



City of Smyrna

2800 King Street
Smyrna, Georgia 30080

Meeting Minutes - Final License and Variance Board

Wednesday, July 28, 2021

10:00 AM

Council Chambers

1. Roll Call

Present: 3 - Roy Acree, Frank Martin and Richard Garland

Also Present: 0

Staff: 5 - Heather Peacon-Corn, Russell Martin, Caitlin Crowe, Joey Staubes and Kelly Moon

2. Call to Order

Chairperson Roy Acree called the July 28, 2021 License and Variance Board Meeting to order in the Council Chambers of A. Max Bacon City Hall at 10:00am.

3. Business

A. 2021-327 Public Hearing - V21-076 - Allow additional accessory structure - Lot 339 - 540 Concord Road - Ohm Enterprises, Inc.
Withdrawn at the request of staff.

Chairperson Roy Acree called the Public Hearing although the item was withdrawn by the applicant. No one came forward to speak in favor of our in opposition to this item. The Public Hearing was closed.

Boardmember Frank Martin made a motion to withdraw at the request of staff, item 2021-327, a Public Hearing for item V21-076 to allow additional accessory structure, on Lot 339, located at 540 Concord Road by the applicant Ohm Enterprises, Inc.; seconded by Boardmember Richard Garland.

The motion to withdraw at the request of staff was approved by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

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 August 11, 2021 License and Variance Board Meeting at the request of the applicant.

Chairperson Roy Acree called the Public Hearing although the item was asked to be tabled until the August 11, 2021 meeting by the applicant. No one came forward to speak in favor of our in opposition to this item.

The Public Hearing was closed.

Boardmember Richard Garland made a motion to table until the August 11, 2021 License and Variance Board meeting for item 2021-291 for a public hearing for V21-069 to reduce the side setback from 10 feet to 5 feet for Lot 415 located at 863 Church

Street by the applicant Nathan Corbitt; seconded by Boardmember Frank Martin. This request to table was at the request of the applicant.

The motion to table to the August 11, 2021 License and Variance Board at the request of the applicant carries by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

C. 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 September 8, 2021 License and Variance Meeting at the request of the applicant.

Chairperson Roy Acree called the Public Hearing although the item was asked to be tabled until the September 8, 2021 meeting by the applicant. No one came forward to speak in favor of our in opposition to this item.

The Public Hearing was closed.

Boardmember Frank Martin made a motion to table to the September 8, 2021 License and Variance Board for item 2021-279 for a Public Hearing for V21-053 to Increase the maximum impervious area from 35% to 50% for a swimming pool on Land Lot 561 located at 1355 Marston Street by the applicant Kenya Brock & Yvonne Lloyd; seconded by Boardmember Richard Garland. This item is tabled at the request of the applicant.

The motion to table until the September 8, 2021 at the request of the applicant carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

D. LIC2021-05

Privilege License Agent Change Request LIC 2021-05 - Beer, Wine, & Liquor (retail pouring) - 4454 South Cobb Drive SE, Suite 101 - Zeke's with Ezechiel Jean-Louis as agent.

The applicant, Mr. Ezekial Jean - Louis, was present and invited to the podium. He explained that he is the owner and executive chef for this family friendly Haitian restaurant and he anticipates being there 6-7 days a week as such. He has not previously been a registered agent but has completed the required training and certification as well as passed the necessary background check.

He went on to explain the process that is used to train employees on the sale of alcohol including that each person wanting to purchase alcohol is carded regardless of age, as well as signage posted throughout the restaurant and classes will be done once a month to review the laws and make sure staff has the latest information.

Boardmember Richard Garland made a motion to approve item LIC2021-05, a Privilege License Agent Change Request (LIC 2021-05) for Beer, Wine, & Liquor (retail pouring) located at 4454 South Cobb Drive SE, Suite 101 by the applicant Zeke's with Ezechiel Jean-Louis as agent; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

E. LIC2021-06

Privilege License Agent Change Request LIC 2021-06 - Beer, Wine, &

Liquor (retail pouring) - 2995 Atlanta Road SE, Building A #300 - Bad Daddy's International, LLC dba Bad Daddy's Burger Bar with Brandon Summers as agent.

The applicant, Mr. Brandon Summers, was present and invited to the podium. He explained that he is the General Manager for Bad Daddy's Burger Bar and noted the previous agent was no longer employed by the company. He anticipates being there 6-7 days a week and has previously been a registered agent at a location in Augusta Georgia so he is very familiar with the requirements and processes.

