



City of Smyrna

2800 King Street
Smyrna, Georgia 30080

Meeting Minutes - Final Approved License and Variance Board

Wednesday, September 22, 2021

10:00 AM

Council Chambers

Roll Call

Present: 3 - Roy Acree, Frank Martin and Richard Garland

Also Present: 0

Staff: 4 - Heather Peacon-Corn, Kelly Moon, Joey Staubes and Jill Head

1. Call to Order

Chairperson Roy Acree called to order the License and Variance Board Meeting at 10:00 am.

2. Business

A. [2021-279](#)

Public Hearing - Variance Request - V21-053 - Increase the maximum impervious area from 35% to 50% for a swimming pool - Land Lot 561 - 1355 Marston Street - Kenya Brock & Yvonne Lloyd

This will be tabled to the October 13, 2021 License and Variance Meeting at the request of the applicant.

Boardmember Richard Garland made a motion to table to the October 13, 2021 License and Variance Board meeting item 2021-279, a variance request (V21-053) to increase the maximum impervious area from 35% to 50% for a swimming pool on land lot 561 at 1355 Marston Street by applicants Kenya Brock and Yvonne Lloyd; seconded by Boardmember Frank Martin.

The motion to table carried with the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

B. [2021-291](#)

Public Hearing - Variance Request - V21-069 - Reduce the side setback from 10 feet to 5 feet - Lot 415 - 863 Church Street - Nathan Corbitt -

This will be tabled to the October 13, 2021 License and Variance Board hearing.

Boardmember Frank Martin made a motion to table to the October 13, 2021 License and Variance Board meeting item 2021-291, a variance request (V21-069) to reduce the side setback from 10 feet to 5 feet on lot 415 at 863 Church Street by applicant Nathan Corbitt; seconded by Boardmember Richard Garland.

The motion to table carried with the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

C. [LIC2021-08](#)

Privilege License Agent Change Request LIC 2021-08 - Beer & Wine (retail package) - 2530 Cumberland Blvd SE - Sprouts Markets, LLC dba Sprouts Farmers Market #530 with Billy Jones as agent.

Chairperson Roy Acree asked the applicant to come forward. Mr. Billy Jones, agent, and Mindy Thompson with Sprouts' attorney's office, came forward. Mr. Acree expressed that the community is really looking forward to having the Sprouts come in to the area. He asked Mr. Jones to describe his role as agent. Mr. Jones stated that his role is to oversee all stores in western Georgia and Alabama, so he is present in-store fairly often. Mr. Jones further explained that he has acted in this role previously and will be the primary agent for this store, but he could cycle off as managers come on board.

Mr. Acree asked Mr. Jones to discuss what protocols are in place to make sure alcohol sales are completed lawfully. Mr. Jones explained that they have virtual training in place as well as written training and face-to-face training. They also participate in the Bars Program, and they are trained to ask for identification from anyone that is perceived to be under 40 years of age. The registers also prompt the employee for a date of birth.

Mr. Acree stated that the Smyrna Police Department did do the comprehensive background check on Mr. Jones and found nothing.

There were no further questions.

Boardmember Richard Garland made a motion to approve item LIC2021-08, a privilege license agent change request for beer and wine (retail package) at 2530 Cumberland Blvd SE for Sprouts Markets, LLC dba Sprouts Farmers Market #530 with Billy Jones as agent; seconded by Boardmember Frank Martin.

The motion passed with the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

D. [2021-418](#)

Public Hearing - Variance Request - V21-099 - Allow reduction of rear setback from 30 feet to 15 feet - 1.02 acres - Land Lot 412 - 3414 S Cobb Drive - SW Smyrna PS LLC

Joey Staubes, Community Development Planner II, presented the following:

The applicant is proposing to redevelop the property located at 3414 S Cobb Drive to accommodate a 10,640 sq. ft. retail store. The proposed redevelopment will require a variance for a parking reduction from 59 spaces to 45 spaces and a rear setback reduction from 30 ft. to 15 ft. Section 906 of the Zoning Ordinance controls the minimum required parking spaces per use and Section 802 controls the minimum building setbacks.

The subject parcel is 1.02 acres located on the west side of S Cobb Drive and south side of Lake Drive (see Figure 1). The subject parcel and adjacent parcels are zoned GC (General Commercial) and are occupied by various commercial uses.

The subject property consists of two parcels (a 0.77 acre parcel and a 0.25 acre parcel) in the shape of an "L", that were previously occupied with a drive-thru restaurant. The applicant is proposing to build a 10,640 sq. ft. retail store for PopShelf. The property consists of one access drive on Lake Drive, and two access drives on S Cobb Drive. The applicant is proposing to consolidate the two S Cobb Drive access drives into one drive with a deceleration lane for right turns. The applicant is requesting two variances due to the shape and configuration of the two parcels.

