



City of Smyrna

2800 King Street
Smyrna, Georgia 30080

Meeting Minutes - Final Approved License and Variance Board

Wednesday, August 11, 2021

10:00 AM

Council Chambers

1. Roll Call

Present: 2 - Richard Garland and Mary Moore

Also Present: 0

Staff: 3 - Heather Peacon-Corn, Russell Martin and Caitlin Crowe

2. Call to Order

Chairperson Roy Acree called the August 11, 2021 License and Variance Board Meeting, held in Council Chambers at A. Max Bacon City Hall to order at 10:03am.

3. Business

A. 2021-345

Public Hearing - V21-078 - Allow second kitchen in existing dwelling unit - Lot 630 - 3711 Manigault Place - Jesus Torres Lara

The following background was read aloud by Planner I, Caitlin Crowe:

The applicant is requesting a variance from Section 402.24 of the Zoning Code to allow a second kitchen in the basement of 3711 Manigault Place. Because the subject property is a single-family residence, the additional kitchen would constitute a second living unit, which is prohibited per the definition of a single-family dwelling.

The applicant is requesting to allow a second kitchen and full bathroom for his mother's use. Were it not for the kitchen, no other variances would be needed for the finished basement. Community Development has been supportive of similar variances where the second kitchen has been proposed for family only and where the second kitchen could not easily be converted into a rental unit or duplex. Furthermore, similar variances have been approved in the Heritage at Vinings, Enclave at Cooper Lake and Stonegate subdivisions. These previous variances have been for homes of similar size and type with no known detriment to the surrounding areas.

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. After a review of the standards above, Community Development believes that the second kitchen will not adversely affect surrounding residents, nor set a negative precedent for future homebuilding in the area. Community Development recommends approval of the requested variance with the following stipulations:

1. *The addition is to be utilized by family members only.*

- 2. *The applicant shall not lease, rent, or sublet any space in their home.*
- 3. *These conditions shall run in perpetuity with the property and as such are also applicable to any future owner.*

The applicant was invited to the podium and gave his verbal approval of the three conditions as read aloud by Caitlin Crowe, Planner I of Community Development.

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

A motion was made by Boardmember Mary Moore to approve item 2021-345, a Public Hearing (V21-078) to allow second kitchen in existing dwelling unit on Lot 630 located at 3711 Manigault Place by the applicant Jesus Torres Lara; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

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

B. 2021-346

Public Hearing - V21-079 - Reduce the accessory structure rear setback from 5 feet to 3.8 feet - Lot 489 - 2674 Grady Street - Montrell L. Coleman

Caitlin Crowe, Planner I for Community Development gave the following background:

The applicant is requesting two variances: to reduce the rear and side setback for an accessory structure at 2674 Grady Street. Section 501 of the City's Zoning Ordinance requires an accessory structure rear setback 5 feet. The side setback of 5 feet is required per the zoning stipulations associated with the Grady Street subdivision, platted in 2019.

Code Enforcement was called to the subject property in July 2021 for a shed placed within the setbacks. A 120 square foot shed was placed within both the rear and side setbacks in the corner of the rear yard. Due to the size of the shed being under 200 square feet, the installation of the shed did not require a building permit. The applicant has requested a reduction of the rear setback from 5 feet to 3.8 feet and the side setback from 5 feet to 2.8 feet to keep the shed in its current location (see Figure 3). The shed is adjacent to a 6-foot wooden privacy fence on the rear and side property line.

As a hardship, the applicant states that the backyard is not perfectly level and the trees and shrubs block any further movement of the shed placement. Community Development has confirmed that trees do exist in the vicinity of the shed, visible in Figure 3, but the shrubs to the left of the shed are recently planted and could be more easily moved than established vegetation.

This is a new home, completed in December 2020, on a graded lot that has no preexisting conditions that would create special circumstances nor extraordinary conditions to merit a required variance. The lot is a flat, rectangular lot with no lot geometry issues, topographical issues, nor environmental or site constraints. The hardship is self-created since the shed could easily be shifted over a couple feet to meet code. Strict application of the Zoning Code would not deprive any reasonable use of the property since a different location would allow for the shed that complies with the zoning requirements of the lot. Finally, the proposed variance is not the minimum

variance needed because the shed can be moved to meet the minimum zoning requirements.

