

City of Smyrna

*2800 King Street
Smyrna, Georgia 30080*



Meeting Minutes

Wednesday, February 13, 2019

10:00 AM

Council Chambers

License and Variance Board

1. Roll Call

Present: 3 - Roy Acree, Mary Moore and Frank Martin

Also Present: 4 - Ken Suddreth, Russell Martin, 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 10:01 am.

3. Business

A. Public Hearing - Variance Request - V19-005 - Allow six foot wooden privacy fence in front yard on a corner lot - Land Lot 377 - 0.53 acres - 715 Bank Street - Mike Kaprich

Boardmember Roy Acree asked applicant, Mike Kaprich, to come forward and give a brief overview of the variance request. Mr. Kaprich advised he would be replacing an existing fence that was "rotting" on a corner lot. He stated that he was looking to secure the property due to "a lot of foot traffic" and noted that there were no sidewalks. Mr. Acree noted that the home was on a corner lot and because of how the City code reads, there were two front yards on the property – one facing Bank Street and the other, Stonecreek Road. Mr. Acree also noted that the item was regarding the height of the fence and advised that the ordinance allowed a height of 4 feet in the front yard, the applicant was requesting a height of 6 feet. Mr. Acree clarified with the applicant that there was an existing fence on the property that was being replaced. Mr. Kaprich confirmed that it was a picket fence.

Mr. Acree asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that this request was to allow a 6-foot privacy fence in the front yard of a corner lot. He provided a brief overview of the City's code and stated that the wooden privacy fence would be a replacement of an existing fence. Mr. Staubes stated that the applicant was requesting a "slightly taller" fence than the City ordinance regulated. He noted that the fence would neither barricade the home nor create any sight visibility issues. Mr. Staubes advised that the adjacent properties had been notified and that notices were posted on the property as well. He also made note that the City had approved many requests like this one in the past, that staff reviewed the request and recommended approval.

Boardmember Mary Moore clarified whether a variance request would have been needed if the applicant had replaced the existing fence with a 4-foot fence. Mr. Staubes advised that she was correct.

Mr. Acree announced the public hearing.

Ms. Teresa Renae Fisher-Ari came forward and advised that she lived "3 houses down" from Mr. Kaprich's property. Ms. Fisher-Ari stated that she had no issues with the height of the fence but did have "an issue" with the picket fence being replaced with a solid fence. She also expressed concerns about the floodway, stated that she felt the solid fence would serve as an "obstruction" during a flood, and inquired if an engineer surveyed the property. Mr. Acree advised that the City Engineer was present at the hearing.

Ms. Katrina Sellers came forward and advised that she lived four houses from Mr. Kaprich's property, on Stonecreek Road. She stated that she had seen "substantial" flooding occur in the area and was concerned about the floodway.

Mr. Acree advised that the Board had also questioned whether the fence would create additional flooding issues in the area and found that the City had already done their part reviewing the possible impact. He then stated that the City Engineer would come forward and address the item.

City Engineer Kevin S. Moore came forward and stated that he had been contacted in November (2018) by a member of the Board to review this project. He read over the City ordinance (relating to the floodway) and advised the he contacted the Department of Natural Resources for their professional opinion and was advised that "a residential fence is unlikely to create an adverse impact". He stated that she visited the property and agreed with the State's findings. Mr. Moore advised that after his conversation with the State, he recommended that the fence be moved 20 feet and the applicant had complied, therefore the applicant had met the City's conditions. Mr. Moore also advised that the decorative, wooden fence Mr. Kaprich installed did not warrant the "hydrologic and hydraulic" analysis stated in the ordinance and noted that if the fence had been another material (i.e., wrought iron) he would have recommended the analysis.

Mr. Acree asked Mr. Moore if (in his professional opinion) the analysis was not needed because the type of fence installed was not able to hold back a "substantial amount of water". Mr. Acree made note that he did not believe the fence would survive a flood as floodway water weighed 8.34 pounds per gallon without any flow or movement. Mr. Moore stated he agreed with Mr. Acree's statements and based on his experience did not believe the fence would create "a dam".

