



City of Smyrna

2800 King Street
Smyrna, Georgia 30080

Meeting Minutes - Final License and Variance Board

Wednesday, April 14, 2021

10:00 AM

Council Chambers @ A. Max Bacon City Hall
2800 King Street, Smyrna, GA 30080

MASKS REQUIRED / TEMPERATURE WILL BE CHECKED

1. **Roll Call**

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

Also Present: 0

Staff: 4 - Russell Martin, Caitlin Crowe, Tina Monaghan and Tyler Addison

2. **Call to Order**

Chairperson Roy Acree called the April 14, 2021 License and Variance Board meeting to order at 10:01 AM.

3. **Business**

A. **[2021-116](#)**

Public Hearing - V21-026 - Increase maximum impervious area from 45% to 49.9% - Land Lot 593 - 1607 Walker Street - Brian & Lauren Berry

The request is to be tabled to the May 3, 2021 Mayor and Council Meeting at the request of the applicant.

Boardmember Frank Martin made a motion to table V21-026 - Increase maximum impervious area from 45% to 49.9% - Land Lot 593 - 1607 Walker Street - Brian & Lauren Berry - to the May 3, 2021 Mayor and Council 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, Frank Martin and Richard Garland

B. **[2021-144](#)**

Public Hearing - V21-031 - Reduce the side setback from 10 feet to 5 feet - Land Lot 629 - 3286 Creatwood Trail - Sahra Ahmed

Ms. Caitlin Crowe, Planner I Community Development provided the background information for this variance request. The subject parcel is a 0.36-acre lot located on the north side of Creatwood Trail, at the entrance to the Creatwood Forrest subdivision (see Figure 1). The subject parcel and adjacent parcels to the south and east are zoned R-15 and are occupied by detached single-family homes. The adjacent properties to the west are zoned RDA and are also occupied by detached single-family homes. The adjacent property to the north is zoned NS-C (Neighborhood Shopping-Conditional) and is occupied by a variety of commercial uses. The applicant is requesting a variance to construct a 249 square foot one-car garage over an existing

driveway. The garage addition is part of a larger renovation project on the subject property, which will include adding a second story (including a 1,010 square foot addition to the rear of the home) and a 480 square foot wooden deck. The existing one-story structure is 1,005 square feet, while the minimum house size of R-15 is 2,000 square feet. With all the renovations, including the garage, the home will be roughly 3,032 square feet, bringing the home into compliance. Additionally, the existing driveway is currently more than 5 feet from the side property line, so no additional variance is needed. Due to the existing concrete driveway, the most logical area to construct the garage is within the side setback to decrease disturbance to the subject property and surrounding neighbors. Strict application of the ordinance would deny the applicant the ability to add any covered parking area over the existing driveway since the driveway is currently within 10 feet of the side property line. Additionally, the adjacent building to the north will exceed the minimum 10 feet of separation from the subject property since there is a large parking lot separating the two buildings, so no fire suppression system is required. The variance proposed is the minimum variance needed and the hardship is not self-created since the driveway has historically existed in the same location. Similar variances have been approved throughout the City so no negative precedent would be set. Community Development has not received any calls in opposition to the request. 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. The applicant is requesting to construct a garage in the side setback, approximately 5 feet from the side 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 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 placing the garage in 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.

The applicant, Ms. Sahra Ahmed, was present and came forward to the podium. She wants a place to safely park her car at night which is the reason for the garage. She accepted all conditions.

Public hearing was announced by Chairperson Roy Acree. No one came forward to speak.

Boardmember Richard Garland made a motion to approve V21-031 - Reduce the side setback from 10 feet to 5 feet - Land Lot 629 - 3286 Creatwood Trail - Sahra Ahmed. Boardmember Frank Martin seconded the motion.

The motion to approve was carried by the following vote:

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

C. [2021-145](#)**Public Hearing** - V21-032 - Allow additional accessory structure - Land Lot 401 - 639 Vinings Estates Drive - Chris & Shannon Greenwald

Ms. Caitlin Crowe, Planner I Community Development, read aloud the background on the variance to allow for an additional accessory structure. The subject parcel is a 0.64-acre lot located on the south side of Vinings Estates Drive, at the intersection of Vinings Estates Drive and Vinings Estates Trace (see Figure 1). The subject parcel and all adjacent parcels are zoned RDA and are all occupied by detached single-family residences with the exception of the property to the south, which is open space for the Vinings Estates Subdivision. The subject property is currently occupied by a single-family home and a 100 square foot shed in the rear of the property. The applicant is proposing to construct a 564 square foot in-ground swimming pool between the house and existing shed. The accessory structure ordinance allows one accessory structure or use per lot; thus, a variance is required due to the existing shed on the property. The existing shed has been used for tools and additional storage and is currently in the far rear of the property, with no other structures within 100 feet. In fact, the closest property to the shed is open space for the Vinings Estates subdivision, which has no structures on the property. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence and is largely wooded in the rear. Due to the size of the lot and the existing wooden fence, 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 so no negative precedent would be set. Community Development believes the variance requested is the minimum variance needed to allow for a swimming pool on the subject property. Community Development has not received any calls in opposition to the request. The applicant is requesting to deviate from the City's accessory structure ordinance to allow a second accessory structure. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the requests against the variance review standards and found them to be in compliance with the review standards. Community Development believes that the requested variances will not adversely affect surrounding residents. Therefore, Community Development recommends approval of the requested variance with the following condition:

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

Chairperson Acree asked about the impervious surface rate and it falls below the required amount with no variance needed.

