



# City of Smyrna

2800 King Street  
Smyrna, Georgia 30080

## Meeting Minutes - Final License and Variance Board

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Wednesday, March 24, 2021

10:00 AM

Smyrna Community Center Large Gym  
200 Village Green Circle SE

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### **MASKS REQUIRED / TEMPERATURE WILL BE CHECKED**

#### 1. **Roll Call**

**Present:** 3 - Frank Martin, Richard Garland and Mary Moore

**Also Present:** 0

**Staff:** 4 - Russell Martin, Caitlin Crowe, Dan Campbell and Tina Monaghan

#### 2. **Call to Order**

Chairperson Richard Garland called to order the March 24, 2021 License and Variance Board meeting at 10:00 AM.

#### 3. **Business**

##### A. [2021-116](#)

**Public Hearing** - V21-026 - Increase maximum impervious area from 45% to 49.9% - Land Lot 593 - 1607 Walker Street - Brian & Lauren Berry

**The request is to be tabled to the April 14, 2021 License and Variance Meeting at the request of the applicant.**

Boardmember Frank Martin made a motion to table V21-026 - Increase maximum impervious area from 45% to 49.9% - Land Lot 593 - 1607 Walker Street - Brian & Lauren Berry - to the April 14, 2021 License and Variance Meeting at the request of the applicant. Boardmember Mary Moore seconded the motion.

The motion to table to the April 14, 2021 License and Variance Board meeting was carried by the following vote:

**Aye:** 3 - Frank Martin, Richard Garland and Mary Moore

##### B. [2021-115](#)

**Public Hearing** - V21-024 - Allow additional accessory structure - Land Lot 556 - 1417 Katherine Rose Lane - Chad Elley

*Community Development Planner I Caitlin Crowe came to the podium to provide background information on the request. The applicant is requesting a variance to construct a 616 square foot cabana at 1417 Katherine Rose Lane. The property is currently occupied by an existing single-family home and an in ground swimming pool. Thus, the applicant requires a variance to allow construction of a cabana as an additional accessory structure. Section 501 controls the maximum allowable number of accessory structures. The subject parcel is located on the south end of Katherine Rose Lane in the Grove at Forest Hills*

subdivision (see Figure 1). The subject parcel and all adjacent parcels are zoned R-20 and are occupied by detached single-family residences. The subject property is 0.46 acres (20,000 square feet). The subject property is currently occupied by a single-family home and a 650 square foot in ground swimming pool. The accessory structure ordinance allows one accessory structure or use per lot and since a pool already exists on the property, a variance is required. The applicant is proposing to construct a 616 square foot freestanding cabana to provide shade and entertainment space while using the existing in-ground swimming pool. The structure will have three open sides, with the rear enclosed with batten strips to create a 176 square foot bathroom and storage area. There will also be a large outdoor brick fireplace separating the two spaces; the fireplace and cabana will be painted white to match the existing home. The subject property is buffered from adjacent properties by an existing wooden six-foot privacy fence. Due to the size of the lot and the existing fence, Community Development believes the proposal will not adversely impact adjacent properties. No other variances for setback reduction or impervious area increase are required. The applicant is requesting a variance to allow the construction of a freestanding cabana. Community Development believes the variance requested is the minimum variance needed. Furthermore, an almost identical variance request was approved at 1400 Katherine Rose Lane in 2020 (V20-032). Community Development has not received any calls in opposition to the request. The applicant is requesting to deviate from the City's accessory structure ordinance to allow a second accessory structure. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the requests against the variance review standards and found them to be in compliance with the review standards. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties. Community Development believes that the requested variance will not adversely affect surrounding residents. At the time of this report, Community Development has not received any phone calls in opposition to the variance request. Therefore, Community Development recommends approval of the requested variance with the following condition:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan and elevations submitted.

The applicant, Mr. Chad Elley, was present and came forward to the podium at the request of Chairman Richard Garland. He had no additional information to offer. He is using the same builder that built a neighbor's cabana and has HOA permission. He agrees to all the conditions set forth by Community Development.

The public hearing was announced and no one came forward to speak.

