



# City of Smyrna

2800 King Street  
Smyrna, Georgia 30080

## Meeting Minutes - Final License and Variance Board

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Wednesday, July 10, 2019

10:00 AM

Council Chambers

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### 1. Roll Call

**Present:** 3 - Tammi Saddler Jones, Mary Moore and Kevin Moore

**Also Present:** 5 - Joey Staubes, Landon O'Neal, Terri Graham, Mary Arvin and Russell Martin

### 2. Call to Order

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

### 3. Business

#### A. [LIC2019-17](#)

Public Hearing - Privilege License Request LIC2019-17 - Beer and Wine Pouring - 1529 Spring Road SE STE E - The Original Hot Dog Factory with Richard Leon George as agent.

**Sponsors:** Blackburn

*Agent Mr. Richard Leon George was present and stated he had received a copy of the City Alcohol Ordinance, and that he had read it, understands, and agrees to abide to the stipulations and ordinance.*

*Mr. George also stated that he had completed an alcohol class. Client purchasers I.D. is checked and in May they used secret shoppers to ensure underage sales were not occurring. Mr. George's background check was cleared by the Smyrna Police Department.*

*There were no questions for the applicant.*

*The Public Hearing was announced and no one came forward to speak.*

Boardmember Mary Moore made a motion to approve the Privilege License Request LIC2019-17 - Beer and Wine Pouring - 1529 Spring Road SE STE E - The Original Hot Dog Factory with Richard Leon George as agent. Boardmember Kevin Moore seconded the motion to approve.

The motion to approve carried by the following vote:

**Aye:** 3 - Tammi Saddler Jones, Mary Moore and Kevin Moore

#### B. [V19-025](#)

**Public Hearing** - Variance Request - V19-025 - Allow six foot wooden privacy fence in front yard on corner lot - Land Lot 330 - 0.41 acres - 591 Summertree Court - Zach Wood and Lisa Sisom

Mr. Zach Wood was present and requested to build a six foot wooden privacy fence in his front yard on corner lot of Summertree Court Subdivision. The fence will be built for privacy and safety for his daughter and pet.

Mr. Joey Staubes from Smyrna Community Development is in approval of the fence. There's an existing subdivision fence that Mr. Wood has connected to the six foot fence.

Boardmember Mary Moore asked the question if the property didn't have (3) sides - meaning the road, what would be the height limitations for the fence normally? Mr. Staubes said, they could have a 8 feet tall fence in the back of the house and along the property; the entire back yard fence could be 8 feet. Chairperson Tammi Saddler Jones asked if there were any sight distance issues as proposed?. Mr. Staubes commented Community Development and the City Engineer reviewed the fence for sight disability concerns and they found none.

The Public Hearing was announced and several neighbors stepped forward to voice their concerns:

Mr. Richard Poland who lives at 4730 Summerwood Drive approached the podium and provided a signed letter of opposition from 50% of the neighborhood stating the fence would be a safety issue and no one in the subdivision supported this request. Concerns from the neighbors is the fence craftsmanship that includes the uneven flow, the unfinished look and the post sticking up out of the top. Additional concerns is the height and the fact the property is tied to the entrance sign, and above all the safety of 10 or 11 and one on the way, and kids under the age of 7 who walk to the park across the street everyday.

Mr. Poland and his wife are Smyrna people and they eat in Smyrna at Wades and the Porch Light Grill every birthday. Mr. Poland said they are Smyrna people and support the town and they're proud of Smyrna. Mr. Poland purchased the worse home in Summertree Subdivision and fixed it up; he stated he's proud of the neighborhood. There's no HOA they work as a community to keep up the neighborhood; they have an entrance clean up group that is supported by monetary contributions from neighbors. The neighbors take great pride in their neighborhood entrance because that's the first thing someone sees when driving into the neighborhood; curb appeal. Mr. Poland said, the variance should be granted only when it benefits the neighborhood. Mr. Poland feels Mr. Wood made a mistake by not doing due diligence in building a legal fence; he could have built a fence that conforms to other neighborhood entrances with the same functionality at a lower cost. Mr. Poland stated he and other neighbors approached Mr. Wood to help finance and build the fence. Mr. Wood scuffed this idea and replied that he'd rather try his luck with the variance.

