



Meeting Minutes - Final Approved
License and Variance Board

Wednesday, September 8, 2021

10:00 AM

A. Max Bacon City Hall - Council Chambers

Roll Call

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

Also Present: 0

Staff: 5 - Heather Peacon-Corn, Jill Head, Lisa Collins, Russell Martin and Joey Staubes

1. Call to Order

Chairperson Roy Acree called the September 8, 2021 License and Variance Board Meeting held in Council Chambers at the A. Max Bacon City Hall to order at 10:00AM.

2. Business

A. [LIC2021-09](#)

Privilege License Agent Change Request LIC 2021-09 - Beer & Wine (retail package) - 2390 S. Cobb Drive SE - Walgreen Co. dba Walgreens #05901 with Ornella Adalakun as agent.

A motion was made by Boardmember Frank Martin, seconded by Boardmember Richard Garland, that this Privilege Licenses be suspended to the end of the agenda due to absence of applicant.

The motion to suspend until the end of the agenda carried by the following vote:

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

B. [2021-279](#)

Public Hearing - Variance Request - 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 22, 2021 License and Variance Meeting at the request of the applicant.

A motion was made by Boardmember Frank Martin to table until the September 22, 2021 License and Variance Board Meeting item 2021-279 for a Public Hearing and Variance Request (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.

A motion to table until the September 22, 2021 License and Variance Board meeting carried by the following vote:

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

C. [2021-291](#)

Public Hearing - Variance Request - V21-069 - Reduce the side setback from 10 feet to 5 feet - Lot 415 - 863 Church Street - Nathan Corbitt -

This will be tabled to the September 22, 2021 License and Variance Board hearing.

A motion was made by Boardmember Frank Martin to table until the September 22, 2021 License and Variance Board Meeting item 2021-291 for a Public Hearing and Variance Request (V21-069) to reduce the side setback from 10 feet to 5 feet on Lot 415 located 863 Church Street by the applicant Nathan Corbitt; seconded by Boardmember Richard Garland.

The motion to table until the September 22, 2021 License and Variance Board Meeting carried by the following vote:

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

D. [2021-385](#)

Public Hearing - Variance Request - V21-094 - Allow a second accessory structure - Land Lot 561 - 0.17 acres - 2630 Devin Court - Steve and Corrie Henson

Community Development Planner I, Joey Staubes presented the following information for this item:

The applicant is requesting a variance to construct an in-ground pool and an 81 sq. ft. storage shed at 2630 Devin Court. Thus, the applicant requires a variance to allow construction of a pool as an additional accessory structure with the addition of the storage shed. Section 501 controls the maximum allowable number of accessory structures. Additionally, Riley's Walk originally required certain lots to provide a 10' and 20' buffer from existing lots outside of the development. For the pool and shed to be allowed a variance from those buffers will be required.

The subject parcel is a 0.17-acre lot located on the east side of Devin Court (see Figure 1). The subject parcel and all adjacent parcels are zoned RDA and are occupied by detached single-family residences.

The subject property is currently occupied by a 3,122 sq. ft. single-family home. The applicant is proposing to add an 81 sq. ft. storage shed, and an in-ground pool in the rear of the property. The accessory structure ordinance allows one accessory structure or use per lot and since both a shed and pool are proposed, a variance is required for a second accessory structure. No variances for setback reduction or impervious area increase are required.

The subject property was conditioned to provide a 10' landscape buffer and 20' undisturbed buffer on existing external properties when Riley's Walk was originally rezoned in 2004 (Z04-022) for 26 lots. Riley's Walk has expanded over time and assembled additional properties, including the adjacent property at the rear of the subject property (Z14-020). The rear adjacent property is a landlocked flag lot, acquired for open space, that separates the subject property from the homes outside of Riley's Walk on Highland Ave (Figure 1). Thus, the landscape buffer and undisturbed buffer are no longer necessary as that parcel acts as a permanent buffer. Furthermore, the 20' buffer was conditioned to be removed after the final certificate of occupancy was issued; however, the final plat was never updated to remove the 20' buffer. The 10' landscape buffer does not currently have a vegetative buffer. However,

the applicant has agreed to install a buffer on the rear property line and restore 7' of the landscape buffer. Approval of the variance would allow an encroachment of 3' into the landscape buffer.

The applicant is requesting variances to allow a second accessory structure and allow encroachment in development buffers at the rear of the property. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence, and the applicant will install an additional vegetative buffer. Community Development believes the variances requested are the minimum variances needed to allow for both extra storage and a swimming pool on the subject property. Due to the evolution of the subdivision over time, Community Development believes the development buffers are no longer necessary and the proposal will not adversely impact adjacent properties. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties.