The applicant, Chris Greenwald was present and he agreed to all the conditions presented.

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

Boardmember Frank Martin made a motion to approve V21-032 - Allow additional accessory structure - Land Lot 401 - 639 Vinings Estates Drive - Chris & Shannon Greenwald. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

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

D. [2021-146](#)

Public Hearing - V21-033 - Reduce driveway side setback from 5 feet to 0 feet - Land Lot 385 - 3933 North Cooper Lake Road - North Cooper Lake Construction, LLC

Ms. Caitlin Crowe, Planner I Community Development read aloud the background information. This item and item E are two different properties from the same applicant with the same variances. The subject parcel is a 0.35-acre lot located on the east side of North Cooper Lake Road, near the intersection of Rosedale Drive (see Figure 1). The subject property and all adjacent parcels are zoned R-15 and are all occupied by single-family detached homes, with the exception of the parcel to the east, which is the subdivision's detention facility.

In January 2019, the former property owners subdivided the 2.28-acre property on the corner of North Cooper Lake Road and Reed Road into 5 separate lots, one of which is the subject property. No variances nor rezoning was required at that time since each lot could meet the minimum R-15 zoning requirements. Since the subdivided plat was recorded, a land disturbance permit was issued to grade the property for the new homes. The subject property is currently vacant, so the applicant is proposing to build a new single-family detached residence with a side-entry garage. The applicant is requesting the variance to reduce the driveway setback to be on the property line in order to create the necessary turning radius to access the side-entry garage. The applicant cited the sight distance issues on North Cooper Lake and the busy traffic along the road as part of the rationale to obtain the variance. Although staff agrees that North Cooper Lake Road is a busy road and there is a sight distance concern, this is a new home on a vacant lot that has no preexisting conditions that would create special circumstances nor extraordinary conditions to the lot 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 new home could be designed to accommodate either a side-entry garage by reducing the width of the home, or a front-entry garage with a bump out to allow cars to turn around. Strict application of the Zoning Code would not deprive any reasonable use of the property since a different design would allow for the construction of a home that complies with the zoning requirements of the R-15 zoning district. Finally, the proposed variance is not the minimum variance needed because the home can be built to meet the minimum zoning requirements and the requested variance completely eliminates the driveway setback requirement. At the time of this report, there has been one phone call of public objection to the request. 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 any of the standards, based on the lack of hardship and the self-creation of the variance request. Staff is not supportive of reducing the driveway side setback when adjustments could be made to accommodate City code. Community Development believes there are no unique and special extraordinary circumstances applying to the property to justify the variance requested. Strict application of the ordinance does not deprive the subject property owner of reasonable use of the property, as the lot can accommodate a single-family home to Code. After a review of the standards above, Community Development recommends

denial of the requested variance.

Chairperson Acree noted that he felt that the proposed driveway entry seemed to be the safest method for such a busy street. Backing out onto the road would be hazardous.

A representative from North Cooper Lake Construction, was present. She had a Powerpoint presentation prepared for the board.

The public hearing was announced by Chairperson Acree.

Mr. Mark Akins, 4061 North Cooper Lake Road came to speak. He is concerned about this setting a precedent and having his neighbors putting paved driveways right up to his property line. He agrees that speeding is bad on that street. He has to back out of his driveway and has to be careful but has not had problems doing so.

Ms. Erica Buckner, 600 Rosedale Drive, came to speak as the owner of an adjoining property. She doesn't have a problem with the variance and has spoken with the developer who is willing to work collaboratively with her.

The applicant returned to speak in closing. She spoke about the precedent issue and noted that zoning and density is not changing.

Chairman Acree addressed the precedent aspect. He explained that if something happens once, it does not mean that all future requests will be accepted. Each property and variance is considered individually. He sees a safety issue with backing out and speeding as well as pedestrian and bike traffic from the nearby park.

Mr. Akins came back to comment because he disagrees with the precedent aspect.

Boardmember Frank Martin asked the applicant if this variance is approved, do they agree to the stipulations. Her answer was yes.

Boardmember Richard Garland made a motion to approve V21-033 - Reduce driveway side setback from 5 feet to 0 feet - Land Lot 385 - 3933 North Cooper Lake Road - North Cooper Lake Construction, LLC with the following two conditions:

- 1) Minimal use of concrete within variance area.
- 2) Build in substantial compliance with the site plan.

