

LICENSE AND VARIANCE BOARD

Minutes - Final



Richard Garland, Chairperson
Bo Jones, Board Member
Andrea Worthy, Board Member
Brian Marcos, Board Member
Eric Mohrmann, Board Member
Mary Moore, 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

July 10, 2024
10:00 AM

1. Roll Call

Present: 3 – Chairperson Andrea Worthy, Boardmember Mary Moore, Boardmember Eric Mohrmann

Staff: 5 – Tyler Addison, Jill G. Head, Russell Martin, Joey Staubes, and Starla Whiddon

2. Call to Order

Chairperson Andrea Worthy called to order the July 10, 2024 License and Variance Board meeting held at A. Max Bacon City Hall in Council Chambers at 10:00 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. LIC2024-012** Privilege License Agent Change Request – Beer & Wine and Sunday Sales (retail package) – 475 Windy Hill RD SE, Smyrna, GA 30082 - WindyHill Smyrna LLC with Satish Kurelly as agent.

Ward 5 Councilmember - Susan Wilkinson

Application was made for privilege license agent change for WindyHill Smyrna LLC for the sale of beer & wine, Sunday Sales (retail package). Satish Kurelly is the agent applicant.

Satish Kurelly will be the registered agent responsible for the sale of alcohol at 475 Windy Hill RD SE, Smyrna, GA 30082. 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. Kurelly has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Satich Kurelly – applicant – came forward. Mr. Kurelly stated that they are taking over an existing business at a Shell gas station. He has never served as an agent previously. When asked about age verification for alcohol purchases, he stated that they check the physical ID of anyone purchasing alcohol, and employees are trained as part of a 7-day training practice. Mr. Kurelly understands the City of Smyrna's expectations and understands that the Smyrna Police Department will perform compliance checks at random.

Boardmember Mary Moore made a motion to approve item LIC2024-012; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

- B. V24-052 Public Hearing - Variance Request - V24-052 - Increase the maximum impervious surface area - Land Lot 489 - 2649 Grady Street - Justin Simms**
This request is to be tabled to the July 24, 2024 License and Variance Board Meeting at the request of the applicant.
Ward 3 Councilmember - Travis Lindley

Boardmember Mary Moore made a motion to table item V24-052 at the request of the applicant; seconded by Boardmember Eric Mohrmann.

The motion to table carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

- C. 2024-186 Move Item V24-054 prior to Item V24-053**

Boardmember Mary Moore made a motion to approve item 2024-186; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

- D. V24-054 Public Hearing - Variance Request - V24-054 - Allow encroachment into the City's 50-foot undisturbed stream buffer - Land Lot 530 - 1153 Rhyne Chase - Frank Pologruto**
Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Joey Staubes, Planner II, provided the following background:

The applicant is requesting relief from the City's 50-foot undisturbed stream buffer to install a deck in the rear yard. According to Section 46-160 of the Stream Buffer Protection Ordinance, variances must be reviewed under the following standards: (1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; (2) The locations of all streams on the property, including along property boundaries; (3) The location and extent of the proposed buffer or setback intrusion; (4) Whether alternative designs are possible which require less intrusion or no intrusion; (5) The long-term and construction water-quality impacts of the proposed variance; (6) Whether as a result of an exchange of buffer area the net buffer area is not reduced; and (7) Whether issuance of the variance is at least as protective of natural resources and the environment. After a review of the standards above, Community Development and the City Engineer believe that the encroachment will not adversely affect surrounding residents nor the existing stream; therefore, staff recommends approval of the requested variance with the following conditions:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.
2. A determination by the Georgia Environmental Protection Division shall be made as to whether mitigation will be required for encroachment into the State's 25-foot stream buffer prior to issuance of the building permit.

Frank Pologruto (applicant), 1153 Rhyne Chase, stated there is an existing deck there, and he will comply with all of the City of Smyrna's recommendations.

