

**MARCH 11, 2009 VARIANCE HEARING
“OTHER BUSINESS”**

ITEM #1

PURPOSE

To consider Amending the Stipulations for Mr. Gary Young regarding V-120 (Jon-Eric Bonney) of October 10, 2007 for property located on the south side of Cherry Hill Drive, south of Thunderbird Drive, in Land Lot 1090 of the 17th District (150 Cherry Hill Drive).

BACKGROUND

A Variance was granted on November 14, 2007 for the subject property to reduce the side and rear setbacks. The Board of Zoning Appeals decision is attached. The previous applicant did not close on the property and the present applicant wishes to build a house with a different floor plan and is proposing to amend the original approval. Attached are two letters, a revised site plan and a landscape plan from Mr. Parks Huff who represents the new applicant that describe the proposed changes. Mr. Huff has met with the affected adjoining neighbors and they have initialed the landscape plan indicating their support as long as the landscape plan is made a condition of the approval.

RECOMMENDATION

The Board of Zoning Appeals consider the request and if approved should be subject to the attached letters from Mr. Parks Huff dated February 3, 2009 and February 4, 2009 and further subject to the submitted landscape plan.

ATTACHMENTS

Board of Zoning Appeals Decision
February 3, 2009/February 4, 2009 Letters
Revised Site Plan
Landscape Plan

ORIGINAL DATE OF APPLICATION: 10-10-07

APPLICANT'S NAME: JON-ERIC BONNEY

**THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE COBB
COUNTY BOARD OF ZONING APPEALS**

**THE BELOW STYLED VARIANCE WAS HEARD BY THE COBB COUNTY
BOARD OF ZONING APPEALS ON NOVEMBER 14, 2007**

JON-ERIC BONNEY (owner) requesting a variance to: 1) waive the side setback on Lot 4 from the required 12 feet to 10 feet adjacent to the western property line; and 2) waive the rear setback from the required 40 feet to 11.8 feet in Land Lot 1090 of the 17th District. Located on the south side of Cherry Hill Drive, south of Thunderbird Drive (150 Cherry Hill Drive).

MOTION: Motion by Ott, second by Williams, as part of the Consent Agenda, to **approve** variance request **subject to:**

- **letter of agreeable conditions from Mr. Parks Huff, dated November 13, 2007 (attached and made a part of these minutes)**
- **approval is for improvements indicated on the revised site plan *only* (attached and made a part of these minutes)**
- **Development and Inspections Division comments and recommendations**
- **Water Division comments and recommendations**

VOTE: **ADOPTED** unanimously

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI*
MELISSA P. HAISTEN

OF COUNSEL
DAVID P. HARTIN

*ALSO LICENSED TO PRACTICE
IN ALABAMA

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

WWW.SAMSLARKINHUFF.COM

November 13, 2007

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661

Re: Variance Application for Jon-Eric Bonney, 150 Cherry Hill Drive, V-120

Dear John:

The applicant owns 150 Cherry Hill Drive, an R-30 lot in Atlanta Country Club. The applicant proposes to demolish the existing house and build a new two story home on the lot. The lot has two main challenges as it relates to the variance. First, the topography was altered when the existing house was built over twenty years ago creating a bowl shaped lot that does not properly drain. Additionally, the shape of the lot is difficult because the five-sided lot creates two rear setback lines. In order to address these two issues the applicant has requested the reduction in a rear setback line to 11.8 feet and a reduction in the side setback to 10 feet as depicted in the revised Variance Application and appurtenant site plan. The applicant has worked with representatives of the Chattahoochee Plantation community, the neighboring property owners and the Atlanta Country Club to accommodate the proposed variances. Following is a list of conditions that my client is agreeable to becoming conditions on the variance grant.

1. Prior to construction, the applicant will submit the construction plans to the county for plan review approval of the stormwater drainage plan. This review will ensure that the applicant does not create a drainage problem by not adequately ensuring positive flow around the proposed home. There is currently a 30 inch pipe that picks up drainage from the back of the lot and transfers the drainage to street and downstream drainage structures. The applicant understands that he will have to ensure the drainage structure is functioning properly, i.e. no

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Mr. John P. Pederson, Planner III
Cobb County Zoning Department
November 13, 2007
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obstructions, and that there is a possibility the pipe will have to be upsized if additional drainage is added.

