

# City of Smyrna

*2800 King Street  
Smyrna, Georgia 30080*



## Meeting Minutes

**Wednesday, June 27, 2018**

**10:00 AM**

**Council Chambers**

**License and Variance Board**

**1. Roll Call**

**Present:** 3 - Roy Acree, Mary Moore and Scott Stokes

**Also Present:** 2 - Elsa Thompson and Joey Staubes

**2. Call to Order**

*The meeting of the License and Variance Board was called to order by Boardmember Roy Acree at 10:04am.*

**3. Business****A. Public Hearing - Variance Request - V18-046 - Allow reduction of side setback from 10 feet to 1 foot for a carport addition to a single family residence - 0.31 acres - Land Lot 778 - 2474 Spring Drive - Thomas DeSousa**

*Boardmember Roy Acree called applicant, Thomas DeSousa to come forward. Mr. Acree asked Mr. DeSousa to give a brief explanation of the variance request.*

*Mr. DeSousa advised that the purpose of the request was for a carport that was put in place to replace the old carport because the original carport was built in the 1960s. He noted that the location of the carport was the "only logical place for the carport". He advised that the carport was located on the side of the home where the driveway entered the property.*

*Mr. Acree inquired how old the new carport was. Mr. DeSousa advised that it was less than a year old.*

*There were no further questions for the applicant.*

*Mr. Acree called Community Development Planner Joey Staubes to the podium. Mr. Staubes advised that the structure was built prior to obtaining a building permit. He stated that code enforcement was notified and that a variance request application was submitted because the carport was in a setback. Mr. Staubes noted that many homes in the area with carports were in the setbacks. He advised that staff recommended approval with 3 conditions:*

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

*2. Downspouts and gutters will be installed to divert stormwater away from adjacent properties.*

*3. If approved, applicant shall apply for building permit and have inspections in order to ensure the structure meets building code requirements.*

*Mr. Staubes stated that there was a complaint from one neighbor who expressed concerns about stormwater running onto their property.*

*There were no questions from the Board for staff.*

*Mr. Acree addressed the applicant and asked if he accepted the conditions. The applicant advised that he accepted and was willing to comply.*

*Boardmember Scott Stokes asked the applicant how he would handle water runoff and inquired if Mr. DeSousa had spoken with the Building Department. Mr. DeSousa advised that he was installing a new roof and gutters on the main house and would simultaneously have the gutter with a downspout installed with a drain tube on the carport. He stated that he had not spoken with the Building Department.*

*Boardmember Mary Moore asked the applicant for the timeframe on the roof project and if the new carport had the same footprint as the old one. The applicant advised that the roof project would begin as soon as they got past the issue with the approval of the variance request. He stated that he was unsure about the prior carport's measurements because it had been torn down prior to him purchasing the home.*

*The Public Hearing was announced.*

*Mr. William Danfield Hayes came forward. He advised that he owned the property located at 2468 Spring Drive which was next door to Mr. DeSousa's property. He stated that it was an investment property of his and it was occupied by tenants. He stated that he did not believe there was a carport there prior to the new one being built. He advised that the carport was built approximately 9.5 inches from his property line and that water ran directly towards a retaining wall on his property. He noted that he was concerned that the water would damage his retaining wall and felt that the carport was too close to his property.*

*Mr. Acree advised Mr. Danfield that one of the conditions that had been placed on this request was that the applicant ensure that the stormwater runoff did not affect Mr. Danfield's property with the use of gutters and downspouts. Mr. Danfield noted that gutters clog and fail and stated that he measured the distance from the carport pole to his property line himself. He also noted that the overhang was probably over the property line. He advised that he was trying to protect his property interest, that he owned multiple properties on the street and was trying to abide by the zoning laws.*

*Mr. Acree inquired if there was anyone else that would like to speak on this matter. No one came forward.*

*Mr. Acree acknowledged that the applicant had comments and he would allow him to speak.*

*Mr. DeSousa came forward and advised that the gutters he planned to install would have guards and the drains would have a cloth to prevent clogging. He stated that the carport roof was flat and that there would be more dripping of water than runoff. He reiterated that with the gutter guards there would be no clogging.*

*Mr. Stokes advised that he had questions for staff. Mr. Staubes returned to the podium.*

*Mr. Stokes asked Mr. Staubes that if this variance request was approved and the applicant did not comply, was the offense citable. Mr. Staubes advised that code enforcement could cite applicant for noncompliance.*

*Mr. Stokes then addressed his comments to the applicant, Mr. DeSousa. Mr. Stokes*

noted to the applicant about the brick retaining wall that ran alongside the property. He inquired which way the water flowed from the applicant's property when it rained. Mr. DeSousa advised that it ran towards the front lawn of his home. Mr. Stokes inquired about the foundation under the posts that held up the carport. Mr. DeSousa advised that there were bolts that went into the concrete driveway. Mr. Stokes inquired which way the downspouts would be installed so that it would push the water to not cross the property line. Mr. DeSousa advised that he could have a pipe installed that would run all the way out into the street if that's what staff preferred. Mr. Stokes asked Mr. DeSousa what his intentions were. Mr. DeSousa advised that his intentions were to have a contractor make the recommendations and reiterated the items he would have installed in order to be in compliance. Mr. Stokes asked the applicant if he understood that he must remain in compliance and that any violation was citable in court.

