

LICENSE AND VARIANCE BOARD

Minutes - Final



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

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

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

June 26, 2024
10:00 AM

1. Roll Call

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

Staff: 6 – Olivia Anderson, Caitlin Crowe, Jill G. Head, Dat Luu, Russell Martin, and Starla Whiddon

2. Call to Order

Chairperson Richard Garland called to order the June 26, 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. **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 10, 2024 License and Variance Board Meeting at the request of the applicant.
Ward 3 Councilmember - Travis Lindley

Boardmember Bo Jones made a motion to table item V24-052 to the July 10, 2024 License and Variance Board meeting at the request of the applicant; seconded by Boardmember Andrea Worthy.

The motion to table carried with the following vote:

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

- B. V24-053** Public Hearing - Variance Request - V24-053 - Increase the maximum impervious surface area - Land Lot 560 - 2730 Morris Circle - Ashley Dover
This request is to be tabled to the July 10, 2024 License and Variance Board Meeting at the request of the applicant.
Ward 3 Councilmember - Travis Lindley

Boardmember Andrea Worthy made a motion to table item V24-053 to the July 10, 2024 License and Variance Board meeting at the request of the applicant; seconded by Boardmember Bo Jones.

The motion to table carried with the following vote:

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

- C. V24-048** Public Hearing - Variance Request - V24-048 - Increase the maximum impervious surface area from 45% to 55.3% - Land Lot 617 - 5011 Duxford Drive - Verender Varma
Ward 7 Councilmember - Rickey N. Oglesby Jr.

Caitlin Crowe, Planner I, provided the following background for item V24-048 and V24-049:

The applicant is seeking two variances to build a sunroom addition on the rear of the single-family home located at 5011 Duxford Drive: increase the impervious surface area from 45% to 55.3% and reduce the rear setback from 25 feet to 17.1 feet. Section 801 sets the maximum impervious area of the RDA zoning district. The rear setback of 25 feet is regulated by the Woodland Gate Unit I plat, recorded in 2001.

The subject parcel is a 0.16-acre lot located on the east side of Duxford Drive (see Figure 1). The subject parcel and all adjoining parcels are zoned RDA and are all occupied by single-family detached homes within the Woodland Gate subdivision.

The applicant is proposing to replace the existing concrete patio with a 340 square foot sunroom to enjoy the outdoors even in inclement weather. When the home was built in 2003, the builder went over the allowable 45% impervious surface area by 6.5% without obtaining a variance. Additionally, a 246 square foot wooden deck was built in the rear of the property (sometime before 2019), within the existing drainage easement and without a building permit or variance. The deck may remain with the stipulation that the deck may be removed at the owner's expense if the City ever needed to perform work in the area.

After the addition of the sunroom to the property, the impervious surface area will be 10.3% over the allowable 45% (or 714 square feet). Since the sunroom is adding value to the property, the property is required to be brought to current code regardless of the previous nonconformity. However, since the existing single-family home was already non-conforming, the hardship is not self-created. Since the original increase in impervious surface area occurred in 2003 and there is no addition of land disturbing activities or stormwater runoff, the City Engineer has determined that no remediation is required in order to support the variance.

Patios that are flush to the ground are not required to meet building setbacks. However, once the sunroom is added over the patio, the sunroom will encroach into the rear setback

by 7.9 feet. Due to the existing patio location, the most logical area to construct the sunroom is within the setback.

The subject property is currently buffered from adjacent properties by an existing wooden privacy fence so impact to neighboring properties would be minimal. Community Development believes the variance is the minimum variance needed to construct any usable outdoor space due to the existing driveway and house already over the allowable impervious coverage. A similar variance was approved in 2021 directly across the street at 5008 Duxford Drive (V21- 124), 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 calls in opposition to the request.

The applicant is requesting to deviate from the development standards established by the City for the RDA zoning district and the Woodland Gate Unit I subdivision plat, which requires a maximum impervious area of 45% and 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 impervious surface increase 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.
2. If any work must occur within the 20-foot drainage easement, the wooden deck may be required to be moved at the property owner's expense.

Rubina Varma, applicant/owner, came forward and stated that she understands and agrees to the two stipulations read into record.

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

Boardmember Bo Jones made a motion to approve item V24-048; seconded by Boardmember Andrea Worthy.

The motion to approve carried with the following vote:

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

- D. **V24-049** Public Hearing - Variance Request - V24-049 - Reduce the rear setback from 25 feet to 17.1 feet - Land Lot 617 - 5011 Duxford Drive - Verender Varma
Ward 7 Councilmember - Rickey N. Oglesby Jr.

No further information was added. The same stipulations apply and are understood and agreed to by the applicant.