2. The current house is developed on a slab at approximately 1.112 feet in elevation. In order to create positive drainage around the proposed house, the applicant proposes to raise the first finished floor elevation to 1.117 feet in elevation. Unlike the existing house, there will be a basement. At this elevation, the proposed home will be consistent with the elevations of the homes on either side.
3. The house will be a traditional two-story home. The home will be no more than 43 feet above the first finished floor elevation.
4. There shall be a tree save area along the west side property line beginning at the front corner of the proposed house as depicted in the attached site plan and continuing to the rear line for a depth of approximately 20 feet from the side line. There are trees in this area that are covered with ivy and may need to be removed because of disease or because of safety created by the proximity of the proposed house and the adjacent cart path. The county arborist will review the trees in the tree save area to determine if any trees should be removed.
5. Along the rear property line that is adjacent to the Miller's property, known as 324 Rolling Rock Road, there will be a tree save area approximately 15 feet in depth and running for approximately 75 feet from the rear eastern pin corner. Any removal of trees in this area will be determined by the stormwater management division to ensure the proper drainage around the subject property. Of course, the county arborist can allow the removal of trees in this area for safety or disease reasons. Both tree save areas are depicted on the attached site plan.
6. If any additional structures such as a pool or cabana are built on the property, they will be subject to the county stormwater management division's review and approval to ensure that their placement and construction are consistent with the drainage plan that is approved for the initial construction of the house.
7. Underbrush and understory plants shall be able to be removed from the tree save areas.
8. The applicant will submit to the county proof that it has treated the house for rodent infestation prior to demolition of the existing house.

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Mr. John P. Pederson, Planner III
Cobb County Zoning Department
November 13, 2007
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9. Minor modifications to these stipulations may be approved by the Zoning Administrator after review with the District Board of Zoning Appeals member.

Please contact me if you have any questions or concerns regarding these stipulations.