The applicant is requesting a reduction of the rear setback from 5 feet to 3.8 feet, and side setback from 5 feet to 2.8 feet at 2674 Grady Street. 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 neither setback reduction to be in compliance with the review standards. Community Development believes that the setback reductions will result in adverse impacts on adjacent properties when there is ample space to move the shed to meet code. Therefore, Community Development recommends denial of the rear and side setback requests. In addition, at the time of this report, Community Development has received two phone calls in opposition to the variance request.

The applicant was invited to the podium and stated the placement of the shed had incurred monies as he had a laborer build a wooden deck with gravel for the shed to sit on.

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

A motion was made by Boardmember Richard Garland to deny item 2021-346, a Public Hearing (V21-079) to reduce the accessory structure rear setback from 5 feet to 3.8 feet on Lot 489 located at 2674 Grady Street by the applicant Montrell L. Coleman; seconded by Boardmember Mary Moore.

The motion to deny carried by the following vote:

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

C. 2021-347

Public Hearing - V21-080 - Reduce the side setback from 5 feet to 2.8 feet - Lot 489 - 2674 Grady Street - Montrell L. Coleman

Caitlin Crowe, Planner I for Community Development gave the following background:

The applicant is requesting two variances: to reduce the rear and side setback for an accessory structure at 2674 Grady Street. Section 501 of the City's Zoning Ordinance requires an accessory structure rear setback 5 feet. The side setback of 5 feet is required per the zoning stipulations associated with the Grady Street subdivision, platted in 2019.

Code Enforcement was called to the subject property in July 2021 for a shed placed within the setbacks. A 120 square foot shed was placed within both the rear and side setbacks in the corner of the rear yard. Due to the size of the shed being under 200 square feet, the installation of the shed did not require a building permit. The applicant has requested a reduction of the rear setback from 5 feet to 3.8 feet and the side setback from 5 feet to 2.8 feet to keep the shed in its current location (see Figure 3). The shed is adjacent to a 6-foot wooden privacy fence on the rear and side property line.

As a hardship, the applicant states that the backyard is not perfectly level and the trees and shrubs block any further movement of the shed placement. Community Development has confirmed that trees do exist in the vicinity of the shed, visible in Figure 3, but the shrubs to the left of the shed are recently planted and could be more easily moved than established vegetation.

This is a new home, completed in December 2020, on a graded lot that has no preexisting conditions that would create special circumstances nor extraordinary conditions to merit a required variance. The lot is a flat, rectangular lot with no lot geometry issues, topographical issues, nor environmental or site constraints. The hardship is self-created since the shed could easily be shifted over a couple feet to meet code. Strict application of the Zoning Code would not deprive any reasonable use of the property since a different location would allow for the shed that complies with the zoning requirements of the lot. Finally, the proposed variance is not the minimum variance needed because the shed can be moved to meet the minimum zoning requirements.

The applicant is requesting a reduction of the rear setback from 5 feet to 3.8 feet, and side setback from 5 feet to 2.8 feet at 2674 Grady Street. 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 neither setback reduction to be in compliance with the review standards. Community Development believes that the setback reductions will result in adverse impacts on adjacent properties when there is ample space to move the shed to meet code. Therefore, Community Development recommends denial of the rear and side setback requests. In addition, at the time of this report, Community Development has received two phone calls in opposition to the variance request.

The applicant was invited to the podium and stated the placement of the shed had incurred monies as he had a laborer build a wooden deck with gravel for the shed to sit on.

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

A motion was made by Boardmember Mary Moore to deny item 2021-347, a Public Hearing (V21-080) to reduce the side setback from 5 feet to 2.8 feet on Lot 489 located at 2674 Grady Street by the applicant Montrell L. Coleman; seconded by Boardmember Richard Garland.

