

# City of Smyrna

*2800 King Street  
Smyrna, Georgia 30080*



## Meeting Minutes

**Wednesday, April 11, 2018**

**10:00 AM**

**Council Chambers**

**License and Variance Board**

**1. Roll Call**

**Present:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Excused:** 3 - Mary Moore, Brian Marcos and David Lee

**Absent:** 1 - Tammi Saddler Jones

**Also Present:** 0

**2. Call to Order**

The meeting License and Variance Board was called to order by Boardmember Roy Acree at 10:00am.

**3. Business**

Suspend the rules to add an item to the agenda

*Boardmember Roy Acree called for a motion to suspend the rules for this meeting.*

A motion was made by Boardmember Scott Stokes to Suspend the Rules for this meeting; seconded by Boardmember Scott Andrews.

The motion to suspend carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

Add item M. V18-029 Public Hearing Variance Request V18-029 to the agenda

A motion was made by Boardmember Scott Andrews to add item M. V18-029 Public Hearing Variance Request, to the agenda; seconded by Boardmember Scott Stokes. The motion to add an item carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

Public Hearing - Privilege License Request LIC2018-11 - Beer, Wine, and Liquor Pouring - 2728 Spring Road - Neighborhood Restaurant Partners LLC dba Applebee's Neighborhood Bar & Grill with Christian Debert Lembcke as agent.

*Boardmember Roy Acree called applicant, Christian Lembcke, to come forward. Mr. Acree asked him to speak on his role with the company and asked if he was the manager for the location on the application. Mr. Lembcke advised that he is a multi-unit area director, that he had 7 units and acquired the Spring Road location this year. Mr. Acree asked if he was the registered agent and if he had other Privilege Licenses for any of the other locations. Mr. Lembcke advised that he was and advised that he had 7 licenses in his name throughout the company. Mr. Acree asked Mr. Lembcke how long he's worked for the company. Mr. Lembcke advised 11 years. Mr. Acree asked him to speak on policies or procedures (inaudible)...will be serving alcohol.*

*Mr. Lembcke advised that all managers, front of the house employees – bartenders and servers go through RSOA (Responsible Service of Alcohol Training); they refresh*

it yearly, take tests and quizzes and each day they sign that they check IDs as well. Mr. Lembcke noted that they have a lot of policies and procedures in place to protect. Mr. Acree asked if there was anything with Applebee's that is electronic. Mr. Lembcke advised that they did all of their training through the point of sale and saved it in the computer. Mr. Acree asked if there were any questions from the Board.

Boardmember Scott Stokes asked for the hours of the Applebee's. Mr. Lembcke stated that they open at 11am and are open until 2am, every night except Sundays when they close at 12am. Mr. Stokes asked when he does he visit the property. Mr. Lembcke advised that he is at the location at least twice a week at different times for various hours. Mr. Stokes asked what his duties were when at the restaurant. Mr. Lembcke stated that he inspects to make sure that they are doing what they are supposed to be doing, making sure the property is clean and checks liquor licenses. Mr. Stokes asked if Mr. Lembcke experienced any incidents at any of the other locations where he holds licenses. Mr. Lembcke advised that he did not.

Mr. Acree advised Mr. Lembcke that the reason they were asking these questions was because they want to ensure that the applicant is as serious about the responsible sale of alcohol to all patrons as the City of Smyrna is and specifically not selling alcohol to minors. Mr. Acree noted that on occasion, the Smyrna Police Department operates undercover sting operations to make sure that none of the employees sell to minors. Mr. Lembcke nodded in agreement.

Mr. Acree announced the public hearing. There was no discussion or comments, Mr. Acree called for a motion.

