



Meeting Minutes - Final License and Variance Board

Wednesday, February 27, 2019

10:00 AM

Council Chambers

1. Roll Call

Present: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

Also Present: 5 - Jim Cox, Russell Martin, Caitlin Crowe, Elsa Thompson and Joey Staubes

2. Call to Order

The meeting of the License and Variance Board was called to order by Boardmember Tammi Saddler Jones at 10:00 am.

3. Business

A. [LIC2019-02](#)

Public Hearing - Privilege License Request LIC 2019-02 - Beer, Wine, and Liquor Pouring - 4574 South Cobb Drive - Jim N Nicks Atlanta I, LLC dba Jim N Nicks Bar-B-Que with Franklin Keith Warren as the applicant.

Sponsors: Gould

Boardmember Tammi Saddler Jones called applicant, Keith Warren, to come forward. Mr. Warren was joined by Attorney Mindy Thompson. Ms. Saddler Jones inquired if Mr. Warren had received, read, and understood the City's Alcoholic Beverage Ordinance and whether he agreed to abide by the guidelines. Mr. Warren confirmed that he read and understood the ordinance and that he agreed to abide by the guidelines. Ms. Saddler Jones asked Mr. Warren to explain what business practices were in place to ensure that his employees would not sell alcohol to minors. Mr. Warren advised that they had on the job training for their employees as well as required the employees to recertify each year. Boardmember Roy Acree inquired if the company performed "spot checks", what Mr. Warren's role was with the company, and how many hours per week he worked. Mr. Warren advised that the store performed occasional spot checks, that he was the general manager, and worked approximately 50 hours per week. Mr. Acree also inquired if Mr. Warren previously held any other privilege licenses. Mr. Warren advised that he did; Cobb County, Marietta – Macaroni Grill.

Ms. Saddler Jones asked the applicant if he was aware that the Smyrna Police Department conducted undercover sting operations to make sure that alcohol was not being sold to minors. Mr. Warren was aware. Ms. Saddler Jones advised that Mr. Warren's background check did not produce any results that would impede him from receiving the Privilege License.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Roy Acree to approve Privilege License Request

LIC2019-02 for Beer, Wine, and Liquor Pouring located at 4574 South Cobb Drive – Jim N Nicks Atlanta I, LLC dba Jim N Nicks Bar-B-Que with Franklin Keith Warren as the applicant; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

B. [LIC2019-04](#)

Public Hearing - Privilege License Request LIC2019-04 - Beer and Wine Package - 2589 Spring Road - Aldi Inc. (Georgia) dba Aldi #61 with Christopher Thomas Waggoner as agent.

Sponsors: Norton

Boardmember Tammi Saddler Jones called applicant, Thomas Waggoner, to come forward. Mr. Waggoner was joined by Attorney Mindy Thompson. Ms. Saddler Jones inquired if Mr. Waggoner had received, read, and understood the City's Alcoholic Beverage Ordinance and whether he agreed to abide by the guidelines. Mr. Warren confirmed that he read and understood the ordinance and that he agreed to abide by the guidelines as well as completed the class. Ms. Saddler Jones asked Mr. Waggoner to explain what business practices were in place to ensure that the employees would not sell alcohol to minors. Mr. Waggoner advised that his employees were required to participate in a 2-week training at the company's training store, he noted that everyone purchasing alcohol must be "carded" regardless of age, and also that their store utilized a computer program which flagged the cashier to check the patron's date of birth when purchasing alcohol. Boardmember Roy Acree inquired if it was possible for the transaction to proceed without the date of birth being entered. Mr. Waggoner advised the system would prompt for a date of birth even after the "total" button has been pressed. Mr. Acree inquired what Mr. Warren's role was with the company, and how many hours per week he worked. Mr. Warren advised that he was the store manager and worked 50 hours per week – 80% of those hours while the store is open and 20% when closed. Mr. Acree also inquired if Mr. Waggoner had ever been a registered agent before. Mr. Waggoner advised that he had not.