Sincerely,

SAMS, LARKIN & HUFF, LLP

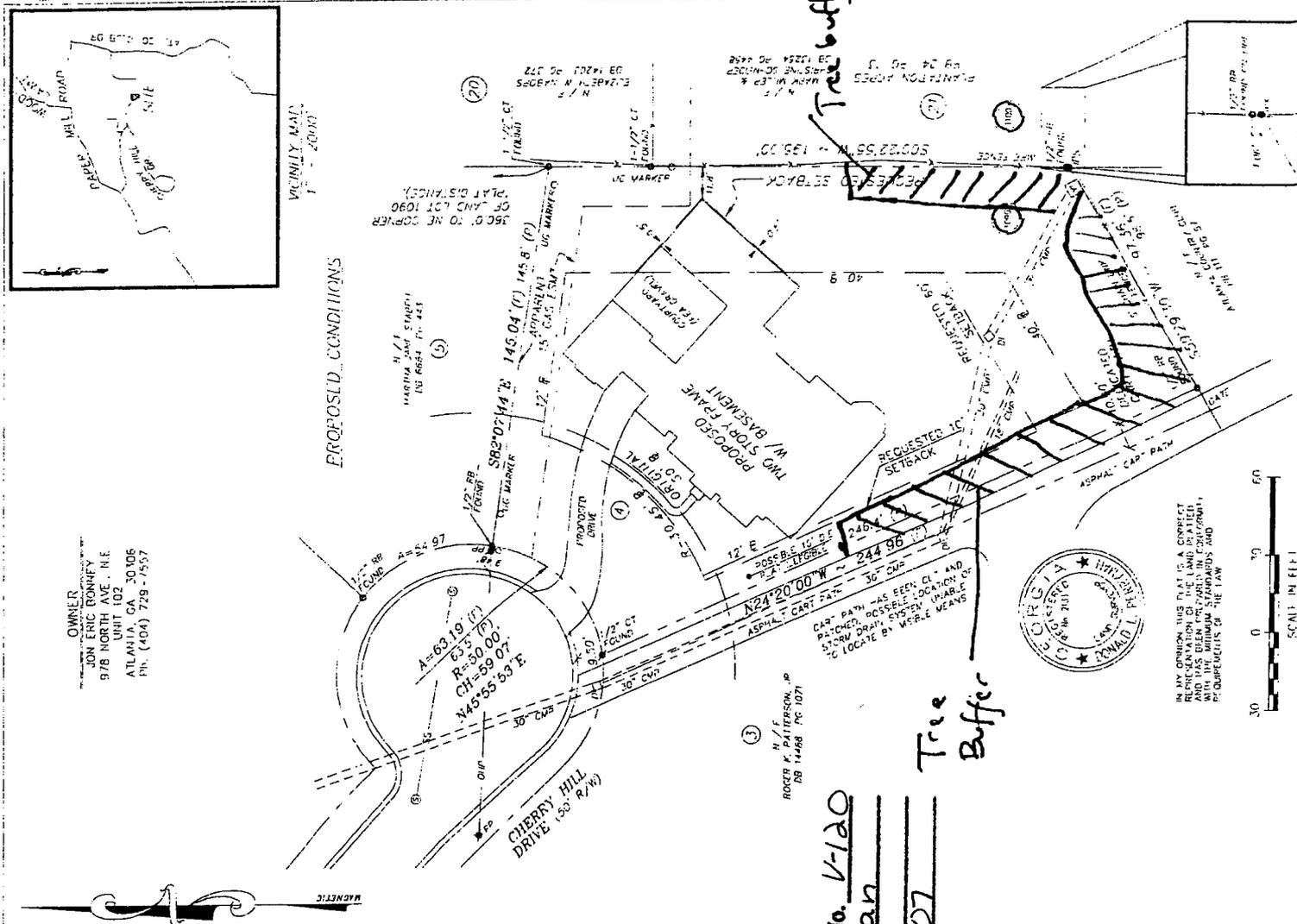
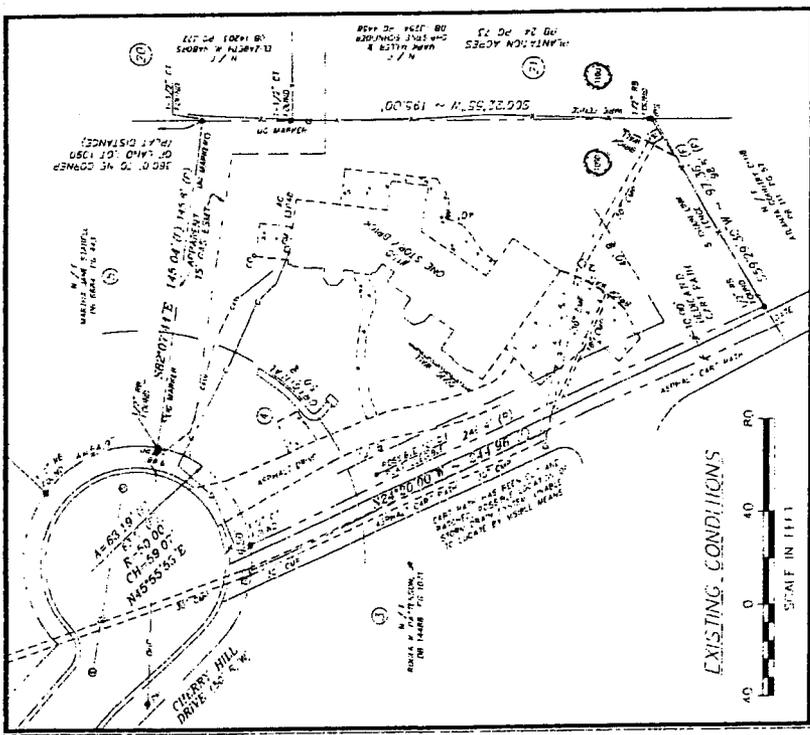


