

LICENSE AND VARIANCE BOARD

Minutes - Final



Richard Garland, Chairperson
Bo Jones, Board Member
Andrea Worthy, Board Member
Eric Mohrmann, Board Member
Mary Moore, Board Member
Eric Randall, Board Member
Jill G. Head, Secretary

A. Max Bacon City Hall
Council Chambers
2800 King Street SE
Smyrna, GA 30080

City Attorney Scott Cochran
City Administrator Joseph Bennett
City Clerk Heather K. Peacon-Corn

February 26, 2025
10:00 AM

1. Roll Call

Present: 3 – Chairperson Richard Garland, Board Member Bo Jones, Board Member Andrea Worthy

Staff: 4 – Caitlin Crowe, Jill G. Head, Russell Martin, Enoch Serna

Chairperson Richard Garland called to order the February 26, 2025 License and Variance Board meeting held at A. Max Bacon City Hall in Council Chambers at 10:00 AM.

2. Call to Order

3. Chairperson Instruction and Comment

4. Formal Business

- A. LIC2025-015 Privilege License - Change of Agent Request – Package (Beer, Wine and Sunday sales) – 2955 Atlanta Road SE, Smyrna, GA 30080- Publix Super Markets, Inc. , DBA Publix Super Markets, Inc. #1250 with John Watterson as agent.
Ward 3 Councilmember - Travis Lindley**

Application was made for privilege license – Change of Agent Request for Publix Super Markets, Inc. DBA Publix Super Markets, Inc. #1250 for the sale of Beer, Wine and Sunday Sales.

John Watterson is the agent applicant. John Watterson will be the registered agent responsible for the sale of alcohol at 2955 Atlanta Road SE, Smyrna, GA 30080. The applicant has been given a copy of the Alcoholic Beverage ordinances and attended the mandatory alcohol awareness workshop.

A background investigation conducted by the Smyrna Police Department failed to reveal information that would preclude issuance of this license. Mr. Watterson has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

John Watterson, agent, stated that he has been with Publix for 25 years. He is a district manager who oversees 10 stores in the greater Cobb area. The computer-based training all employees who cashier, including managers and managers in charge, receive is required and taken yearly. Mr. Watterson spends 0-35/week visiting the 10 locations.

Chairperson Garland explained that the Smyrna Police Department takes the sale of alcohol to minors very seriously and reminded Mr. Watterson they do ongoing compliance checks. Mr. Watterson acknowledged that and stated Publix does similarly using a third-party company.

Board Member Andrea Worthy made a motion to approve item LIC2025-015; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- B. LIC2025-017 Privilege License - Change of Agent Request – Package (Beer, Wine and Sunday sales) – 4480 S Cobb Dr SE Unit STE L, Smyrna, GA 30080- Publix Super Markets, Inc., DBA Publix Super Markets, Inc. #0753 with John Watterson as agent.**

Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Application was made for privilege license – Change of Agent Request for Publix Super Markets, Inc. DBA Publix Super Markets, Inc. #0753 for the sale of Beer, Wine and Sunday Sales.

John Watterson is the agent applicant. John Watterson will be the registered agent responsible for the sale of alcohol at 4480 S Cobb Dr SE Unit STE L, Smyrna, GA 30080. The applicant has been given a copy of the Alcoholic Beverage ordinances and attended the mandatory alcohol awareness workshop.

A background investigation conducted by the Smyrna Police Department failed to reveal information that would preclude issuance of this license. Mr. Watterson has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Board Member Bo Jones made a motion to approve item LIC2025-017; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- C. **V25-013** Public Hearing - Variance Request - V25-013 - Allow new construction on lot of record below minimum requirements - Land Lot 486 - 1068 McLinden Ave - PLR Properties, Inc

This request is to be tabled to the March 12, 2025 License and Variance Board Meeting at the request of the applicant.

Ward 3 Councilmember - Travis Lindley

Board Member Andrea Worthy made a motion to table to the March 12, 2025 License and Variance Board meeting as requested by the applicant item V25-013; seconded by Board Member Bo Jones.

The motion to table carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- D. **V25-015** Public Hearing - Variance Request - V25-015 - Reduced the required parking spaces - Land Lot 345 - 2596 South Cobb Drive - Silver Lodestone, Inc.

This request is to be withdrawn.