The applicant is requesting to deviate from the City's accessory structure ordinance to allow a second accessory structure and to allow encroachment into a 10' and 20' buffer. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the 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:

- 1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.*
- 2. The applicant will install a vegetative buffer along the rear property line.*

Chairman Roy Acree invited the applicant to the podium. Mr. Steve Henson was present and had no additional information for the Board.

There were no additional questions for the applicant or staff.

The Public Hearing was called 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 2021-385 for a Public Hearing and Variance Request (V21-094) to allow a second accessory structure on Land Lot 561 on 0.17 acres located at 2630 Devin Court by applicants Steve and Corrie Henson; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

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

E. [2021-386](#)

Public Hearing - Variance Request - V21-095 - Allow encroachment in 10' landscape buffer - Land Lot 561 - 0.17 acres - 2630 Devin Court - Steve and Corrie Henson

Community Development Planner I, Joey Staubes presented the following information for this item:

The applicant is requesting a variance to construct an in-ground pool and an 81 sq. ft. storage shed at 2630 Devin Court. Thus, the applicant requires a variance to allow construction of a pool as an additional accessory structure with the addition of the storage shed. Section 501 controls the maximum allowable number of accessory structures. Additionally, Riley's Walk originally required certain lots to provide a 10' and 20' buffer from existing lots outside of the development. For the pool and shed to be allowed a variance from those buffers will be required.

The subject parcel is a 0.17-acre lot located on the east side of Devin Court (see Figure 1). The subject parcel and all adjacent parcels are zoned RDA and are occupied by detached single-family residences.

The subject property is currently occupied by a 3,122 sq. ft. single-family home. The applicant is proposing to add an 81 sq. ft. storage shed, and an in-ground pool in the rear of the property. The accessory structure ordinance allows one accessory structure or use per lot and since both a shed and pool are proposed, a variance is required for a second accessory structure. No variances for setback reduction or impervious area increase are required.

The subject property was conditioned to provide a 10' landscape buffer and 20' undisturbed buffer on existing external properties when Riley's Walk was originally rezoned in 2004 (Z04-022) for 26 lots. Riley's Walk has expanded over time and assembled additional properties, including the adjacent property at the rear of the subject property (Z14-020). The rear adjacent

*VARIANCE CASE V21-094-096
September 8, 2021
Page 2 of 6*

property is a landlocked flag lot, acquired for open space, that separates the subject property from the homes outside of Riley's Walk on Highland Ave (Figure 1). Thus, the landscape buffer and undisturbed buffer are no longer necessary as that parcel acts as a permanent buffer. Furthermore, the 20' buffer was conditioned to be removed after the final certificate of occupancy was issued; however, the final plat was never updated to remove the 20' buffer. The 10' landscape buffer does not currently have a vegetative buffer. However, the applicant has agreed to install a buffer on the rear property line and restore 7' of the landscape buffer. Approval of the variance would allow an encroachment of 3' into the landscape buffer.

The applicant is requesting variances to allow a second accessory structure and allow encroachment in development buffers at the rear of the property. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence, and the applicant will install an additional vegetative buffer. Community Development believes the variances requested are the minimum variances needed to allow for both extra storage and a swimming pool on the subject property. Due to the evolution of the subdivision over time, Community Development believes the development buffers are no longer necessary and the proposal will not adversely impact adjacent properties. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties.

The applicant is requesting to deviate from the City's accessory structure ordinance to allow a second accessory structure and to allow encroachment into a 10' and 20' buffer. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or

extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the 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:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.
2. The applicant will install a vegetative buffer along the rear property line.

Chairman Roy Acree invited the applicant, Mr. Steve Henson, to the podium and asked Mr. Henson if was in agreement with the two conditions. Mr. Henson answered in the affirmative and had no further information for the Board.

There were no additional questions for the applicant or staff.

The Public Hearing was called 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 2021-386 for a Public Hearing and Variance Request (V21-095) to allow encroachment in 10' landscape buffer on Land Lot 561 on 0.17 acres located at 2630 Devin Court by applicants Steve and Corrie Henson; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

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

F. [2021-387](#)

Public Hearing - Variance Request - V21-096 - Allow encroachment in 20' undisturbed buffer - Land Lot 561 - 0.17 acres - 2630 Devin Court - Steve and Corrie Henson

Community Development Planner I, Joey Staubes presented the following information for this item:

The applicant is requesting a variance to construct an in-ground pool and an 81 sq. ft. storage shed at 2630 Devin Court. Thus, the applicant requires a variance to allow construction of a pool as an additional accessory structure with the addition of the storage shed. Section 501 controls the maximum allowable number of accessory structures. Additionally, Riley's Walk originally required certain lots to provide a 10' and 20' buffer from existing lots outside of the development. For the pool and shed to be allowed a variance from those buffers will be required.

The subject parcel is a 0.17-acre lot located on the east side of Devin Court (see Figure 1). The subject parcel and all adjacent parcels are zoned RDA and are occupied by detached single-family residences.

