

CHATHAM COUNTY ZONING BOARD OF APPEALS MPC

STAFF REPORT

PETITIONER: Micheal Ross
FILE NO: ZBA-0925-000585
ADDRESS: 23 Penrose Drive
PIN: 10117 01010
DATE: January 27, 2026

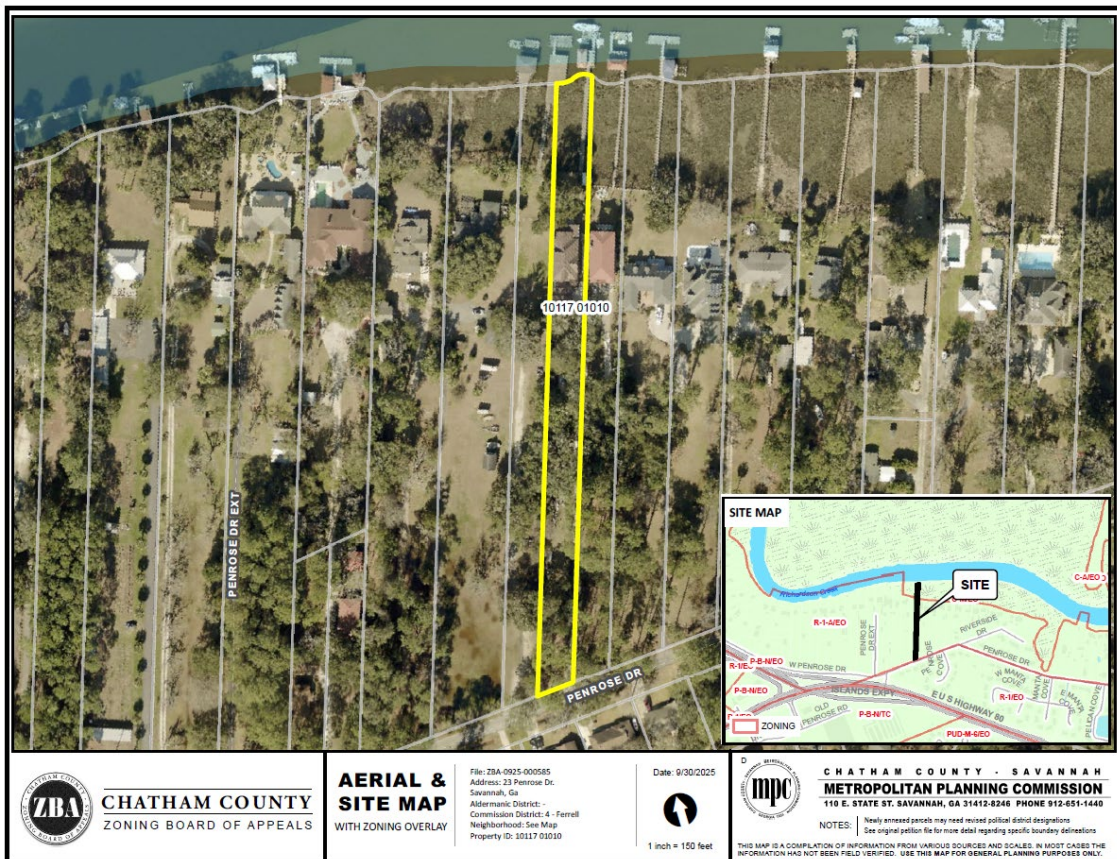
Nature of Request

The petitioner initially appeared before the CZBA on October 28, 2025, requesting a variance to reduce the required 35-foot riparian buffer setback to 10 feet in order to construct a pool in the rear yard. The request was attributed to the presence of a mature live oak tree on the property, as locating the pool outside the buffer was expected to disturb the tree's root system.