Mr. Poland has lived there 29 years and has never seen a safety issue with the park as stated by Mr. Wood. There's always children playing in the park and playground, and standing on the fence looking at trains go by. The park has always been a positive thing for the neighborhood. Mr. Poland said, the monument sign is less than 4 feet tall in it's lowest point and that he measured it to be 3.9 feet, and if anyone wanted to get into the back yard even with an 8 foot fence, they still can climb over the monument fence. Mr. Poland said that Mr. Wood's dog is not a puppy, but a full grown dog. If the dog can get out of a 4 feet fence which we're now proposing and what the zoning code calls for, it can now get out of a 3.9 wall existing and it doesn't help Mr. Wood have a variance in any way. Mr. Poland said if Mr. Wood wants a fence he should be able to have one if he wants it, but his unique position in the neighborhood limits his options.

*Mr. Poland said he's willing to help with Mr. Wood's with cost and time to modify the fence. There's many reasons to deny the variance because the home is located at the entrance of the subdivision and the entrance sign is wholly contained in his parcel.*

*The maintenance of the existing sign and all improvements made to the yard will effect the entire neighborhood. If this variance passes, Summertree will be the first subdivision in the entire city to have a 6 foot privacy fence attached to it's monument sign and will have wasted all the work, time and money the neighborhood has invested in this sign over the years. The visibility issue is the fence is taller than the monument sign which is not only displeasing but it sits higher than the monument sign and blocks visibility to Nickajack as you are driving down Summerwood Drive to exit the subdivision. More importantly, it limits visibility from drivers driving East from Nickajack as they approach the neighborhood. It's easy for a small child to get ahead of their parents and a driver not see them until it's too late because they pop up behind this fence. I realize the City Planner and all the other people who voiced there's not a problem, haven't been driving out of our neighborhood over the last 11 to 29 years; I assure you visibility is an issue and it's limited by the fence. Mr. Poland mentioned Welfare is another issue, not only does he live in the neighborhood, but his professional opinion comes from holding a Bachelors Degree in Real Estate, Licensed Real Estate Appraiser, Licensed Real Estate Agent, and 18 years professional experience including time as a License Mortgage Loan Officer and Appraiser. Mr. Poland's opinion is home values will suffer due to lower demand due directly to the fence. The entrance will be an eyesore to some prospective buyers who will see the fence and will not continue into the neighborhood to look at homes. Mr. Poland mentioned that he has Real Estate data current and FLMS data if you wish to discuss on the side.*

*Mr. Poland said, City Planner II Joey Staubes for this case made false and misleading statements in his presentation to the Board. Additionally, the photos provided are not a representation of the nature of this fence and how it relates to the existing monument sign. Mr. Poland presented updated pictures to the Board that he hopes will be viewed to see how the fence sits a couple feet above the sign. Mr. Poland said that Mr. Staubes opinion was not posted publicly but given to homeowners on the afternoon of Tuesday, July 9, 2019.*

*Mrs. Kristine Poland who lives at 4730 Summerwood Drive spoke in order to sway Boards opinion on this variance request; she reiterated everything her husband said, that 50% of neighborhood feels this will hurt property values.*

*Mrs. Johnson, wife of Mr. Larry Johnson who lives at 581 Summertree Drive came forward to speak and stated she also disapproved of Mr. Zach Wood building the privacy fence. Ms. Johnson has lived in the neighborhood for 29 years and feels the fence is not needed. The neighborhood doesn't have any drug problems, and the fence is not a pleasing site to see.*

*Ms. Alice Hern came forward and stated she lives at 4790 Summerwood Drive. Ms. Hern presented pictures and said the wooden fence against the entrances beautiful brick fence is a distraction. Ms. Hern feels Mr. Wood needs to stay within the Smyrna and Cobb County property value codes.*

*Mr. Larry Johnson came forward to speak and said he lives at 581 Summertree Drive. Mr. Johnson feels there are no safety issues in the neighborhood, and no one comes into the neighborhood from the park across the street. Mr. Johnson feels that Mr. Wood's fence creates an eye-sore and in the event of an emergency the fence blocks*

access to his property and this creates a safety issue for him. Mr. Johnson is in favor of a 4 foot fence.

