



**Meeting Minutes - Final Approved
License and Variance Board**

Wednesday, July 14, 2021

10:00 AM

Council Chambers

1. **Roll Call**

Present: 3 - Roy Acree, Richard Garland and Mary Moore

Also Present: 0

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

2. **Call to Order**

Chairperson Roy Acree called the July 14, 2021 License and Variance Board meeting to order at 10:03 AM in the Council Chambers at A. Max Bacon City Hall.

3. **Business**

A. [2021-279](#)

Public Hearing - V21-053 - Increase the maximum impervious area from 35% to 50% for a swimming pool - Land Lot 561 - 1355 Marston Street - Kenya Brock & Yvonne Lloyd

Tabled to the July 28, 2021 License and Variance Meeting at the request of the applicant.

Boardmember Richard Garland made a motion to table V21-053 - Increase the maximum impervious area from 35% to 50% for a swimming pool - Land Lot 561 - 1355 Marston Street - Kenya Brock & Yvonne Lloyd to the July 28, 2021 License and Variance Meeting at the request of the applicant. Boardmember Mary Moore seconded the motion.

The motion to table was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

B. [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 July 28, 2021 License and Variance Board Meeting at the request of the applicant.

Boardmember Mary Moore made a motion to table V21-069 - Reduce the side setback from 10 feet to 5 feet - Lot 415 - 863 Church Street - Nathan Corbitt to the July 28, 2021 License and Variance Board Meeting at the request of the applicant. Boardmember Richard Garland seconded the motion.

The motion to table was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

C. [2021-280](#)

Public Hearing - V21-055 - Allow 6-foot wooden fence in front yard on a corner lot - Land Lot 339 - 3581 South Sherwood Road - Stephen Wood

Ms. Caitlin Crowe, Planner I Community Development, provided the background information in reference to this request. The applicant is requesting a variance to allow for a 6-foot wooden fence in the front yard on the corner lot at 3581 South Sherwood Road. Section 503-A controls the location and height of fences in the Zoning Code. The applicant is requesting to deviate from the development standards established by Section 503-A, which requires a four-foot fence in the front yard. 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. 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 conditions:

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

2. If any part of the fence falls within the City's Right-of-Way and the City must work within the area, the fence may be required to be moved at the owner's expense.

Mr. Wood who was present via phone, had no additional information to offer. He is in agreement with both stipulations.

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

Boardmember Richard Garland made a motion to approve V21-055 - Allow 6-foot wooden fence in front yard on a corner lot - Land Lot 339 - 3581 South Sherwood Road - Stephen Wood. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

D. [2021-281](#)

Public Hearing - V21-056 - Allow non-conforming sign within the City Right-of-Way - Creatwood Forest Subdivision Entrance - Sally Knox

Ms. Caitlin Crowe, Community Development Planner I, presented the information for this request. The applicant is requesting a variance to allow for a non-conforming subdivision sign at the entrance to the Creatwood Forest subdivision off Atlanta Road. Section 82-12 of the Code of Ordinances prohibits any signs (including pole signs) within the City Right-of-Way. The applicant is requesting to deviate from the development standards established by Section 82-12. 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. After a review of the standards above, Community Development believes that the sign 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 elevations submitted with the variance application.

The applicant, Ms. Sally Knox, was present and agreed to the conditions.

The public hearing was announced and no one came forward.

Boardmember Mary Moore made a motion to approve V21-056 - Allow non-conforming sign within the City Right-of-Way - Creatwood Forest Subdivision Entrance - Sally Knox. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

E. [2021-282](#)

Public Hearing - V21-057 - Parking of commercial vehicle weighing over 10,000 pounds on residential property - Lot 313 - 348 Lynhurst Road - Judy E. Stricker

Ms. Caitlin Crowe, Planner I Community Development, provided explanation of the request. The subject parcel is located at 348 Lynhurst Road and contains an existing single-family residence. An employee of Howard's Wrecker Service is requesting a variance to park a commercial vehicle at their residence for emergency calls after normal business hours. Section 80-3 prohibits parking of commercial vehicles above 10,000 pounds.