Boardmember Mary Moore made a motion to approve V21-024 - Allow additional accessory structure - Land Lot 556 - 1417 Katherine Rose Lane - Chad Elley. Boardmember Frank Martin seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 3 - Frank Martin, Richard Garland and Mary Moore

C. [2021-117](#)

**Public Hearing** - V21-025 - Allow new construction on lot of record below minimum requirements - Land Lot 348 - 535 Benmac Road - BARC Holdings, LLC

*Ms. Caitlin Crowe, Community Development Planner I, provided the background information for this request. The applicant is requesting to build a new single-family home at 535 Benmac Road on a substandard lot. Section 1208 requires a variance to build on a lot of record below minimum requirements. The subject parcel is a 0.22-acre vacant lot located on the north side of Benmac Road (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are occupied by detached single-family homes. The subject parcel is located within the Green Hills Subdivision, which was platted in 1953, prior to the current zoning ordinance, which was implemented in 1976. The applicant is proposing to build a new single-family home on the subject property; however, the lot is 9,886 square feet and the R-15 Zoning District requires lots to be a minimum of 15,000 square feet. Since the subject property is an existing lot of record, originally platted in 1953, no hardship was self-created. In fact, none of the surrounding properties meet the minimum 15,000 square feet lot size. No other variances are required to build the new home which will be a two story detached home with two-car garage. The subject property is unique in that it has less square footage than what the R-15 zoning district requires. The hardship is not self created as the property is an existing lot of record. The variance requested is the minimum variance needed to build a new single-family home on the subject property. Furthermore, variances of this nature have been approved in the past so no negative precedent would be set. Community Development does not believe building a new single-family home on the subject property will negatively impact the surrounding properties. The applicant is requesting to deviate from the City's minimum lot area requirement established for the R-15 Zoning District. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with the four (4) standards and believes that the variance will not adversely affect surrounding residents. At the time of this report, Community Development has received no opposition to this request from surrounding property owners. Therefore, staff recommends approval of the requested variance with the following condition:*

*1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan and elevations submitted with the variance application.*

*The representative of the applicant, Attorney Kevin Moore, was present and provided some additional information. He explained that this is a lot of record from 1953 which was platted before the building code was put into effect in the 70's. He accepts the stipulation set forth.*

*The public hearing was announced.*

*Mr. Eric Fernald, 2197 Old Spring Road, stated that the size of the proposed home concerns him. Houses in the area are mostly single story ranch homes. An enormous amount of water collects in the lot every time it rains because it is at the base of the*

hill. No serious objections, however the house seems to large for a tiny lot. Proposed maybe a single car garage or garage under the home to provide some additional space on the lot.

Ms. Susan Raven, 541 Benmac Road, was very concerned about how close the house will be to their house.

No further public comment.

Mr. Moore came forward to help answer any additional questions. House location plan was submitted. Side setback is 10 feet and both sides are over that amount so well within the limits. As it relates to stormwater...part of building the home will be to deal with this which includes building out to tie in with a catch basin to prevent future flooding.

Mr. Eric Fernald came back forward to ask why the variances were denied in the past.

Community Development Director Rusty Martin stated that he would have to look into previous requests however this request meets all the standards set forth so there is no reason to deny. The variance request meets the requirements to build a new home in accordance with the R-15 standards currently in place.

Library Director Mary Moore asked if any new build on the lot would require a variance. The answer was yes because it is a substandard lot of record according to R-15 zoning.

Boardmember Frank Martin made a motion to approve V21-025 - Allow new construction on lot of record below minimum requirements - Land Lot 348 - 535 Benmac Road - BARC Holdings, LLC. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 3 - Frank Martin, Richard Garland and Mary Moore

**D.** [2021-118](#)

**Public Hearing** - Increase accessory building size from 25% to 69% - Land Lot 453 - 908 Sharon Circle - William Gordon

