

City of Smyrna

*2800 King Street
Smyrna, Georgia 30080*



Meeting Minutes

Wednesday, December 12, 2018

10:00 AM

Council Chambers

License and Variance Board

1. Roll Call

Meeting went into Recess

Meeting Reconvened

Present: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

Also Present: 4 - Jim Cox, Russell Martin, Joey Staubes and Elsa Thompson

2. Call to Order

The meeting of the License and Variance Board was called to order by Boardmember Tammi Saddler Jones at 10:00 am.

3. Business**A. Public Hearing _ Privilege License Request LIC2018-21 - Beer and Wine Package - 2955 Atlanta Road - Publix Super Market Inc dba Publix Super Market #1250 with Joe Yurillo as agent.**

Boardmember Tammi Saddler Jones called applicant, Joe Yurillo, to come forward. Ms. Saddler Jones inquired if Mr. Yurillo had received, read, and understood the City's Alcoholic Beverage Ordinance and whether he agreed to abide by the guidelines. Mr. Yurillo confirmed that he read and understood the ordinance and that he agreed to abide by the guidelines. Ms. Saddler asked the applicant if he had completed the "Responsible Alcohol Sales" class; he advised that he did. Ms. Saddler Jones asked Mr. Yurillo to explain what business practices were in place to ensure that his employees would not sell alcohol to minors. Mr. Yurillo advised that cashiers received their license through the City and that they are all required to check the patron's identification when purchasing alcohol. Boardmember Roy Acree inquired what Mr. Yurillo's position with the company was, if he was responsible for any other locations, and how often he would be working. Mr. Yurillo advised that he was the store manager of this store (since December 2016) and that he was only responsible for this location. He noted that his work hours varied but that he worked a minimum of 50 hours per week. Mr. Acree asked the applicant if he had been a registered agent in the past. Mr. Yurillo stated that he was, in Sandy Springs and Johns Creek. Ms. Saddler Jones asked the applicant if he was aware that the Smyrna Police Department operated undercover sting operations to make sure that alcohol was not being served to minors. Mr. Yurillo was aware and advised that his company also did spot checks. Ms. Saddler Jones advised that Mr. Yurillo's background check did not produce any results that would impede him from getting the Privilege License.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Mary Moore to approve Privilege License Request LIC2018-21 for Beer and Wine Package located at 2955 Atlanta Road – Publix Supermarket Inc. d/b/a Publix Super Market #1250 with Joe Yurillo as the agent; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

B. Public Hearing - Variance Request - V18-072 - Allow second accessory structure for single family residence - Land Lot 335 - 0.44 acres - 4115 N Cooper Lake Road - Cynthia Thomas

Boardmember Tammi Saddler Jones called applicant, Cynthia Thomas, to come forward and noted that Ms. Thomas had 2 requests. The applicant advised that the first request was pertaining to a structure that was already on the property when she purchased it in August (2018) and that her second request was for a "combination greenhouse/chicken coop).

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the applicant was requesting to allow a second accessory structure and to reduce the side setback from 10 feet to 3 feet. He stated that the request involved an existing single family home with an existing accessory structure in the rear yard. He noted that Code Enforcement was notified that the applicant was in the process of building the structure and that staff advised the applicant that she had to go through the variance process in order to acquire a building permit. Mr. Staubes also advised that staff's review of the request and the site "did not identify any negative impact" therefore they recommended approval.

Boardmember Roy Acree clarified (for the record) Mr. Staubes' statements about the applicant already being in the process of building a structure and that she was requesting an additional structure. Mr. Acree stated that he had "an issue with the second review standard" which read "Whether any alleged hardship is self-created by any person having an interest in the property". Mr. Acree asked the applicant to help the Board to "better understand" her request. The applicant advised that she did not know about application process as this was her first time being a property owner. She advised that she was building a greenhouse for year round gardening and that the chickens were her therapy animals. She noted that she would like to keep them protected - has had them since they were two days old and they are now a year old - and that having the structure would prevent her from having to go outdoors (early morning) to feed them. She stated that the second structure contained "antiques". Mr. Acree advised Ms. Thomas that the Board had variance review standards that they abided by and noted that the second standard was in place for them to consider whether or not a hardship existed or was self-imposed. He then stated that this hardship seemed self-imposed. Ms. Thomas stated that she needed clarification on "hardship". Mr. Acree advised that it meant that without approval of the request the applicant would still feel the hardship. Ms. Thomas stated that she did not intend to create a hardship.

Boardmember Mary Moore asked the applicant to explain the plans for the structure ("a greenhouse/ chicken coop") and noted that she had "never seen a structure like that before". Ms. Thomas advised that she had gotten the assistance of a contractor to design and build the structure. She advised that the greenhouse would have plexiglass in the front and the rear would be the chicken coop. Ms. Moore asked how many chickens there were; Ms. Thomas stated there were 4. Ms. Moore inquired if the chickens were pets and how the location of the structure was chosen. Ms. Thomas advised that the chickens were her pets and that they had gotten too big for their previous shelter which was in the same location where the proposed greenhouse/ chicken coop would be.