Section 906.10 of the Zoning Ordinance requires 59 parking spaces on the subject property, which is calculated at 5.5 spaces per 1,000 square feet of gross floor area. Due to the geometry and configuration of the parcels, the applicant can only provide 45 spaces. The applicant is also requesting a rear setback reduction from 30 feet to 15 feet, per Section 802. The configuration of the two parcels is a unique circumstance applying to the property. Additionally, the variances are required to achieve traffic flow for customer and emergency response vehicles.

Community Development believes the hardship is not self-created, as the lot configuration is unique and has existed since the previous use. Additionally, the parking lot will be updated to comply with the current code requirements, including ADA parking and landscaping requirements.

The applicant is requesting to deviate from the City's required parking minimums. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the requests against the variance review standards and found them to be in compliance with the review standards. Community Development believes that the requested variances will not adversely affect surrounding properties. Therefore, Community Development recommends approval of the requested variance 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 submitted with the variance application.*
- 2. The applicant shall submit a consolidation plat prior to issuance of a land disturbance permit.*
- 3. The dumpster shall be enclosed by a three-sided masonry enclosure.*
- 4. Georgia Department of Transportation approval is required for driveway improvements along S Cobb Drive.*
- 5. Prior to issuance of land disturbance permit a hydrology study in accordance with the City Stormwater Management Ordinance is required, subject to approval by the City Engineer.*

Kit Creighton, representative from SW Smyrna PS LLC, added that there are two other locations of Popshelf in Powder Springs and Austell. Those two locations were established buildings that they moved into while this one in Smyrna will be construction from the ground up, so it will look a little different from the others. The building will comply with the S Cobb overlay and have a strong visual appearance. She further stated that their hours of operation will be from 9:00 am - 9:00 pm, Monday through Sunday. Popshelf is a store that sells household goods, decorations, as well

as candies, health and beauty products, and toys. They anticipate bringing 10 -15 immediate jobs to the area. They agree and will comply with all conditions.

A public hearing was called, and no one came forward in favor of or in opposition to this item.

Boardmember Frank Martin made a motion to approve item 2021-418, a variance request (V21-099) to allow reduction of rear setback from 30 feet to 15 feet on 1.02 acres on land lot 412 at 3414 S Cobb Drive by applicant SW Smyrna PS LLC; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

E. [2021-419](#)

Public Hearing - Variance Request - V21-100 - Allow parking reduction from 59 spaces to 45 spaces - 1.02 acres - Land Lot 412 - 3414 S Cobb Drive - SW Smyrna PS LLC

Ms. Creighton wanted to reiterate that they are purchasing the lot behind the convenience store solely to increase parking and to facilitate better traffic flow through the site, as well as close one of the entrances on S Cobb Dr to accommodate better flow of traffic.

A public hearing was called, and no one came forward in favor of or in opposition to this item.

Boardmember Richard Garland made a motion to approve item 2021-419, a variance request (V21-100) to allow parking reduction from 59 spaces to 45 spaces on 1.02 acres on land lot 412 at 3414 S Cobb Drive by the applicant SW Smyrna PS LLC; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

F. [2021-421](#)

Public Hearing - Variance Request - V21-101 - Allow reduction of front setback from 35 feet to 12.5 feet - 2.65 acres - Land Lot 334 - 570 Disposal Plant Road - Sarai Jones

Joey Staubes, Community Development Planner II, presented the following:

The applicant is proposing to build a new home on an existing lot of record that is currently undeveloped at 570 Disposal Plant Road. The applicant is requesting a variance to allow a front setback reduction and encroachment into the City's 75-foot impervious setback to construct the new home. The City's stream buffers are controlled by Chapter 46 of the City's Code of Ordinances and residential setbacks are controlled by Section 801 of the City's Zoning Code.

The subject parcel is a 2.65-acre lot located on the south side of Disposal Plant Road (see Figure 1). The subject parcel and adjoining parcels to the east, west, and south are zoned R-15. The properties to the north are zoned RDA. All are occupied with detached single-family homes except the property to the east which is vacant.

The subject property is greatly encumbered by the State's 25-foot stream buffer, the

City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious setback. Only approximately 0.5 acres of the 2.65-acre lot is buildable due to stream buffers and topographical challenges. The stream runs diagonally through the property emanating from a spring head on the westerly side of the property; thus, stream buffers consume much of the property.

The applicant is proposing to build a 4,933 sq. ft. single-family home on the subject property. The applicant is requesting a front setback reduction from 35 feet to 12.5 feet for the preservation of the 50' Undisturbed Stream Buffer. Approximately 9,091 sq. ft. of impervious surface will encroach the 75' Impervious Surface Setback; however, the applicant will dedicate 21,000 sq. ft. of area elsewhere on the property for compensation. The site plan indicates there will be four guest parking spaces on the west side of the property. Community Development recommends those spaces be removed to reduce impervious coverage for the site and lessen impact to the stream.

The City Engineer has reviewed the plan and can support the proposed buffer compensation. Prior to issuance of a land disturbance permit, the applicant will be required to submit a water quality plan for the site with 80% TSS removal.