Ms. Sellers returned to the podium and stated that she wanted to make sure she could "take the City Engineer's word" that their homes were safe and that the wooden fence did not "act as a dam". In response to Ms. Sellars, Mr. Acree advised that it was the opinion of the City Engineer and the State that the wooden fence would not pose an issue and reminded the audience that the purpose of the hearing was regarding the height of the fence. Mr. Acree then stated that he did not know that anyone in a flood zone area would be "safe". Ms. Sellars stated that this was "crucial to their property and flood insurance. Mr. Acree reiterated Mr. Moore's statements and noted that the impact of the fence would not increase the likelihood of flooding. Ms. Sellars stated that she wanted that in writing. Mr. Acree advised that everything stated in the hearing was public record. Mr. Acree advised that in this floodway there were similar fences and stated that the addition of this fence or any other fence would not change the State's flood claim outcome.

Mr. Moore returned to the podium to clarify comments he made earlier in the hearing. He stated that he could only guide his decision based on the ordinance, which stated, "development may be permitted, provided it is demonstrated through hydrologic and hydraulic analyses performed" and in his opinion, and the opinion of the State, the analysis was not warranted for this type of fence. Mr. Moore also stated that he could not "attest" to Ms. Sellars' statements about her home being safe but could attest to what the City ordinance stated.

Ms. Fisher-Ari returned to the podium and quoted a portion of the City's ordinance, "encroachments are prohibited, including earthen fill" and advised that she did not know if what was used was earthen fill. She continued quoting the ordinance and

stated that her home had a wire fence to allow the water "to move". Ms. Fisher-Ari inquired if the fence would change the floodway width and questioned data the City used to make their decision.

The applicant, Mr. Kaprich, returned to the podium. He stated that he understood his neighbors' concerns and that his property was "in a gully"; was not sure how a wooden fence would cause a "dam".

After no further discussions or comments, Mr. Acree called for a motion.

A motion was made by Boardmember Mary Moore to approve Variance Request V19-005 to allow a six foot wooden privacy fence in the front yard, on a corner lot, in Land Lot 377 on 0.53 acres located at 715 Bank Street by applicant Mike Kaprich; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Mary Moore and Frank Martin

B.

Public Hearing - Variance Request - V19-006 - Allow rear setback reduction from 25 feet to 11 feet for construction of a deck - Land Lot 618 - 0.22 acres - 1701 Clay Brooke Court - Barefoot Decks LLC/David Baker

Boardmember Roy Acree asked applicant, David Baker, to come forward. Mr. David Balzer came forward and advised that the name on the item was incorrect. Mr. Balzer stated that the property was on an "extremely sloped lot", had 3 front facing yards, and no "usable" backyard. He that in 2018 he decided to extend the backyard and went to Cobb County for "zoning" approval and received it but later learned that he needed to request a variance from the City of Smyrna. Boardmember Frank Martin clarified with the applicant that the request was only for "an addition".

Mr. Acree asked Community Development Planner Joey Staubes to come forward. Mr. Staubes apologized to the applicant and noted that the "L and the Z were combined on the application" (causing the incorrect name on the item). Mr. Staubes advised that the request was for a setback reduction that would allow for the existing deck to be enlarged since the backyard of the property was "challenged". He noted that instead of regrading the rear yard, the applicant was requesting the variance to increase the size of the deck to increase the usable area of the yard. Mr. Staubes also noted that the property was "cater-cornered", facing three roads, which greatly reduced the buildable area. Mr. Staubes stated that the adjacent properties had been notified and that notices were posted on the property as well. He advised that staff reviewed the request and recommended approval with one condition:

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.

Mr. Acree asked the applicant if he accepted the condition as stated. The applicant accepted.

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

After no further discussions or comments, Mr. Acree called for a motion.