Parks F. Huff

phuff@samslarkinhuff.com

PFH/brl
Attachment

cc: Members, Cobb County Board of Zoning Appeals – VIA First Class Mail
Ms. Karen King, Deputy County Clerk -- (2 copies) VIA Hand Delivery
Mr. Steve Innes, Cobb County Water System (VIA Email)
Mr. John Morey, Cobb County DOT (VIA Email)
Mr. Dave Breaden, P. E., Cobb County Water System (VIA Email)
Mr. Tim McKay, Cobb County DOT (VIA Email)
Mr. Eric Bonney



OWNER
 JON ERIC BONNEY
 978 NORTH AVE. N.E.
 UNIT 102
 ATLANTA, GA 30106
 PH. (404) 729-7557

THIS UNIT IS NOT WITHIN A 100' TREE BUFFER AREA ACCORDING TO THE ZONING ORDINANCE OF COBB COUNTY, GEORGIA. PARCEL NO. 13067 00088. DATED AUGUST 18, 1987.

FIELD CLOSURE: OPEN
 ANY OTHER: 15' TREE BUFFER
 EDITION: 15' TREE BUFFER
 W/ NEW DATA COLLECTION
 P.L.A. CLOSURE: 1/24E449

AREA = 0.757 ACRES OR 32972 SQ FT

THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. THE PROPERTY SURVEYABLE CONDITIONS AND OUR LIABILITY OF THIS WHICH ARE NOT NEARLY RECORDED OR DEPOSED.

NOTES:

1. NOT ALL IMPROVEMENTS ARE SHOWN
2. THIS PROPERTY IS CURRENTLY ZONED R-90
 ZONE 1-17
 PLAT 1-107
3. THE PURPOSE OF THIS PLAN IS TO REQUEST A VARIANCE TO THE TREE BUFFER AND SETBACK REQUIREMENTS FOR THE PROPOSED DRIVE AND WALK TO BE BUILT ON THE PROPERTY.
4. AREA WITHIN PROPOSED DRIVE AND WALK TO BE BUILT ON THE PROPERTY IS 15650 SQ FT.
5. AREA WITHIN PROPOSED DRIVE AND WALK TO BE BUILT ON THE PROPERTY IS 12775 SQ FT.
6. BUILDABLE AREA WITHIN PROPOSED DRIVE AND WALK TO BE BUILT ON THE PROPERTY IS 427 SQ FT.
7. AREA OF EXISTING IMPROVEMENTS SUBJECTS: 9000 SQ FT (2000)
8. AREA OF PROPOSED IMPROVEMENTS SUBJECTS: 3000 SQ FT (11,700)
9. EXISTING HOUSE, DRIVE AND WALK TO BE BUILT ON THE PROPERTY.
10. BOUNDARY INFORMATION FROM THAT OF CHERRY HILL DRIVE, INC.

Min. Bk. 13 Petition No. V-120
 Doc. Type Site plan
 Meeting Date 11-14-07



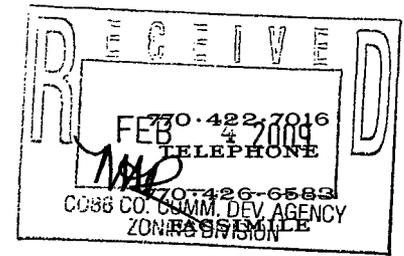
IN MY OPINION THIS PLAN IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARD AND REQUIREMENTS OF THE LAW.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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JUSTIN H. MEEKS



SAMSLARKINHUFF.COM

February 3, 2009

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
191 Lawrence Street
Suite 300
Marietta, Georgia 30060-1661

Re: Amendments to Variance Conditions for V-120 (2007)
150 Cherry Hill Drive

Dear Mark:

The above-styled zoning case was approved subject to the stipulation letter dated November 13, 2007. I have attached a copy of this stipulation letter for your quick reference. The Applicant at that time did not close on the property. Now, my client, Gary Young, proposes a revised house plan on the subject property that is vastly superior to the original proposal. The original Variance allowed for minor modifications of the stipulations to be approved by the Zoning Administrator with a review of the District Board of Zoning Appeals member. My client's builder Kyle Henry met with Joe Gavalis as a representative of the Chattahoochee Plantation Association and Kim Swanson, the District Cobb County Planning Commissioner. It is my understanding that both of these individuals were satisfied with the revised plat. However, the revisions to the plan require three (3) minor modifications and/or clarifications of the original stipulations.