The motion to deny carried by the following vote:

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

D. 2021-349

Public Hearing - V21-082 - Parking reduction from 61 spaces to 40 spaces - Lot 753 - 5150 South Cobb Drive - Integrity Engineering & Development

Caitlin Crowe, Planner I for Community Development gave the following background:

The applicant is proposing to redevelop the existing British Petroleum (BP) and McDonald's at 5150 S Cobb Drive to accommodate a new drive-thru stand-alone McDonald's and remove the gas station. The proposed changes will necessitate a parking reduction of 21 spaces, remove the street tree requirements along South Cobb Drive, and reduce the landscape easement along South Cobb Drive and Oak Drive. Section 906 of the Zoning Ordinance controls the minimum required parking spaces per use, Section 717.101 of the Zoning Ordinance requires a landscape buffer of 5 feet in width with planted trees along the easement within the South Cobb Corridor district (CDD-4).

Section 906.17 of the Zoning Ordinance requires 61 parking spaces on the subject property, which is calculated at one space per 75 square feet of gross floor area. However, the site is currently under parked with only 46 parking spaces. Six parking spaces will be removed to make room for the redevelopment (including the pedestrian access route to South Cobb Drive), bringing the total parking spaces to 40. The majority of the McDonald's business is through the drive-thru window, which does not require customers to park in the parking lot to order. The 40 spaces will still provide sufficient parking for those wishing to dine inside and for staff parking, thus Community Development is supportive of the parking reduction.

Per Section 717.101, Promotion of Citywide Beautification, "every new residential, commercial or institutional development adjacent to a primary street shall grant a landscaped easement, five feet in width, measured from the front property line" and "appropriate trees (1½-inch diameter or greater) shall be planted and maintained at average spacing of no more than 35 feet along the entire length of said buffer easement". However, the property currently has an existing retaining wall that surrounds the corner of the property on both South Cobb Drive and Oak Drive. The retaining wall's structural geo-grid does not allow for the planting of trees within its area since tree roots could damage the structural integrity of the wall (see Figure 2 in pink). The applicant plans on planting shrubs and trees outside of the buffered area along Oak Drive and some smaller shrubs along South Cobb Drive, all out of the required 5-foot buffer. Since the variances are requested from the section dedicated to citywide beautification, staff can support the variances with the stipulation that the applicant installs a brick façade along the roadway-facing side of the concrete wall surrounding the site's detention pond to enhance the look of the corner lot from both public roadways.

Community Development believes the hardships are not self-created, as the non-conforming parking and retaining walls have existed since the building was constructed in 1996 and has not obstructed daily operations for the subject property or surrounding businesses. Additionally, the parking lot will be redesigned to comply with the current code requirements, including ADA parking.

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 variances with the following conditions:

1. Approval of the requested variances 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 existing detention pond concrete wall, fronting on both South Cobb Drive and Oak Drive, shall have brick façade installed prior to final Certificate of Occupancy.

The applicant was invited forward and Mr. Waylon Hogue of Integrity Engineering and Development spoke about the project. The conditions are agreed to as read aloud by Ms. Crowe.

Chief Acree asked about soil samples for the tanks from the BP Gas Station that will be removed and Mr. Hogue stated that Phase I and II completed and clean.

Boardmember Mary Moore asked about plantings and Mr. Hogue stated Oak Drive and South Cobb Drive will have added shrubs.

The Public Hearing was called and no one came forward to speak in favor to or in opposition to this project.