Ward 5 Councilmember - Susan Wilkinson

Board Member Bo Jones made a motion to withdraw item V25-015; seconded by Board Member Andrea Worthy.

The motion to withdraw carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- E. **V25-016** Public Hearing - Variance Request - V25-016 - Reduced the front setback - Land Lot 345 - 2596 South Cobb Drive - Silver Lodestone, Inc.

This request is to be withdrawn.

Ward 5 Councilmember - Susan Wilkinson

Board Member Bo Jones made a motion to withdraw item V25-016; seconded by Board Member Andrea Worthy.

The motion to withdraw carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- F. **V25-017** Public Hearing - Variance Request - V25-017 - Reduce the side setback from 10 feet to 1 foot - Land Lot 345 - 2596 South Cobb Drive - Silver Lodestone, Inc.

Ward 5 Councilmember - Susan Wilkinson

Board Member Andrea Worthy made a motion to approve for submission to Mayor and Council item V25-017; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

**G. V25-018 Public Hearing - Variance Request - V25-018 - Reduce the side setback from 10 feet to 6.9 feet - Land Lot 556 - 3435 Lee Street - Caitlin Walker
*Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.57-acre lot located at the northeast intersection of Lee Street, Daniell Drive, and Forest Drive (see Figure 1). The subject parcel and adjoining parcels to the north and west are zoned R-15 whereas the adjacent parcels to the south and east are zoned R-20; all are occupied by detached single-family homes.

The subject property is currently occupied by a 2,606 square foot two-story house and 384 square foot shed in the rear of the property. The former garage was enclosed in 2017 prior to the current homeowner's purchase of the home so the home does not currently have any covered parking on the property. The applicant is requesting a variance to encroach into the side setback to build a 700 square foot two-car garage addition on the north side of the existing home, connected via 6-foot breezeway to the existing home. The garage will have a mixture of hardy plank and board and batton façade to match the existing home's aesthetic. To access the new garage, a new concrete driveway will be cut into Lee Street. No other variances are required for the renovations, as all other setbacks are met, and the property will be under the maximum impervious surface area of 35%.

The subject property has a flat front yard leading to the two-story home, which then slopes in the rear. Due to the property contours, the two-story house sits on a walk-out basement with the utilities on the basement level. Due to the utilities, the applicant is proposing the 6-foot breezeway to cross over the area and connect to the new two-car garage. The breezeway will then also act as a mudroom to enter the house in inclement weather.

Community Development does not foresee any negative impacts to adjacent properties should the variance be approved. Similar variances have been approved across the street at 3463 Lee Street in 2021 (Variance Case V17-074) and at 1445 Collier Drive in 2019 (Variance Case V19-009) so there is a precedence for this type of variance in the area. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the development standards established by Section 801, which requires a minimum side setback of 10 feet. 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. 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 requested variance shall be conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Caitlin Walker and Taylor Walker, applicants, came forward and stated they understand and agree with the standard stipulation read into record.

A public hearing was called.

Tom Donnelly – 3400 Pretty Branch Drive – came forward to express concern about the flood plain, water runoff, and the potential for him to do something similar with his own property. Board Member Jones asked Mr. Donnelly to reach out to the City Engineer to discuss his situation.

Board Member Bo Jones made a motion to approve item V25-018; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

**H. V25-019 Public Hearing - Variance Request - V25-019 - Variance Amendment for Variance Case V23-088 - Land Lot 664 - 2627 Argo Drive - Darrell Smith
*Ward 2 Councilmember - Latonia P. Hines***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance amendment to construct a new single-family home at 2627 Argo Drive. The applicant received approval from the License and Variance Board in May 2024 for several variances: allow new construction on a lot of record below minimum requirements, reduce the side setback from 10 feet to 5.6 feet, reduce the streetside setback from 23.3 feet to 10.1 feet, reduce the front setback from 35 feet to 12 feet, reduce the minimum floor area from 2,000 square feet to 1,480 square feet, and increase the maximum impervious surface area from 35% to 41.3% (Variance Cases V23-086 through 091). The applicant is requesting to further encroach into the streetside setback by an additional 6.1 feet and thus amend the previously approved variance (Variance Case V23-088). Section 801 establishes the building setbacks for properties in the R-15 zoning district.

