



# City of Smyrna

2800 King Street  
Smyrna, Georgia 30080

## Meeting Minutes - Final Approved License and Variance Board

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Wednesday, August 25, 2021

10:00 AM

Council Chambers

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### Roll Call

**Present:** 3 - Roy Acree, Brian Marcos and Richard Garland

**Absent:** 1 - Frank Martin

**Also Present:** 0

**Staff:** 5 - Heather Peacon-Corn, Russell Martin, Jill Head, Joey Staubes and Starla WHidden

### 1. Call to Order

Chairperson Roy Acree called the August 25, 2021 License and Variance Board Meeting held in Council Chambers at the A. Max Bacon City Hall to order at 10:01AM.

### 2. Business

#### A. 2021-291

**Public Hearing** - V21-069 - Reduce the side setback from 10 feet to 5 feet - Lot 415 - 863 Church Street - Nathan Corbitt

**Tabled to the September 8, 2021 License and Variance Board Meeting at the request of the applicant.**

*Boardmember Roy Acree called the public hearing and no one came forward to speak in favor of or in opposition to this item.*

Boardmember Richard Garland made a motion to table to the September 8, 2021 License and Variance Board item 2021-291, for a public hearing and Variance Request (V21-069) for the reduction of the side setback from 10 feet to 5 feet , on Lot 415 located at 863 Church Street by the applicant Nathan Corbitt; seconded by Boardmember Brian Marcos.

The motion to table was carried by the following vote:

**Aye:** 3 - Roy Acree, Richard Garland and Brian Marcos

#### B. 2021-367

**Public Hearing** - Variance Request - V21-087 - Allow additional accessory structure - Lot 667 - 3097 Prestwick Place - Forrest Biel

*Joey Staubes, Planner II with Community Development gave the following background:*

*The applicant is requesting a variance to construct a 450 square foot pool at 3097 Prestwick Place. The property is currently occupied by an existing single-family home and a storage shed. Thus, the applicant requires a variance to allow construction of a pool as an additional accessory structure. Section 501 controls the maximum*

*allowable number of accessory structures.*

*The subject parcel is a 0.34-acre lot located on the east side of Prestwick Place (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are occupied by detached single-family residences.*

*The subject property is currently occupied by a single-family home and a 320 square foot storage shed, which is used for extras storage and lawn care tools and equipment. The accessory structure ordinance allows one accessory structure or use per lot and since a shed already exists on the property, a variance is required. The applicant is proposing to construct a 450 square foot in-ground swimming pool with accompanying 681 square foot paver deck in between the home and shed in the rear yard. No other variances for setback reduction or impervious area increase are required since the pool will be 11.1 feet from the side property line and the property will have a proposed impervious area of 19%.*

*The applicant is requesting a variance to allow the construction of an inground swimming pool. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence. Community Development believes the variance requested is the minimum variance needed to allow for both extra storage and a swimming pool on the subject property. Due to the size of the lot, existing 6-foot fence, and location of the proposed pool, Community Development believes the proposal will not adversely impact adjacent properties. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties.*

*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. Community Development believes that the requested variance will not adversely affect surrounding residents. Therefore, Community Development recommends approval of the requested variance with the following condition:*

*Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.*

*Boardmember Acree invited the applicant to the podium and Mr. Forrest Biel came forward. He had no additional information to offer the Board.*

*The public hearing was called and no one came forward to speak in favor of or in opposition to this item.*

Boardmember Richard Garland made a motion to approve item 2021-367 for a Public Hearing and Variance Request (V21-087) to allow additional accessory structure on Lot 667 located at 3097 Prestwick Place by the applicant Forrest Biel; seconded by Boardmember Brian Marcos.

The motion to approve was carried by the following vote:

**Aye:** 3 - Roy Acree, Richard Garland and Brian Marcos

C. [2021-378](#)

**Public Hearing** - Variance Request - V21-088 - Allow increase in impervious lot coverage from 35% to 60% - 1.87 acres - Land Lot 447 - 2323 Ward Street - Paces Consulting & Design, LLC.