- 1) Condition Number 2 made the finished floor elevation 1,117 feet. As is obvious from the attached site plan, this number was inaccurate. The correct finished floor elevation for the main level is 980.52 feet.
- 2) Condition Numbers 4 and 5 provided for tree-save areas along the back and sides of the subject property. However, in order to comply with Condition 1 which required correcting a stormwater drainage problem and because of the condition of these trees, it is impossible to maintain these tree-save areas. My client proposes as an alternative to these stipulation a landscape plan. The landscape plan is attached for your review along with the signatures of the adjacent property owners signifying their approval of this

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
February 3, 2009
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amendment to the Condition. Quite frankly, the landscape plan is vastly superior than the existing foliage and will allow for the proper correction of not only the stormwater drainage issue but other drainage problems along adjacent properties.

I have attached for your review the revised site plan with topographical details and the footprint of the house. I am also attaching a copy of the landscape plan and the signatures of the property owners at 4355 Chattahoochee Plantation, 151 Cherry Hill Drive and 140 Cherry Hill Drive. The owner of 324 Rolling Rock Road has verbally consented to the landscape plan and her signature will be forwarded as soon as I receive it.

It is my understanding that with this information, the County will approve these minor modifications. It is also my understanding that you would like the minor modifications to be reflected on the Variance Board Agenda. Please place this on the earliest Agenda possible as my client desires to immediately pull a building permit for the construction of the home.

Your assistance in this matter is greatly appreciated.

Sincerely,

SAMS, LARKIN & HUFF, LLP



Parks F. Huff
phuff@samslarkinhuff.com

PFH/brl
Attachments

cc: Mr. Gary Young
Mr. Joe Gavalis Chattahoochee Plantation Association
Ms. Kim Swanson, Cobb County Planning Commissioner

PLANTS	TREES
1-RO	1-RO
1-NRS	1-NRS
11-HH	11-HH
3-CL	3-CL
1-RO	1-RO
6-OLL	6-OLL
8-HH	8-HH
1-CM	1-CM
11-GSN	11-GSN
1-CM	1-CM
3-NRS	3-NRS
11-DY	11-DY
6-OLL	6-OLL
1-CM	1-CM
15-BBL	15-BBL
4-NPH	4-NPH
5-GSN	5-GSN
2-BW	2-BW
4-NPH	4-NH
5-GSN	5-GSN
20-BBL	20-BBL
12-HH	12-HH
3-CM	3-CM
25-DL	25-DL
5-EL	5-EL
5-DY	5-DY
3-NRS	3-NRS
1-KOR	1-KOR
13-AZL	13-AZL
26-BBL	26-BBL
8-CAM	8-CAM
10-EL	10-EL
7-AZL	7-AZL
1-RO	1-RO
5-MAG	5-MAG

N/F
MARTHA JANE STABELL
D.B. 6684 PG. 4431

30' TO NE CORNER
OF LOT 100
(PLAT. DISTANCE)

APPARENT
15' GAS ESMT

P/L # LLL

CTFF

CTFF

GRATE EL.
RAISE
ON BOX #
ICE TOP
X3' GRATE

PROPOSED
DRIVE

PROPOSED
2 1/2 STORY
GARAGE
FF = 979.35

PROPOSED
TWO STORY
LIVING ENT.
FF PLAN = 920.52
FF BASE = 910.52

N/F
PATTERSON, JR.
14488 PG. 1071

EXIST. 15' GAS ESMT
TO BE RAISED TO
20' TO ACCOMMODATE
NEW 20' GAS ESMT
FOR THE PROPOSED
GARAGE. SEE PLAN
FOR DETAILS.