He has completed the required training and certification as well as passed the necessary background check.

He went on to explain the process that is used to train employees on the sale of alcohol including that each person wanting to purchase alcohol is carded regardless of age, as well as signage posted throughout the restaurant. They train on a regular basis to insure staff is up to date on the requirements.

Boardmember Frank Martin made a motion to approve LIC2021-06 for a Privilege License Agent Change Request (LIC 2021-06) for Beer, Wine, & Liquor (retail pouring) located at 2995 Atlanta Road SE, Building A #300 by the applicant Bad Daddy's International, LLC dba Bad Daddy's Burger Bar with Brandon Summers as agent; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

F. 2021-323

Public Hearing - V21-072 - Allow additional accessory structure - Lot 525 - 3340 Lee Street - Georgia Classic Pool

Caitlin Crowe, Planner I for Community Development presented this item to the Board. She reviewed the following background:

The applicant is requesting a variance to construct a 360 square foot pool at 3340 Lee Street. The property is currently occupied by an existing single-family home and a detached garage. 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 0.44-acre lot located on the west side of Lee Street in the 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 currently occupied by a single-family home and a 927 square foot detached 2-car garage. The accessory structure ordinance allows one accessory structure or use per lot and since a detached garage already exists on the property, a variance is required. The applicant is proposing to construct a 360 square foot in-ground swimming pool in between the home and detached garage in the rear yard. No other variances for setback reduction or impervious area increase are required since the pool will be in the middle of the rear yard and the property will have a proposed impervious area of 31.15%.

The applicant is requesting a variance to allow the construction of an inground swimming pool. The property does not currently have any garage space aside from the detached garage in the rear. Community Development believes the variance requested is the minimum variance needed to allow for both covered parking and a swimming pool on the subject property. Due to the size of the lot 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.

he 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.

The applicant, Ashley Barton of Georgia Classic Pool along with the homeowner, Lorraine Bailey were invited to the podium. They had no further information to offer the Board. They agree to the one condition as read aloud.

Chairperson 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 approve item 2021-323 for a Public Hearing for V21-072 to allow additional accessory structure on Lot 525, located at 3340 Lee Street by applicant Georgia Classic Pool; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

G. [2021-324](#)

Public Hearing - V21-073 - Reduce the front setback from 35 feet to 23 feet for a detached carport - Lot 555 - 3463 Lee Street - Ben Geer

Caitlin Crowe, Planner I for Community Development presented this item to the Board. She reviewed the following background:

She noted there are two variances for this one item that would be voted on as separate items, although she would review them both for the Board.

The applicant is requesting two variances to build a detached carport in the front of the home. Section 801 of the zoning ordinance requires a front setback of 35 feet and a side setback of 12 feet for R-20 lots.

The subject parcel is a 0.36-acre lot located on the southern intersection of Lee Street and Forest Drive (see Figure 1). The subject parcel and adjacent parcels to the south and east are zoned R-20. The adjacent parcel to the north is zoned R-15. The adjacent parcels to the west are zoned R-20 and R-15. The subject property and all adjacent properties are occupied by single-family residences.

The applicant is proposing to add a 360 square foot detached 2-car carport to the subject property. The carport is part of a larger renovation of the subject property, which acquired building permits and associated variances in 2020 (V20-010 & 011). As part of the renovation, the existing carport was enclosed to make additional living space for the home. With the enclosure, the subject property no longer has any covered parking on the property.

The proposed carport will be fully open on all sides and match the current exterior of the home. To access the new structure, the applicant will be using the existing driveway off Lee Street. The carport will be at the back of the existing driveway, which is currently 8.2 feet from the side property line. The carport will be encroaching into the

side setback, but no more than the existing driveway.

The existing home sits catty-corner on the corner property, pushed to the rear of the property with a large front yard. According to Section 402.35, the front yard of the property is deemed the side with the least road frontage, in this case, the Lee Street side since it is smaller by 3.73 feet. This means that the front yard on this side is considered 35 feet. If it were considered the streetside, the setback would be 23.3 feet and the encroachment would only be 0.3 feet into the setback.

Community Development believes the variances requested are the minimum variances needed to create covered parking on the property. The variances proposed should have no negative impact on adjacent properties and since the proposed carport will use the existing concrete driveway, there should be minimal land disturbance.