The applicant is requesting a variance to allow parking of a commercial vehicle weighing over 10,000 pounds on residential property. 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 not to be in compliance with the four (4) standards. Staff recommends denial of the requested variance as no unique hardship has been identified.

Mr. Phillip Howard was present and was representing the applicant, Ms. Judy Stricker. Mr. Howard is with Howard Wrecker Service and employs Ms. Stricker's son who has been parking the tow truck at the house. This has been a reoccurring problem every time an employee resides within the city limits. There are time restrictions to report to calls which is why it makes sense for the on call drivers to have the truck at their house with them ready to go. He has spoken to Mayor Norton, Councilmember Welch, and City Administrator Bennett about the situation seeking a solution.

Boardmember Richard Garland asked where the truck could be parked if not there and how does that impact response time. Mr. Howard answered it would take 8 to 10 minutes best case scenario for the driver to get to the closest secure area for the truck to be parked.

The public hearing was announced and the following people came forward to speak.

Mr. Joe Pocket, a resident of Bennett Woods, is strongly opposed to the variance. Four non commercial vehicles plus a motorcycle are already parked in the driveway which leaves no room for the truck to be parked. Howard Wrecker Service is closer to applicant's home than was stated.

Ms. Terri Pascarelli, Bennett Woods, also noted the many vehicles that fill the driveway and is opposed to the variance.

Mr. Mark Wilson, who lives right across the street from the residence in question, spoke in support of the variance.

Ms. Paula Rice, lives behind the applicant, stated that there are four vehicles and two motorcycles that are parked at the house. Feels that the commercial vehicle is causing dangerous conditions and is unsightly.

Mr. Victor Flander, lives near the applicant's home in Bennett Woods. Spoke about the neighborhood and its history. Strongly objects to the request.

Chairman Acree closed the public hearing.

Boardmember Richard Garland made a motion to deny V21-057 - Parking of commercial vehicle weighing over 10,000 pounds on residential property - Lot 313 - 348 Lynhurst Road - Judy E. Stricker. Boardmember Mary Moore seconded the motion.

The motion to deny was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

F. [2021-285](#)

Public Hearing - V21-058 - Reduce side setback from 12 feet to 7 feet for a detached garage - Lot 556 - 3393 Pretty Branch Drive - Bradley Craig Anderson

Ms. Crowe read aloud the background for the three variances relating to 3393 Pretty Branch Drive noting that the votes will take place individually. The applicant is seeking three variances to construct a detached 2-car garage in the rear of the 3393 Pretty Branch Drive: reduce the side setback from 12 feet to 7 feet, increase the accessory building height from 15 feet to 18.8 feet, and increase the accessory building size from 25% to 41% of the primary dwelling. The maximum accessory structure size and height is required based upon the standards associated with Section 501 of the Zoning Code whereas the 12-foot setback is associated with Section 801 of the Zoning Code. 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, the maximum accessory structure height of 15 feet, and the side setback of 12 feet. 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. After a review of the standards above, Community Development believes that the variances will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances 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. Bradley Craig Anderson was present. He had no additional information to provide. He agrees to all conditions.

The public hearing was announced and the following people came forward to speak.

Mr. Derek Conty, who does not live near the applicant but lives elsewhere in the city, spoke about his personal experience with such a request.

Mr. Steve Davis, Pretty Branch resident for 33 years. He is an engineer and a professor and took a look at the plans and spoke about the drainage issues caused by a subdivision built behind these homes. Feels like a small change could be made which would help with better setback and placement. Suggested a French drain to help with drainage issues.

Boardmember Mary Moore made a motion to approve V21-058 - Reduce side setback from 12 feet to 7 feet for a detached garage - Lot 556 - 3393 Pretty Branch Drive - Bradley Craig Anderson. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

G. [2021-286](#)

Public Hearing - V21-059 - Increase accessory building height from 15 feet to 18.8 feet - Lot 556 - 3393 Pretty Branch Drive - Bradley Craig Anderson

The background for this request was provided with item 3F.