A motion was made by Boardmember Scott Stokes to approve a Privilege License Request LIC2018-11 for a Beer, Wine, and Liquor Pouring License at 2728 Spring Road by Neighborhood Restaurant Partners LLC dba Applebee's Neighborhood Bar & Grill with Christian Debert Lembcke as agent; seconded by Boardmember Scott Andrews. The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-014 - Reduction of front yard setback for fence from 50 ft. to 10 ft. along S Cobb Drive - Land Lot 347 - 0.41 acres - 2291 S Cobb Dr - Dive In, Inc - Lee Staggs

A motion was made by Boardmember Scott Andrews to table Variance Request V18-014 for a reduction of a front yard setback for a fence from 50 feet to 10 feet along S Cobb Drive in Land Lot 347 on 0.41 acres located at 2291 S Cobb Drive for Dive In, Inc by applicant Lee Staggs; seconded by Boardmember Scott Stokes. This item will be tabled to the April 25, 2018 License and Variance Board Hearing. The motion to table carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-015 - Reduction of front yard setback for fence from 35 ft. to 10 ft. along Ventura Drive - Land Lot 347 - 0.41 acres - 2291 S Cobb Dr - Dive In, Inc - Lee Staggs

A motion was made by Boardmember Scott Stokes to table Variance Request V18-015 for a reduction of a front yard setback for a fence from 35 feet to 10 feet along Ventura Drive in Land Lot 347 on 0.41 acres located at 2291 S Cobb Drive for Dive In,

Inc. by applicant Lee Staggs; seconded by Boardmember Scott Andrews. This item will be tabled to the April 25, 2018 License and Variance Board Hearing.

The motion to table carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-025 - Allow reduction of side setback from 10 feet to 5 feet for construction of new single family home - 0.25 acres - Land Lot 628 - 3336 Creatwood Trail - Rachel and Greg McCullough - *The applicant has withdrawn this request.*

A motion was made by Boardmember Scott Andrews to table Variance Request V18-025 to allow reduction of 50 feet undisturbed buffer for the construction of a new single family home on 0.25 acres in Land Lot 628 located at 3332 Creatwood Trail by applicants Rachel and Greg McCullough; seconded by Boardmember Scott Stokes. This item will be tabled to the April 25, 2018 License and Variance Board Hearing. The motion to table carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-026 - Allow front setback reduction from 35 feet to 16 feet for the construction of a new single family home - 0.25 acres - Land Lot 628 - 3336 Creatwood Trail - Rachel and Greg McCullough

A motion was made by Boardmember Scott Stokes to table Variance Request V18-026 to allow reduction of 75 feet impervious setback for the construction of a new single family home on 0.25 acres in Land Lot 628 located at 3332 Creatwood Trail by applicants Rachel and Greg McCullough; seconded by Boardmember Scott Andrews. This item will be tabled to the April 25, 2018 License and Variance Board Hearing. The motion to table carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-027 - Allow encroachment into 50 ft. Undisturbed Stream Buffer for the construction of a new single family home - 0.25 acres - Land Lot 628 - 3336 Creatwood Trail - Rachel and Greg McCullough

A motion was made by Boardmember Scott Andrews to table Variance Request V18-027 to allow reduction of front setback from 35 feet to 16 feet for the construction of a new single family home on 0.25 acres in Land Lot 628 located at 3332 Creatwood Trail by applicants Rachel and Greg McCullough; seconded by Boardmember Scott Stokes. This item will be tabled to the April 25, 2018 License and Variance Board Hearing.

The motion to table carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-028 - Allow encroachment into 75 ft. Impervious Area Surface Setback for the construction of a new

single family home - 0.25 acres - Land Lot 628 - 3336 Creatwood Trail - Rachel and Greg McCullough

A motion was made by Boardmember Scott Stokes to table Variance Request V18-028 to allow reduction of side setback from 10 feet to 5 feet for the construction of a new single family home on 0.25 acres in Land Lot 628 located at 3332 Creatwood Trail by applicants Rachel and Greg McCullough; seconded by Boardmember Scott Andrews. This item will be tabled to the April 25, 2018 License and Variance Board Hearing.