Community Development believes the hardship is not self-created, as the lot of record existed prior to the adoption of the stream buffer ordinance. Community Development believes these are the minimum variances needed to allow the property to be developed, due to the location of the stream buffers and topographical challenges of the site, and that there should be no negative impacts to adjacent properties if approved.

The applicant is requesting relief from the City's 75-foot impervious setback and 35-foot front setback to construct a new home on the subject property. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property;

(3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

- 1. Approval of the subject property for 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. The four guest parking spaces be removed from the site plan.*
- 3. The applicant shall provide water quality for the site subject to approval by the City Engineer.*

The applicant, Ms. Sarai Jones, stated that when she purchased the property, she did not realize the creek had setbacks, so she has been trying to work with the City to be able to build a home on this property. She stated she is in agreement and will comply with the conditions set forth. Chairperson Roy Acree stated that because of the acreage available, it is better to offset the 75 foot buffer by moving the house forward.

A public hearing was called. Mr. Mark Zamelli, 4245 Nowlin Drive, came forward to speak in opposition to this variance request. Mr. Zamelli's home borders one side of the property in question. He stated that when he purchased his home approximately one year ago, he was under the impression that the property in question could not be built upon, and he is concerned about the natural spring and creek being affected by building so near it. He also expressed concern that if they were to remove the four guest parking spaces, people would then begin to park on the street. Mr. Acree noted that all parking for the property will be on the property.

Boardmember Frank Martin made a motion to approve item 2021-421, a variance request (V21-101) to allow reduction of front setback from 35 feet to 12.5 feet on 2.65 acres on land lot 334 at 570 Disposal Plant Road by applicant Sarai Jones; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

G. [2021-423](#)

Public Hearing - Variance Request - V21-102 - Allow encroachment into the 75-foot Impervious Surface Setback - 2.65 acres - Land Lot 334 - 570 Disposal Plant Rd - Sarai Jones

Joey Staubes, Community Development Planner II, presented the following:

The applicant is proposing to build a new home on an existing lot of record that is currently undeveloped at 570 Disposal Plant Road. The applicant is requesting a variance to allow a front setback reduction and encroachment into the City's 75-foot impervious setback to construct the new home. The City's stream buffers are controlled by Chapter 46 of the City's Code of Ordinances and residential setbacks are controlled by Section 801 of the City's Zoning Code.

The subject parcel is a 2.65-acre lot located on the south side of Disposal Plant Road (see Figure 1). The subject parcel and adjoining parcels to the east, west, and south are zoned R-15. The properties to the north are zoned RDA. All are occupied with detached single-family homes except the property to the east which is vacant.

The subject property is greatly encumbered by the State's 25-foot stream buffer, the City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious setback. Only approximately 0.5 acres of the 2.65-acre lot is buildable due to stream buffers and topographical challenges. The stream runs diagonally through the property emanating from a spring head on the westerly side of the property; thus, stream buffers consume much of the property.

The applicant is proposing to build a 4,933 sq. ft. single-family home on the subject property. The applicant is requesting a front setback reduction from 35 feet to 12.5 feet for the preservation of the 50' Undisturbed Stream Buffer. Approximately 9,091 sq. ft. of impervious surface will encroach the 75' Impervious Surface Setback; however, the applicant will dedicate 21,000 sq. ft. of area elsewhere on the property for compensation. The site plan indicates there will be four guest parking spaces on the west side of the property. Community Development recommends those spaces be removed to reduce impervious coverage for the site and lessen impact to the stream.

The City Engineer has reviewed the plan and can support the proposed buffer

compensation. Prior to issuance of a land disturbance permit, the applicant will be required to submit a water quality plan for the site with 80% TSS removal.

Community Development believes the hardship is not self-created, as the lot of record existed prior to the adoption of the stream buffer ordinance. Community Development believes these are the minimum variances needed to allow the property to be developed, due to the location of the stream buffers and topographical challenges of the site, and that there should be no negative impacts to adjacent properties if approved.

The applicant is requesting relief from the City's 75-foot impervious setback and 35-foot front setback to construct a new home on the subject property. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

1. Approval of the subject property for 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. The four guest parking spaces be removed from the site plan.
3. The applicant shall provide water quality for the site subject to approval by the City Engineer.

A public hearing was called, and no one came forward in favor of or in opposition to this item.

Boardmember Richard Garland made a motion to approve item 2021-423, a variance request (V21-102) to allow encroachment into the 75-foot impervious surface setback on 2.65 acres on land lot 334 at 570 Disposal Plant Road by applicant Sarai Jones; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

3. **Approval of Minutes:**

A. [MIN2021-66](#) Approval of the September 8, 2021 License and Variance Board Meeting Minutes.

Boardmember Frank Martin made a motion to approve the September 8, 2021 License and Variance Board Meeting minutes; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

Aye: 3 - Roy Acree, Frank Martin and Richard Garland

4. Adjournment

Chairperson Roy Acree adjourned the September 22, 2021 License and Variance Board Meeting held in Council Chambers at the A. Max Bacon City Hall at 10:26 AM.