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

Boardmember Mary Moore made a motion to approve item V24-054; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

**E. V24-053 Public Hearing - Variance Request - V24-053 - Increase the maximum impervious surface area from 35% to 44% - Land Lot 560 - 2730 Morris Circle - Ashley Dover
*Ward 3 Councilmember - Travis Lindley***

Joey Staubes, Planner II, provided the following background for items V24-053, V24-062, and V24-063:

The subject parcel is a 0.24-acre corner lot located to the west of the intersection of Walker Court and Morris Circle (see Figure 1). The subject parcel and adjoining parcels to the north, south, and west are zoned R-15 while the adjacent parcels to the east are zoned RDA; all are occupied by single-family detached residences.

The subject property is currently occupied by a 3,589 square foot single-family home, built in 2020. The existing house is currently situated in the middle of the lot with the front porch on Morris Circle and a side-entry garage off Walker Court. The applicant is

proposing to build a 381 square foot pool and spa with a 320 square foot cabana in the rear of the property. The cabana will feature cedar posts, be open on all four sides, and cover an outdoor kitchen area. Due to the location of the home and the corner lot setbacks, several variances are required to erect the pool and the cabana.

The accessory structure ordinance allows one accessory structure or use per lot; since the applicant is proposing both a pool and a cabana, a variance is required for the additional structure. Since the pool and cabana are both separate outdoor uses, staff are supportive of the request.

Since the lot is a corner lot with front setbacks on both Walker Street and Morris Circle, the applicant has minimal area to build the swimming pool and cabana without encroaching into the setbacks. The applicant is able to maintain the 5-foot accessory structure rear setback but is requesting to reduce the side setback to 5 feet in order to construct both the pool and cabana fully in the rear yard. If the pool was moved over an additional five feet to accommodate the side wetback, the cabana would be moved into the front setback and spur an additional two variances. Thus, this is the minimum variance needed to allow for both structures within the side setback.

After the addition of the pool and the accompanying cabana to the property, the impervious surface area will be above the allowable 35% by 9% (or 954 square feet). To offset the increase in impervious surface area, the applicant is adding a rain garden to the northwest corner of the rear yard, directly behind the proposed swimming pool. The City Engineer has reviewed the application and is supportive of the proposed mitigation method with the stipulation that a Stormwater Inspection & Maintenance Agreement be recorded prior to pool permit issuance.

Community Development believes the requested variances are the minimum variances needed to build an outdoor amenity on the property. A similar variance request was approved across the street at 1429 Walker Court in 2020 (V20-041-043). Thus, there is a precedent for variances of this type in the area. At the time of this report, Community Development has not received any opposition to the requests.

The applicant is requesting to deviate from the City's maximum impervious area, side setback, and maximum accessory structure requirements to build a swimming pool and cabana on the 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. After a review of the standards above, Community Development believes that the proposed variances will not adversely affect surrounding residents with implementation of the proposed mitigation plan; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval of the requested variances shall be conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court prior to issuance of the pool permit.
3. A stormwater as-built certification statement shall be submitted to Community Development for approval prior to issuance of the Certificate of Completion.

Ashley Dover (applicant) of Georgia Classic Pool came forward on behalf of the homeowner. She stated she and the homeowner are in agreement with the three conditions read into record.

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

Boardmember Mary Moore made a motion to approve item V24-053; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

**F. V24-062 Public Hearing - Variance Request - V24-062 - Reduce the side setback from 10 feet to 5 feet - Land Lot 560 - 2730 Morris Circle - Ashley Dover
*Ward 3 Councilmember - Travis Lindley***

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

Boardmember Mary Moore made a motion to approve item V2-062; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

**G. V24-063 Public Hearing - Variance Request - V24-063 - Allow second accessory structure - Land Lot 560 - 2730 Morris Circle - Ashley Dover
*Ward 3 Councilmember - Travis Lindley***

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

Boardmember Mary Moore made a motion to approve item V24-063; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

H. **V24-055** Public Hearing - Variance Request - V24-055 - Increase the maximum impervious surface area from 30% to 38.5% - Land Lot 702 - 2255 Goodwood Boulevard - Christopher Tzegaegbe
Ward 2 Councilmember - Latonia P. Hines

Joey Staubes, Planner II, provided the following background for V24-055, V24-060, and V24-061:

The subject parcel is currently a 0.12-acre lot located on the south side of Goodwood Boulevard within the Oakley Downs subdivision (see Figure 1). The subject parcel and all adjacent parcels are zoned RTD and are occupied by attached single-family townhomes.