A motion was made by Boardmember Mary Moore to approve Variance Request V19-006 to allow a rear setback reduction from 25 feet to 11 feet for the construction of a deck in Land Lot 618 on 0.22 acres located at 1701 Clay Brooke Court by applicant Barefoot Decks LLC/David Balzer; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Mary Moore and Frank Martin

C.

Public Hearing - Variance Request - V19-009 - Allow side setback reduction from 12 feet to 6 feet to construct an attached garage - Land Lot 557 - 0.44 acres - 1445 Collier Drive - A. Peter and Lee C. DiCenso

Boardmember Roy Acree asked applicants, A. Peter and Lee C. DiCenso, to come forward. Mr. Peter DiCenso came forward and advised that he moved into a home on a corner lot in November of 2018. The applicant advised that he wanted to construct an attached garage and due to the orientation of the home, and the existing driveway, the most reasonable area to construct the garage was slightly within the side setback. Boardmember Mary Moore inquired if the garage would be on a paved surface, expressed concern about the impervious surface. The applicant advised that it was a gravel driveway.

Mr. Acree asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the request was for a side setback reduction from 12 feet to 6 feet. He advised that the home was at an angle and the applicant was attempting to "orient" the garage with the existing driveway which warranted the request. Mr. Staubes stated that the adjacent properties had been notified and that notices were posted on the property as well. He stated that staff reviewed the request and recommended approval with one condition:

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. The garage is not permitted to have a full kitchen and may not be rented or occupied for gain.

Mr. Staubes noted that the conditions were not specific to this property but were general requirements of the City's ordinance.

Mr. Acree inquired if staff recommendation required impervious surface review. Mr. Staubes advised that it did. Ms. Moore inquired if the garaged was considered a detached structure. Mr. Staubes advised that it was an attached structure because it would be connected to the home via the breezeway.

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

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

After no further discussions or comments, Mr. Acree called for a motion.

A motion was made by Boardmember Mary Moore to approve Variance Request V19-009 to allow a side setback reduction from 12 feet to 6 feet to construct an attached garage in Land Lot 557 on 0.44 acres located at 1445 Collier Drive by

applicants A. Peter and Lee C. DiCenso; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Mary Moore and Frank Martin

D. Public Hearing - Variance Request - V19-010 - Allow increase in sign area for ground based monument sign - Land Lot 753 - 1.74 acres - 5220 S Cobb Drive - Clipper Petroleum Inc./Mark Linkesh

Boardmember Roy Acree asked applicant, Mark Linkesh, to come forward. Mr. Linkesh with Clipper Petroleum, Inc. came forward and advised that they were developing a Clipper/BP gas station on South Cobb Drive. The variance request was to increase the monument sign from 32 feet to 57 feet; he noted that they worked with staff on the increase. Mr. Acree clarified that when Mr. Linkesh used the term "feet" he was speaking specifically about the monument size.

Mr. Acree asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the applicant was requesting and increase to the freestanding monument which would reduce the overall sign area which would result in the sign being 23 square feet less than allowed. Mr. Acree clarified if reducing the square footage of the sign would reduce the total square footage and be within the ordinance allowance. Mr. Staubes advised that he was correct. Mr. Staubes stated that staff recommended approval with no conditions.

Boardmember Mary Moore inquired if the increase on the sign would create visibility issues for drivers. Mr. Staubes advised that it would not because the height would be the same, the sign would only be slightly wider.

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

After no further discussions or comments, Mr. Acree called for a motion.

A motion was made by Boardmember Mary Moore to approve Variance Request V19-010 to allow an increase in sign area for ground-based monument sign in Land Lot 753 on 1.74 acres located at 5220 S. Cobb Drive by applicant Clipper Petroleum Inc./Mark Linkesh; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Mary Moore and Frank Martin

4. Approval of Minutes:

A. Approval of the January 23, 2019 License and Variance Board Meeting Minutes

A motion was made by Boardmember Mary Moore to approve the January 23, 2019 License and Variance Board Meeting Minutes; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Mary Moore and Frank Martin

5. Adjournment

Boardmember Roy Acree adjourned the meeting of the License and Variance Board at 10:40 am.