The motion to table carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-031 - Allow second story on existing single family home with non-conforming front and side setbacks - Land Lot 449 - 0.23 acres - 2821 Fraser Street - Brian Denis

*Boardmember Roy Acree called applicant, Brian Denis to come forward and asked Mr. Denis to describe the project. Mr. Denis advised that he purchased a single story home and would like to add a second story to the home, turn it from a 2 bedroom to a 4 bedroom home and add more square footage. Mr. Acree asked the Board if they had any questions for the applicant; there were none.*

*Mr. Acree asked Mr. Joey Staubes, Planner II from Community Development, to come forward and describe the project. Mr. Staubes advised that the applicant was requesting a variance to build a second story on the existing non-conforming setbacks at 2821 Fraser Street. The existing structure was constructed in 1954, the applicant wanted to keep the existing foundation and first floor framing and build up a second story. Currently the home is 1200 square feet, minimum house size for R-15 zoning is 2000 square feet and the minimum lot size is 15,000 square feet, the lot size of this property is about 10,000 square feet. Mr. Staubes noted that there are a lot of non-conforming qualities which make this a challenging site. He stated that there was also a slope from the lot back to the rear into the right side of the property. He noted that where the foundation is now is the only flat surface on the property. He advised that the applicant stated that they will remove the garage in the back and the driveway that leads to it which will remove some impervious surface on the property.*

*Staff recommended approval with the following condition:*

*1. 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. Acree asked the Board if there were any questions for staff, there were none.*

*Mr. Acree asked Mr. Denis to return to the podium. He asked if he accepted the condition as read into the record and confirmed that the existing garage and driveway/pavement that lead to it will be taken down. Mr. Denis advised that although the former owner used the structure as a garage it was essentially a three-sided carport with a steel structure underneath, they plan to leave the steel structure there but get rid of the access to it and utilize it as an amenity – a hangout area in the backyard. Mr. Acree*

asked if the access was a paved driveway. Mr. Denis advised that it was asphalt that led to a concrete pad that was underneath the steel structure. Mr. Acree asked if the asphalt would be removed, Mr. Denis confirmed that it would be. Mr. Acree asked if pervious service will be added to the lot, Mr. Denis confirmed that it would be added.

Mr. Acree asked the Board if they had any questions for the applicant, there were none.

Mr. Acree announced the public hearing, no one came forward. After no further discussion, Mr. Acree called for a motion.

A motion was made by Boardmember Scott Andrews to approve Variance Request V18-031 to allow a second story on an existing single family home with non-conforming front and side setbacks in Land Lot 449 on 0.23 acres located at 2821 Fraser Street by applicant Brian Denis; seconded by Boardmember Scott Stokes.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-032 - Reduction of Rear Setback from 30 feet to 26 feet for an addition to a single family residence - Land Lot 593 - 0.11 acres - 1515 Walker Street - Tanner Gard

Boardmember Roy Acree called applicant, Tanner Gard to come forward. Mr. Gard had multiple variance requests. Mr. Acree advised that each variance request would be addressed individually then asked Mr. Gard to describe the scope of the entire project. Mr. Gard advised that he and his wife purchased a 2 bedroom, 1 bathroom house, they would like to demo the back portion of the home and extend the roofline to add a third bedroom, a second bathroom, redo the master bathroom and a walk-in closet. Mr. Gard noted that an existing patio deck would be removed and that the addition would not go past the where the deck stood.

Mr. Acree asked Mr. Joey Staubes, Planner II from Community Development, to come forward and describe the project. Mr. Staubes advised that the applicant was requesting a variance at 1515 Walker Street to reduce the rear yard setback of 30 feet to 26 feet for an addition to a single family residence. Home was built in 1929, its 1100 square feet, zoned R-15, roughly 6000 square feet in area. It is an existing non-conforming lot, the applicant wanted to remove a deck and build a master bedroom in its place which will not encroach the rear setback any further than where the deck now stands.

Mr. Acree asked if there were any questions for staff, there were none. Mr. Staubes returned to the podium to state staff recommendations. At the time of this report, Community Development has not received any phone calls regarding the variance request. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents.