Ms. Saddler Jones asked the applicant if he was aware that the Smyrna Police Department conducted undercover sting operations to make sure that alcohol was not being sold to minors. Mr. Waggoner was aware. Ms. Saddler Jones advised that Mr. Waggoner's background check did not produce any results that would impede him from receiving the Privilege License.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Frank Martin to approve Privilege License Request LIC2019-04 for Beer and Wine Package - 2589 Spring Road - Aldi Inc. (Georgia) dba Aldi #61 with Christopher Thomas Waggoner as agent; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

C. [V19-011](#)

Public Hearing - Variance Request - V19-011 - Allow encroachment into City's 50 ft. Undisturbed Stream Buffer - Land Lot 449 - 0.24 acres -

2730 Fraser Street - New Oak Homes LLC

Boardmember Tammi Saddler Jones asked applicant, New Oak Homes LLC, to come forward. Representative Hanoch Dombek came forward. He advised that they would like to renovate an existing home on a lot that had approximately 70% unbuildable area or possibly demolish and build a new home on the lot but to do either it would require encroaching on the City's 50-foot buffer. Mr. Dombek added that they would like also to construct a porch on the home. Ms. Saddler Jones inquired when they would make the decision as to whether they will demolish the existing home. Mr. Dombek stated that it all depended on the variance request approval and the home's closing date which was scheduled on the 15th of March. He also stated that once that process is complete they would hire an engineer to verify if the existing home's foundation was sturdy enough to support what they would like to do and noted that they would prefer to renovate than rebuild.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the existing property was non-conforming, as the home stands would require the variances requested by the applicant. He advised that there would be minimal land disturbance but that there had already the land had been disturbed previously since the existing home was built in 1954. Mr. Staubes also advised that the new addition would be in the rear of the property where the existing deck and patio are; the home was zoned R15 and have "a lot of competing factors" with respect to how the lot could be developed. Mr. Staubes advised that the applicant would be obligated to install a stormwater management system per the City Engineer's request, had not heard any complaints from adjacent properties, and staff recommended approval with 2 conditions:

1. Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.
2. Prior to issuance of building permit, the applicant will obtain approval of the stormwater management plan from the City Engineer.

Ms. Saddler Jones announced the public hearing. No one came forward. Ms. Saddler Jones asked the applicant if he accepted the two conditions as stated. Mr. Dombek advised that he did.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Roy Acree to approve Variance Request V19-011 to allow encroachment into the City's 50-foot Undisturbed Stream Buffer on Land Lot 449 on 0.24 acres located at 2730 Fraser Street by New Oak Homes, LLC; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

D. [V19-012](#)

Public Hearing - Variance Request - V19-012 - Allow reduction of front setback from 35 feet to 20 feet - Land Lot 449 - 0.24 acres - 2730 Fraser Street - New Oak Homes LLC

Boardmember Tammi Saddler Jones asked the applicant, New Oak Homes LLC - Representative Hanoch Dombek, if he had any additional comments. He advised that

he did not.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that older structure, built in 1954, sat 20 feet from the front property line, and that the applicant planned to either remodel the existing home with a new addition to the rear, or to demolish the existing home and retain the existing 20-foot front setback and stream buffer encroachment. Mr. Staubes advised that staff recommended approval with the same 2 conditions (as the previous request):

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

2. Prior to issuance of building permit, the applicant will obtain approval of the stormwater management plan from the City Engineer.

Boardmember Roy Acree clarified (based on the site plan) that a variance would be needed based on the hardship created by the non-conformity of the lot. Ms. Saddler Jones inquired about the flow wells she noted on the site plans. Mr. Staubes advised that it was part of the storm water management.

Ms. Saddler Jones asked the applicant if he accepted the two conditions as stated. Mr. Dombek advised that he did. Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Frank Martin to approve Variance Request V19-012 to allow a reduction of a front setback from 35 feet to 20 feet on Land Lot 449 on 0.24 acres located at 2730 Fraser Street by New Oak Homes, LLC; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

E. [V19-013](#)

Public Hearing - Variance Request - V19-013 - Allow front setback reduction from 35 feet to 31 feet for an addition to a single family residence - Land Lot 485 - 0.32 acres - 1120 Dell Avenue - Jonquil Homes LLC

Boardmember Tammi Saddler Jones asked applicant, Jonquil Homes LLC, to come forward. Mr. Gary Bennett came forward as a representative. He advised that he was in the process of renovating a home, he would like to center the doorway to the home and add a "farmhouse porch". Boardmember Roy Acree inquired when the home was built. Mr. Bennett stated, "the late 50s".