The subject parcel is a 0.07-acre triangular lot located to the north side of the intersection of Argo Drive and Bates Street (see Figure 1). The subject parcel and the adjacent parcel to the north are zoned R-15 whereas the adjacent parcels to the east, south, and west are zoned R12. All properties are currently occupied by detached single-family homes with the exception of the subject property, which is a vacant lot. The subject parcel was created in 1989 via deed of sale in Cobb County, then shown on a recorded boundary plat for a neighboring property in 1999.

The applicant previously proposed a 1,480-square-foot home, which will be enlarged by 739 square feet due to the addition of the carport. The carport will add an additional balcony space on the second floor, will add to the home's gross square footage. Once complete, the home will be 2,219 square feet, which will include three bedrooms and 2 ½ bathrooms. The home's architecture will remain modern with the driveway access off Bates Street. As was required in the original variance application, the home will still have a standard 22-foot driveway to alleviate any encroachments to the sidewalk but will now offer a covered parking area as is commonplace in new homes. The City Engineer has reviewed the carport location and does not foresee any sight-distance issues.

In adding the carport, the applicant eliminated the need for the minimum house size variance as previously approved (Variance Case V23-090), as the R-15 zoning district requires a minimum house size of 2,000 square feet, which will now be met.

As before, the subject property is unique in that it has less than 30% land area than what the R15 zoning district requires; the hardship is not self-created as the property is an existing lot of record. The further streetside setback encroachment allows the applicant to provide covered parking on the property to build a new single-family home on the subject property in line with the surrounding neighborhood, which has seen increased growth and development over the past few years. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting to further deviate from the City's streetside setback requirements established for the R-15 Zoning District. 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 and believes that the variance will not adversely affect surrounding residents. Therefore, staff recommends approval of the requested variance with the following conditions, which are carried over from the previous variance approval:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the updated site plan and elevations submitted with the variance application.
2. The existing driveway entrance along Argo Drive shall be removed and replaced with curb and gutter and permanently stabilized prior to issuance of the Certificate of Occupancy. The existing sidewalk shall be reestablished once the driveway has been removed.
3. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court and an as-built certification statement submitted to Community Development prior to issuance of the building permit.

Darrell Smith, applicant, stated that he wants to add value to the neighborhood and create something that fits their vision. He stated he understands and agrees to the stipulations read into record.

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

Board Member Andrea Worthy made a motion to approve item V25-019; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- I. **V25-020** Public Hearing - Variance Request - V25-020 - Reduce the rear setback - Land Lot 382 - 756 Park Manor Drive - Adam Hoffman
This request is to be tabled to the March 12, 2025 License and Variance Meeting at the request of the applicant.
Ward 4 Councilmember - Charles 'Corkey' Welch

Board Member Bo Jones made a motion to table to the March 12, 2025 License and Variance Board meeting as requested by the applicant item V25-020; seconded by Board Member Andrea Worthy.

The motion to table carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- J. **V25-021** Public Hearing - Variance Request - V25-021 - Increase the impervious surface area - Land Lot 382 - 756 Park Manor Drive - Adam Hoffman
This request is to be tabled to the March 12, 2025 License and Variance Meeting at the request of the applicant.
Ward 4 Councilmember - Charles 'Corkey' Welch

Board Member Andrea Worthy made a motion to table to the March 12, 2025 License and Variance Board meeting as requested by the applicant item V25-021; seconded by Board Member Bo Jones.

The motion to table carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- K. **V25-022** Public Hearing - Variance Request - V25-022 - Reduce the front setback from 35 feet to 28.6 feet - Land Lot 344 - 2831 Ivanhoe Lane - Kevin Ramirez
Ward 5 Councilmember - Susan Wilkinson

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.26-acre lot located on the north side of Ivanhoe Lane (Figure 1). The subject parcel and all adjacent properties are zoned R-15; all are occupied by single-family detached houses.

In December 2024, a permit was issued to remodel the existing single-family home. During the footing inspection, the building inspector found that a front porch addition was added to the property, which was not on the original approved plan set. Shortly after, the applicant submitted the variance application.

The applicant is currently remodeling the existing 1,132 square foot home with a 518 square foot addition and front porch. The porch as it exists on the property today is larger than what is presented on the variance site plan, as at staff recommendation, the applicant is bringing it more in line with neighboring properties. When completed per the variance site plan, the home will be 1,650 square feet with 3 bedrooms and 2 ½ bathrooms. With the renovations, the home will be brought closer into compliance with the 2,000 square foot R-15 floor area requirement.