Staff recommended approval with the following conditions:

1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan and elevations submitted with the variance application.

2. Prior to issuance of building permit the applicant will provide a survey showing the

*City's 50 foot undisturbed stream buffer and 75 foot impervious setback buffer.*

*Mr. Acree calls Mr. Gard to come forward. He asked Mr. Gard if he agreed to both conditions, Mr. Gard stated that he did.*

*Mr. Acree announced the public hearing, no one came forward. After no further discussion, Mr. Acree called for a motion.*

A motion was made by Boardmember Scott Stokes to approve Variance Request V18-032 for a reduction of a Rear Setback from 30 feet to 26 feet for an addition to a single family residence in Land Lot 593 on 0.11 acres located at 1515 Walker Street by applicant Tanner Gard; seconded by Boardmember Scott Andrews.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-033 - Reduction of Side Setback from 10 feet to 8 feet for an addition to a single family residence - Land Lot 593 - 0.11 acres - 1515 Walker Street - Tanner Gard

*Mr. Gard remained at the podium.*

*Mr. Acree advised that the project had already been discussed and asked Mr. Gard if he had any additional information he would like to add. Mr. Gard did not.*

*Mr. Acree called Mr. Staubes to come forward, asked if there was any additional information. Mr. Staubes advised that there was none and noted that the same two conditions would carry over to this request as well.*

*Mr. Acree asked the Board if there were any questions from staff or the applicant, there were none.*

*Mr. Acree announced the public hearing, no one came forward. After no further discussion, Mr. Acree called for a motion.*

A motion was made by Boardmember Scott Andrews to approve Variance Request V18-033 for a reduction of Side Setback from 10 feet to 8 feet for an addition to a single family residence in Land Lot 593 on 0.11 acres located at 1515 Walker Street by applicant Tanner Gard; seconded by Boardmember Scott Stokes.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-034 - Allow increase in impervious coverage maximum from 35% to 54.3% of lot area - Land Lot 593 - 0.11 acres - 1515 Walker Street - Tanner Gard

*Mr. Acree called Mr. Gard to come forward. Mr. Gard advised that he had no further comments regarding the project.*

*Mr. Staubes came forward. He advised that the size of the lot was what was driving the request to increase the impervious coverage, that it was existing at 53.7% and that the applicant was proposing to increase it to 54.3% which staff considered a marginal increase. Mr. Acree noted that it was a negligible increase. Mr. Staubes stated that*

staff recommended approval with the same conditions noted in the two prior variance requests.

Mr. Acree asked the Board if there were any questions for staff or the applicant.

Boardmember Scott Stokes advised that he had questions for the applicant. Mr. Stokes addressed the amount of negligible impervious increase. He asked Mr. Gard if the water would be pushed any other way and whether the neighbor downstream would be affected. Mr. Gard advised that the neighbor would not be. Mr. Stokes asked which way did the water currently run and where the water would drain. Mr. Gard advised that it would go straight to the back.

Mr. Acree noted that with the addition on the rear of the home, the gutter system would be in place to manage the diversion of the storm water. Mr. Gard agreed.

Mr. Acree announced the public hearing, no one came forward. After no further discussion, Mr. Acree called for a motion.

A motion was made by Boardmember Scott Stokes to approve Variance Request V18-034 to allow an increase in impervious coverage maximum from 35% to 54.3% of lot area in Land Lot 593 on 0.11 acres located at 1515 Walker Street by applicant Tanner Gard; seconded by Boardmember Scott Andrews.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**Public Hearing** - Variance Request - V18-030 - Allow encroachment into 50 ft. Undisturbed Buffer - Land Lot 383 - 0.289 acres - 1522 Grace Meadows Lane - Alejandro Barraza

Boardmember Roy Acree called applicant, Alejandro Barraza to come forward and asked Mr. Barraza to describe his overall project.