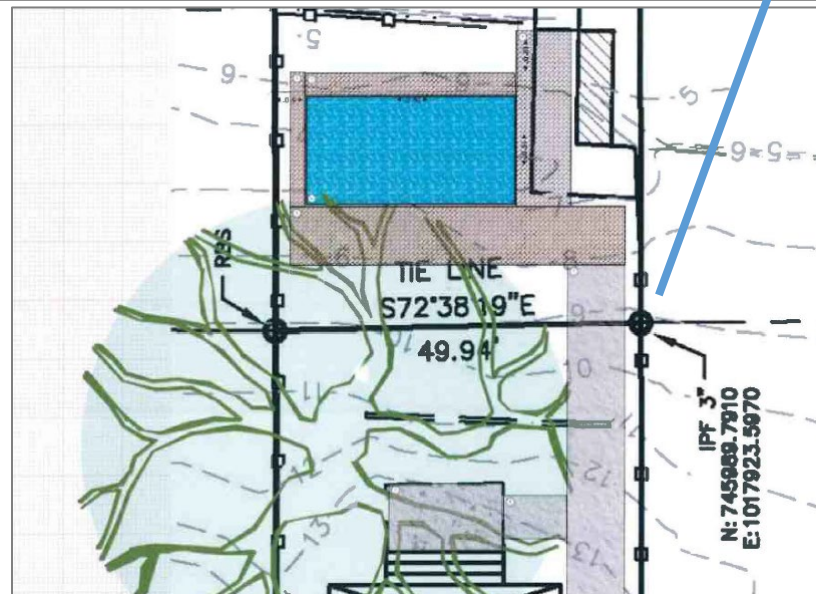
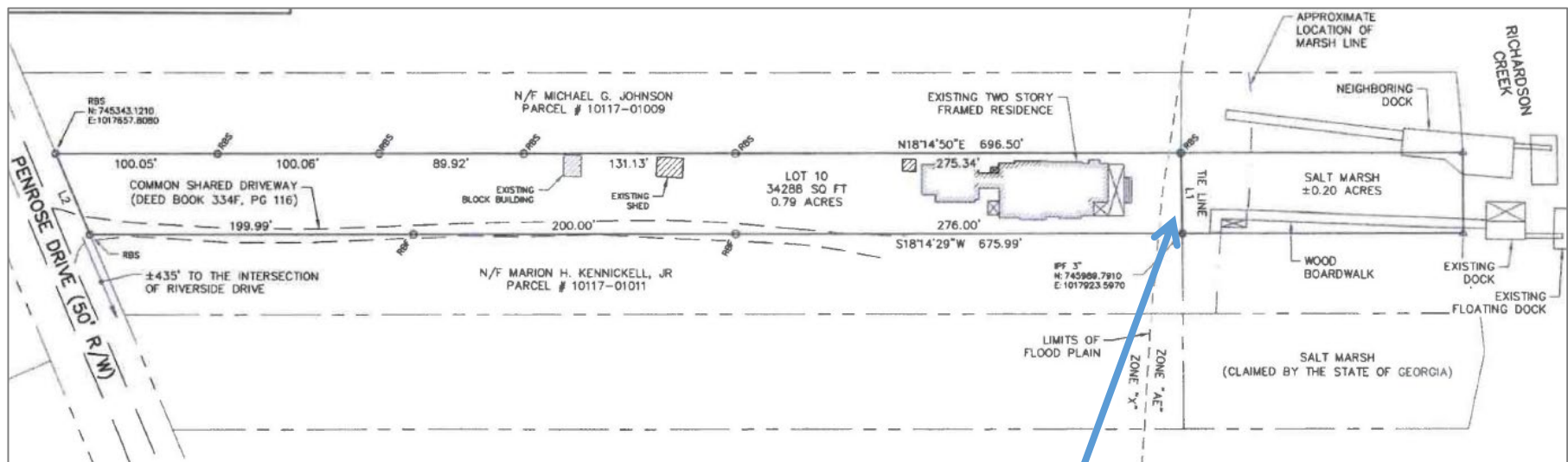
During the public hearing, the CZBA recommended that the applicant reevaluate the pool design and location to minimize impacts to both the riparian buffer and the live oak tree, and to return with a revised proposal at the January 27, 2026 CZBA meeting.