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the existing older structure was built 4 feet behind the front setback, the addition would consist of a (8' by 23') front porch therefore, the applicant was requesting a variance to reduce the front setback from 35 feet to 31 feet. The property was undergoing renovations however that scope of work does not require variance approval. Mr. Staubes advised that staff posted on the property, did not hear from any adjacent property owners, and that they 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.

Ms. Saddler Jones asked the applicant if he accepted the one condition as stated. Mr. Bennett advised that he did. Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Roy Acree to approve Variance Request V19-013 to allow a front setback reduction from 35 feet to 31 feet for an addition to a single family residence on Land Lot 485 on 0.32 acres located at 1120 Dell Avenue by Jonquil Homes, LLC; seconded by Boardmember Frank Martin.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

F. [V19-014](#)

Public Hearing - Variance Request - V19-014 - Allow east side setback reduction from 10 feet to 2 feet for an addition to a single family residence - Land Lot 451 - 0.20 acres - 922 McLinden Avenue - Preston Thomas

Boardmember Tammi Saddler Jones asked applicant, Preston Thomas, to come forward. Mr. Shaun Alford with RAM Construction came forward as a representative. He advised that the variance request was for an addition to a "small home" on the rear of the home.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised the property was zoned R-15 making the property non-conforming in lot area and minimum house size; the applicant planned to convert the existing structure into a 3 bedroom/2 bath house. He noted that due to the non-conforming lot size and shape of the property, the applicant requested variances on both side setbacks. Mr. Staubes advised that staff did not hear any complaints from adjacent properties and that they 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.

Boardmember Roy Acree clarified that he noted a second condition in the City's records "about downspouts and gutters" and inquired if the site would still fall within the 35% impervious surface requirements after the addition. Mr. Staubes advised that he was correct and that the site fell below the required impervious standards. Mr. Acree also inquired about the hardships that warranted the variance requests.

Ms. Saddler Jones asked the applicant if he accepted the one condition as stated. Mr. Staubes advised that there were actually two conditions and read the second one into the record:

2. Downspouts and gutters be installed to divert stormwater away from adjacent property.

The applicant accepted the conditions.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Frank Martin to approve Variance Request V19-014 to allow an east side setback reduction from 10 feet to 2 feet for an addition to a single family residence on Land Lot 451 on 0.20 acres located at 922 McLinden Avenue by applicant Preston Thomas; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

G. [V19-015](#)

Public Hearing - Variance Request - V19-015 - Allow west side setback reduction from 23 feet to 14 feet for an addition to a single family residence - Land Lot 451 - 0.20 acres - 922 McLinden Avenue - Preston Thomas

Boardmember Tammi Saddler Jones asked Mr. Shaun Alford with RAM Construction to come forward and provide comments on the applicant's second request. Mr. Alford advised that this request was for the "westside" which was the left side of the addition, which would be for a master bedroom and bathroom.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the applicant was requesting a variance to reduce the west side setback to 14 feet. He noted that the property ran to the north and west on McLinden and that the non-conforming lot size and shape of the property warranted the variances on both side setbacks. Mr. Staubes advised that staff reviewed the plans and that they recommended approval with two 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 be installed to divert stormwater away from adjacent property.

Ms. Saddler Jones asked Mr. Alford if he accepted the conditions as stated. He accepted.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Frank Martin to approve Variance Request V19-015 to allow a west side setback reduction from 23 feet to 14 feet for an addition to a single family residence on Land Lot 451 on 0.20 acres located at 922 McLinden Avenue by applicant Preston Thomas; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

4. Approval of Minutes:**A. [2019-77](#)** Approval of the February 13, 2019 License and Variance Board Meeting Minutes

A motion was made by Boardmember Frank Martin to approve the February 13, 2019 License and Variance Board Meeting Minutes; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Frank Martin

5. Adjournment

Boardmember Tammi Saddler Jones adjourned the meeting of the License and Variance Board at 10:28 am.