



Meeting Minutes - Final License and Variance Board

Wednesday, March 8, 2017

10:00 AM

Council Chambers

1. Roll Call

Present: 3 - Tammi Saddler Jones, Mary Moore and Scott Stokes

Also Present: 4 - Joey Staubes, Christiana Craddock, Bob Summerville and Russell Martin

2. Call to Order

Chairperson Tammi Saddler Jones called the March 8, 2017 meeting of the License and Variance Board to order at 10:00am.

3. Business

- A. **Public Hearing** - Variance Request - V17-013 - Allow front setback reduction from 35 feet to 30 feet - 0.29 acres - Land Lot 376 - 2621 Linnwood Drive - Jose Gustavo Sassman - ***Staff Requests the item be withdrawn***

Chairperson Tammi Saddler Jones announced the public hearing.

City Planner Joey Staubes said after further investigation, it was determined that the front porch met the setback requirements therefore there was no need for a variance.

A motion was made by Boardmember Scott Stokes to withdraw without prejudice at the request of staff item V17-013 for a variance request (V17-013) to allow a front setback reduction from 35 feet to 30 feet on 0.29 acres, Land Lot 376 located at 2621 Linnwood Drive by the applicant Jose Gustavo Sassman; seconded by Boardmember Mary Moore.

The motion carried by the following vote:

Aye: 3 - Tammi Saddler Jones, Mary Moore and Scott Stokes

- B. **Public Hearing** - Variance Request - V17-014 - Allow fence height increase in front yard from four feet to six feet on a corner lot - 0.39 acres - Land Lot 596 - 3257 Pinetree Drive - Carsten and Anna Heiliger

Chairperson Tammi Saddler Jones announced the public hearing and asked the applicant to come to the podium. Mr. Carsten Heiliger said their lot had a 4 foot fence surrounding the backyard, but it was actually a front yard because it was on a corner. He said there was a pool in the backyard, and the way the fence is constructed, it is easy to scale. He said they wanted to raise the fence for security reasons and

because there were a lot of young children in the neighborhood and he was concerned about them hopping the fence.

City Planner Joey Staubes said the home was located at the corner of Collier and Pinetree. He said the section they would be replacing was about 32 feet in length, parallel to Collier Drive. He said they posted signage and notified adjacent property owners with no opposition. He said staff recommended approval with one condition, that the fence be built in substantial compliance with the site plan and fence details submitted with the variance application.

Chairperson Tammi Saddler Jones asked the applicant if he accepted the condition, and he said yes. She asked if there was anyone else present to speak on the item, and there was no one.

A motion was made by Boardmember Mary Moore to approve with conditions as listed item V17-014 for a variance request (V17-014) to allow a fence height increase in front yard from four feet to six feet on a corner lot on 0.39 acres, Land Lot 596 located at 3257 Pinetree Drive by the applicant Carsten and Anna Heiliger; seconded by Boardmember Scott Stokes.

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

The motion carried by the following vote:

Aye: 3 - Tammi Saddler Jones, Mary Moore and Scott Stokes

C.

Public Hearing - Variance Request - V17-015 - Allow additional accessory structure in rear yard - 0.83 acres - Land Lot 543 - 1358 Wynbrook Trace - Courtney and Matthew LaVallee

Chairperson Tammi Saddler Jones announced the public hearing and asked the applicant to come to the podium. Mr. Chris Adams said he was present to represent the LaVallees. He said he did the drafting for the permit and variance. He explained that the applicants bought the home in hopes of building a pool in the backyard and did not know there was an accessory structure stipulation. He said there was a small batting cage on the back side of the property, and below a wall there was a sports court, both of which were level with the ground. They are asking for the addition of a pool, which would be considered a third structure.

City Planner Joey Staubes said the property was a residential property in Vinings Estates, and it was adjacent to Whitefield Academy in the rear yard, but there were densely forested woods there to provide a natural buffer. He said the applicant received approval from the Vinings Estates HOA. He said since the court and pool were at grade, they do not see a negative impact on adjacent properties and recommend approval.

Boardmember Mary Moore asked if there would be a fence around the pool, and Mr. Adams replied there it would be a 5 foot aluminum wrought style fence with self-closing and self-latching gates, per code.

Boardmember Scott Stokes asked what direction runoff from the pool deck went, and Mr. Adams replied that the yard is level and drainage was already set up with the sports court. He said it would be shed drained, and there was a wall adjacent to the pool location that already has drainage. He also added that there was a large wooded area between the property and the academy, and he did not see any impact with

extra drainage or runoff. Boardmember Scott Stokes said part of his motion may be to make sure the drainage from the pool and deck does not impact adjoining neighbors.

Chairperson Tammi Saddler Jones asked Mr. Adams if he would accept that, and he said yes. She announced the public hearing and asked if there was anyone else who wished to speak on the item, and there was no one.

A motion was made by Boardmember Scott Stokes to approve with conditions as listed item V17-015 for a variance request (V17-015) to allow additional accessory structure in rear yard on 0.83 acres, Land Lot 543 located at 1358 Wynbrook Trace by the applicants Courtney and Matthew LaVallee; seconded by Boardmember Mary Moore.

1. Condition that the pool deck and construction of pool runoff does not affect adjoining neighbors.

The motion carried by the following vote:

Aye: 3 - Tammi Saddler Jones, Mary Moore and Scott Stokes

D.

