



Meeting Minutes - Final License and Variance Board

Wednesday, July 26, 2017

10:00 AM

Council Chambers

1. Roll Call

Present: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

Also Present: 4 - Christiana Craddock, Joey Staubes, Russell Martin and Jim Cox

2. Call to Order

Chairperson Tammi Saddler Jones called the July 26, 2017 meeting of the License and Variance Board to order at 10:00am.

3. Business

A. [LIC2017-12](#)

Public Hearing - Privilege License Request LIC2017-12 - Beer, Wine, and Liquor Pouring - 4574 South Cobb Dr - Jim N Nicks Atlanta I, LLC dba Jim N Nicks Bar-B-Q with Paul Owen Smith as agent.

Attachments: [JIM N NICKS.pdf](#)

Chairperson Tammi Saddler Jones announced the public hearing and the applicant, Mr. Paul Smith, came forward. She asked him if he had a copy of the City's alcohol beverage ordinance, read it, understood it, and agreed to abide by it, and he said yes. She asked if he took the responsible alcohol sales class and received his certificate, and he said yes. Mr. Smith stated that all new employees go through 5 days of training where the importance of not selling to minors and carding every guest is emphasized. He said they consider it a serious matter and servers are instructed to bring any issues or questions about alcohol sales directly to management.

Boardmember Roy Acree asked Mr. Smith to describe his role in the store, and he said he was the supervisor and was there on average 20 hours a week, at various times.

Chairperson Tammi Saddler Jones asked the applicant if he was aware that the Smyrna Police Department conducted undercover investigations and if someone is caught selling alcohol to a minor they will be taken directly to jail, and he said yes, that was made very clear to his staff. Chairman Saddler Jones asked if there was anyone else who wished to speak during the public hearing, and there was no one.

A motion was made by Boardmember Scott Stokes to approve Item LIC2017-12, a Privilege License Request (LIC2017-12) for Beer, Wine, and Liquor Pouring at 4574 South Cobb Dr, Jim N Nicks Atlanta I, LLC dba Jim N Nicks Bar-B-Q with Paul Owen Smith as agent; seconded by Boardmember Roy Acree.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

B. [LIC2017-14](#)

Public Hearing - Privilege License Request LIC2017-14 - Beer, Wine, and Liquor Package - 3791 South Cobb Drive - Hanuman Group LLC dba Mr. Bill's Package Store with Jatinder Kumer as agent.

Attachments: [MR BILLS PACKAGE.pdf](#)

Chairperson Tammi Saddler Jones announced the public hearing, and the applicant, Mr. Jatinder Kumer, came forward. She asked him if he received a copy of the City's alcohol beverage ordinance, read it, understood it, and agreed to abide by it, and he said yes. She asked what steps were in place in the store to make sure no one sells alcohol to minors, and he said it was just he and his wife who worked in the store. He said if they ever added more staff, he would make sure they were trained as well. Chairperson Saddler Jones asked if he had completed the responsible alcohol sales class, and Mr. Kumer said both he and his wife did.

Boardmember Acree asked what the standard practice was when someone comes to the store to purchase alcohol, and Mr. Kumer said they check everyone's IDs. Chairperson Saddler Jones asked the applicant if he understood the Smyrna Police Department conducts undercover sting operations and if anyone is caught selling alcohol to a minor they will be taken to jail immediately, and Mr. Kumer said they were aware and had previous checks in the past. Chairperson Saddler Jones said the police department conducted a background check on Mr. Kumer and there was no information on it that would preclude the issuance of the license. She asked if there was anyone else present who wished to speak on the item, and there was no one.

A motion was made by Boardmember Roy Acree to approve item LIC2017-14, a Privilege License Request (LIC2017-14) for Beer, Wine, and Liquor Package sales at 3791 South Cobb Drive, owned by Hanuman Group LLC dba Mr. Bill's Package Store with Jatinder Kumer as agent; seconded by Boardmember Scott Stokes.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

C. [V17-042](#)

Public Hearing - Variance Request - V17-042 - Allow reduction of rear setback for accessory structure from 5 feet to 2 feet - 0.21 acres - Land Lot 486 - 1048 Medlin Street - Kyle Cook

Attachments: [V17-042&43 - MEMO](#)
[APPLICATION](#)
[SITE PLAN](#)

Chairperson Tammi Saddler Jones announced the public hearing and applicant Kyle Cook came forward. He said he built a shed in his back yard and was a first-time homeowner, and did not know to check with the City about setbacks. He said currently the shed was 5 feet from the side property line, and 2 feet from the back property line, which is 5 feet and 3 feet out of code, respectively. He said he had been communicating with staff, and it seems as though they are recommending the side setback variance, but not the rear setback variance due to water runoff from the shed into the ditch behind the back fence. He said he had additional photos, and he shared them with the Board. He said even if he slides the shed forward to comply, the water will still runoff from the shed into the ditch (approximately 4 ft deep and 5 ft

wide). He said he would be willing to put a gutter system and divert the water through the ditch, and that he did not want to upset the neighbors or cause erosion on the property. He said he was happy to provide mitigation efforts if that would alleviate the concerns.