Following this re-evaluation, the applicant has submitted two alternative design concepts, both of which continue to require variances to encroach into the riparian buffer. The revised requests include:

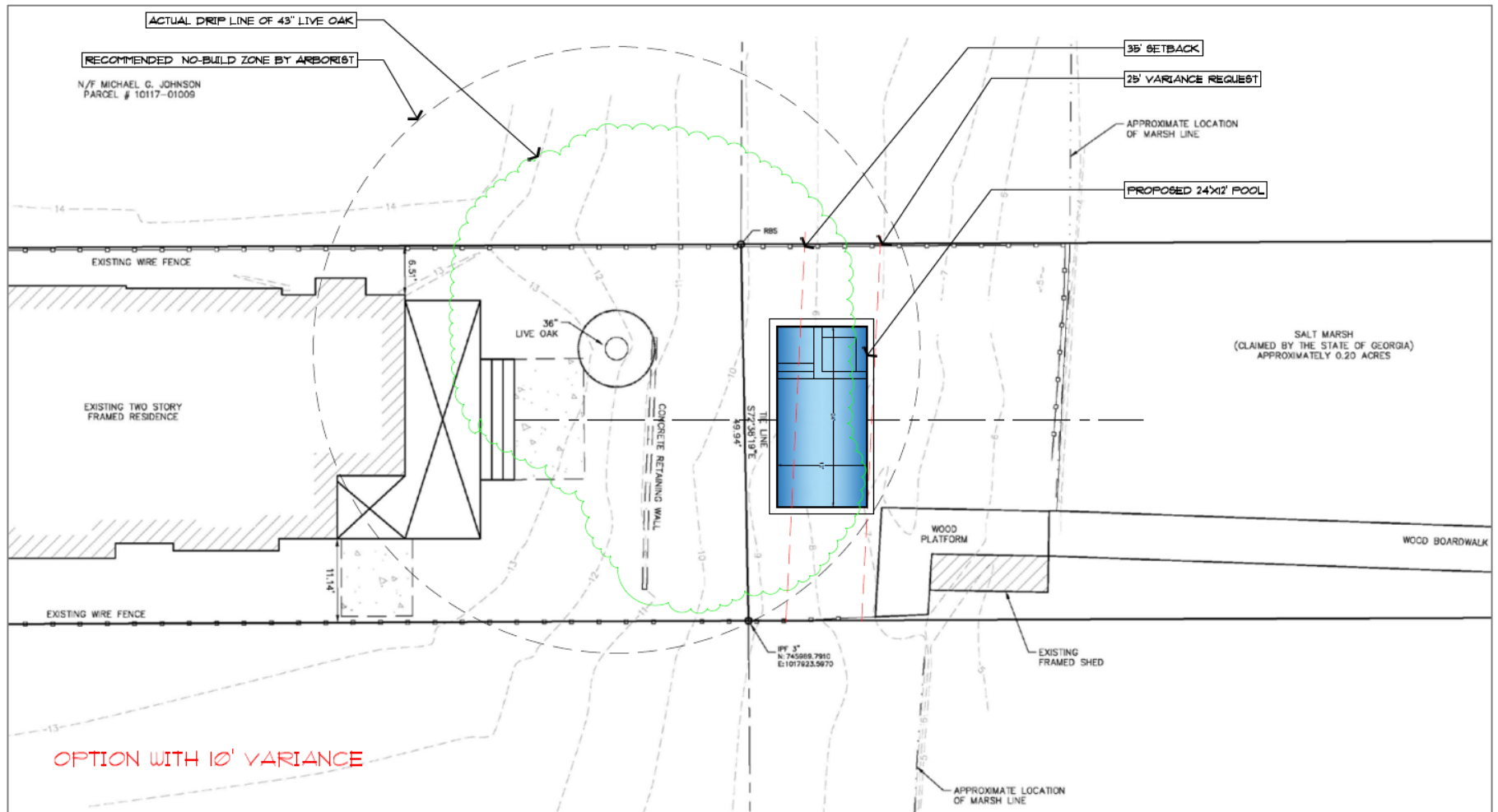
1. A variance to reduce the required 35-foot riparian buffer setback to 10 feet (original request); and
2. A variance to reduce the required 35-foot riparian buffer setback to 20 feet.