PROPOSED
COVERED PORCH

PROPOSED
COVERED PORCH

PROPOSED
FOOD DECK

PLANT,
P.B.

LL
1100

FINAL GRATE EL.
975.94 RAISE
JUNCTION BOX #
REPLACE TOP
WITH 2'X3' GRATE

N/F
ATLANTA COUNTRY CLUB
GOLF COURSE
P.B. III PG. 51

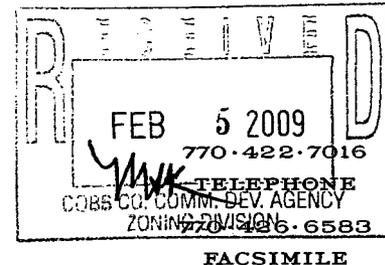
NOT TO SCALE

LANDSCAPE PLAN
YOUNG RESIDENCE
150 CHERRY HILL DR., MARIETTA, GA 30067

DATE: 11/11/11
BY: [Signature]
CHECKED: [Signature]
SCALE: 1" = 10'-0"



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February 4, 2009

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
191 Lawrence Street
Suite 300
Marietta, Georgia 30060-1661

Re: Amendments to Variance Conditions for V-120 (2007)
150 Cherry Hill Drive

Dear Mark:

Below is a more detailed review of the status of the original conditions to ensure that all the bases are covered. I will follow the stipulation numbers on my original letter dated November 13, 2007.

- 1) This stipulation required plan review to ensure that an existing stormwater problem was properly addressed. My client's engineer Mark Lee has worked extensively to plan a resolution to an existing stormwater drainage problem. David Breaden at Stormwater is copied on this letter for his comment if necessary. It should also be noted that the compliance with this condition will require significant infrastructure improvements that conflict with the tree save areas that are part of later conditions.
- 2) This stipulation incorrectly stated that the Finished Floor Elevation (FFE) of the first floor (not basement) would be raised from 1,112 to 1,117. These numbers are inaccurate. The correct numbers are detailed on the previously submitted site plan. The new FFE is 980.52 and the original slab was approximately 976. Therefore, the intent of only raising the FFE by approximately 5 feet is achieved, but the correct elevation numbers are being inserted. Upon further reflection, I would like this number to be 981. I would like to have .5 feet in case of contractor error.
- 3) This condition required a traditional two story home with a height no greater than 43 feet above the FFE of the first floor. The new house plan complies with this requirement.
- 4) The original tree save area detailed in this condition is being replaced with the submitted landscape plan.

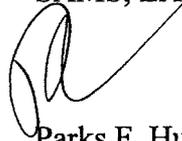
Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
February 4, 2009
Page 2

- 5) The original tree save area detailed here is also being replaced with the submitted landscape plan. The reason for the changes to the tree save area is that the grading of the area to solve the drainage problems will result in damage to the existing trees. The neighbors also prefer a landscaped area that will match the landscaping on the new house to the rear of this lot.
- 6) The original condition required any additions to be reviewed by the stormwater department. The revised site plan incorporates the proposed pool and decking and this has been incorporated into the stormwater plan.
- 7) This condition allowed for the removal of understory plants in the tree save area. This condition doesn't need to be changed, but it becomes moot with the changes to condition 4 and 5.
- 8) This condition which required rodent removal before demolition of the existing house is now moot.
- 9) This condition allowed for minor modifications to the variance conditions because it was anticipated that the conditions might need to be modified especially with the stormwater issue not resolved at the time of the variance hearing.

I hope this information is helpful. Please let me know if you need any additional information.

Sincerely,

SAMS, LARKIN & HUFF, LLP



Parks F. Huff
phuff@samslarkinhuff.com

PFH/brl

cc: Mr. Gary Young
Mr. Joe Gavalis, Chattahoochee Plantation Association
Ms. Kim Swanson, Cobb County Planning Commissioner
Mr. David Breaden, P. E., Cobb County Water System