Ms. Saddler Jones announced the public hearing.

Mr. Andres Sandate and Mr. Heidi Sandate (both of 400 Downfield Way) came forward. Mr. Sandate advised that they lived in the property directly behind Ms. Thomas' home. Mrs. Sandate advised that they did not know about the structure she was building. Mrs. Sandate also advised that there was a petition that was signed by all of her neighbors that they submitted for the Board's review; Ms. Saddler Jones advised that it was received. Mr. Sandate stated that the variance application noted that all adjacent neighbors were to be notified and stated that they did not receive any information. He advised that the North Cooper Lake Homeowners Association, in the interest of preserving their property values, decided to install a fence along the area that bordered Ms. Thomas' home. He stated that the structure's specifications had not been detailed and was concerned about how tall the structure would be. He advised that they had observed the chickens roam inside and outside of the property and that the structure was "highly visible". Mr. Acree advised that the Board had record that certified mail had been received by 3 of the residences in their subdivision. Mr. Sandate continued. He advised that the subject property was not buffered by trees and that the structure described in the application was much smaller than was being built. Mr. Sandate also advised that he was concerned about the memorandum stating that "it does not affect adjacent properties" and noted that the plans in the file were not accurate because it did not contain any "photos from their property vantage point". Ms. Sandate stated that they agreed with Mr. Acree's summation that the hardship was self-imposed and asked for more details about the variance request.

Ms. Saddler Jones advised that the Board did not answer questions during public comment only if it was from the applicant.

Ms. Beth Streever (409 Downfield Way) stated that she lived the farthest away from the subject property and that she had photos that she took that show "when you're driving into the neighborhood". She advised that the tree in Ms. Thomas' yard does not block the structure and that they are trying to keep the integrity of their home. Ms. Streever also made comment that Ms. Thomas has more chickens than she stated.

Ms. Thomas came forward and stated that she was the one who requested the privacy fence and that she had been continuously harassed and threatened by her neighbors. Ms. Saddler Jones asked Ms. Thomas to only speak about the request. Ms. Thomas advised that the structure was in front of an oak tree and was the same size as the fence.

Ms. Moore inquired what the height of the structure would be and advised that she did not see an elevation of what the completed structure would look like. Ms. Thomas advised that the contractor drew the plan and did not know the height. Mr. Chuck Whiteside (contractor for another request) assisted Ms. Thomas in reading her drawing and advised that it was only a framing plan. Ms. Thomas advised that she could lower the height if need be.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Roy Acree to deny Variance Request V18-072 to allow a second accessory structure for a single family residence in Land Lot 847 on 0.44 acres located at 4115 North Cooper Lake Road by applicant Cynthia Thomas; seconded by Boardmember Mary Moore.

The motion to deny carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

C. Public Hearing - Variance Request - V18-073 - Allow side setback reduction from 10 feet to 3 feet for additional accessory structure - Land Lot 335 - 0.44 acres - 4115 N Cooper Lake Road - Cynthia Thomas

Boardmember Tammi Saddler Jones called applicant, Cynthia Thomas, to come forward and inquired if she had any additional comments. Ms. Thomas stated that she did not feel the structure would interfere with anyone's property values and did not understand why the structure could not be built.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that there were no additional comments because the initial request that pertained to this one was denied earlier in the meeting.

Ms. Saddler Jones announced the public hearing.

Mr. Frank Osukoya came forward. He advised that he was Ms. Thomas' landscaper and that there had been a long process to care for the chickens. He noted that they had sanitation conditions into consideration. He advised that they had looked at other ways to care for the chickens. He noted that the chickens were from Australia and that they had been approached about them selling the chickens' eggs by neighbors. He stated that the chickens had never been out in the streets. He advised that the setback was 10 feet and the structure was approximately 8 feet tall and that he could reduce it to 6 feet if necessary. He stated that he would like the City officials to come back to the property.

Ms. Thomas stated that she could reduce the height for structure and that caring for the chickens was a form of medical therapy.

Mr. Andres Sandate (400 Downfield Way) came forward and inquired what would happen with the existing structure and if another application came forward in the future how it would be handled.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Mary Moore to deny Variance Request V18-073 to allow a side setback reduction from 10 feet to 3 feet for an additional accessory structure in Land Lot 847 on 0.44 acres located at 4115 North Cooper Lake Road by applicant Cynthia Thomas; seconded by Boardmember Roy Acree.