The existing home currently has an uncovered concrete front stoop as the main access to the home. As part of the overall renovation, the applicant is proposing to replace the existing stoop with a 170 square foot covered front porch to enjoy the front yard as well as enter the home in inclement weather more easily. The existing home is currently built on the front setback line, leaving no room for a roof over the existing front stoop, much less any other frontward expansion. The applicant has proposed that the new porch will be constructed 28.6 feet from the front property line and thus encroach on the front setback by 6.4 feet. No other variances are required for the renovations, as all other setbacks are met, and the property will be under the maximum impervious surface area of 35%.

Since the existing home was constructed in 1958, prior to the adoption of the current Zoning Ordinance in 1974, Community Development believes the variance requested is the minimum variance needed to construct a usable front porch in the front yard. Community Development does not foresee any negative impacts to adjacent properties should the variance be approved. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant requests a variance to reduce the front setback from 35 feet to 28.6 feet for the construction of a front porch. 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. 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 requested variance shall be conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Mark Vargas, representative for the applicant who is out of the country, came forward and stated that he understands and agrees to the standard condition read into record.

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

Board Member Bo Jones made a motion to approve item V25-022; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

L. **V25-023** Public Hearing - Variance Request - V25-023 - Reduce the rear setback from 25 feet to 19.1 feet - Land Lot 406 - 4208 Cheltingham Lane - Christopher Breen
Ward 4 Councilmember - Charles 'Corkey' Welch

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.20-acre lot located on the north side of Cheltingham Lane within the King Valley at Vinings subdivision (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are all occupied by single-family detached homes.

The existing home was originally built in 1999 with a rear deck and stairs that encroached into the rear setback without the proper variance. Since the home was completed in 1999 prior to the current owner's purchase, the hardship is not self-created.

The applicant is proposing to replace and enclose the existing deck to make a 294 square foot sunroom and add a new 40 square foot deck with accompanying stairs. With the sunroom and deck additions increasing the value of the structure, regardless of the previous nonconformity, the property is required to be brought to current code per Section 1102. No other variances are required, as all other setbacks are met, and the property will be under the maximum impervious surface area of 35%.

Due to the existing deck location, the most logical area to construct the sunroom and new deck is within the setback. The applicant is looking to expand this nonconforming location along the back of the home, but no closer to the rear of the property than exists currently. In fact, the encroachment will be reduced by 2.2 feet since the existing deck sits at 16.9 feet from the rear property line.

Community Development believes the requested variance is the minimum variance needed to replace the existing deck on the property. A similar variance was approved nearby at 4114 Kenway Court (V15-046) so there is a precedence for this type of variance in the neighborhood. Strict application of the ordinance would deny the applicant any ability to modify the existing deck since the existing deck is already over the rear setback line. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the development standards established by the King Valley at Vinings subdivision plat, which requires a rear setback of 25 feet. 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. After a review of the standards above, Community Development believes that the setback encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

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

Christopher Breen, applicant, thanked Ms. Crowe and City Engineer Mark Wolff for all of their help through the process. He stated he understands and agrees to the standard stipulation read into record.

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

Board Member Andrea Worthy made a motion to approve item V25-023; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

- M. V25-024 Public Hearing - Variance Request - V25-024 - Increase the maximum impervious surface area above 35% - Land Lot 406 - 4208 Cheltingham Lane - Christopher Breen**

This request is to be withdrawn.

Ward 4 Councilmember - Charles 'Corkey' Welch

Board Member Bo Jones made a motion to withdraw item V25-024; seconded by Board Member Andrea Worthy.

The motion to withdraw carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

5. Approval of Minutes

- A. MIN2025-037 Approval of the February 12, 2025 License and Variance Board Meeting Minutes**

Board Member Andrea Worthy made a motion to approve item MIN2025-037; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None
Recuse: 0 – None

6. Other Business / Staff Comment

7. Adjournment

Chairperson Richard Garland adjourned the February 26, 2025 License and Variance Board meeting at 10:37 AM.

Facilities are provided throughout City Hall for the convenience of persons with disabilities.

THIS MEETING WAS PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS IN ACCORDANCE WITH THE NOTICING STANDARDS AS OUTLINED IN O.C.G.A. 50-14-3:

The City of Smyrna website – www.smyrnaga.gov / City Hall, 2800 King Street SE, Notice Boards