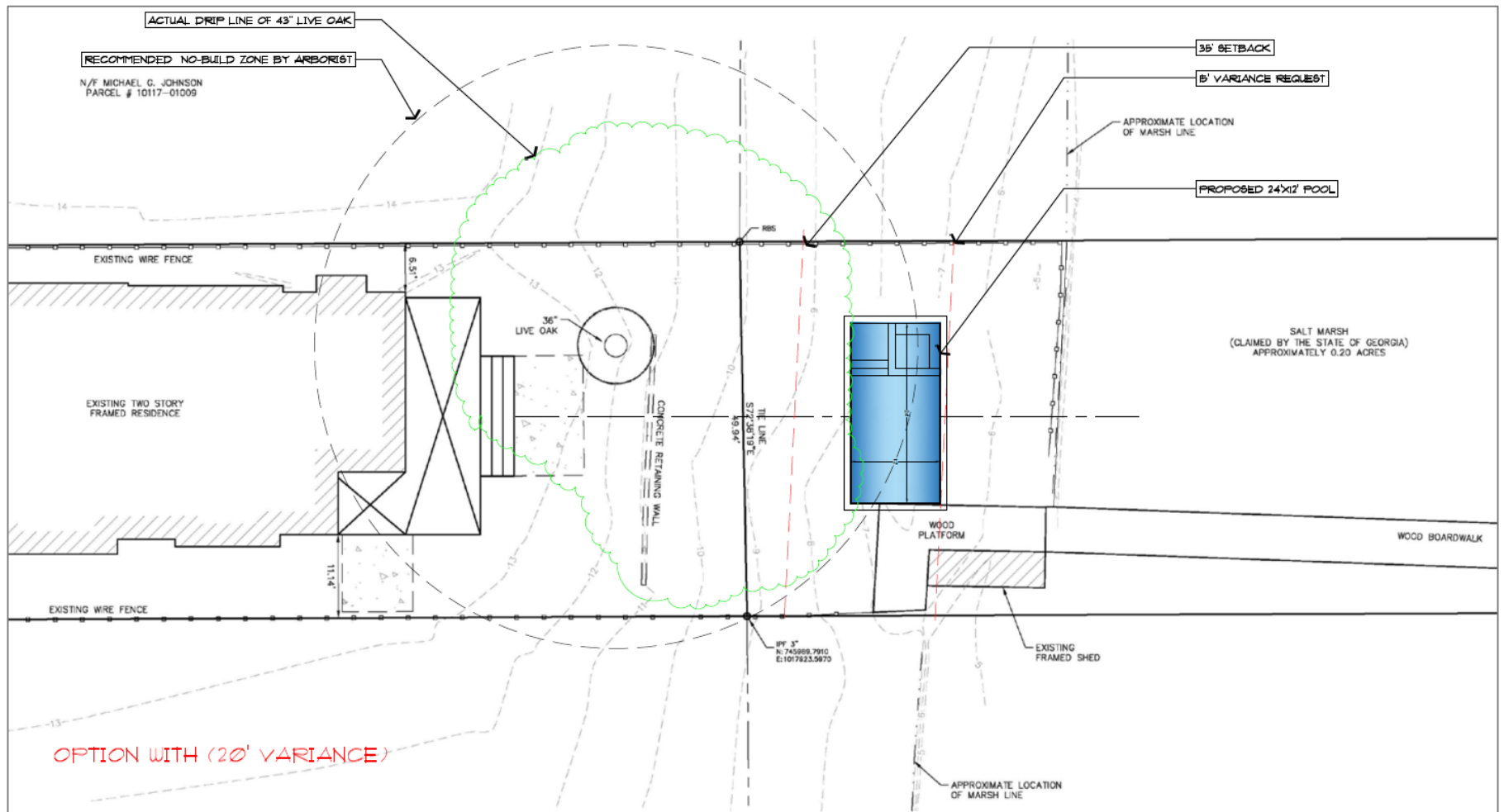
Aerial & Site Map of 23 Penrose Drive



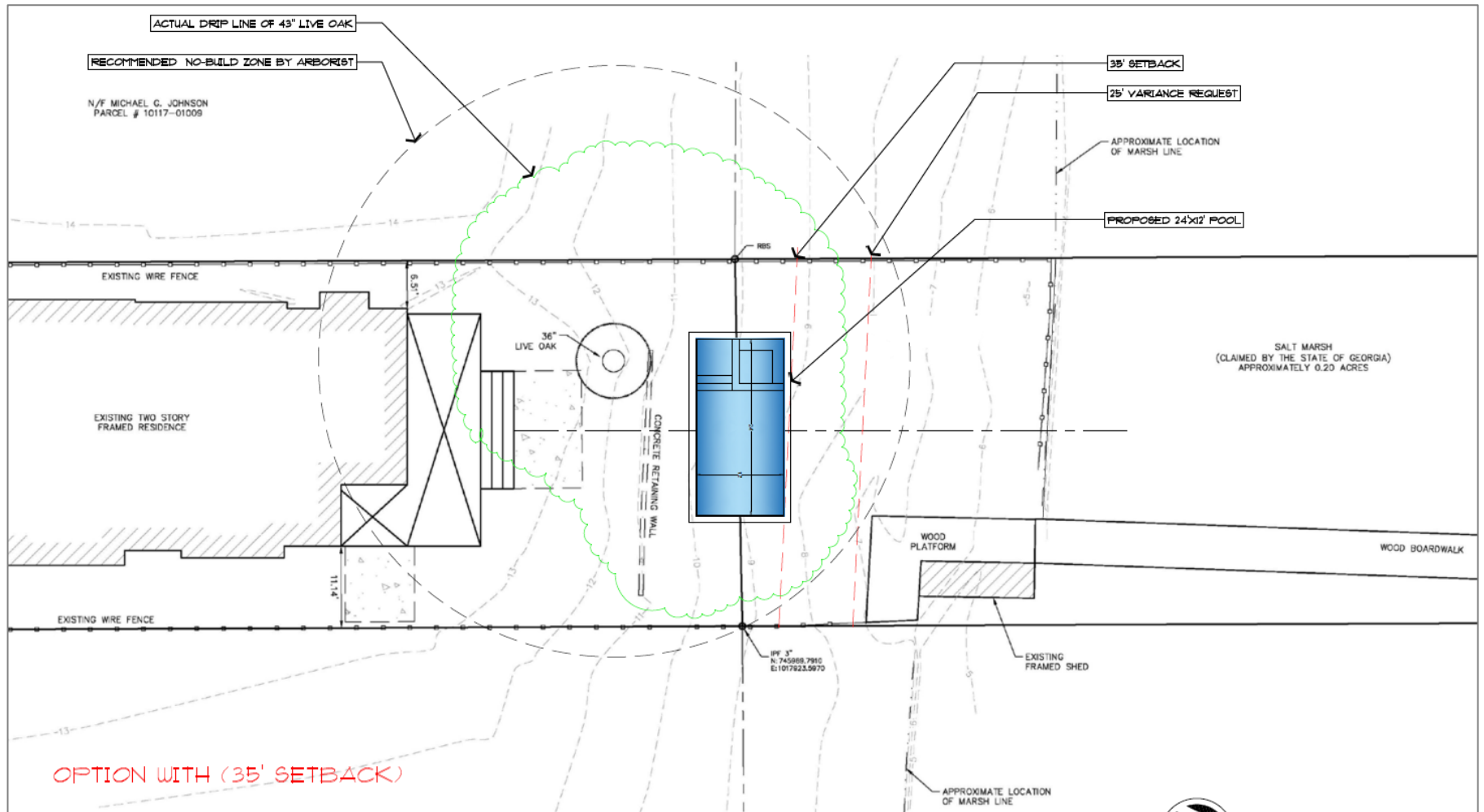
Applicant Submission 'Conceptual Site Plan – 10.28.2025' for the original variance request of 10 feet encroachment into the buffer