A motion was made by Boardmember Richard Garland to approve item 2021-349, a Public Hearing (V21-082) for a parking reduction from 61 spaces to 40 spaces on Lot 753, located at 5150 South Cobb Drive by the applicant Integrity Engineering & Development; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

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

E. 2021-350

Public Hearing - V21-083 - Remove street tree requirement along South Cobb Drive - Lot 753 - 5150 South Cobb Drive - Integrity Engineering & Development

Caitlin Crowe, Planner I for Community Development gave the following background:

The applicant is proposing to redevelop the existing British Petroleum (BP) and McDonald's at 5150 S Cobb Drive to accommodate a new drive-thru stand-alone McDonald's and remove the gas station. The proposed changes will necessitate a parking reduction of 21 spaces, remove the street tree requirements along South Cobb Drive, and reduce the landscape easement along South Cobb Drive and Oak Drive. Section 906 of the Zoning Ordinance controls the minimum required parking spaces per use, Section 717.101 of the Zoning Ordinance requires a landscape buffer of 5 feet in width with planted trees along the easement within the South Cobb Corridor district (CDD-4).

Section 906.17 of the Zoning Ordinance requires 61 parking spaces on the subject property, which is calculated at one space per 75 square feet of gross floor area. However, the site is currently under parked with only 46 parking spaces. Six parking spaces will be removed to make room for the redevelopment (including the pedestrian access route to South Cobb Drive), bringing the total parking spaces to 40. The

majority of the McDonald's business is through the drive-thru window, which does not require customers to park in the parking lot to order. The 40 spaces will still provide sufficient parking for those wishing to dine inside and for staff parking, thus Community Development is supportive of the parking reduction.

Per Section 717.101, Promotion of Citywide Beautification, "every new residential, commercial or institutional development adjacent to a primary street shall grant a landscaped easement, five feet in width, measured from the front property line" and "appropriate trees (1½-inch diameter or greater) shall be planted and maintained at average spacing of no more than 35 feet along the entire length of said buffer easement". However, the property currently has an existing retaining wall that surrounds the corner of the property on both South Cobb Drive and Oak Drive. The retaining wall's structural geo-grid does not allow for the planting of trees within its area since tree roots could damage the structural integrity of the wall (see Figure 2 in pink). The applicant plans on planting shrubs and trees outside of the buffered area along Oak Drive and some smaller shrubs along South Cobb Drive, all out of the required 5-foot buffer. Since the variances are requested from the section dedicated to citywide beautification, staff can support the variances with the stipulation that the applicant installs a brick façade along the roadway-facing side of the concrete wall surrounding the site's detention pond to enhance the look of the corner lot from both public roadways.

Community Development believes the hardships are not self-created, as the non-conforming parking and retaining walls have existed since the building was constructed in 1996 and has not obstructed daily operations for the subject property or surrounding businesses. Additionally, the parking lot will be redesigned to comply with the current code requirements, including ADA parking.

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 variances with the following conditions:

1. Approval of the requested variances 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 existing detention pond concrete wall, fronting on both South Cobb Drive and Oak Drive, shall have brick façade installed prior to final Certificate of Occupancy.

The applicant was invited forward and Mr. Waylon Hogue of Integrity Engineering and Development spoke about the project. The conditions are agreed to as read aloud by Ms. Crowe.

Chief Acree asked about soil samples for the tanks from the BP Gas Station that will

be removed and Mr. Hogue stated that Phase I and II completed and clean.

Boardmember Mary Moore asked about plantings and Mr. Hogue stated Oak Drive and South Cobb Drive will have added shrubs.

The Public Hearing was called and no one came forward to speak in favor to or in opposition to this project.

A motion was made by Boardmember Mary Moore to approve item 2021-350, a Public Hearing (V21-083) to remove street tree requirement along South Cobb Drive on Lot 753, located at 5150 South Cobb Drive by the applicant Integrity Engineering & Development; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

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

F. 2021-351

Public Hearing - V21-084 - Reduce landscape easement along South Cobb Drive and Oak Drive - Lot 753 - 5150 South Cobb Drive - Integrity Engineering & Development

Caitlin Crowe, Planner I for Community Development gave the following background:

The applicant is proposing to redevelop the existing British Petroleum (BP) and McDonald's at 5150 S Cobb Drive to accommodate a new drive-thru stand-alone McDonald's and remove the gas station. The proposed changes will necessitate a parking reduction of 21 spaces, remove the street tree requirements along South Cobb Drive, and reduce the landscape easement along South Cobb Drive and Oak Drive. Section 906 of the Zoning Ordinance controls the minimum required parking spaces per use, Section 717.101 of the Zoning Ordinance requires a landscape buffer of 5 feet in width with planted trees along the easement within the South Cobb Corridor district (CDD-4).