Mr. Hayes returned to the podium and stated that the variance request stated 1 foot but it was less than 1 foot.

Mr. Acree asked Mr. Staubes to address Mr. Hayes's comments.

Mr. Staubes advised that the numbers were only estimates without a survey being done.

Mr. Stokes inquired, "Ordinance-wise" – where the measurements were to be taken from. Mr. Staubes advised that the measurements would be taken from the post or if there was a wall it would be taken from the wall. Mr. Stokes asked if it is possible that an overhang could cross a property line. Mr. Staubes noted that, "as far as setback goes, it's measured from the side wall".

Mr. Stokes asked to address the applicant. He asked Mr. DeSousa what his contention plan was. Mr. DeSousa advised that there were 31 "like structures" in the neighborhood; the overhang did not exceed the property line and that when the carport was constructed, it was done so in that space because it was the only plausible place to put the carport. Mr. Stokes inquired if the applicant had measured the distance between the pole and the property line. The applicant advised that he had and that it was 10 inches from the inside of the retaining wall.

Mr. Acree acknowledged that a young woman in the audience wanted to speak. Mr. DeSousa advised that it was his daughter whom was the homeowner. Mr. Acree stated that he would allow her to speak only if she had additional information to add.

Ms. Meagan DeSousa came forward and advised that the intention for the carport was for her brother whom was a special needs young man. She noted that he lived in the home and does not like the rain or sun; the main purpose was to be able to get him into the home without any difficulties. Mr. DeSousa added that his son had an illness called William's Syndrome.

Mr. Stokes asked staff to include a fourth condition, that an "as built" survey be completed to ensure that the applicant was in compliance with 1 foot request.

Mr. Acree asked the applicant if he accepted all of the conditions as stated. The applicant accepted all of the conditions.

After no further discussion, Mr. Acree called for a motion.

A motion was made by Boardmember Scott Stokes to approve Variance Request V18-046 to allow reduction of side setback from 10 feet to 1 foot for a carport addition

to a single family residence on 0.31 acres in Land Lot 778 located at 2474 Spring Drive by applicant Thomas DeSousa; seconded by Boardmember Mary Moore.  
The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Mary Moore and Scott Stokes

**B. Public Hearing - Variance Request - V18-047 - Allow six foot chain link fence in front yard - 0.77 acres - Land Lot 381 - 642 Concord Road - City of Smyrna**

*Boardmember Roy Acree advised that the applicant for this variance request was the City of Smyrna and that there was a representative that would be addressing the matter; Mr. Tom Robinson with Croy Engineering.*

*Mr. Acree stated that the City did this to hold itself accountable as they would any applicant and also for transparency. Mr. Acree asked Mr. Robinson if he was an employee of the City of Smyrna; Mr. Robinson advised that he was not. Mr. Acree then asked Mr. Robinson to explain the need for the variance.*

*Mr. Robinson advised that the request was to replace a 6 foot chain link fence with another 6 foot chain link fence on the southside of Fire Station 2.*

*Boardmember Mary Moore inquired if the original fence was also 6 foot. Mr. Robinson advised that it was and that there was barbwire along the top.*

*Mr. Acree called Mr. Staubes to come forward and provide the background on the property.*

*Mr. Staubes advised that the property had road frontage on Concord Road and on Smyrna Hill Drive. He stated that it was a replacement of a 6 foot fence that was primarily needed to screen a detention pond which was code required. He advised that staff recommended approval with no conditions.*

*Mr. Acree announced the public hearing. No one came forward.*

*There were no further questions or comments from the Board.*

*Mr. Acree called for a motion.*

A motion was made by Boardmember Scott Stokes to approve Variance Request V18-047 to allow a six foot chain link fence in the front yard on 0.77 acres in Land Lot 381 located at 642 Concord Road by applicant City of Smyrna; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Mary Moore and Scott Stokes

**C. Public Hearing - Allow second accessory structure for construction of a carport - 0.334 acres - Land Lot 345 - 2660 Estelle Court - Timothy Scott McGohan**