Applicant Submission 'Conceptual Site Plan – 01.27.2026' – re-evaluated concept plan with the variance request of 10 feet encroachment into the buffer (original request)



Applicant Submission 'Conceptual Site Plan – 01.27.2026' – re-evaluated concept plan with the variance request of 20 feet encroachment into the buffer



Applicant Submission 'Conceptual Site Plan – 01.27.2026' – re-evaluated concept plan without any variance requests

Background:

For all properties built near marshland, a 25-foot riparian buffer is required by state law, and an additional 10 feet is required as part of the Chatham County EO Zoning District for a total buffer of 35 feet. Following a site visit on October 6, 2025, Chatham County determined that State Waters are present adjacent to the property at 23 Penrose Drive. However, because the proposed work is located landward of existing bank stabilization, no State Waters buffer is required. Erosion and sediment control BMPs remain required for all land-disturbing activities, and the determination does not exempt the property from obtaining any other applicable local, state, or federal permits. The determination is valid for one year from the date of the State of Georgia Coastal Marshlands Jurisdictional Determination.

The parcel is in the R-1-A/EO zoning district and subject to a riparian buffer of 35 ft as measured from the Department of Natural Resources jurisdictional marsh line as established by the Coastal Resources Division in accordance with the Coastal Marshlands Protection Act of 1970.

The Petitioner is requesting a variance to Chatham County's 35-feet of riparian buffer. During the public hearing, the CZBA recommended that the applicant reevaluate the pool design to reduce impacts to the marsh buffer and the live oak tree and return with a revised proposal at the January 27, 2026 CZBA meeting. Following this re-evaluation, the applicant submitted revised concepts but continues to request a variance to reduce the required 35-foot marsh buffer setback to 10 feet, with an alternative option proposing a 20-foot setback. The hardship cited is the inability to construct the pool outside the buffer without compromising the health of the Live Oak tree.

An arborist evaluation determined that the subject live oak is healthy, structurally sound, and a high-value specimen worthy of preservation. The report concludes that constructing the pool closer to the marsh buffer would result in minimal disturbance to the tree's critical root zone, allowing the tree to be retained with appropriate protection measures. Conversely, relocating the pool outside the buffer would significantly impact the tree's root system, likely resulting in severe decline or the need for removal. The arborist therefore recommends the design option that minimizes root disturbance and preserves the live oak, provided that construction occurs under arborist oversight with established tree protection measures.

The Chatham County Department of Engineering determined that State Waters are present adjacent to the property; however, because the proposed work is located landward of existing, serviceable bank stabilization (bulkhead), no State Waters buffer is required. Erosion and sediment control BMPs remain required, and the determination does not waive compliance with other applicable local, state, or federal regulations.

Findings:

1. The parcel is part of the Riverside Subdivision and the current primary structure was built in 2006 (Chatham County Tax Assessor) and the property is non-conforming by lot width.
2. There are no public utilities for water or sewer available for this site.
3. The construction of a swimming pool, classified as an accessory recreational use and should abide by the standards of the Chatham County Zoning Ordinance - Sec. 5-1.
4. The parcel is 0.8 acres (approximately 34,848 square feet) and located within the R-1-A/EO (One Family Residential – Environmental Overlay) zoning district. This zoning district is intended to support low-density residential neighborhoods with one-family homes and select non-residential uses, promoting community stability and open space. The maximum allowed density is 3.5 dwelling units per acre. The EO Zoning District Environmental Standards (Sec. 4-14.f) were revised 12/17/2010.

