

CITY
-----OF-----INTER-OFFICE COMMUNICATION
GAINESVILLE

TO: Board of Adjustment

Item Number: 1.

FROM: Planning Division Staff

DATE: February 7th 2017

SUBJECT: Petition BA-17-01 SPE, Ryan Frankel. Requesting a Special Permit pursuant to Sec. 30-303, City of Gainesville Land Development Code, to allow construction of two wooden decks that will encroach to approximately 37 feet from a regulated lake (Colclough Pond); a reduction from the City's typical requirement of 75 ft. buffers associated with lakes. Zoned RSF-1, (Single-family Residential, 3.5 du/a). Tax Parcel No. 15700-060-000. Located at 2900 SW 2nd Court.

Explanation:

This petition is in reference to existing lot 14 located at the end of a cul-de-sac in the Colclough Hill subdivision. The approximately 1.0-acre lot is one of seven residential-zoned parcels bordering the southwest shoreline of the approximately 12-acre Colclough Pond. As with the majority of pre-2004 established lots bordering ponds and lakes within Gainesville, each lot has boundary segments that are narrow, pie-shaped dimensions converging with adjacent lot-lines at the center of the pond. The remaining 70% of the pond is bordered by the City's Colclough Pond Nature Park (total 5 acres) and the Colclough Pond Audubon Sanctuary (total 38 acres).

There is a considerable topographic range for the referenced parcel, with an elevation decrease of 36 feet over just a couple hundred feet from the northern boundary to the lake edge. The parcel has no-forested wetland habitat, except for approximately 5-8 ft. bordering along the lake's water elevation. The residential dwelling is located approximately 100 ft. from the lake. An existing wooden observation deck (approx. 10 ft. x 20 ft.) is located 50 feet from the lake and several feet above the water elevation. As a result of hurricanes this past summer, a large tree fell and destroyed the deck platform and compromised the structural integrity of the facility. As a result, the homeowner wishes to construct two new wooden decks; one along the west side with a step-down connection to a second deck located along the north side of the existing deck. The existing dilapidated structure will be removed after constructing the two new observation decks. The two proposed decks would be constructed within an existing grassed lawn at a location where there would be no trees obstructing the lake view. The new deck (11 ft. x 24 ft.) along the north side of the existing deck would be 37 feet from the lake's upper edge. Due to the slope gradient, the new deck will still be several feet higher in elevation than the lake's water elevation. The homeowner proposes to retain an existing security fence located just a few feet from the proposed limits of the new north deck.

City Code - Lake Requirements

There are few lakes within the City limits of Gainesville, and the associated buffer requirements are noted in the following section:

Section 30-302. – General requirements and procedures.

(b) Buffers. Except as otherwise provided, there shall be no development in, on or over a surface water or wetland, or within 75 feet of the landward extent of a regulated lake, or within 35 feet of the break in slope at the top of the bank and any regulated creek as referred to in Section 30-301.

The City's wetland, surface waters, creek and lake setbacks were adopted into the code requirements after the establishment of the associated Colclough Hill subdivision. In consideration of the rights of property owners of existing lots and houses established under previously approved subdivisions, the land development code provides an avenue for the Board of Adjustment to consider requests and grant special permits to property owners who may require relief from the associated buffer requirements. These requirement criteria are stated in the following section with the associated staff evaluation:

Section 30.303. - Single-family lots.

(b) Special permits. In order to allow the reasonable development of a single-family dwelling and customary accessory structures and driveways on platted lots regulated by the surface waters and wetlands sections of this article, the board of adjustment may grant a special permit that allows exception from compliance with the minimum buffer requirements of these sections only to the extent necessary to accommodate such reasonable

development. As part of the same proceedings, the board may also grant variances to the yard setbacks required by this chapter in order to facilitate compliance with these sections subject to a finding that such special permits will neither be injurious to adjacent property owners or the neighborhood nor detrimental to the public welfare.

(1) *Minimum requirement for special permits.* Special permits may be granted by the board of adjustment for single-family lots located within the 75-foot required minimum buffer for regulated lakes, or within the required average minimum buffer distance of 50 feet from the landward extent of any wetland or surface water, or within 150 feet of the break in slope at the top of bank of a regulated creek for lots which are lawfully created before April 12, 2004.

