



City of Smyrna

2800 King Street
Smyrna, Georgia 30080

Meeting Minutes - Final License and Variance Board

Wednesday, October 13, 2021

10:00 AM

Council Chambers

Roll Call

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

Also Present: 0

Staff: 5 - Joey Staubes, Heather Peacon-Corn, Jill Head, Dat Luu and Kelly Moon

1. Call to Order

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

2. Business

A. [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 27, 2021 License and Variance Board hearing.

Boardmember Frank Martin made a motion to table item 2021-291 a public hearing and variance request (V21-069) to reduce the side setback from 10 feet to 5 feet on lot 415 located 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, Richard Garland and Frank Martin

B. [LIC2021-10](#)

Privilege License Agent Change Request LIC 2021-10 - Beer & Wine (retail package) - 475 Windy Hill Road SE - DRA Group Inc dba Windy Hill Food Mart with Devan Patel as agent.

Mr. Devan Patel, owner, came forward at the request of Chairperson Acree. Mr. Acree asked what policies and procedures are in place to assure alcohol is not sold to those underage. Mr. Patel stated that he has taken the required training, learned how to identify fake ID's, and they have a system in place that requires those who are at the cash register to enter a date of birth if alcohol or tobacco are being purchased.

Chairperson Acree stated that Mr. Patel's requisite training is on file and further stated that his background check had no issues.

Boardmember Frank Martin made a motion to approve item LIC2021-10 for a privilege license agent change request (LIC2021-10) for beer and wine (retail package) at 475 Windy Hill Road SE by applicant DRA Group Inc dba Windy Hill Food Mart with Devan Patel as agent; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

C. [LIC2021-11](#)

Privilege License Agent Change Request LIC 2021-11 - Beer, Wine, & Liquor (retail pouring) - 1061 Concord Road SE - Bens Crab Smyrna Corp dba Bens Crab with Ivan Raintung as agent.

Mr. Ivan Raintung, agent, came forward at the request of Chairperson Acree. Mr. Acree asked Mr. Raintung to describe the business. Mr. Raintung stated that it will be a seafood restaurant and bar, and they are anticipating opening November 1, 2021. Mr. Acree asked if Mr. Raintung has ever served as an agent of this type before. Mr. Raintung answered that he has restaurants in South Fulton and Forsyth County as well and serves as agent for both of those establishments. Mr. Acree asked Mr. Raintung to describe the policies and practices in place to responsibly sell alcohol. Mr. Raintung answered that he has taken the alcohol awareness training, they train their restaurant staff, check ID's. Mr. Acree asked if the applicant knew that the Smyrna Police Department will occasionally perform undercover work. Mr. Raintung confirmed he understands and knows that can be expected.

Chairperson Acree stated that Mr. Raintung's requisite training is on file and further stated that his background check had no issues.

Boardmember Frank Martin made a motion to approve item LIC2021-11 for a privilege license agent change request (LIC2021-11) for beer, wine, and liquor (retail pouring) at 1061 Concord Road SE by applicant Bens Crab Smyrna Corp dba Bens Crab with Ivan Raintung as agent; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

D. [2021-279](#)

Public Hearing - Variance Request - V21-053-A - Increase the maximum impervious area from 35% to 48.7% for a swimming pool - Land Lot 561 - 1355 Marston Street - Kenya Brock & Yvonne Lloyd

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

The subject parcel is a 0.18-acre lot located on the north side of Marston Street (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are occupied by single-family detached residences.

The subject property is currently occupied by a single-family home and a 96 square foot shed in the rear corner of the property. The applicant is proposing to build a 350 square foot inground pool in the rear yard. The lot is a pre-existing platted lot from 1950 that is 7,937 square feet. When the home was built in 2007, the builder went over the allowable 35% by roughly 9.2% without obtaining a variance. Due to the existing home and the size of the lot, the impervious surface area will increase from 45.9% to 48.7% with the addition of the inground pool. Since the existing single-family home was

already non-conforming, the hardship is not self-created.

To offset the increase in impervious surface area, the applicant is proposing to use pervious pavers for the majority of the patio space that will allow filtration of the additional surface water. The City Engineer has reviewed the application and is supportive of the variance without further mitigation measures.

Since the subject property is currently occupied by the home and shed, it requires a variance for a second accessory structure to build the pool. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence. Due to the existing fence and rear location of the pool, Community Development believes the proposal will not adversely impact adjacent properties. Strict application of the ordinance would deny the applicant any ability to add a pool on the property due to the existing storage shed. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties.

Community Development believes the variances are the minimum variances needed to construct an inground pool on the property. Strict application of the ordinance would deny the applicant any ability to build any additional usable outdoor space due to the existing shed, driveway and house already over the allowable impervious coverage.

The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a maximum impervious area of 35%. The applicant is requesting to increase the impervious surface area to 48.7% to allow for the construction of an inground swimming pool. 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 impervious surface increase will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.

Kenya Brock and Yvonne Lloyd were present and had no further information to present to the Board.