*Boardmember Roy Acree asked applicant, Timothy Scott McGohan to come forward. He advised that Mr. McGohan had 3 variance requests. He asked that Mr. McGohan give an overview of all of the projects and noted that each request would be voted on individually.*

Mr. McGohan advised that he bought the home about 2.5 years ago. He advised that there was a deteriorating structure in the backyard that was noted as a garage but he considered it more of a work room. He stated that he would like to build a carport where the structure was. The second request is for a "Rubbermaid" storage unit in the backyard to hold tools, etc. within code at the front of where the foundation was but not within code in the back because of how the property line angles. The third request was due to the structure being intended for two cars but he would need it to be larger because there may be three cars parked at one time due to his parents possibly moving in. He noted that it would not be bigger than his neighbor's garage and stated that he was trying to make the home more functional.

Mr. Acree clarified Mr. McGohan's statements.

Boardmember Mary Moore the size of the carport that could shelter three cars. The applicant advised that it would be 22 X 22. He noted that regular sized vehicles would fit under the carport however his parents drove a van which may possibly hang out. He also noted that he was trying to keep all of the vehicles safe from the elements the 100 year old trees that were on the property that he stated "often lose limbs" and hail. Ms. Moore inquired if the driveway was paved and if he planned to do more paving. Mr. McGohan advised that it was, that he would not be installing anymore pavement but that his contractor would be installing new footers for the structure.

Community Development Planner Joey Staubes came forward. He advised that the applicant was requesting to deviate from the City's maximum size for an accessory structure and to allow a second accessory structure. He noted that requests primarily revolved around the sides of the house. He noted that the home was smaller than the R15 minimum house size which was 2,000 square feet, this home was 1,100 square feet. He added that the applicant would be adding to the foundation and that a side setback reduction to 6 feet was required so another condition was added. He advised that staff recommended approval with 2 conditions:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted.
2. Gutters and downspouts shall be installed to divert stormwater away from adjacent properties.

Mr. Acree asked the applicant if he accepted all of the conditions as stated. The applicant accepted all of the conditions.

The public hearing was announced.

Ms. Meg Perry came forward. She advised that she lived at 2670 Estelle Court, on the southside of applicant's property. She noted that the small shed was hardly visible and that she had no objections to the applicant's requests.

After no further discussion, Mr. Acree called for a motion.

A motion was made by Boardmember Mary Moore to approve Variance Request V18-048 to allow a second accessory structure for construction of a carport on 0.334 acres in Land Lot 345 located at 2660 Estelle Court by applicant Timothy Scott McGohan; seconded by Boardmember Scott Stokes.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Mary Moore and Scott Stokes

- D. Public Hearing** - Allow increase in accessory structure size from 25% to 44% of primary structure - 0.334 acres - Land Lot 345 - 2660 Estelle Court - Timothy Scott McGohan

*Boardmember Roy Acree asked the applicant, Mr. Timothy Scott McGohan if he had any any additional information to add. Mr. McGohan advised that he did not.*

*Staff had no additional comments and there were no questions from the Board.*

*The public hearing was announced. 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 V18-049 to allow an increase in accessory structure size from 25% to 44% of primary structure on 0.334 acres in Land Lot 345 located at 2660 Estelle Court by applicant Timothy Scott McGohan; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Mary Moore and Scott Stokes

- E. Public Hearing** - Allow side setback reduction from 10 feet to 6 feet for construction of carport - 0.334 acres - Land Lot 345 - 2660 Estelle Court - Timothy Scott McGohan

*Boardmember Roy Acree asked the applicant, Mr. Timothy Scott McGohan if he had any any additional information to add. Mr. McGohan advised that he did not.*

*Staff had no additional comments and there were no questions from the Board.*

*The public hearing was announced. No one came forward.*

*After no further discussion. Mr. Acree called for a motion.*

A motion was made by Boardmember Mary Moore to approve Variance Request V18-050 to allow side setback reduction from 10 feet to 6 feet for construction of a carport on 0.334 acres in Land Lot 345 located at 2660 Estelle Court by applicant Timothy Scott McGohan; seconded by Boardmember Scott Stokes.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Mary Moore and Scott Stokes

**4. Approval of Minutes:**

- A.** Approval of the June 13, 2018 License and Variance Board Meeting Minutes

*Meeting went into Recess*

A motion was made by Boardmember Scott Stokes to approve the June 13, 2018 License and Variance Board Meeting Minutes; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

**Aye:** 3 - Roy Acree, Mary Moore and Scott Stokes

**5. Adjournment**

*Boardmember Roy Acree adjourned the meeting of the License and Variance Board at 10:45am.*