The applicant is requesting to deviate from the development standards established by the City for the R-20 zoning district, which requires a minimum front yard setback of 35 feet and a 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 encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following condition:

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 applicant, Ben Geer, was invited to the podium and was asked if he agreed to the condition as read aloud. He replied in the affirmative.

Ben Geer applicant present to answer questions.

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

Boardmember Frank Martin made a motion to approve item 2021-324 for a Public Hearing for V21-073 to reduce the front setback from 35 feet to 23 feet for a detached carport on Lot 555 located at 3463 Lee Street by the applicant Ben Geer; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

H. 2021-325

Public Hearing - V21-074 - Reduce the side setback from 12 feet to 8.2 feet for a detached carport - Lot 555 - 3463 Lee Street - Ben Geer

Caitlin Crowe, Planner I for Community Development presented this item to the Board. She reviewed the following background:

She noted there are two variances for this one item that would be voted on as separate items, although she would review them both for the Board.

The applicant is requesting two variances to build a detached carport in the front of the home. Section 801 of the zoning ordinance requires a front setback of 35 feet and a side setback of 12 feet for R-20 lots.

The subject parcel is a 0.36-acre lot located on the southern intersection of Lee Street and Forest Drive (see Figure 1). The subject parcel and adjacent parcels to the south

and east are zoned R-20. The adjacent parcel to the north is zoned R-15. The adjacent parcels to the west are zoned R-20 and R-15. The subject property and all adjacent properties are occupied by single-family residences.

The applicant is proposing to add a 360 square foot detached 2-car carport to the subject property. The carport is part of a larger renovation of the subject property, which acquired building permits and associated variances in 2020 (V20-010 & 011). As part of the renovation, the existing carport was enclosed to make additional living space for the home. With the enclosure, the subject property no longer has any covered parking on the property.

The proposed carport will be fully open on all sides and match the current exterior of the home. To access the new structure, the applicant will be using the existing driveway off Lee Street. The carport will be at the back of the existing driveway, which is currently 8.2 feet from the side property line. The carport will be encroaching into the side setback, but no more than the existing driveway.

The existing home sits catty-corner on the corner property, pushed to the rear of the property with a large front yard. According to Section 402.35, the front yard of the property is deemed the side with the least road frontage, in this case, the Lee Street side since it is smaller by 3.73 feet. This means that the front yard on this side is considered 35 feet. If it were considered the streetside, the setback would be 23.3 feet and the encroachment would only be 0.3 feet into the setback.

Community Development believes the variances requested are the minimum variances needed to create covered parking on the property. The variances proposed should have no negative impact on adjacent properties and since the proposed carport will use the existing concrete driveway, there should be minimal land disturbance.

The applicant is requesting to deviate from the development standards established by the City for the R-20 zoning district, which requires a minimum front yard setback of 35 feet and a 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 encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following condition:

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 applicant, Ben Geer, was invited to the podium and was asked if he agreed to the condition as read aloud. He replied in the affirmative.

Ben Geer applicant present to answer questions.

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 approve item 2021-325 for a Public Hearing for V21-074 to reduce the side setback from 12 feet to 8.2 feet for a detached carport on Lot 555 located at 3463 Lee Street by the applicant Ben Geer; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

I. 2021-326

Public Hearing - V21-075 - Reduce the side setback from 5 feet to 2 feet for an addition - Lot 406 - 1145 Queensgate Drive - Swift Home Renovations

Applicant was not present for the review of this item by Ms. Caitlin Crowe, Planner i, Community Development.

Applicant arrived at 10:25 after the background was reviewed as follows:

The applicant is requesting a variance to reduce the side setback from 5 feet to 2 at 1145 Queensgate Drive for a screened porch and deck addition. The side setback of 5 feet is required per the zoning stipulations associated with the King Valley at Vinings subdivision, platted in 1999.

The subject parcel is a 0.21-acre lot located on the north side of Queensgate Drive, near the intersection of Queensgate Drive, Kenway Circle, and Kenway Place (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are all occupied by detached single-family homes.

The applicant currently has an existing deck on the rear of the property, which did not obtain a variance prior to its erection. The applicant is proposing to enclose the existing deck to create a 210 square foot screened-in porch and construct a new 112 open deck adjacent to the porch at the rear of the home. Since the existing deck is encroaching into the side setback by 3 feet, a variance must be obtained to allow for enclosure of the deck per Section 1102, which states that "no nonconforming building, structure or use shall be extended, nor shall its total value be enhanced, unless such extensions or alterations conform with the provisions of this ordinance."