The public hearing was announced and no one came forward.

Boardmember Richard Garland made a motion to approve V21-059 - Increase accessory building height from 15 feet to 18.8 feet - Lot 556 - 3393 Pretty Branch Drive - Bradley Craig Anderson. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

H. [2021-287](#)

Public Hearing - V21-060 - Increase accessory building size from 25% to 41% - Lot 556 - 3393 Pretty Branch Drive - Bradley Craig Anderson

The background for this request was given with item 3F.

The public hearing was announced and no one came forward.

Boardmember Mary Moore made a motion to approve V21-060 - Increase accessory building size from 25% to 41% - Lot 556 - 3393 Pretty Branch Drive - Bradley Craig Anderson. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

I. [2021-283](#)

Public Hearing - V21-061 - Allow encroachment into the 75-foot impervious setback for a deck addition - Lot 382 - 3554 South Sherwood Road - Jenina & Billy-Joe Lagasca

Ms. Caitlin Crowe provided the background for this request. The applicant is requesting a variance to allow encroachment into the City's 75-foot impervious setback to construct a deck and screened-in porch in the rear of 3554 South Sherwood Road. The City's stream buffers are controlled by Chapter 46 of the City's Code of Ordinances. The applicant is requesting relief from the City's 75-foot impervious setback to construct a deck in the rear yard. 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. 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 subject property for 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 applicant, Ms. Jenina Lagasca was present and accepted the conditions.

The public hearing was announced and no one came forward.

Boardmember Richard Garland made a motion to approve V21-061 - Allow encroachment into the 75-foot impervious setback for a deck addition - Lot 382 - 3554 South Sherwood Road - Jenina & Billy-Joe Lagasca. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

J. [2021-284](#)

Public Hearing - V21-062 - Allow encroachment into the 75-foot impervious setback - Lot 381 - 685 Smyrna Hill Drive - Wilshire Senior I, LP

Ms. Caitlin Crowe provided background information on this request. The applicant is requesting a variance to allow encroachment into the City's 75-foot impervious setback

as part of a larger senior living apartment development project. The City's stream buffers are controlled by Chapter 46 of the City's Code of Ordinances. The applicant is requesting relief from the City's 75-foot impervious setback to allow for parking within the buffer. 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. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding properties; therefore, staff recommends approval of the requested variance with the following conditions:

1. Approval of the subject property for 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.

2. The applicant shall provide a pervious paver detail to the City Engineer for approval prior to the issuance of a land disturbance permit.

Mr. Anrick Harris, representative for the applicant was present. No additional information to offer and accepts all conditions.

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

Boardmember Mary Moore made a motion to approve V21-062 - Allow encroachment into the 75-foot impervious setback - Lot 381 - 685 Smyrna Hill Drive - Wilshire Senior I, LP. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

K. [2021-288](#)

Public Hearing - V21-063 - Allow additional wall sign - Lot 848 - 2530 Cumberland Boulevard - Sprouts Farmers Market

Background for this and the two connected requests was given by Ms. Caitlin Crowe, Planner I Community Development. The applicant is requesting several variances to allow for an additional wall sign and increased sign letter height for a new Sprouts Farmers Market at 2530 Cumberland Boulevard. The City's signage is controlled by Chapter 82 of the City's Code of Ordinances. The applicant has requested several sign variances to enable the addition of a third wall sign and increase the letter height on each of the wall signs. 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 the request for the additional wall sign to have a sufficient hardship, due to orientation of the building and recommends

approval of that request.

Mr. Nelson Pixler, representative of the applicant was present. Affiliated with the company that handles the sign. Went through the provided hand outs with the Board.

Mr. John York, Sprouts Farmers Market, came in from Arizona. Asked for consideration in enlarging the letters on the sign.