Boardmember Frank Martin seconded the motion.

The motion to approve was carried by the following vote:

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

E. [2021-147](#)

Public Hearing - V21-034 - Reduce driveway side setback from 5 feet to 0 feet - Land Lot 385 - 3937 North Cooper Lake Road - North Cooper Lake Construction, LLC

No additional information was added by staff or the applicant.

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

Boardmember Frank Martin made a motion to approve V21-034 - Reduce driveway side setback from 5 feet to 0 feet - Land Lot 385 - 3937 North Cooper Lake Road - North Cooper Lake Construction, LLC with the following two conditions:

- 1) Minimal use of concrete within variance area.
- 2) Build in substantial compliance with the site plan.

Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

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

F. [2021-148](#)

Public Hearing - V21-035 - Allow new construction on lot of record below minimum requirements - Land Lot 487 - 1202 Church Street - Jenna Griffin

Ms. Caitlin Crowe, Planner I Community Development reviewed both F and G together since they are for the same property. The subject parcel is a 0.21-acre lot located on the south side of Church Street (see Figure 1).

The subject parcel and all adjacent parcels to the west, east, and south are zoned R-15 and are occupied by detached single-family homes; the adjacent parcels to the north are zoned RM-12 and are occupied by condominiums. The subject parcel is located within the Reid & Walker Subdivision, which was platted in 1927, prior to the current Zoning Ordinance, which was implemented in 1976. The applicant is proposing to build a new 3,209 square foot two-story single-family home which will consist of 3 bedrooms, 2.5 bathrooms, an unfinished basement and a mixture of cement siding and board and batten siding. However, the lot is 9,118 square feet and the R-15 Zoning District requires lots to be a minimum of 15,000 square feet. Since the subject property is an existing lot of record, originally platted in 1927, the hardship was not self-created. Due to the narrow lot width, the applicant will require side setback reductions of roughly 5 feet on both sides of the new home. The existing lot is 39 feet wide; if the applicant built a home that met the required R-15 side setback standards of 10 feet, the applicant would only be allowed a home that is 18 feet in width. An 18-foot-wide home would be out of character with the existing neighborhood. The proposed home on the subject property will be 29 feet; this will bring the house closer in line with surrounding properties within the subdivision with the site restrictions in place. This increase in width will also allow for a 2-car garage which will prevent on-street parking on the busy roadway and remove much of the concrete parking pad from the front yard. Additionally, the proposed home will be approximately 14 feet from the homes on either side and will not require a fire suppression system. The subject property is unique in that it has less square footage than what the R-15 zoning district requires. The hardship is not self-created as the property is an existing lot of record.

The variances requested are the minimum variances needed to build a new single-family home on the subject property. Furthermore, variances of this nature have been approved in the past so no negative precedent would be set. Community Development does not believe building a new single-family home on the subject property will negatively impact the surrounding properties. The applicant is requesting to deviate from the City's minimum lot area and site setback requirements established for the R-15 Zoning District. 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 them to be in compliance with the four (4) standards and believes that the variances will not adversely affect surrounding residents. Therefore, staff recommends approval of the requested variances with the following condition:

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.

Chairperson Acree summarized the reasoning behind the variance requests.

The spouse of the applicant, Mr. Daniel Griffin was present and he agreed to all stipulations.

Chairperson Roy Acree announced the public hearing.

Mr. Brian Sterling, 1206 Church Street, has no problem with new construction but is concerned about the small setbacks.

Boardmember Richard Garland made a motion to approve V21-035 - Allow new construction on lot of record below minimum requirements - Land Lot 487 - 1202 Church Street - Jenna Griffin. Boardmember Frank Martin seconded the motion.

The motion to approve was carried by the following vote:

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

G. [2021-149](#)

Public Hearing - V21-036 & 037 - Reduce side setbacks from 10 feet to 4.9 feet - Land Lot 487 - 1202 Church Street - Jenna Griffin

Staff and the applicant had no additional information to share.

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

Boardmember Frank Martin made a motion to approve V21-036 & 037 - Reduce side setbacks from 10 feet to 4.9 feet - Land Lot 487 - 1202 Church Street - Jenna Griffin. Boardmember Richard Garland seconded the motion.

The motion to approve was carried by the following vote:

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

4. **Approval of Minutes:**

A. [MIN2021-22](#)

Approval of the March 24, 2021 License and Variance Board Meeting minutes.

Boardmember Richard Garland made a motion to approve the March 24, 2021 License and Variance Board Meeting minutes. Boardmember Frank Martin seconded the motion.

The motion to approve was carried by the following vote:

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

5. Adjournment

Chairperson Roy Acree adjourned the April 14, 2021 License and Variance Board meeting at 10:58 AM.