The motion to deny carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

D. Public Hearing - Variance Request - V18-074 - Allow rear patio in private drainage easement - Land Lot 274 - 0.15 acres - 413 Crimson Maple Way - Home South Communities, LLC - Reiner Rietig

Boardmember Tammi Saddler Jones called applicant to come forward.

Community Development Planner Joey Staubes came forward and advised that the applicant chose to withdraw the request because they were under contract with a "defective buyer" and the contract was now canceled.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Roy Acree to withdraw without prejudice, Variance Request V18-074 to allow a rear patio in a private drainage easement in Land Lot 274 on 0.15 acres located at 413 Crimson Maple Way by applicant Home South Communities, LLC with representative Reiner Reitig; seconded by Boardmember Mary Moore.

The motion to withdraw without prejudice carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

E. Public Hearing - Variance Request - V18-075 - Allow accessory structure above 25 percent of primary structure maximum - Land Lot 416 - 0.34 acres - 809 Timberland Street - Bryan Hamlin

Boardmember Tammi Saddler Jones called applicant, Bryan Hamlin, to come forward. Mr. Hamlin advised that he would like to add a metal structure in the rear of the home for storage.

Boardmember Mary Moore advised that she thought the request was for a two car garage. Mr. Hamlin advised that the structure would be the size of a two car garage but would not have any electricity.

Boardmember Roy Acree inquired if the existing structure would be torn down. Mr. Hamlin advised that it would. Mr. Acree advised that the 25 percent maximum would only allow for "what they already have" so the hardship was the size of the home.

Ms. Saddler Jones requested clarification on the material being used for the structure. Mr. Hamlin advised that it would be professionally constructed metal.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised existing home was legal non-conforming and that they based the size of the accessory structure on the size of the home. He stated that the new structure would be built where existing structure was. He noted that there had been no complaints from adjacent properties and advised that staff recommended approval with one condition:

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

Ms. Moore inquired if there was a maximum on square footage. Mr. Staubes advised that the maximums would be the setbacks and impervious coverage.

Mr. Acree inquired if Community Development's opinion would still be within the acceptable limits for impervious structure. Mr. Staubes advised that it would and that it would not exceed 35%.

Ms. Saddler Jones advised that a Councilmember received a call regarding this request asking that landscaping be done around the structure. Ms. Saddler Jones inquired if Mr. Hamlin would consider working with his neighbors to do some landscaping. The applicant stated that he would consider it. Ms. Saddler Jones inquired if the applicant accepted the condition; he did.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Mary Moore to approve Variance Request V18-075 to allow an accessory structure above 25 percent of primary structure maximum in Land Lot 416 on 0.34 acres located at 809 Timberland Street by applicant Bryan Hamlin; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

F. Public Hearing - Variance Request - V18-076 - Allow front setback reduction from 35 feet to 30 feet - Land Lot 452 - 0.27 acres - 952 Dell Avenue - Warren Butcher

Boardmember Tammi Saddler Jones called applicant, Warren Butcher, to come forward and explain his request. She made note that Mr. Butcher had 2 variance requests. Mr. Butcher asked his contractor to come forward and speak. Mr. Chuck Whiteside came forward and advised that in the process of designing the façade it was discovered that the home was nonconforming and that they would be changing the front of the house to have eaves and steps.

Boardmember Roy Acree requested clarification. Mr. Whiteside advised that the front and rear elevations were being done.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the applicant was remodeling the front façade and adding a front porch which required a variance because the house was all the way up to the front setback. He advised that there had been no complaints from adjacent properties and that staff recommended approval with one condition:

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

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Roy Acree to approve Variance Request V18-076 to allow a front setback reduction from 35 feet to 30 feet in Land Lot 452 on 0.27 acres located at 952 Dell Avenue by applicant Warren Butcher; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

G. Public Hearing - Variance Request - V18-077 - Allow side setback reduction from 10 feet to 7 feet - Land Lot 452 - 0.27 acres - 952 Dell Avenue - Warren Butcher

Boardmember Tammi Saddler Jones called applicant, Warren Butcher, to come

forward. Mr. Butcher advised that he had no additional comments.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that staff recommended approval with the same, one condition:

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

Boardmember Roy Acree clarified that staff discussed with the applicant that the side portion of the front façade improvement would not "further" encroach into the side setback. Mr. Staubes advised that they had.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Mary Moore to approve Variance Request V18-077 to allow a side setback reduction from 10 feet to 7 feet in Land Lot 452 on 0.27 acres located at 952 Dell Avenue by applicant Warren Butcher; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

4. Approval of Minutes:

A. Approval of the November 14, 2018 License and Variance Board Meeting Minutes

A motion was made by Boardmember Roy Acree to approve the November 14, 2018 License and Variance Board Meeting Minutes; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

5. Adjournment

Boardmember Tammi Saddler Jones adjourned the meeting of the License and Variance Board at 11:00 am.