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

Boardmember Andrea Worthy made a motion to approve item V24-049; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

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

**E. V24-050 Public Hearing - Variance Request - V24-050 - Reduce the front setback from 15 feet to 13.5 feet - Land Lot 486 - 3083 Nichols Street - Joshua Berry
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background for V24-050 and V24-051:

The applicant is requesting two variances for an addition at 3083 Nichols Street: to reduce the front setback from 15 feet to 13.5 feet and reduce the rear setback from 20 feet to 8.8 feet. The setbacks are associated with the Nichols Heights Lot 1-3 plat, recorded in 2017.

The subject parcel is currently a 0.21-acre lot located to the north of the intersection of Nichols Street and the private drive known as Laurel Way (see Figure 1). The subject parcel and the adjacent parcels to the north and west are zoned RDA and are occupied by detached single-family homes. The adjacent lots to the south and east are zoned CBD and are occupied by single-family townhomes.

The applicant is proposing to remodel the existing 2,825 square foot two-story home by adding a 1,018 square foot addition on the southern side of the home, with a 183 square foot covered porch on the front. The addition will consist of two floors; the first will be a living room while the second floor will create a new bedroom and bathroom as well as a storage space. The addition will feature a hardy plank façade with a stone water table, painted to match the existing home.

The existing home is pushed to the north of the property with a large side yard due to the triangular shape of the lot; the property geometry tapers drastically as the property moves south towards the intersection of Nichols Street and Laurel Way (see Figure 1). Due to this tapering, the applicant is proposing to extend the line of the existing home with an 11.2-foot encroachment into the rear setback. Since the northern side of the home is on the 10-foot side setback and the opposite corner is already at the 20-foot rear setback, any expansion in line with the existing foundation and floor plan would create a setback encroachment. Thus, the hardship is not self-created.

When the property was built in 2017, the house was constructed into the front setback by 1.5 feet due to the front porch. Since this was not approved via a variance at the time of the original construction, the variance request to reduce the front setback is to bring the existing house into compliance. Since this encroachment has existed since the house was built and has had no negative impacts to the surrounding neighbors, staff can support the request.

Additionally, when the house was erected, a stormwater infiltration put was installed in the side yard, directly to the south of the home. The existing infiltration pit will be removed as part of the addition construction and replaced with two new infiltration basins, one to the east of the home in the rear yard and the second in between the new addition and the existing shed. The City Engineer has reviewed the new bmp placements and is supportive of their new locations.

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. 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 recorded plat for Nichols Heights Lots 1-3, which requires a front setback of 15 feet and a rear setback of 20 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 in the rear setback 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 site plan and elevations submitted with the variance application.
2. A plat shall be submitted to the City for approval and recorded with the Cobb County Superior Court to show the revised stormwater bmp locations prior to issuance of the Certificate of Completion.
3. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court prior to issuance of the building permit.
4. A stormwater as-built certification statement shall be submitted to Community Development for approval prior to issuance of the Certificate of Completion.

Chairperson Garland asked if all four stipulations applied to each variance request. Ms. Crowe answered yes.

Lisa Berry, applicant/owner, and Sean Murphy, contractor, came forward. Mr. Murphy stated that he was the original designer of the subdivision with Rick Cole. This house sits on a triangle, and at the time he recommended they shorten the depth of the front porch. The front porch is a few feet deeper than it was supposed to be prompting one variance request. Prior to the subdivision being built, an older home was there where the shed is currently. There is precedence for there being a structure there already. He further stated that it is over 50 ft from the back of the fence to the edge of any townhomes. There is no way to do an addition without the setback. The addition sits on top of bmp. They will rebuild the bmp in a different location. Mrs. Berry stated she and her husband agree to and understand the four stipulations read into record.

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

Boardmember Bo Jones made a motion to approve item V24-050; seconded by Boardmember Andrea Worthy.

The motion to approve carried with the following vote:

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

- F. **V24-051** Public Hearing - Variance Request - V24-051 - Reduce the rear setback from 20 feet to 8.8 feet - Land Lot 486 - 3083 Nichols Street - Joshua Berry
Ward 3 Councilmember - Travis Lindley

Staff had nothing further to add. Ms. Berry added that on the other side of the privacy fence there are twenty 30 ft cypress trees, so it is fully screened. She again stated that she agrees to and understands the four stipulations read into record.

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

Boardmember Andrea Worthy made a motion to approve item V24-051; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

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

- G. **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

Boardmember Andrea Worthy made a motion to table item LIC2024-012 to the July 10, 2024 License and Variance Board meeting due to the applicant not being present; seconded by Boardmember Bo Jones.

The motion to table carried with the following vote:

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

5. Approval of Minutes

- A. **MIN2024-090** Approval of the June 12, 2024 License and Variance Board Meeting Minutes
Citywide

Boardmember Bo Jones made a motion to approve item MIN2024-090; seconded by Boardmember Andrea Worthy.

The motion to approve carried with the following vote:

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

6. Other Business / Staff Comment

7. Adjournment

Chairperson Richard Garland adjourned the June 26, 2024 License and Variance Board meeting at 10:20 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