*Joey Staubes, Planner II for Community Development, gave the following background:*

*The applicant is proposing to redevelop the existing Luxury Ward Apartments at 2323 Ward Street to accommodate two new apartment buildings on the subject property.*

*The proposed buildings will necessitate an impervious coverage increase to 60%.*

*Section 801 of the Zoning Ordinance requires a maximum impervious area of 35% in the RM-12 zoning district.*

*The subject parcel is a 1.87-acre lot located on the east side of Ward Street (see Figure 1). The subject parcel and the adjacent parcel to the east and south are zoned RM-12 (Residential Multi-Family) and are occupied by the Ward Street Luxury Apartments and the Greens at Windy Hill apartment complex, respectively. The adjacent property to the north is zoned GC (General Commercial) and is occupied by the U.S Post Office. The adjacent properties across Ward Street and are zoned GC RM-12 and are occupied by a parking lot and the Carriage House Apartments, respectively.*

*The subject property is currently occupied by a 11,435 square foot building that holds 9 individual apartment units. The applicant is proposing a redevelopment of the property to construct two new 3,392 square feet buildings that will each hold five new apartment units on the northern end of the property. With the additional units the density would increase to 10.69 units per acre. This expansion will include a new recreation area in the front of the complex off Ward Street as well as a new lane and parking area for the new apartments.*

*The new apartment units will have their own parking spaces, as well as ADA, on the north side of the property. The interior drive will be reconfigured so that appropriate access is available for emergency response vehicles and will improve the existing conditions.*

*The property was developed with the original nine units in 1977 with the intention to add new units in the future. However, Section 801 of the Zoning Ordinance restricts impervious coverage to a maximum of 35% in the RM-12 zoning district. With the additional 10 apartment units, the impervious coverage will increase to 60%, but the density will remain below the maximum 12 units per acre. The applicant will mitigate the additional runoff by providing underground stormwater detention at the front of the property. The City Engineer believes the stormwater detention proposed will suffice to negate any impact on adjacent properties.*

*Community Development believes the hardship is not self-created since the original apartment building was constructed in 1977. The new units will meet code requirements other than impervious coverage. Stormwater detention will be installed to mitigate any negative impacts. Additionally, interior drive parking will be redesigned to comply with the current code requirements, and access for emergency response vehicles.*

*The applicant is requesting to deviate from the City's required parking minimums and South Cobb Corridor overlay district requirements. 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. Community Development believes that the requested variances will not adversely affect surrounding properties. Therefore, Community Development recommends approval of the requested variance with the following conditions:*

*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.*

*Boardmember Roy Acree called the applicant to the podium and Bo Hickman of Paces Consulting and Design, LLC came forward. He reviewed the information Mr. Staubes provided.*

*Boardmember Acree asked about underground mitigation and it was confirmed that it will be captured on the front of the property.*

*The public hearing was called and no one came forward to speak in favor of or in opposition to this item.*

Boardmember Richard Garland made a motion to approve item 2021-378 for a Public Hearing and Variance Request (V21-088) to allow increase in impervious lot coverage from 35% to 60% on 1.87 acres on Land Lot 447 located at 2323 Ward Street by the applicant Paces Consulting & Design, LLC.; seconded by Boardmember Brian Marcos.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Richard Garland and Brian Marcos

**D. 2021-368**

**Public Hearing - Variance Request - V21-092 - Allow a gravel parking surface - Lot 347 - 2385 Ventura Road - Gonzalo Marquez**

*Joey Staubes, Planner II for Community Development, gave the following background:*

*The applicant is requesting a variance to allow for a temporary gravel parking area at 2385 Ventura Road. The applicant will need a variance from 901(b) of the City's Zoning Ordinance which requires parking surfaces to be paved.*

*The subject parcel is a 0.51-acre lot located on the north side of Windy Hill Road at the intersection of Ventura Road and Windy Hill Road (see Figure 1). The subject parcel is zoned General Commercial (GC) and is currently vacant (formerly a tattoo parlor). The adjoining properties to the north, south, and west are also zoned GC and are occupied with various commercial uses. The adjacent property to the east is zoned R-15 and is occupied by a single-family detached home.*

*In March 2021, a business license application was filed in Community Development to replace the former tattoo parlor that had been on the subject property since 2015.*

*During the business license review, it was found that asphalt millings and gravel were spread on the property without a permit within the last two years. Section 901(b) in reference to the City's parking design standards reads, "Each parking facility shall be graded and paved, including access drives and be curbed when needed for effective drainage control." The City's parking design standards do not provide any exemptions*

from this requirement for specific uses or zoning districts. Therefore, the applicant is requesting a variance to retain the gravel parking area surrounding the building.

Additionally, the Windy Hill roadway project, which is reconfiguring the portion of Windy Hill Road in between Atlanta Road and South Cobb Drive, is currently causing construction constraints on the subject property since it is immediately to the south. Due to the ongoing construction, the applicant would like to maintain a gravel parking lot for the next three years as the Windy Hill Road project wraps up.

The Fire Marshals have reviewed the plans and have found that the property is not currently in compliance with ADA standards. However, since this is an existing condition, they will not require ADA parking until the three-year period has lapsed. ADA access to and from the building is the responsibility of the property owner and as such, may be required to be brought to compliance if the need arises prior to the three-year period.