City Planner Joey Staubes said the variance was for a reduction in the rear setback from 5 feet to 2 feet. He said the shed was in the left side of the rear yard and the single family home was built recently, with an infiltration pit in the right side of the property. He said the property graded from left to right, and the shed was at the high point of the property, and the roof drains towards the fence of the adjacent property. He said staff was concerned that the runoff from the shed would create erosion issues on the adjacent property and possibly along the fence posts. Mr. Staubes finished by saying staff did not see any hardship as to why the shed could not be moved and they recommended denial of the variance.

Boardmember Scott Stokes asked if any Community Development staff had been back to view the property, and Mr. Staubes replied no, only in the front of the property. Boardmember Roy Acree addressed the applicant and said that in residential developments, water runoff and retention are highly contested things when grading is not done properly, which is the reason why the back corner of his yard rises up and has a ditch to help mitigate water runoff. He said the mitigation provided by a gutter system sometimes works, but sometimes does not, and they have to be done just right with the downspout being piped to get all the watershed from the roof back towards the retention area in the back yard. Boardmember Acree said the Board wanted to find a way to make this situation a win/win, but they were having trouble identifying a hardship for them to consider waiving the requirements and awarding the variance. Mr. Kyle Cook replied that as far as a hardship, there is a tree in front of the shed, and if he moves the shed three feet forward, it will touch the tree and eventually it would have to be removed. He said the other hardship is the gate in his backyard is 3.5 feet wide, and in order to get the equipment back to move the shed, multiple sections of the fence would have to be removed in order to bring the equipment in to lift the shed.

Boardmember Acree stated that as the structure was built on site, it could probably be moved without large equipment, by creating a new support and then sliding it. He added that he was personally struggling with the decision because he did not want to create unnecessary hardship for the applicant, but was having a difficult time justifying the award of the variance, and Chairperson Tammi Saddler Jones agreed.

Boardmember Scott Stokes asked where the ditch drains to, and Mr. Cook said there was a slight grade down and a rock bed for the ditch and drain basin, but he was not sure where it led to. Boardmember Stokes asked how long it took him to build the fence, and he said it took six people a full day.

Chairperson Tammi Saddler Jones announced the public hearing and asked if there was anyone else present who wished to speak on the item, and there was no one.

A motion was made by Boardmember Scott Stokes to deny Item V17-042, a Variance Request (V17-042) to allow the reduction of the rear setback for an accessory structure from 5 feet to 2 feet on 0.21 acres located on Land Lot 486 at 1048 Medlin Street by the applicant Kyle Cook; seconded by Boardmember Roy Acree.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

D. [V17-043](#)

Public Hearing - Variance Request - V17-043 - Allow reduction of side

setback for accessory structure from 10 feet to 5 feet - 0.21 acres - Land Lot 486 - 1048 Medlin Street - Kyle Cook

Chairperson Tammi Saddler Jones announced the public hearing. She informed the applicant, Mr. Kyle Cook, that he could appeal the Board's decision on the previous variance request to the Mayor and Council via a request in writing to the City Clerk within ten days. She asked if he had any additional comments on this side setback variance, and Mr. Cook said no, ideally he would like the variance for the side setback so he could just slide the shed forward three feet.

City Planner Joey Staubes said what differentiates this side setback from the previous request is that the size of the property is limited, and there are trees all around the yard and structure. He said staff sees the hardship for this variance request as the amount of space that is available. He said there would not be an adverse affect on the neighboring property because trees buffer on the side of the property, and they recommend approval of the request.

Boardmember Roy Acree said he was more comfortable with this variance request because of the way the structure is built, with the gable end being on the side setback, so there is no issue with where the water is going to. He also said that he believed the shed could be moved forward a few feet without an immense amount of work, by putting in new supports and sliding it forward.

Chairperson Tammi Saddler Jones asked if there was anyone else present who wished to speak on the item, and there was no one.

A motion was made by Boardmember Roy Acree to approve Item V17-043, a Variance Request (V17-043) to allow the reduction of the side setback for an accessory structure from 10 feet to 5 feet on 0.21 acres on Land Lot 486 located at 1048 Medlin Street, by the applicant Kyle Cook; seconded by Boardmember Scott Stokes.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

4. Approval of Minutes:

- A. [2017-286](#) Approval of the minutes from the July 12, 2017 meeting of the License and Variance Board.

Attachments: [07-12-2017 July 12, 2017 LVB Meeting Minutes - FINAL.pdf](#)

A motion was made by Boardmember Scott Stokes to approve Item 2017-286, the approval of the minutes from the July 12, 2017 meeting of the License and Variance Board; seconded by Boardmember Roy Acree.

The motion carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Scott Stokes

5. Adjournment

Chairperson Tammi Saddler Jones declared the July 26, 2017 meeting of the License and Variance Board adjourned at 10:23am.