The subject property is currently occupied by a 3,122 sq. ft. single-family home. The applicant is proposing to add an 81 sq. ft. storage shed, and an in-ground pool in the rear of the property. The accessory structure ordinance allows one accessory structure

or use per lot and since both a shed and pool are proposed, a variance is required for a second accessory structure. No variances for setback reduction or impervious area increase are required.

The subject property was conditioned to provide a 10' landscape buffer and 20' undisturbed buffer on existing external properties when Riley's Walk was originally rezoned in 2004 (Z04-022) for 26 lots. Riley's Walk has expanded over time and assembled additional properties, including the adjacent property at the rear of the subject property (Z14-020). The rear adjacent property is a landlocked flag lot, acquired for open space, that separates the subject property from the homes outside of Riley's Walk on Highland Ave (Figure 1). Thus, the landscape buffer and undisturbed buffer are no longer necessary as that parcel acts as a permanent buffer. Furthermore, the 20' buffer was conditioned to be removed after the final certificate of occupancy was issued; however, the final plat was never updated to remove the 20' buffer. The 10' landscape buffer does not currently have a vegetative buffer. However, the applicant has agreed to install a buffer on the rear property line and restore 7' of the landscape buffer. Approval of the variance would allow an encroachment of 3' into the landscape buffer.

The applicant is requesting variances to allow a second accessory structure and allow encroachment in development buffers at the rear of the property. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence, and the applicant will install an additional vegetative buffer. Community Development believes the variances requested are the minimum variances needed to allow for both extra storage and a swimming pool on the subject property. Due to the evolution of the subdivision over time, Community Development believes the development buffers are no longer necessary and the proposal will not adversely impact adjacent properties. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties.

The applicant is requesting to deviate from the City's accessory structure ordinance to allow a second accessory structure and to allow encroachment into a 10' and 20' buffer. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the 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:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.
2. The applicant will install a vegetative buffer along the rear property line.

Chairman Roy Acree invited the applicant to the podium. Mr. Steve Henson was present and had no additional information for the Board.

There were no additional questions for the applicant or staff.

The Public Hearing was called 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 2021-38 for a Public Hearing and Variance Request (V21-09) to allow encroachment in 20' undisturbed buffer on Land Lot 561 on 0.17 acres located at 2630 Devin Court by applicants Steve and Corrie Henson; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

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

G. [2021-388](#)

Public Hearing - Variance Request - V21-097 - Allow six foot wooden privacy fence on a corner lot - Land Lot 409 - 0.31 acres - 3840 Highview Terrace - Peter Golaszewski

Community Development Planner I, Joey Staubes presented the following information for this item:

The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard at 3840 Highview Terrace. The subject property has road frontage along two sides of the property, which creates front yards on both Highview Drive and Highview Terrace. The applicant is looking to enclose the backyard for safety and security. Section 501 controls the location and height of fences in the Zoning Code. Additionally, the applicant is proposing to replace an existing non-conforming deck. Section 801 controls the setbacks for residential structures.

The subject property is a 0.31-acre parcel located at the northern intersection of Highview Drive & Highview Terrace (see Figure 1) creating two road frontages. The subject property and all adjacent properties are zoned R-15 and are occupied with single-family detached homes.

In August 2021, the applicant erected a 6-foot wooden privacy fence along the property line on Highview Drive. However, due to the property having two road frontages, both frontages are considered a front yard. Section 501 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 23 feet from the property line on the Highview Drive, which in this case would nearly be touching the house and severely limit the backyard space. As currently constructed the fence causes no visibility concerns at the intersection.

Additionally, the applicant began rebuilding a non-conforming deck at the rear of the home. The deck consists of a 21.5' x 15' upper deck and a 21.5' x 15' lower deck. The lower deck was originally constructed 3 feet from the side property line. Thus, to rebuild the deck a side setback variance from 10 feet to 3 feet is required. The deck was constructed to make more of the rear yard usable due to topographical issues. The original deck did not create any external impacts on the adjacent property, therefore there should be no impacts for the deck replacement.

The applicant is requesting a variance to have a new six-foot wooden privacy fence along the road to provide safety and security, and a side setback variance to replace an existing non-conforming deck. Community Development believes the variances requested are the minimum variances needed and that, at times, a four-foot fence may

not provide adequate privacy on a corner lot.

The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard on a corner lot at 3840 Highview Terrace. 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. Community Development has not received any calls in opposition to the request. After a review of the standards above Community Development believes that the variance will not adversely affect surrounding properties; therefore, staff recommends approval of the requested variance with the following condition:

- 1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted.*
- 2. If the City of Smyrna must work within the right-of-way, the property owner may be required to move the fence at their own expense.*

Chairman Roy Acree invited the applicant to the podium. Mr. Peter Golaszewski was present and had no additional information for the Board.