Mr. Barraza advised that the home was purchased in October of 2017, the backyard was not a useable space due to the amount of trees, sloping and grading. He noted that the project had 4 elements which were the removal of trees, regrading of the ground, due to the grade being so steep they will need a short retaining wall and then to lay sod to replace the trees.

Mr. Acree asked if the Board had any questions for the applicant.

Boardmember Scott Stokes advised that he was looking at the site plans and noted that there were several trees. He asked Mr. Barraza if he planned to remove all of the trees. Mr. Barraza advised that there may be very few left. Mr. Stokes inquired about the type of fence currently in the backyard. Mr. Barraza advised that it was a wooden fence but did not have the specific height measurement and noted that one could not see over the fence if standing in front of it.

Mr. Acree asked Mr. Joey Staubes, Planner II from Community Development, to come forward and describe the project. Mr. Staubes advised that the applicant was requesting to encroach into the City's 50 foot undisturbed buffer for a landscape project and that in order to remove the trees, they would have to disturb the 50 foot stream buffer. Mr. Staubes noted that the City Engineer spoke with the applicant and had no issues with the project since it involved regrading and sodding where the trees are presently.

Staff recommended approval with the following condition:

1. Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.

Mr. Acree asked if there were any questions for staff.

Mr. Stokes stated that he had questions for the applicant. The applicant came forward. Mr. Stokes asked about the tree removal and how he planned to approach the removal of the trees; would he do so via Austin Drive or Grace Meadows. Mr. Barraza advised that a portion of the fence would be removed for the landscaper, more than likely on Austin Drive. Mr. Stokes advised the applicant and staff to be sure that they consult with Public Works staff, the City Engineer or the site development inspector in order to ensure that they don't make a mess of Austin Drive by damaging curbs or dragging mud into the roadway. The applicant advised that he would.

Mr. Acree asked the applicant if he agreed to the condition as stated by Mr. Staubes, he advised that he did.

Mr. Acree announced the public hearing, no one came forward. After no further discussion, Mr. Acree called for a motion.

A motion was made by Boardmember Scott Andrews to approve Variance Request V18-030 to allow encroachment into 50 foot Undisturbed Buffer in Land Lot 383 on 0.289 acres located at 1522 Grace Meadows Lane by applicant Alejandro Barraza; seconded by Boardmember Scott Stokes.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**M.**

**Public Hearing** - Variance Request - V18-029 - Allow encroachment into 30 ft. Undisturbed Buffer - Land Lot 383 - 0.289 acres - 1522 Grace Meadows Lane - Alejandro Barraza

Mr. Acree asked the applicant if he had any additional comments, there were none. He asked the Board if they had any questions for the applicant, they had none.

Mr. Acree asked Mr. Staubes to return to the podium. Mr. Staubes advised that the 30 foot buffer was unusual; it was added when the property was rezoned and subdivided to keep a visual screening along Austin Drive. He stated that the trees in question were tall pine trees that were not doing much to help the buffer. Mr. Staubes stated that he personally drove down that street, that there would still be some trees on that side of the property because there were trees on the outside of the fence and that it met the intent of the 30 foot buffer.

Staff recommended approval with the same condition from the prior item.

Mr. Acree called the applicant forward and asked him if he understood and agreed with the condition. The applicant advised that he did.

Mr. Acree announced the public hearing, no one came forward. After no further discussion, Mr. Acree called for a motion.

A motion was made by Boardmember Scott Stokes to approve Variance Request V18-029 to allow encroachment into 30 feet Undisturbed Buffer in Land Lot 383 on

0.289 acres located at 1522 Grace Meadows Lane by applicant Alejandro Barraza; seconded by Boardmember Scott Andrews.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Scott Stokes and Scott Andrews

**4. Approval of Minutes:**

**A.** Approval of the March 28, 2018 License and Variance Board Meeting Minutes

*Boardmember Roy Acree confirmed with City Clerk Terri Graham that the minutes from March 28, 2018 would not be approved at this meeting. She advised that he was correct and that the minutes would be approved at the next License and Variance Board Meeting.*

**5. Adjournment**

*at 10:36am*