The applicant is proposing to remodel the existing 1,607 square foot three-story townhome by adding a 1,076 square foot addition on the northwestern side of the home. The addition will consist of added square footage on all three levels: the lower level will be completely remodeled, enclosing the one-car garage to create a laundry and flex room and adding a new family room and master suite; the main floor will expand the living room and create a dining room and office, and the upper floor will expand to include an additional living space. The addition will have a hardy plank façade, painted to match the existing home.

The existing home is pushed to the southeast of the property with a large front and side yard due to the triangular shape of the lot and its relation to the connected townhome. Due to this irregular shape, the applicant is proposing to extend the line of the existing home with a 0.5-foot encroachment into the front setback and 4-foot encroachment into the side setback. Since the western side of the home is on the 10-foot side setback and the front porch is already at the 25-foot front setback, any expansion in line with the existing foundation and floor plan would create a setback encroachment. Thus, the hardship is not self-created.

After the proposed addition of 465 square feet of impervious surface to the property, the impervious surface area will be above the allowable 30% by 8.5% (or 430 square feet). To offset the increase in impervious surface area, the applicant is adding a gravel pit in front of the new addition. The City Engineer has reviewed the application in concept only and is supportive of the proposed mitigation method with the stipulation that a Stormwater Inspection & Maintenance Agreement be recorded prior to building permit issuance. A full review of the mitigation plan will be conducted with the building permit application.

The variances proposed are the minimum variances needed to construct any type of addition in line with the current home due to the triangular geometry of the lot. Community Development does not foresee any negative impacts to adjacent properties should the variances be approved. Similar variances have been approved throughout the city when an appropriate mitigation method has been included. At the time of this report, Community Development has not received any calls in opposition to these requests.

The applicant is requesting to deviate from the development standards established by the RTD zoning district, which requires a maximum impervious surface area of 30% , a front setback of 25 feet and a 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 placing the addition within the setbacks will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval of the requested variances shall be conditioned upon substantial compliance with the mitigation plan and elevations submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court prior to issuance of the building permit.
3. A stormwater as-built certification statement shall be submitted to Community Development for approval prior to issuance of the Certificate of Completion.

Ms. Sims and Danielle Davis came forward on behalf of the applicant, Christopher Tzegaegbe. They stated these variances are for a small addition to the main areas in the second and third floors. They understand and agree to the three conditions read into record.

A public hearing was called.

Debbie Raede - 2305 Goodwood Blvd - came forward and stated that she is not opposed but concerned about how it will impact her property. The most important thing to her are her cypresses and how those would be impacted during construction. Mr. Staubes stated the proposed addition and any construction will be six feet away from the property line. The trees will not be impacted by their development. A silt fence will be installed, and they cannot go beyond that fence.

Boardmember Mary Moore made a motion to approve item V24-055; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

- I. **V24-060** Public Hearing - Variance Request - V24-060 - Reduce the front setback from 25 feet to 24.5 feet - Land Lot 702 - 2255 Goodwood Boulevard - Christopher Tzegaegbe
Ward 2 Councilmember - Latonia P. Hines

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

Boardmember Mary Moore made a motion to approve item V24-060; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None

Recuse: 0 – None

- J. **V24-061** Public Hearing - Variance Request - V24-061 - Reduce the side setback from 10 feet to 6 feet - Land Lot 702 - 2255 Goodwood Boulevard - Christopher Tzegaegbe
Ward 2 Councilmember - Latonia P. Hines

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

Boardmember Mary Moore made a motion to approve item V24-061; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

5. Approval of Minutes

- A. **MIN2024-092** Approval of the June 26, 2024 License and Variance Board Meeting Minutes
Citywide

Boardmember Mary Moore made a motion to approve item MIN2024-092; seconded by Boardmember Eric Mohrmann.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Worthy, Boardmember Moore, Boardmember Mohrmann
Nay: 0 – None
Recuse: 0 – None

6. Other Business / Staff Comment

7. Adjournment

Chairperson Andrea Worthy adjourned the July 10, 2024 License and Variance Board meeting at 10:27 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