Chairman Acree asked about the photos in the handout regarding other stores in the same shopping center with larger signs. Ms. Crowe explained that the larger signs predated the updated sign ordinance.

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

Boardmember Richard Garland made a motion to approve V21-063 - Allow additional wall sign - Lot 848 - 2530 Cumberland Boulevard - Sprouts Farmers Market. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

L. [2021-289](#)

Public Hearing - V21-064 - Increase letter height from 3 feet to 4.5 feet for a wall sign - Lot 848 - 2530 Cumberland Boulevard - Sprouts Farmers Market

The applicant has requested several sign variances to enable the addition of a third wall sign and increase the letter height on each of the wall signs. 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 finds there to be no unique or extraordinary circumstances applying to the letter height requests and recommends denial of those requests.

Applicant representative spoke about seeking compromise.

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

Boardmember Mary Moore made a motion to approve V21-064 - Increase letter height from 3 feet to 4.5 feet for a wall sign - Lot 848 - 2530 Cumberland Boulevard - Sprouts Farmers Market. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

M. [2021-290](#)

Public Hearing - V21-065-066 - Increase letter height from 3 feet to 3.5 feet for a wall sign - Lot 848 - 2530 Cumberland Boulevard - Sprouts Farmers Market

The applicant has requested several sign variances to enable the addition of a third wall sign and increase the letter height on each of the wall signs. 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 finds there to be no unique or extraordinary circumstances applying to the letter height requests and recommends denial of those requests.

The public hearing was announced and no one came forward.

Boardmember Richard Garland made a motion to approve V21-065-066 - Increase letter height from 3 feet to 3.5 feet for a wall sign - Lot 848 - 2530 Cumberland Boulevard - Sprouts Farmers Market. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

N. [2021-292](#)

Public Hearing - V21-067 - Reduce the side setback from 10 feet to 6.6 feet for an addition - Lot 449 - 2755 Sanford Road - Sonya Williams

Ms. Caitlin Crowe provided the background on this and the following request as they are for the same address. The votes will take place separately. The applicant is requesting a variance to reduce the side setback from 10 feet to 6.6 feet and reduce the front setback from 35 feet to 28.33 feet at 2755 Sanford Road for an addition. The existing home is currently non-conforming at roughly 8 feet from the side property line and 24.33 feet from the front property line. Section 801 requires a side setback of 10 feet and a front setback of 35 feet in the R-15 zoning district. The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a side setback of 10 feet and front setback of 35 feet. The applicant is requesting to construct an addition in the side setback, 6.6 feet from the side property line and a front porch, 28.33 feet from the front property line. 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 it to be in compliance with four (4) of the four (4) standards. After a review of the standards above, Community Development believes that placing the addition in the side and front setbacks will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following condition:

1. Approval of the subject property for 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.

Ms. Sonya Williams, the applicant, was present and agreed to all the stipulations.

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

Boardmember Mary Moore made a motion to approve V21-067 - Reduce the side

setback from 10 feet to 6.6 feet for an addition - Lot 449 - 2755 Sanford Road - Sonya Williams. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

O. [2021-293](#)

Public Hearing - V21-068 - Reduce the front setback from 35 feet to 28.33 feet for a front porch - Lot 449 - 2755 Sanford Road - Sonya Williams

The background for this request was provided with item 3N.

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

Boardmember Richard Garland made a motion to approve V21-068 - Reduce the front setback from 35 feet to 28.33 feet for a front porch - Lot 449 - 2755 Sanford Road - Sonya Williams. Boardmember Mary Moore seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

4. **Approval of Minutes:**

A. [MIN2021-47](#)

Approval of the April 14, 2021 License and Variance Board Meeting minutes.

Boardmember Mary Moore made a motion to approve the April 14, 2021 License and Variance Board Meeting minutes. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

Aye: 3 - Roy Acree, Richard Garland and Mary Moore

5. **Adjournment**

Chairperson Roy Acree adjourned the July 14, 2021 License and Variance Board meeting at 11:28 AM in the Council Chambers of A. Max Bacon City Hall.