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 2021-279 a public hearing and variance request (V21-053-A) to increase the maximum impervious area from 35% to 48.7% for a swimming pool on land lot 561 located at 1355 Marston Street by applicants Kenya Brock and Yvonne Lloyd; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

E. [2021-448](#)

Public Hearing - Variance Request - V21-053-B - Allow second accessory structure - Land Lot 561 - 1355 Marston Street - Kenya Brock

& Yvonne Lloyd

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

The subject parcel is a 0.18-acre lot located on the north side of Marston Street (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are occupied by single-family detached residences.

The subject property is currently occupied by a single-family home and a 96 square foot shed in the rear corner of the property. The applicant is proposing to build a 350 square foot inground pool in the rear yard. The lot is a pre-existing platted lot from 1950 that is 7,937 square feet. When the home was built in 2007, the builder went over the allowable 35% by roughly 9.2% without obtaining a variance. Due to the existing home and the size of the lot, the impervious surface area will increase from 45.9% to 48.7% with the addition of the inground pool. Since the existing single-family home was already non-conforming, the hardship is not self-created.

To offset the increase in impervious surface area, the applicant is proposing to use pervious pavers for the majority of the patio space that will allow filtration of the additional surface water. The City Engineer has reviewed the application and is supportive of the variance without further mitigation measures.

Since the subject property is currently occupied by the home and shed, it requires a variance for a second accessory structure to build the pool. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence. Due to the existing fence and rear location of the pool, Community Development believes the proposal will not adversely impact adjacent properties. Strict application of the ordinance would deny the applicant any ability to add a pool on the property due to the existing storage shed. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties.

Community Development believes the variances are the minimum variances needed to construct an inground pool on the property. Strict application of the ordinance would deny the applicant any ability to build any additional usable outdoor space due to the existing shed, driveway and house already over the allowable impervious coverage.

The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a maximum impervious area of 35%. The applicant is requesting to increase the impervious surface area to 48.7% to allow for the construction of an inground swimming pool. 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 impervious surface increase will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

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

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 2021-448 a public hearing

and variance request (V21-053-B) to allow a second accessory structure on land lot 561 located at 1355 Marston Street by applicants Kenya Brock and Yvonne Lloyd; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

F. [2021-449](#)

Public Hearing - Variance Request - V21-103 - Allow a gravel parking surface - Land Lot 491 - 0.47 acres - 1278 Davis Rd - Andrew Louis Pepiot & Jason Bradley Phillips

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

The subject parcel is a 0.47-acre lot located on the north side of Windy Hill Road and the east side of Dixie Avenue (see Figure 1). The subject parcel is zoned General Commercial (GC) and was previously occupied as a residential structure. The adjoining properties to the north, south, and west are also zoned GC and are occupied by a church. The adjacent property to the east across Davis Road is zoned R-15 and is occupied by a golf course.

The applicant is proposing to utilize the existing structure for a landscape contractor business. The existing structure is on septic and requires a drainage field for the system to function properly. The applicant wishes to have a gravel parking surface in the rear yard of the property instead of pavement for the drainage field to remain undisturbed. Section 901(b) in reference to the City's parking design standards reads, "Each parking facility shall be graded and paved, including access drives and be curbed when needed for effective drainage control." The City's parking design standards do not provide any exemptions from this requirement for specific uses or zoning districts. Therefore, the applicant is requesting a variance to install the gravel parking area surrounding the building. The drainage field for the septic system will remain undisturbed.

Additionally, Sec. 712.20.1 requires a vehicles and materials to be screened from the public right of way. The applicant is requesting allowance of an 8-foot privacy fence that will connect from the building to the existing privacy fence along the sides of the property. A gate will be installed to allow access to the site.

The Fire Marshals and Public Works have reviewed the request and are supportive of the proposed variances.

Due to the septic system and drainage requirements the applicant is requesting a gravel parking surface and the ability to install an 8-foot privacy fence for screening and security. Since the property is not visible by any adjacent property or public right of way, Community Development is supportive of the proposed variances and does not foresee any negative impacts to the surrounding neighbors.

The applicant is requesting to deviate from the City's parking requirements, which are established in Section 503-A and 901(b) of the Zoning Ordinance. 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. Therefore, Community Development recommends approval of the requested variance with the following conditions:

1. *Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.*
2. *The septic tank drainage area shall remain undisturbed and not be utilized for storage or parking.*

Andrew Pepiot and Jason Bradley, applicants, were present, as well as Sean Tintle, agent. Mr. Tintle stated that this is a commercial property with a residential CO and they have been working with the Fire Marshal to obtain a commercial CO. Chairperson Acree asked if they would be bringing clients to this location or will this location act as a hub. The applicants confirmed that clients would not be going to this property.

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 2021-449 a public hearing and variance request (V21-103) to allow a gravel parking surface on land lot 491 on 0.47 acres located at 1278 David Rd. by applicants Andrew Louis Pepiot and Jason Bradley Phillips; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

G. [2021-451](#)

Public Hearing - Variance Request - V21-104 - Allow 8-foot privacy fence in front yard - Land Lot 491 - 0.47 acres - 1278 Davis Rd - Andrew Louis Pepiot & Jason Bradley Phillips

No additional background or information was presented.