Section 906.17 of the Zoning Ordinance requires 61 parking spaces on the subject property, which is calculated at one space per 75 square feet of gross floor area. However, the site is currently under parked with only 46 parking spaces. Six parking spaces will be removed to make room for the redevelopment (including the pedestrian access route to South Cobb Drive), bringing the total parking spaces to 40. The majority of the McDonald's business is through the drive-thru window, which does not require customers to park in the parking lot to order. The 40 spaces will still provide sufficient parking for those wishing to dine inside and for staff parking, thus Community Development is supportive of the parking reduction.

Per Section 717.101, Promotion of Citywide Beautification, "every new residential, commercial or institutional development adjacent to a primary street shall grant a landscaped easement, five feet in width, measured from the front property line" and "appropriate trees (1½-inch diameter or greater) shall be planted and maintained at average spacing of no more than 35 feet along the entire length of said buffer easement". However, the property currently has an existing retaining wall that surrounds the corner of the property on both South Cobb Drive and Oak Drive. The retaining wall's structural geo-grid does not allow for the planting of trees within its area since tree roots could damage the structural integrity of the wall (see Figure 2 in pink). The applicant plans on planting shrubs and trees outside of the buffered area along Oak Drive and some smaller shrubs along South Cobb Drive, all out of the required 5-foot

buffer. Since the variances are requested from the section dedicated to citywide beautification, staff can support the variances with the stipulation that the applicant installs a brick façade along the roadway-facing side of the concrete wall surrounding the site's detention pond to enhance the look of the corner lot from both public roadways.

Community Development believes the hardships are not self-created, as the non-conforming parking and retaining walls have existed since the building was constructed in 1996 and has not obstructed daily operations for the subject property or surrounding businesses. Additionally, the parking lot will be redesigned to comply with the current code requirements, including ADA parking.

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 variances with the following conditions:

- 1. Approval of the requested variances 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 existing detention pond concrete wall, fronting on both South Cobb Drive and Oak Drive, shall have brick façade installed prior to final Certificate of Occupancy.*

The applicant was invited forward and Mr. Waylon Hogue of Integrity Engineering and Development spoke about the project. The conditions are agreed to as read aloud by Ms. Crowe.

Chief Acree asked about soil samples for the tanks from the BP Gas Station that will be removed and Mr. Hogue stated that Phase I and II completed and clean.

Boardmember Mary Moore asked about plantings and Mr. Hogue stated Oak Drive and South Cobb Drive will have added shrubs.

The Public Hearing was called and no one came forward to speak in favor to or in opposition to this project.

A motion was made by Boardmember Richard Garland to approve item 2021-351, a Public Hearing (V21-084) to reduce landscape easement along South Cobb Drive and Oak Drive on Lot 753 located at 5150 South Cobb Drive by the applicant Integrity Engineering & Development; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

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

G. [2021-352](#)

Public Hearing - V21-085 - Allow 5-foot fence in front yard on a corner lot - Lot 487 - 1072 Stephens Street - Jordan Sturgis

Caitlin Crowe, Planner I for Community Development gave the following background: The applicant is requesting a variance to allow for a 5-foot split rail and black welded wire fence in the front yard on the corner lot at 1072 Stephens Street. Section 503-A controls the location and height of fences in the Zoning Code.

In June 2021, the applicant erected a 5-foot wooden split-rail fence along Mann Street, close to the City Right-of-Way. Due to the property having road frontage on two sides, both sides are considered a front yard regarding fencing. Section 503-A 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 16.67 feet from the property line on the Mann Street side. The applicant is requesting a variance to allow the 5-foot wooden split-rail fence to stay at its current distance to Mann Street to provide safety and security from the intersection for the applicant's two young children. No additional variances are needed since the welded wire backing on the fence has black vinyl coating.

