscoring that **this lot is the outlier**. The minor encroachment arose from a **professional layout error** (engineer/survey) in good-faith reliance on stamped documents rather than by any intentional act to gain floor area. Strict application would require partial demolition and structural reconstruction of a finished dwelling to regain **inches to a few feet** of yard—an extraordinary burden that **similarly situated homes in the same district do not face**. The variance does **not** seek a special privilege; it simply allows this home to enjoy the **same residential use and building envelope** functionally enjoyed throughout the subdivision while remaining materially consistent with the district pattern.

(2) Minimum necessary relief; no special privilege.

The request is calibrated to the **as-built condition only** (maximum 5.2' reduction) and expressly **prohibits any future expansion** within the reduced yard. The balance of the home lies **outside** the 40' line; no new construction is proposed. This is the **least relief** needed to legalize the existing structure and clear the CO hold.

(3) No material detriment to the public welfare or injurious effect to the district.

The variance does not increase occupancy, height, traffic, or intensity; **impervious area and drainage patterns remain as permitted**. The home's rear wall remains well internal to the lot, with no effect on public safety, sight lines, or utilities. The applicant is willing to accept **reasonable conditions** (e.g., evergreen screening and stormwater best practices at downspouts) to ensure there is **no adverse impact** to adjacent property.

(4) Literal interpretation would cause undue and unnecessary hardship.

Literal enforcement would require removing a structural portion of a completed principal wall and roof/foundation elements to recover a few feet of setback—work that is **disproportionate** to the minimal dimensional variance requested and unnecessary to protect any public interest, especially where the **character of the area remains unchanged**.

(5) Consistency with the spirit and purpose of the Ordinance and Comprehensive Plan.

The variance is consistent with the **intent of rear yards to provide open space and separation** between homes. A **5.2-foot** reduction—limited to a small segment of the rear façade—does not undermine neighborhood character, density, or open-space objectives. Approval allows a code-conforming subdivision home to be occupied as intended **without incentivizing future encroachments**, preserving the ordinance's purpose. ([DeKalb County GA](#))

4) Voluntary conditions offered

To reinforce the “minimum relief / no detriment” findings, the applicant offers the following **conditions** as part of the variance approval:

1. **Footprint-specific:** The variance applies **only** to the existing dwelling footprint shown on the referenced **08/06/2025** as-built; no decks/porches/additions may extend further