Community Development Planner I, Ms. Caitlin Crowe provided background on this variance request. The applicant is seeking a variance to increase the accessory building size from 25% to 69% of the primary dwelling to allow for the construction of a new detached garage at 908 Sharon Circle. The maximum accessory structure size is required based upon the standards associated with Section 501 of the Zoning Code. The subject parcel is a 0.31-acre lot located on the north side of Sharon Circle (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are all occupied by single family detached residences with the exception of the property to the north, which is occupied by Brown Elementary School. The applicant is proposing to build a 900 square foot detached two-car garage in the rear of the property to store their vehicles and tools. The proposed garage will have two doors, varied in size, and cement siding with a shingle roof. To access the new structure, the applicant will be using the existing driveway off Sharon Circle and extending it to the new structure. Per the applicant, the driveway will be five feet from the side property line, so no additional variance is required. The existing one-story home is 1,300 square feet, which means that the proposed garage exceeds the allowable accessory structure size by 44% based off the primary

structure's square footage. However, the minimum house size of R-15 is 2,000 square feet. This means that if the house was the size required per R-15 standards, the variance would only be an increase of 5%. An increase of 5% has been approved in the past in other variances, so no negative precedent would be set. Additionally, the property currently does not have any covered parking since the driveway currently extends into the side setback. Strict application of the ordinance would make it difficult for the applicants to place any covered parking on the property due to the placement of the existing house and driveway without obtaining a variance. Due to the size of the existing house, Community Development believes the hardship is not self created and is the minimum variance needed to build a functioning two-car garage and storage area in the rear of the property. Community Development has not received any calls in opposition to the request. The applicant is requesting to deviate from the development standards established by the City for the maximum accessory structure size of 25% of the main structure. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. At the time of this report, Community Development has not received any calls in opposition to the request. After a review of the standards above, Community Development believes that the variance will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

1. Approval is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

The applicant, Mr. William Gordon was present and accepted all conditions set forth.

Boardmember Mary Moore asked for reason behind accessory structure. For personal use only to house classic cars to avoid paying for storage units. No commercial use.

Public hearing was announced and no one came forward to speak.

Boardmember Mary Moore made a motion to approve V21-027 - Increase accessory building size from 25% to 69% - Land Lot 453 - 908 Sharon Circle - William Gordon. Boardmember Frank Martin seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 3 - Frank Martin, Richard Garland and Mary Moore

**E. [2021-119](#)**

**Public Hearing** - Allow six-foot wooden privacy fence in front yard on a corner lot - Land Lot 482 - 2625 Lynnhaven Lane - Ron Hunter

Ms. Caitlin Crowe, Community Development Planner I, presented background information. The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard at 2625 Lynnhaven Lane. The subject property has road frontage along three sides of the property, which creates front yards on both Basset Court and Lynnhaven Lane. The applicant is looking to partially enclose the backyard for safety and security. Section 501 controls the location and height of fences in the Zoning Code. The subject property is a 0.18-acre parcel located at the northern intersection

of Lynnhaven Lane, Bassett Court, and Wakefield Court (see Figure 1). Thus, the subject property has three road frontages on Lynnhaven Lane and Bassett Court. The subject property and all adjacent properties are zoned RDA and are occupied with single-family detached homes.

In January 2021, the applicant erected a 6-foot wooden privacy fence along the cul-de-sac situated on Lynnhaven Lane. However, due to the property having road frontage on three sides, all three sides are considered a front yard. Section 501 restricts the height of fences within a front yard to four feet. Strict application of the ordinance would require a fence greater than four feet in height be setback 7.5 feet from the property line on the Lynnhaven Lane sides of the property, which in this case would nearly be touching the house and severely limit the backyard space. After a site visit by the City Engineer, he determined that even with a revised 4-foot picket fence in the corner of Lynnhaven Lane and Wakefield Court, the site distance would be compromised for those driving south on Arlington Lane towards Lynnhaven Lane and would cause the applicant's driveway to become a blind drive. Thus, the applicant will be removing the section of fence shown in blue on the site plan entirely and leaving the remaining 6-foot wooden fence on the remainder of the property (see Figure 2 and Figure 5). The applicant is requesting a variance to have a new six-foot wooden privacy fence along the road to provide safety and security. Community Development believes the variance requested is the minimum variance needed and that, at times, a four-foot fence may not provide adequate privacy on a corner lot. The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard on a corner lot at 2625 Lynnhaven Lane. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. Community Development has not received any calls in opposition to the request. After a review of the standards above Community Development believes that the variance will not adversely affect surrounding properties; therefore, staff recommends approval of the requested variance with the following condition:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted.
2. If the City of Smyrna must work within the right-of-way, the property owner may be required to move the fence at their own expense.