Boardmember Mary Moore commented that some of the attendees had questions about applying the ordinances, and that the ordinance does not speak to the aesthetics, construction quality or property value impacts; Ms. Moore asked "is that correct". Mr. Joey Staubes replied "that is correct". Ms. Moore commented "it only addresses the height location and set back of the fence", and asked Mr. Staubes if that was correct. Mr. Staubes replied "that is correct". Ms. Moore asked if there were any sidewalks on either side and Mr. Staubes replied "I don't recall". Ms. Moore asked the applicant Mr. Wood if there were any sidewalks on his property, and Mr. Wood replied "no". Ms. Moore inquired to Mr. Wood if the fence was completed and Mr. Wood said, all but the post he left in place waiting for the variance in the event he had to cut those down to 4 feet.

Chairperson Tammi Saddler Jones asked Mr. Wood if there were sidewalks on his property and if the fence was complete at this time. Mr. Wood replied "no". Ms. Saddler Jones made the comment if Mr. Wood was aware of how his neighbors felt; he said "yes". Mr. Wood said he was willing to cut down the boards on the fence to relieve tension in the neighborhood; he's not trying to be difficult.

Boardmember Kevin Moore asked as a driver and if you're exiting the neighborhood can you see to the right of brick wall. Mr. Wood replied there's bushes which are more than a hazard than his fence.

Boardmember Mary Moore wanted a clearer understanding from neighbor Mr. Richard Poland to understand the safety issues of Mr. Wood's fence. Mr. Poland said there's a park across the street and people drive by very quickly - 40 miles down Summerwood. Before Mr. Wood added his 6 feet fence you could see; you can't see now; visibility is worse. Boardmember Mary Moore asked Mr. Joey Staubes since there's no HOA, is there anything controlling Mr. Wood's process to add the fence; Mr. Staubes stated "no".

Boardmember Kevin Moore asked Mr. Poland if you're exiting the neighborhood and stopped does the fence effect visibility. Mr. Poland said no, but he can see someone trying to turn in and possibly hit a child. Mr. Poland said 15 homes are represented in the letter.

Boardmember Mary Moore asked about HOA; Mr. Poland said they do not have an HOA, and have never needed one. Mr. Poland said the neighborhood comes together and helps with projects, and over 20 years maintained the entrance.

Mr. Poland said Mr. Wood has access to the entrance wall but he's never kept up maintenance on the entrance sign. Mr. Poland stated the entire neighborhood has kept up maintenance of the entrance sign and the entrance for years.

A motion was made by Boardmember Mary Moore to table Privilege License Request - V19-025 - Allow six foot wooden privacy fence in front yard on corner lot - Land Lot 330 - 0.41 acres - 591 Summertree Court - Zach Wood and Lisa Sisom. This item will be tabled until July 24, 2019 after Community Development can re-examine some of the safety issues brought up by the residents; seconded by Boardmember Kevin Moore.

Boardmember Mary Moore tabled the motion of the Privilege License Request - V19-025 - Allow six foot wooden privacy fence in front yard on corner lot - Land Lot 330 - 0.41 acres - 591 Summertree Court - Zach Wood and Lisa Sisom. Boardmember

Kevin Moore seconded the tabled motion.