The applicant is requesting a variance to allow the 5-foot split-rail fence to remain closer to Mann Street to provide safety and security for him and his family. Community Development believes the variance requested is the minimum variance needed and that, at times, a four-foot fence may not provide adequate security on a corner lot.

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.*

The applicant was invited to the podium and Lauren Sturgis, spouse of the applicant, came forward. She agrees to the two conditions as read aloud by Ms. Crowe.

The public Hearing was called and no one came forward to speak in favor to or in opposition to this request.

A motion was made by Boardmember Mary Moore to approve item 2021-352, a Public Hearing (V21-085) to allow 5-foot fence in front yard on a corner lot on Lot 487 located at 1072 Stephens Street by the applicant Jordan Sturgis; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

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

H. [2021-354](#)

Public Hearing - V21-086 - Parking reduction from 97 spaces to 52 spaces - Lot 275 - 350 Pat Mell Road - Investment Nationwide Group, Inc.

Caitlin Crowe, Planner I for Community Development gave the following background:

The applicant is proposing to remodel the existing Billares Y Taqueria Guerrero Mexican restaurant located at 350 Pat Mell Road to accommodate an exterior deck addition. The proposed changes showed that the existing parking lot required a variance for a parking reduction of 44 spaces. Section 906 of the Zoning Ordinance controls the minimum required parking spaces per use.

The subject property is currently occupied by a 7,285 square foot restaurant building entering off Pat Mell Road. The applicant currently has a permit to remodel the interior of the existing restaurant building and has submitted additional plans that will include the addition of a 1,152 square foot exterior deck on the eastern side of the building. Due to the Covid-19 pandemic, the restaurant has limited seating inside. The deck has been proposed to allow for customers to wait on their food outside more comfortably instead of waiting in the parking lot.

Section 906.17 of the Zoning Ordinance requires 97 parking spaces on the subject property, which is calculated at one space per 75 square feet of gross floor area. However, the site is currently under parked with only 52 parking spaces, regardless of the deck addition. Six parking spaces will be removed to make room for the new deck but will be offset with 6 new parking spaces created at the rear of the building (see Figure 3). Since the property will retain the same amount of parking due to the replacement of the 6 removed spots, Community Development is supportive of the parking reduction.

Community Development believes the hardship is not self-created, as the non-conforming parking existed when the building was constructed in 1982 and has not obstructed daily operations for the subject property or surrounding businesses. Additionally, the parking lot shall be restriped to comply with the current code requirements, including ADA parking.

The applicant is requesting to deviate from the City's required parking minimums. 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 submitted with the variance application.*

2. *The parking lot shall be restriped, to include current ADA regulations, prior to building permit completion.*

Chief Acree asked for clarification that building has been there since the 1980's and has always only had 52 spaces and will not be changing that for this request. Ms. Crowe replied in the affirmative.

Boardmember Mary Moore inquired as to whether or not the restriping would take into consideration the ADA additional spaces and Ms. Crowe replied in the affirmative.

The applicant was present and came forward stating he agreed to the two conditions as read aloud.

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

A motion was made by Boardmember Richard Garland to approve item 2021-354 for a Public Hearing (V21-086) for the parking reduction from 97 spaces to 52 spaces on Lot 275 located at 350 Pat Mell Road by the applicant Investment Nationwide Group, Inc.; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

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

I. 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.

A motion was made by Boardmember Mary Moore to table until the August 25, 2021 License and Variance Board Meeting item 2021-291, a Public Hearing (V21-069) to reduce 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 Richard Garland.

The motion to table carried by the following vote:

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

4. Approval of Minutes:

A. MIN2021-53

Approval of the July 28, 2021 License and Variance Board Meeting Minutes.

A motion was made by Boardmember Richard Garland to approve item MIN2021-53 for the approval of the July 28, 2021 License and Variance Board Meeting Minutes; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

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

5. Adjournment

Chairperson Roy Acree adjourned the August 11, 2021 License and Variance Board Meeting, held in Council Chambers at A. Max Bacon City Hall to order at 10:37am.