Due to the ongoing Windy Hill project, Community Development can support the gravel parking condition until the roadway project has been completed, or in the three-year period, whichever comes first. According to the applicant, the original gravel parking area has existed since 2004 and has not impeded business operations; thus, the expansion of the condition should have no negative impacts. Since the proposed gravel parking area is temporary, Community Development is supportive of the proposed variance and does not foresee any negative impacts to the surrounding neighbors.

The applicant is requesting to deviate from the City's parking requirements, which are established in Section 901(b) of the Zoning Ordinance. 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. Therefore, Community Development recommends approval of the requested variance with the following conditions:

1. The property owner shall remove the asphalt millings and replace with gravel.
2. A site plan showing the limits of the gravel parking lot, done by a certified Surveyor, shall be submitted for permitting within 60 days of the License and Variance Board decision.
3. The variance for the gravel parking area shall expire December 31, 2024. At the end of the three-year period, the applicant shall submit a parking lot plan in accordance with the regulations of Section 901 of the Zoning Ordinance, which shall include paving, striping and current ADA regulations.

Boardmember Roy Acree called the applicant to the podium and Property Manager Elma Hymas came forward. He reviewed the three conditions and confirmed that she understood and agreed to the conditions as written. There is no current tenant due to the Windy Hill construction. They don't think they can secure a tenant so they want to leave the lot as gravel and then pave after construction is complete in three years.

The public Hearing was called and no one came forward to speak in favor of or against this item.

Boardmember Richard Garland made a motion to approve item 2021-368 for Public Hearing and Variance Request (V21-092) to allow a gravel parking surface on Lot 347

located at 2385 Ventura Road by the applicant Gonzalo Marquez; seconded by Boardmember Brian Marcos.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Richard Garland and Brian Marcos

**E. 2021-369**

**Public Hearing** - Variance Request - V21-093 - Reduce front setback from 35 feet to 30 feet - Lot 484 - 1105 Pinehurst Drive - Quintus Colbert

*Joey Staubes, Planner II with Community Development gave the following background:*

*The applicant is requesting a variance to reduce the front setback for 1105 Pinehurst from 35 feet to 30 feet for the construction of a front porch. The minimum front setback is required based upon the standards associated with the R-15 zoning district per Section 801 of the Zoning Code.*

*The subject parcel is a 0.31-acre lot located on the north side of Pinehurst Drive (see Figure 1). The subject parcel and all adjacent properties are zoned R-15 and are occupied by single-family detached residences.*

*The applicant currently has an uncovered front stoop on the existing home. The applicant is proposing to replace the existing stoop with a 6-foot x 6-foot (36 square feet) covered front porch with a gable roof. This will allow the applicant to enjoy the front yard as well as enter the home in inclement weather more easily. The existing home is currently 2 feet from the front setback line, leaving little room for a roof on the existing front porch, much less any other forward expansion. The applicant has proposed the new porch will be 30 feet from the front property line and will encroach on the front setback by 5 feet.*

*The existing home was constructed in 1954, prior to the adoption of the zoning ordinance. Community Development believes the variance requested is the minimum variance needed to construct a usable front porch in the front yard. The hardship is not self-imposed, as the original home was built prior to the adoption of the zoning ordinance. Community Development does not foresee any negative impacts to adjacent properties should the variances be approved.*

*The applicant requests a variance to reduce the front setback for 1105 Pinehurst Drive from 35 feet to 30 feet for the construction of a front porch. 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. Furthermore, there is a precedent for variances of this type in the area. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; 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.*

*Boardmember Roy Acree invited the applicant to the podium. Mr. Quintus Colbert came forward. He was asked if he understood the conditions as read aloud and he replied in the affirmative.*

*Boardmember Acree called the public hearing and no one came forward to speak in favor of or in opposition to this item.*

Boardmember Richard Garland made a motion to approve item 2021-369 for a Public Hearing and Variance Request (V21-093) to reduce front setback from 35 feet to 30 feet on Lot 484 located at 1105 Pinehurst Drive by the applicant Quintus Colbert; seconded by Boardmember Brian Marcos.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Richard Garland and Brian Marcos

### **3. Approval of Minutes:**

**A.** [MIN2021-58](#) Approval of the August 11, 2021 License and Variance Board Meeting Minutes.

Boardmember Richard Garland made a motion to approve item MIN2021-58 for the approval of the August 11, 2021 License and Variance Board Meeting Minutes; seconded by Boardmember Brian Marcos.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Richard Garland and Brian Marcos

### **4. Adjournment**

Chairperson Roy Acree adjourned the August 25, 2021 License and Variance Board Meeting held in Council Chambers at the A. Max Bacon City Hall to order at 10:21AM.