The motion to table carried by the following vote:

**Aye:** 3 - Tammi Saddler Jones, Mary Moore and Kevin Moore

**C. [V19-026](#)**

**Public Hearing** - Variance Request - V19-026 - Allow reduction of veterinary clinic distance from 200 feet to 25 feet from residential property - Land Lot 528 - 0.86 acres - 3875 S Cobb Drive - Blue Frog LLC - Shawn Rainey

*Mr. Shawn Rainey with Blue Frog Construction is the present applicant who lives at 3011 Sutton Gate Drive, Suwannee, GA 30024. Mr. Rainey's variance request is that Dr. Jamie Cary and her husband are looking to purchase property that used to be a Quik-Trip building that's boarded up and hasn't been used for a long time. The building address is located at 3875 S. Cobb Drive, and Dr. Carey would like to make a small expansion to the property for use as a veterinary clinic to board dogs in need of medical care.*

*Chairperson Tammi Saddler Jones asked Community Development Planner II Joey Staubes to step forward and comment; Mr. Staubes said the existing Quik-Trip has been vacant for several years. Dr. Carey wishes to keep the building where it is, 25 feet away from residential property lines and approximately 70 feet away from any property structure; they are requesting set back reductions due to the size of the building, and Mr. Staubes recommends approval based on two conditions: There are no outdoor runs and a veterinarian Doctor supervises all animals while outdoors.*

*Boardmember Mary Moore asked Mr. Staubes if all the nearby neighbors were notified and in what way. Mr. Staubes said, they were notified through certified mail and no oppositions have been received. Boardmember Moore asked if the tanks were already gone and Mr. Staubes said they will be removed.*

*Chairperson Tammi Saddler Jones announced the meeting is a Public Hearing, and if anyone wished to speak.*

*Mr. Rasheed Cottman stepped forward and stated he lives directly behind the building and his address is 1216 Stone Castle Circle. Mr. Cottman presented a receipt of a certified letter sent to the variance board of all existing homeowners who are against approving this variance. The variance is being written under the following grounds: Code of ordinance for the City of Smyrna; noise of barking and howling dogs will cause an annoyance to the residents and their enjoyment when outside. Mr. Cottman said the Cobb County Code of ordinance states the same. Mr. Cottman said the notification mentioned that the awning will not be removed from the building which is also an eyesore to the community. Mr. Cottman said there is opposition due to not all residents being informed. Mr. Cottman presented the City Clerk with documentation.*

*Mr. Staubes stepped forward to clarify Mr. Rainey's application, and said that prior to submitting the application Community Development met with Mr. Rainey and that he only needs one variance and not a second to keep the smaller dumpster enclosure.*

*Neighbor Anita Hollis agreed with Mr. Cottman, she is opposing the hospital because her deck will overlook the veterinary clinic. Ms. Hollis said she is a dog owner and she is not opposed to dogs coming into the neighborhood. Ms. Hollis stated that some of the other homeowners were not present because they were not served the letter from*

*Blue Frog informing them of the day care. Ms. Hobbis said, the variance reads the business will be for an outside kennel.*

*Neighbor Mr. Ronald Lanier came forward and stated he lives at 1300 Stone Castle Circle and that he opposes the veterinary clinic because it'll be directly in his backyard.*

*Neighbor Diana Strogger lives at 1220 Stone Castle Circle and stated she received notification from other neighbors that this business was coming; she also has a dog and opposes the hospital. Ms. Strogger feels several dogs outside barking will start other neighborhood dogs to bark. She feels the hospital will bring the neighborhood values down and the yellow sign on the corner that states "kennel" will prevent future home purchases.*

*Mr. Cottman said Quik-Trip has many concessions on the building and if the board will reach out to QT to allow other businesses like Starbucks to acquire this property. Other nice businesses could effect the property values.*

*Boardmember Mary Moore asked Mr. Staubes about the attendee questions surrounding the expansion of the building in the future and if they will have to come back to the city for guidance. Mr. Rusty Martin (Interim Community Development Director) said the variance is for a overnight Veterinary clinic that will board animals that receive medical procedures. Ms. Moore said the neighbors concern was that the clinic would be used as a daycare than what is stated. Mr. Martin stated that right now the variance is for a veterinary clinic and hospital, and that Dr. Carey did not request a variance for boarding and kennel. Mr. Martin said when they come in to apply for a business license, they'll have to state the proposed business use; that will be for a veterinary clinic or hospital that provides medical services to dogs and animals that come into the facility.*