There were no additional questions for the applicant or staff.

The Public Hearing was called 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 2021-388 for a Public Hearing and Variance Request (V21-097) to allow a six foot wooden privacy fence on a corner lot on Land Lot 409 on 0.31 acres located at 3840 Highview Terrace by applicant Peter Golaszewski; seconded by Boardmember Richard Garland.

The motion to approve carried by the following vote:

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

H. [2021-389](#)

Public Hearing - Variance Request - V21-098 - Allow side setback reduction from 10 feet to 3 feet - Land Lot 409 - 0.31 acres - 3840 Highview Terrace - Peter Golaszewski

Community Development Planner I, Joey Staubes presented the following information for this item:

The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard at 3840 Highview Terrace. The subject property has road frontage along two sides of the property, which creates front yards on both Highview Drive and Highview Terrace. The applicant is looking to enclose the backyard for safety and security. Section 501 controls the location and height of fences in the Zoning Code. Additionally, the applicant is proposing to replace an existing non-conforming deck. Section 801 controls the setbacks for residential structures.

The subject property is a 0.31-acre parcel located at the northern intersection of Highview Drive & Highview Terrace (see Figure 1) creating two road frontages. The subject property and all adjacent properties are zoned R-15 and are occupied with single-family detached homes.

In August 2021, the applicant erected a 6-foot wooden privacy fence along the property line on Highview Drive. However, due to the property having two road frontages, both frontages are considered a front yard. Section 501 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 23 feet from the property line on the Highview Drive, which in this case would nearly be touching the house and severely limit the backyard space. As currently constructed the fence causes no visibility concerns at the intersection.

Additionally, the applicant began rebuilding a non-conforming deck at the rear of the home. The deck consists of a 21.5' x 15' upper deck and a 21.5' x 15' lower deck. The lower deck was originally constructed 3 feet from the side property line. Thus, to rebuild the deck a side setback variance from 10 feet to 3 feet is required. The deck was constructed to make more of the rear yard usable due to topographical issues. The original deck did not create any external impacts on the adjacent property, therefore there should be no impacts for the deck replacement.

The applicant is requesting a variance to have a new six-foot wooden privacy fence along the road to provide safety and security, and a side setback variance to replace an existing non-conforming deck. Community Development believes the variances requested are the minimum variances needed and that, at times, a four-foot fence may not provide adequate privacy on a corner lot.

The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard on a corner lot at 3840 Highview Terrace. 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. Community Development has not received any calls in opposition to the request. After a review of the standards above Community Development believes that the variance will not adversely affect surrounding properties; therefore, staff recommends approval of the requested variance with the following condition:

- 1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted.*
- 2. If the City of Smyrna must work within the right-of-way, the property owner may be required to move the fence at their own expense.*

Chairman Roy Acree invited the applicant to the podium. Mr. Peter Golaszewski was present and had no additional information for the Board.

There were no additional questions for the applicant or staff.

The Public Hearing was called 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 2021-389 for a Public Hearing and Variance Request (V21-098) to allow a setback reduction from 10 feet to 3 feet on Land Lot 409 on 0.31 acres located at 3840 Highview Terrace by applicant Peter Golaszewski; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

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

- A.** [LIC2021-09](#) Privilege License Agent Change Request LIC 2021-09 - Beer & Wine (retail package) - 2390 S. Cobb Drive SE - Walgreen Co. dba Walgreens #05901 with Ornella Adelakun as agent.

Chairman Roy Acree invited the agent, Ms. Ornella Adelakun (Store Manager), forward. Mr. Acree asked of Ms. Adelakun if she had held this type of responsibility before and what protocols are in place to prevent alcohol from being sold to minors. Ms. Adelakun answered that she had not held this responsibility before and explained that all employees are required to complete e-learning training, and the computer system prompts all employees to enter a driver's license scan and/or date of birth before being able to proceed.

There were no further questions for the applicant or the staff.

Boardmember Frank Martin made a motion to approve item LIC 2021-09 for a Privilege License Agent Change Request (LIC 2021-09) for Beer & Wine (retail package) at 2390 S. Cobb Drive SE at Walgreen Co. dba Walgreens #05901 with Ornella Adelakun as agent; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

3. Approval of Minutes:

- A.** [MIN2021-63](#) Approval of the August 25, 2021 License and Variance Board Meeting Minutes.

Boardmember Richard Garland made a motion to approve item MIN 2021-63, the approval of the August 25, 2021 License and Variance Board Meeting Minutes; seconded by Boardmember Frank Martin.

The motion to approve carried with the following vote:

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

4. Adjournment

Chairperson Roy Acree adjourned the September 8, 2021 License and Variance Board Meeting held in Council Chambers at the A. Max Bacon City Hall at 10:20AM.