5. This petition is regarding the Environmental Overlay District, which has the intent “to establish supplemental standards to bolster those currently in the Chatham County Zoning Ordinance in order to protect and enhance community character; b) provide for safe and orderly development; and c) protect environmental quality, especially the estuarine system that surrounds the community.” Further, “the 35-foot riparian buffer as measured from the Department of Natural Resources jurisdictional marsh line as established by the Coastal Resources Division in accordance with the Coastal Marshlands Protection Act of 1970 is required.” The CMPA declares the following:
 1. *Georgia's coastal marshlands have long been recognized by the General Assembly and the Board as a vital natural resource system, a vital area of the state, and essential to **maintain the health, safety, and welfare of all the citizens of the State.***
 2. *The Coastal Marshlands Protection Act (CMPA) provides a grant of authority to the Board of Natural Resources and Coastal Marshlands Protection Committee to regulate certain activities that affect or have the potential to affect the coastal marshlands of the state, to ensure the values and functions of the coastal marshlands are not impaired and to protect the public interest.*
 3. *Stormwater management measures, impervious surface coverage standards, and marshlands buffer design and maintenance measures as applied to projects which are subject to permitting under the Coastal Marshlands Protection Act are warranted so as to protect this vital area and to protect the public interest.*

The Chatham County Ordinance Environmental Overlay District intent is more aligned with the CMPA, than the GA Code § 12-7-6 (2020), which focuses on the “Control of Soil Erosion and Sedimentation” and requires a 25-foot riparian buffer. Protecting the marsh and waterways from soil erosion and sedimentation is critical to maintaining healthy wetlands, however, the CMPA recognizes marshlands as, “essential to maintain the health, safety, and welfare of all the citizens of the State.”

6. Part of the parcel lies within the 100 year and 500-year Flood Zone.
7. Environmental Conditions:
 - a. Sea level rise is projected to impact nearby wetlands surrounding this property. The adjacent salt marsh is expected to experience approximately 0.79-1.12 feet of inundation by 2040 and 1.18–2.4 feet by 2060 ([NOAA Sea Level Rise Viewer](#)). As salt marshes migrate upland over time, development decisions should account for future conditions rather than solely existing environmental conditions.
 - b. This property has a bulkhead, which is a hardened structure that will reduce erosion and prohibit natural marsh migration. The backyard does not contain native vegetation.

Variance Criteria:

The Zoning Board of Appeals may authorize a variance in an individual case upon a finding that:

- (a) **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

This property has a bulkhead that acts as a barrier to the marsh and cuts off the natural marsh migration pathway. The portion of the backyard where the pool will be located in the 100 year Flood Zone, representing a flood risk.

- (b) **The application of this chapter to this particular piece of property would create an unnecessary hardship.**

No, application of this chapter to the subject property would not create an unnecessary hardship; however, it would result in the proposed pool being located too close to the live oak tree.

- (c) **Such conditions are peculiar to the particular piece of property involved.**

No. While the presence of wetlands and tree protection requirements are common throughout the County, the constraints on this property are not unique.

- (d) **Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.**

Yes, it would. The purpose of the Environmental Overlay District is to protect the marshlands and maintain their environmental function. Encroaching into the 35-foot buffer compromises this intent, particularly in light of sea level rise, future marsh migration, and the risk of coastal flooding. Allowing construction within the buffer sets a precedent that could undermine the integrity of this protective standard.

While the proposed variance would allow encroachment into the 35-foot riparian buffer, the applicant has stated that it is intended to preserve the roots of a mature Live Oak tree by avoiding construction in other parts of the lot. However, the project still involves grading within the buffer area and the tree protection zone to install the pool and may damage the root system of the tree. Although the marsh itself will not be directly impacted, the encroachment does reduce the width of the protected buffer and may affect its intended function.

Recommendation

MPC staff recommends **approval** of the variance to reduce the required 35-foot setback from the marsh bulkhead to 10 feet to allow for the construction of a pool in the rear yard.

Note: This recommendation could change subject to new information provided at the Zoning Board of Appeals meeting. Final decisions will be made by the Zoning Board of Appeals at the public hearing based on information provided at the meeting, as well as information submitted for the staff report.