(2) *Criteria for granting of special permits.* The following criteria shall be used in deciding whether and to what extent a special permit should be granted:

a. The board of adjustment shall determine what is reasonable development of a single-family lot, accessory structures and drives and shall consider the following factors:

1. The size of existing single-family dwellings in the immediate vicinity should serve as a guide to what is customary and reasonable for the property under review.

Staff Evaluation: *The landowner is not proposing revisions to the residential dwelling. Staff believes it's reasonable to expect a homeowner's efforts to replace an unsafe deck destroyed by natural causes. Even though the two proposed decks are larger dimensions than the impacted deck, they're customary and reasonable considering the parcel covers an acre and the decks would not be visible to neighboring homeowners. Mr. Frankel has stated he has discussed his proposed deck plans with his neighbors and they didn't indicate any objections.*

2. No special permit shall be granted for the purpose of accommodating a swimming pool, tennis court, racquetball court or similar recreational structure, or to accommodate accessory uses that are not customary on single-family lots or exceed the customary size.

Staff Evaluation: *The landowner is not proposing the referenced facilities or other recreational structures. The presence of an observation deck as an accessory is customary for a water-front residence. The proposed structure is essentially replacing an existing unsafe dilapidated structure in the same location.*

b. The board of adjustment shall consider features of the site, including its topography, the width of the creek bed, and the presence or absence of vegetation natural to the creek, lake or wetland, which indicate that a special permit would or would not further the goals of these sections.

Staff Evaluation: *Even though the property and associated deck location has topographic gradient, the slope is stable with a well-covered and maintained grass lawn. There is an existing hog-wire security fence that separates the lawn from Colclough Pond and adjacent upland buffer; thus further ensures and enhances protection of lake functions and benefits.*

c. The board of adjustment shall consider building code requirements, including building orientation requirements to meet energy efficiency standards that affect the design and/or orientation of structures on the lot.

Staff Evaluation - *The proposed dimensions and orientation of the two decks meet the lot setback requirements while retaining the same optimum location for visual observation of the pond.*

d. The board of adjustment shall consider presence of trees eight inches or greater in diameter at a point 4½ feet above the ground level that can only be preserved if a special permit is granted.

Staff Evaluation - The proposed deck locations are within a grassed lawn area and no trees will be removed or trimmed for either the construction or to retain visual observation of the pond. There are no structures proposed within the pond or adjacent fenced-off buffer.

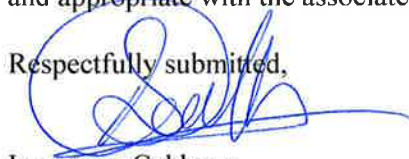
(3) Furthermore, the board of adjustment shall consider staff reports as needed in reaching its decision. In granting a special permit the board shall establish measures to ensure that the goals of these sections are substantially met, in particular maintaining natural vegetation where feasible, preventing sedimentation loading to the creek, lake or wetland, maintaining the stability of the creek or lake bank, and preventing the degradation of the water quality of the creek, lake or wetland. To achieve these aims, the board of adjustment shall attach such reasonable conditions and safeguards, such as construction control techniques and other mitigation measures, as it deems necessary.

Staff Evaluation – In addition to achieving an approximately 40 feet setback from the lake, the applicant has proposed to incorporate best management practices for proper erosion control methods (e.g. silt screens) and grass revegetation of exposed soil areas are conducted to ensure slope re-stabilization and avoid potential of sedimentation and/or water quality degradation.

RECOMMENDATION:

Staff's review and evaluation of the proposed design plans, various GIS information, code regulations and site conditions provide sufficient and appropriate evidence to indicate the construction and presence of the proposed deck facilities will not result in ecological or environmental impacts or alterations. The activities are consistent, compatible and appropriate with the associated zoning and code regulations.

Respectfully submitted,



Lawrence Calderon
Lead Planner

Prepared by:



Mark Brown
Environmental Coordinator

Date: Thursday, February 09, 2017
LDC: ldc

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Attachment:

Attachment A: Application and Supporting Documents.
Attachment B: Some Relevant Land Development Code References.