*Chairperson Tammi Saddler Jones asked for Mr. Staubes or Mr. Martin to address the signage problem that had been raised. Mr. Martin said by state law we are required to post a sign to give residents an idea about what is going on. The statement states this is a set back reduction for a veterinary use. Mr. Staubes admitted the sign reads to allow a "kennel".*

*Mr. Cottman said the developer hasn't been notified of any documentation. The sign says to allow a kennel, and he wants to know who's going to enforce that the business will not turn into a kennel, but only boarding for medically attended animals.*

*Chairperson Tammi Saddler Jones announced the Public Hearing. No one came forward.*

*Mr. Martin commented that everyone had received letters and in the letter and the application process, the applicant is asking reduction of the requirement from 200 feet to 25 feet; the outside area will be used to walk dogs so they can relieve themselves etc. Mr. Martin stated that the neighbors have acknowledged receipt of letters. The Sign was incorrectly posted using the word "kennel", but there were no intended purposes to mislead anyone.*

*Dr. Carey approached the podium to clarify the facility will not be used as a kennel, only a medical veterinary hospital which will board critical care animals overnight; there will be no staff on hand. Boardmember Kevin Moore inquired about the overnight*

*boarding and staff on hand. Mr. Carey stated the site plan area will be fenced. They will leave the facility at 7:00 pm and return at 7:00 am..*

Boardmember Mary Moore made a motion to approve the Variance Request - V19-026 - to allow reduction of veterinary clinic distance from 200 feet to 25 feet from residential property - Land Lot 528 - 0.86 acres - 3875 S Cobb Drive - Blue Frog LLC - Shawn Rainey; seconded by Boardmember Kevin Moore.

The motion to approve carried by the following vote:

**Aye:** 3 - Tammi Saddler Jones, Mary Moore and Kevin Moore

**D. [V19-027](#)**

**Public Hearing** - Variance Request - V19-027 - Allow eight foot wooden privacy fence in front yard on corner lot - Land Lot 449 - 0.23 acres - 2821 Fraser Street - Brian Denis

*Mr. Brian Denis is the applicant and property owner of a house for sale on a corner lot. Mr. Denis is trying to do a concession for sale, and he wants to allow an eight foot wooden privacy fence in front yard on corner lot.*

*Chairperson Tammi Saddler Jones asked if anyone had questions for the applicant; there were no questions.*

*Mr. Joey Staubes (Community Development Planner II) said the 8 foot fence is along Bank street for privacy and height and security purposes.*

*Boardmember Kevin Moore asked if the fence would block off access to the garage. Mr. Staubes said there would be a gate to provide access to the garage. Mr. Denis said there will be two gates and the bank street fence will allow access to the garage.*

*There were also no oppositions.*

*Chairperson Tammi Saddler Jones announced the Public Hearing and no one came forward to speak.*

Boardmember Mary Moore made a motion to approve the Variance Request - V19-027 - Allow eight foot wooden privacy fence in front yard on corner lot - Land Lot 449 - 0.23 acres - 2821 Fraser Street - Brian Denis. Boardmember Kevin Moore seconded the motion.

The motion to approve carried by the following vote:

**Aye:** 3 - Tammi Saddler Jones, Mary Moore and Kevin Moore

**4. Approval of Minutes:**

**A. [2019-233](#)**

Approval of the June 12, 2019 License and Variance Board Minutes

Boardmember Mary Moore made a motion to approve the June 12, 2019 License and Variance Board Minutes. Boardmember Kevin Moore seconded the motion to approve.

The motion to approve was carried by the following vote:

**Aye:** 3 - Tammi Saddler Jones, Mary Moore and Kevin Moore

**5. Adjournment**

*Chairperson Tammi Saddler Jones adjourned the July 10, 2019 License and Variance Board Meeting at 11:19 am.*