The applicant, Mr. Ron Hunter, was present and came forward. Voluntarily took the side fence down that impeded the view. Accepts the conditions.

Public hearing was announced.

Ms. Heather Hayllar, 2630 Lynnhaven Lane, stated that the HOA supersedes the city. Wants to keep four foot picketed fence. Majority are in favor of allowing six foot fence but there are some against. Would like to see something to cover the fence or to make it more pleasing to the eye. Applicant has been very easy to work with.

Boardmember Frank Martin made a motion to approve V21-029 - Allow six-foot wooden

privacy fence in front yard on a corner lot - Land Lot 482 - 2625 Lynnhaven Lane - Ron Hunter. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 3 - Frank Martin, Richard Garland and Mary Moore

F. [2021-120](#)

**Public Hearing** - Allow six-foot wooden privacy fence in front yard on double frontage lots - Land Lot 631 - 2940 through 2944 Lexington Trace Drive - Sharon Rivers

*Ms. Caitlin Crowe, Community Development Planner I, provided the background information on the variance request. The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yards of the following properties: 2940, 2942, and 2944 Lexington Trace Drive. The subject properties have road frontages along two sides of the property, which creates front yards on Lexington Trace Drive and Emory Road. The applicant is looking to replace the existing 6-foot wooden fence on the rear of the properties, which currently encloses the subdivision's detention facility. The existing fence has fallen into disrepair and is no longer functioning properly. Section 501 controls the location and height of fences in the Zoning Code. The subject properties are located between Emory Road and Lexington Trace Drive in the Lexington Trace subdivision (see Figure 1). The subject property and adjacent properties to the north and east are zoned RTD and are occupied with attached single-family homes. The adjacent properties to the west and south of the properties are zoned R-15 and are occupied by detached single-family homes. The applicant is looking to replace the existing 6-foot wooden fence that is in poor condition with a new 6-foot wooden fence to restore the barrier between the homes and Emory Road. A gate will be installed in the fence if the City ever needs to clean out the detention facility. The properties backing up to the fence are part of a 5-unit building, however, only three of the lots (2940, 2942, and 2944 Lexington Trace Drive) have road frontage on Emory Road. Due to the properties having road frontage on two sides, both sides are considered a front yard. Section 501 restricts the height of fences within a front yard to four feet. Strict application of the ordinance would require a fence greater than four feet in height be setback 30 feet from the Emory Road property line, which would put the fence in the middle of the detention pond. Thus, the hardship is not self-created. The applicant is requesting a variance to have a new six-foot wooden privacy fence along Emory Road to provide safety and security for the townhome residents as well as to protect the detention facility. Community Development believes the variance requested is the minimum variance needed and that, at times, a four-foot fence may not provide adequate privacy nor security on a double frontage lot. The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yards of several double frontage lots on Lexington Trace Drive. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. After a review of the standards above Community Development believes that the variance will not adversely affect surrounding properties; therefore, staff recommends approval of the requested variance.*



*The applicant, Ms. Sharon Rivers, owner of one of the three lots in question has been at the residence for a little over 30 years.*

*Public hearing was announced and no one came forward to speak.*

Boardmember Mary Moore made a motion to approve V21-030 - Allow six-foot wooden privacy fence in front yard on double frontage lots - Land Lot 631 - 2940 through 2944 Lexington Trace Drive - Sharon Rivers. Boardmember Frank Martin seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 3 - Frank Martin, Richard Garland and Mary Moore

**4. Approval of Minutes:**

- A. [MIN2021-19](#) Approval of the March 10, 2021 License and Variance Board Meeting minutes.

Boardmember Frank Martin made a motion to approve the March 10, 2021 License and Variance Board Meeting minutes. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 3 - Frank Martin, Richard Garland and Mary Moore

**5. Adjournment**

Chairperson Richard Garland adjourned the March 24, 2021 License and Variance Board meeting at 10:49 AM.