Public Hearing - Variance Request - V17-016 - Allow encroachment into City 50 ft. undisturbed buffer and 75 ft. impervious setback - 21.69 acres - Land Lot 663 - 1836 Roswell Street - Avonlea Square, LLC - Mark Keappler, Manager/Kevin Moore, Attorney

Chairperson Tammi Saddler Jones announced the public hearing and asked the applicant to come to the podium. Attorney Kevin Moore said he was there representing Avonlea Square, LLC, a multifamily developer owner and operator in metro Atlanta. He explained that during their redevelopment of Avonlea Square a mistake was made with a playground encroaching into a stream buffer. He said the management company wanted to provide a playground area as a part of the redevelopment of the community, and it was placed in an area where a stream was located. Once they were made aware that they had encroached into the buffer, they took steps to meet with Community Development staff and Public Works staff to determine what could and needed to be done to rectify the issue. He said included with the variance application was the park layout (a swing set, jungle gym, and benches) and a restoration landscape plan commitment that consisted of planting of 272 trees, shrubs, and bushes (15 varieties). Mr. Kevin Moore added that this space was the only location to place the playground and recreation area, and it also provided for a natural trail that can be used by residents.

Boardmember Scott Stokes asked if the nature trail was part of the playground, and Mr. Moore said there would be a wood bridge constructed across the creek for the trail, but no asphalt or concrete material would be used. He said there would be no additional impervious area added whatsoever.

City Planner Joey Staubes spoke to the variance and said the area where the playground is proposed has already been cleared and graded, so now Staff is just looking to see what can be done to restore the buffer and limit/mitigate any potential impacts. He said there was still a significant buffer between the play area and the adjacent properties (100-200 feet of pine trees). He reiterated Mr. Moore's statement that there was not much area to put the playground in besides this space, and besides the buffer issue there would be no other issues with the location. He said staff reviewed the request, notified properties, posted signage, and recommended approval (with the City Engineer) to approve the variance application with two

conditions: the standard condition to build in accordance with the site plan submitted and that no additional impervious materials would be added or setback other than what is on the site plan.

Boardmember Scott Stokes asked how the violation came to be known, and Mr. Rusty Martin said he was on site doing a tree inspection (staff inspects trees one year after planting to make sure they are maintained and alive). He said while he was out there, he saw they installed the playground and graded up to the edge of the creek bank. He then notified the City Engineer, Environmental Tech, and property owner, and they all met on site to discuss the issue.

Chairperson Tammi Saddler Jones announced the public hearing and asked if there was anyone present to speak on the item.

Mr. Charlie Wiley said he stood in objection to the variance and lived downstream from the creek. He said he was concerned about negative effects on the creek and those that live around it.

Ms. Edith Lester (2566 Gordon Circle) said she was opposed to the playground and thought the playground and fence might affect future uses of the area.

Ms. Maddie Conley echoed what the two precious citizens said.

Ms. Valerie Vinny, of 2567 Bates Street, said she had questions. She wanted to know if the playground had already been built. She also said she tried to enter Avonlea Estates to discuss what was going on, but was not allowed to enter the community. She questioned the need for a playground in the community when one existed in Rose Garden Park.

Mr. Kevin Moore responded that yes, the playground was already in place.

Mr. Rusty Martin explained the variance application process and said if the City approves the variance, then the issue is considered resolved, and if it is not approved, then they will have to remove the items.

Chairperson Tammi Saddler Jones asked for clarification that the recommendation of approval was based on the information presented today, and Mr. Joey Staubes said that was correct.

Boardmember Scott Stokes clarified that Avonlea Square was a private apartment community with a fence around it, and Mr. Moore said that was correct. He added that where the playground equipment is located is on the other side of the stream and up into the community, well away from any adjoining property owners on the other side of the stream. He said it was not proposed for a public park and does not have any impact on future uses of the adjoining properties. Chairperson Tammi Saddler Jones said it was not uncommon for apartment complexes to have recreational things just for residents. Mr. Kevin Moore said he was happy to arrange for the concerned residents to come see it if they would like.

Ms. Vinny said that the fence around the property, where her property and this property meet, is currently in need of repair because it is used as a cut through for people in the neighborhood to get easy access to Windy Hill. She said the fence belongs to the apartment community and she has tried to speak to them about getting it repaired. Mr. Moore said he would be happy to get that information and make sure the fence repair is communicated to the management company. He said the Board could also offer that as a condition in approval of the variance.

Chairperson Tammi Saddler Jones asked if he would accept this condition, and Mr. Moore said yes.

A motion was made by Boardmember Scott Stokes to approve with conditions as listed item V17-016 for a variance request (V17-016) to allow an encroachment into City 50 ft. undisturbed buffer and 75 ft. impervious setback on 21.69 acres, Land Lot 663 located at 1836 Roswell Street by the applicant Avonlea Square, LLC and Mark Keappler, Manager/Kevin Moore, Attorney; seconded by Boardmember Mary Moore.

1. Approval is conditioned upon substantial compliance with the site plan and buffer restoration as submitted with the variance application.
2. No additional impervious area within the 50 ft. undisturbed buffer or 75 ft. impervious setback other than what is depicted on the site plan shall be allowed.
3. The property owner of Avonlea Square will take care of any fence repairs necessary around the perimeter subject site.

The motion carried by the following vote:

Aye: 3 - Tammi Saddler Jones, Mary Moore and Scott Stokes

4. Approval of Minutes:

A. Approval of the February 22, 2017 Meeting Minutes of the License and Variance Board

A motion was made by Boardmember Mary Moore to approve item 2017-89 for the approval of the February 22, 2017 Meeting Minutes of the License and Variance Board; seconded by Boardmember Scott Stokes.

The motion carried by the following vote:

Aye: 3 - Tammi Saddler Jones, Mary Moore and Scott Stokes

5. Adjournment

Chairperson Tammi Saddler Jones adjourned the March 8, 2017 meeting of the License and Variance Board to order at 10:37am.