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 2021-451 a public hearing and variance request (V21-104) to allow an 8-foot privacy fence in the front yard of land lot 491 on 0.47 acres located at 1278 Davis Rd by applicants Andrew Louis Pepiot and Jason Bradley Phillips; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

H. [2021-453](#)

Public Hearing - Variance Request - V21-105 - Allow rear setback reduction from 20 feet to 4.7 feet - Land Lot 448 - 0.14 acres - 2660 Parks Edge Drive - Alma C. Hall

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

The subject parcel is a 0.14-acre lot located on the west side of Parks Edge Drive (see Figure 1). The subject parcel and adjacent parcels to the north, south, east, and west are zoned RDA and are occupied by single-family homes within the Parks Edge Subdivision.

The applicant is proposing to build a 12 x 16 and 13 x 16 sunroom over an existing deck at the rear of the property. The deck is at grade and extends to 5 feet from the rear property line. The proposed sunrooms will provide cover over the existing deck. The sunrooms will require a rear setback variance since it will connect to and extend

the roof line. The subject property is adjacent to open space at the rear of the property, and therefore should not have a negative impact.

Additionally, the impervious surface coverage will increase from 45% to 65%. To offset the increase in impervious surface area, the applicant will be required to submit a water quality mitigation plan if the variance is approved. The water quality plan will need to treat the additional impervious coverage not accounted for in the subdivision's storm water management facility.

The subject property is buffered from adjacent properties by community open space as well the storm water detention facility. Therefore, there should be no negative impacts if approved. Community Development is supportive of the requested variances.

The applicant is requesting to deviate from the development standards established in Section 801 to reduce the rear setback and increase impervious coverage. 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 increased impervious coverage will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following conditions:

- 1. Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.*
- 2. The applicant shall submit a water quality plan subject to approval by the City Engineer.*

Chairperson Acree asked the applicant to come forward. Ms. Alma C. Hall came forward with contractor Todd Sutton. Ms. Hall stated that she takes issue with the water condition stipulation. Mr. Staubes explained that the existing detention pond can probably account for any water condition issues. Mr. Acree stated that it is fortunate that the property has an existing detention pond, and he explained that this is a common stipulation that can easily be handled. Ms. Hall added that the new construction will be added onto an existing deck that is well reinforced.

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 2021-453 a public hearing and variance request (V21-105) to allow a rear setback reduction from 20 feet to 4.7 feet on land lot 448 on 0.14 acres located at 2660 Parks Edge Drive by applicant Alma C. Hall; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

I. [2021-455](#)

Public Hearing - Variance Request - V21-106 - Allow impervious surface increase from 45% to 65% - Land Lot 448 - 0.14 acres - 2660 Parks Edge Drive - Alma C. Hall

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

The subject parcel is a 0.14-acre lot located on the west side of Parks Edge Drive (see Figure 1). The subject parcel and adjacent parcels to the north, south, east, and west are zoned RDA and are occupied by single-family homes within the Parks Edge Subdivision.

The applicant is proposing to build a 12 x 16 and 13 x 16 sunroom over an existing deck at the rear of the property. The deck is at grade and extends to 5 feet from the rear property line. The proposed sunrooms will provide cover over the existing deck. The sunrooms will require a rear setback variance since it will connect to and extend the roof line. The subject property is adjacent to open space at the rear of the property, and therefore should not have a negative impact.

Additionally, the impervious surface coverage will increase from 45% to 65%. To offset the increase in impervious surface area, the applicant will be required to submit a water quality mitigation plan if the variance is approved. The water quality plan will need to treat the additional impervious coverage not accounted for in the subdivision's storm water management facility.

The subject property is buffered from adjacent properties by community open space as well the storm water detention facility. Therefore, there should be no negative impacts if approved. Community Development is supportive of the requested variances.

The applicant is requesting to deviate from the development standards established in Section 801 to reduce the rear setback and increase impervious coverage. 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 increased impervious coverage will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following conditions:

- 1. Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.*
- 2. The applicant shall submit a water quality plan 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 Frank Martin made a motion to approve item 2021-455 a public hearing and variance request (V21-106) to allow an impervious surface increase from 45% to 65% on land lot 448 on 0.14 acres located at 2660 Parks Edge Drive by applicant Alma C. Hall; seconded by Boardmember Richard Garland.

The motion carried with the following vote:

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

3. Approval of Minutes:

- A. [MIN2021-70](#) Approval of the September 22, 2021 License and Variance Board Meeting Minutes.

Boardmember Frank Martin made a motion to approve the September 22, 2021 License and Variance Board meeting minutes, item MIN2021-70; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

4. Adjournment

Chairperson Roy Acree adjourned the October 14, 2021 License and Variance Board meeting held in Council Chambers at the A. Max Bacon City Hall at 10:27 AM.