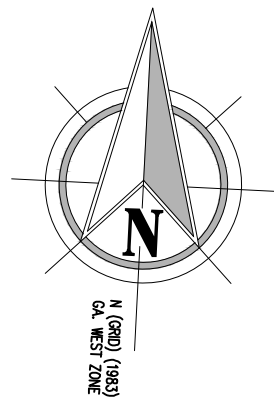
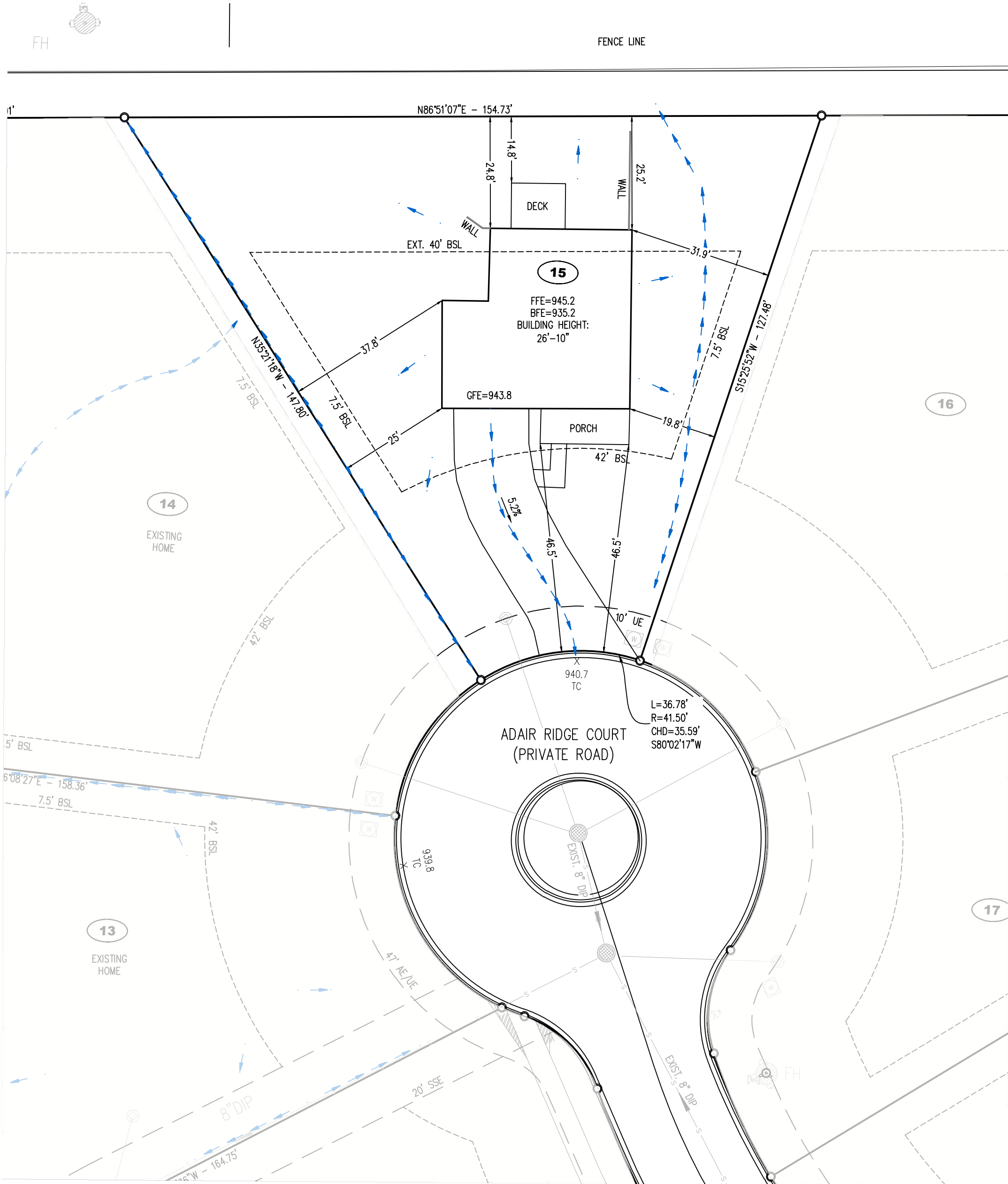
into the required rear yard than otherwise allowed by code.

2. **No expansion:** No future expansion of the principal structure is permitted within the 40' rear yard beyond the **encroachment area legalized by this variance**.
3. **Landscape screening:** Install and maintain a simple evergreen screen (e.g., 3–4 shrubs/trees) along the immediate rear of the encroaching wall section to preserve privacy and visual buffering.
4. **Stormwater best practices:** Direct rear downspouts to splash blocks or level spreaders / small infiltration trench to prevent concentrated discharge toward the rear property line.
5. **Lighting/equipment:** No new rear yard mechanical equipment or lighting poles shall be placed within the reduced setback area.

For these reasons, the applicant respectfully requests approval of the variance as the **minimum necessary** remedy that is **fully consistent** with the Zoning Ordinance and DeKalb County's Comprehensive Plan. ([DeKalb County GA](#))

Attachments:

- A. Final As-Built Survey (Keystone Land Surveying, Inc., dated 08/06/2025) — Creekside Gresham, Lot 15.
- B. Exhibit A: Annotated site plan highlighting the encroachment (provided with application).
- C. Neighbor/HOA support letters (to be submitted).



ADDRESS	
2462 ADAIR RIDGE COURT, DECATUR, GA. 30034	
SITE AREA	
11,628 S.F. OR 0.27 ACRES	
SITE DATA	
1.	LOT AREA: 10,000 S.F. (MIN.)
2.	LOT WIDTH, STREET FRONTAGE: 75 FEET
3.	LOT WIDTH AT BUILDING LINE: 75 FEET
4.	LOT COVERAGE: 35% (MAX)
5.	HEATED LIVING AREA: 1,400 S.F. (MIN.)
6.	MAIN BUILDING HEIGHT: 35 FEET (MAX.)
ZONING	
R-75 (ZONING CASE: CZ-03008)	
SETBACKS	
FRONT: 30 FEET SIDE: 7.5 FEET REAR: 40 FEET	
REFERENCE	
RECORDED FINAL PLAT FOR CREEKSIDE GRESHAM, BY DEKALB COUNTY SURVEYS. RECORDED 10-27-2022, IN PLAT BOOK 309, PAGE 71	
DRAINAGE NOTE	
WATER DRAINS TO DETENTION POND	
IMPERVIOUS AREA	
LOT 15 =	2,830 S.F.
LOT COVERAGE RATIO	
LOT 15 =	2,830 S.F. / 11,628 S.F. = 24.3%