The existing home is oriented parallel to the road; but since the side property line is not perpendicular to the street, the deck extension encroaches into the side setback by 3 feet. Strict application of the ordinance would deny the applicant the ability to add any additional square footage to the rear of the home or the existing deck since the existing structure is already at the side setback of 5 feet. Per the 2018 International Residential Code, Table R302.1(1), any building projection greater or equal to 2 feet but less than 5 feet must be fire-resistance rated. Since the deck will be at the 2-foot mark, the Chief Building Official can support the variance with the stipulation that the screened porch meet fire-retardant regulations.

Due to the location of the existing home and deck on the subject property, the proposed enclosure will minimize disturbance to the subject property and surrounding neighbors. The variance proposed is the minimum variance needed to construct the enclosure in line with the current home and deck. Community Development does not foresee any negative impacts to adjacent properties should the variance be approved. The applicant is requesting to deviate from the development standards established by the City for the King Valley at Vinings subdivision, which requires a side setback of 5 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 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 enclosing the deck within the side setback will not adversely affect surrounding residents; 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. Gutters and downspouts shall be installed on the screened porch to manage stormwater runoff and to divert water away from adjacent properties.
3. The screened porch must meet required fire-retardant regulations, which shall be submitted for review to the Chief Building Official prior to permitting.

Chairperson, Roy Acree reviewed the conditions with the applicant and asked Ms. Crowe to reread them aloud. He was asked if he understood and agreed to abide by the conditions as presented and he replied in the affirmative.

Chairperson Roy Acree called the Public Hearing and no one came forward to speak in favor of or in opposition to this item.

Boardmember Frank Martin made a motion to approve item 2021-326 for a Public Hearing for V21-075 to reduce the side setback from 5 feet to 2 feet for an addition on Lot 406 located at 1145 Queensgate Drive by the applicant Swift Home Renovations; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

J. 2021-328

Public Hearing - V21-077 - Reduce the front setback from 35 feet to 25 feet - Lot 449 - 984 Bank Street - Wesley Thomas Graham

Caitlin Crowe, Planner I, Community Development read aloud this item and presented the background to the board as follows:

The applicant is requesting a variance to reduce the front setback for 984 Bank Street from 35 feet to 25 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 0.30-acre lot located on the south side of Bank Street, at the intersection of Bank Street and Fraser Street (see Figure 1). The subject parcel and all adjacent properties to the north, east and west are zoned R-15 and are occupied by single-family residences. The subject property to the south is zoned RM-12 and is occupied by the Madison Station condominiums.

The applicant currently has an uncovered 6-foot x 6-foot (36 square feet) front stoop on the existing home. The applicant is proposing to replace the existing stoop with an 8-foot x 16-foot (128 square foot) 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 3 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 28 feet from the front property line and will encroach on the front setback by 7 feet. However, after staff went onsite and measured the house to the curb (38 feet) and taking into account the roughly 5 feet of City right-of-way, the new front porch will actually be roughly 25 feet from property line. Therefore, the variance request is to reduce the front setback from 35 feet to 25 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. Similar variance requests were approved up the street at 2759 Fraser Street in 2013 (V13-004) and 2749 Fraser Street in 2019 (V19-060).

The applicant requests a variance to reduce the front setback for 984 Bank Street

from 35 feet to 28 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:

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.

Mr. Wesley Tomas Graham, applicant came to the podium and had no additional information to present to the board. He was asked if he understood the one condition as read aloud and he replied in the affirmative.

Chairperson 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 approve item 2021-328 for a Public Hearing for V21-077 for the Reduce the front setback from 35 feet to 25 feet on Lot 449 -located at 984 Bank Street by the applicant Wesley Thomas Graham; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

4. Approval of Minutes:

A. MIN2021-52 Approval of the July 14, 2021 License and Variance Board Meeting Minutes.

A motion was made by Boardmember Frank Martin for the approval of item MIN2021-52, the Approval of the July 14, 2021 License and Variance Board Meeting Minutes; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

5. Adjournment

Chairperson Roy Acree adjourned the July 28, 2021 License and Variance Board Meeting to order in the Council Chambers of A. Max Bacon City Hall at 10:34am.