AS-BUILT LEGEND		
BSL	BUILDING SETBACK LINE	
DE	DRAINAGE EASEMENT (STORM)	
SSE	SANITARY SEWER EASEMENT	
EOP	EDGE OF PAVEMENT (CURB)	
R/W	RIGHT OF WAY	
S/W	SIDEWALK	
FFE	FINISHED FLOOR ELEVATION	
GFE	GARAGE FLOOR ELEVATION	
MFFE	MIN. FINISHED FLOOR ELEVATION	
↑	PROPOSED FLOW ARROW	
~	PROPOSED SILT FENCE	
⊙	FIRE HYDRANT	
⊙	WATER METER	
⊙	WATER VALVE	
⊙	AIR CONDITIONER UNIT	
⊙	CLEAN OUT	
⊙	SANITARY SEWER MANHOLE	
⊙	LEFT WING CATCH BASIN	
⊙	RIGHT WING CATCH BASIN	
⊙	DOUBLE WING CATCH BASIN	
⊙	DROP INLET	
⊙	HEADWALL	

SCALE: 1"=20'		GRAPHIC SCALE - IN FEET	
DESIGNED BY: RVB		SHEET NUMBER: 1 of 1	
FILE NAME: CREEKSIDE - LOT 15 - DRAB		DATE: 08/06/2025	
Copyright-2025 These drawings and their reproductions are the property of the surveyor and may not be reproduced, published, or used in any way without the written permission of this surveyor.		JOB NUMBER: SDB-1441	
KEYSTONE LAND SURVEYING, INC. 262 WEST CROGAN STREET LAWRENCEVILLE, GEORGIA 30046 770.545.8700 www.keystonelandsurveying.com		FINAL AS-BUILT FOR CREEKSIDE GRESHAM (FKA: MILL COMMONS SUBDIVISION) LOT 15 LAND LOT 119 - DISTRICT 15 DEKALB COUNTY - GEORGIA REVISIONS	
1			
2			
3			
4			
5			

CLIENT:
ATLANTA CREEKSIDE PARTNERS, LLC.

08/06/2025

08/06/2025

REGISTERED
No. 3077
LAND SURVEYOR
PATRICK F. CAREY

GSWCC LEVEL II
DESIGN PROFESSIONAL
CERTIFICATION # 0000058820
EXP. 08/12/2027

CREEKSIDE AT GRESHAM HOA

c/o GCM • P.O. Box 2750 • Loganville, GA 30052

October 20, 2025

To Whom It May Concern

DeKalb County Zoning Board

Re: Zoning Appeal / Variance Request — 2462 Adair Ridge Court, Decatur, GA 30034

Dear Members of the Board:

I am writing on behalf of the homeowners association for Creekside at Gresham as a partner in Atlanta Creekside Partners, LLC which holds a majority voting interest in the HOA. We confirm our familiarity with the request affecting **2462 Adair Ridge Court** and our ownership of the **10-foot HOA strip** immediately behind this lot. We **support** the requested variance and respectfully ask that it be **approved**.

We expressly **incorporate by reference the reasons stated in the applicant's Letter of Intent (LOI)** and note that approval will: (i) remedy a unique site/lot configuration and enable a reasonable use consistent with neighboring homes; (ii) create no adverse impact on adjoining owners, streetscape, drainage, or buffers; and (iii) remain aligned with the intent of the ordinance and our community covenants.

Thank you for your consideration.

Sincerely,

Yichao Qian

A handwritten signature in black ink, appearing to be 'Yichao Qian', written over a horizontal line.



Keystone Land Surveying, Inc.
262 West Crogan Street
Lawrenceville, GA 30046
770.545.8700

October 21, 2025

James MacDowell

Unique Homes LLC
3600 Browns Bridge Road
Cumming, GA 30040

RE: Rear Setback Encroachment at Creekside Gresham Lot 15

To whom it may concern,

Keystone Land Surveying was asked to stake the foundation on homesite 15 at Creekside Gresham. In the course of the foundation formation and pouring, there was a miscommunication as to what was included in the bounds of the stakes, and it was later found that the front porch had not been taken into account when the concrete was formed and poured. The result of this is the encroachment into the rear setback of the same distance of the front porch.

Sincerely,

Alexander Carey, RLS