

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

April 24, 2024
10:00 AM

1. Roll Call

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

Staff: 4 – Tyler Addison, Caitlin Crowe, Jill G. Head, Russell Martin, and Starla Whiddon

2. Call to Order

Chairperson Richard Garland called to order the April 24, 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. V24-020 Public Hearing - Variance Request - V24-020 - Allow a second accessory structure - Land Lot 599 - 3804 Ashwood Drive - Joshua Beberg
*Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.47-acre lot located on the south side of Ashwood Drive (see Figure 1). The subject parcel and all adjoining parcels are zoned R-20 and are all occupied by single-family detached residences.

Prior to 2021, the subject property was occupied by a 2,110 square foot single-family home and an 86 square foot shed. In April 2021, a pool company submitted plans to install a 544 square foot inground swimming pool and accompanying decking. The accessory structure ordinance allows one accessory structure or use per lot so to avoid a variance for a second accessory structure, the pool company showed the shed being removed from the property. During the final pool inspection, it was noted that the shed was still remaining and would need to be removed per the plans. Per the homeowner, it

was never their intent to remove the shed and they were unaware of the pool company's note on the plans. Thus, the applicant has submitted the variance to keep both the pool and shed on the property.

The existing shed has been used for the pool equipment and is currently on the side of the property, with no other structures within 75 feet, aside from the subject property's home. There are no formal records of when the shed was built, since no permits are required for accessory structures under 200 square feet.

Due to the size of the lot, Community Development believes the proposal will not adversely impact adjacent properties. Community Development believes the variance requested is the minimum variance needed to allow for any outdoor storage due to the existing swimming pool. Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the City's accessory structure ordinance to retain a shed 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 additional accessory structure will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance.

Joshua Beberg, 3804 Ashwood Dr, stated that the shed was on the property when they moved in about 4-5 years ago. It holds the pool equipment and lawnmower currently.

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 V24-020; 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

**B. V24-021 Public Hearing - Variance Request - V24-021 - Increase the maximum impervious surface area from 35% to 40.5% - Land Lot 416 - 850 Bank Street - Carter Armbruster
Ward 5 Councilmember - Susan Wilkinson**

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.25-acre lot located on the south side of Bank Street, at the intersection of Bank Street and Eastfield Road (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are all occupied by single-family detached homes.

The applicant is proposing to construct a deck on the rear of the property over existing concrete and gravel surfaces, both of which are considered impervious. The existing property is currently over the maximum impervious area of 35% by roughly 5% due to the size of the driveway, which encompasses most of the rear yard. Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming impervious area. Additionally, per Section 1102, "no nonconforming building, structure or use shall be extended, nor shall its total value be enhanced, unless such extensions or alterations conform with the provisions of this ordinance." With the addition of the deck and thus an expansion of both use and value, the property is no longer considered legally nonconforming. However, since the existing property was already non-conforming, the hardship is not self-created.

Since the increase in impervious surface area was an existing condition on the site and there is no addition of land disturbing activities or stormwater runoff, the City Engineer has determined that a mitigation plan is not required in order to support the variance.

Community Development believes the variance is the minimum variance needed to construct an outdoor amenity on the property. Strict application of the ordinance would deny the applicant any ability to modify any portion of the rear yard since the existing impervious area is already over the allowable maximum impervious coverage. 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 R-15 zoning district, which requires a maximum impervious area of 35%. The applicant is requesting to maintain the increase of the impervious surface area to 40.5% to allow for the construction of a deck. 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.

Carter Armbruster, 850 Bank St, stated he understands the condition 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 V24-021; 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

**C. V24-022 Public Hearing - Variance Request - V24-022 - Reduce the front setback from 35 feet to 18.9 feet - Land Lot 408 - 824 Reed Road - Chris Westerman
Ward 4 Councilmember – Charles “Corkey” Welch**

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is currently a 0.55-acre lot located at the southwest intersection of Reed Road and Green Forest Parkway, platted in the Green Forest Subdivision in 1979 (see Figure 1). In conjunction with the variance application, the applicant has submitted for a combination plat to acquire 0.61 acres from the neighboring property at 5000 Green Forest Parkway. Once recorded, the subject parcel will be 1.16 acres. The subject parcel and all adjacent parcels are zoned R-15 and are all occupied by detached single-family homes.

The applicant is proposing to remodel the existing 1,844 square foot split-level home by adding a 1,280 square foot garage addition on the eastern side of the home, connected via a 13.5-foot breezeway. The existing house is currently under the minimum house size of 2,000 square feet in the R-15 zoning district; with all the renovations, the home will be over 3,124 square feet, bringing the home into compliance with the R-15 floor area requirement. The addition will consist of two floors; the first will primarily be used to store and service the applicant’s antique vehicles while the second floor will have an office space and full bathroom to use while in the garage. The garage will be rear-entry and erected in a modern style with a hardy plank façade, which will be painted to match the existing home.

The existing home is pushed up to the front setback with a large rear and side yard due to the Colonial Pipeline easement in the rear of the property (which is roughly 63 feet in width). The property geometry tapers drastically as the property moves southeast towards the intersection of Reed Road and Green Forest Parkway. Due to this tapering and the existing pipeline easement, the applicant is proposing to extend the line of the existing home with a 16.1-foot encroachment into the front setback. Moreover, the building on the adjacent property to the south is over 100 feet away from the proposed addition.

In order to access the new rear-entry garage, the applicant has proposed a new driveway access from Green Forest Parkway to enter from the side of the lot and cut through the Colonial Pipeline easement. To gain the required access along Green Forest Parkway, the applicant has acquired property from the neighboring lot at 5000 Green Forest Parkway. Due to the steep grade change along Green Forest Parkway and existing pipeline markers, the proposed driveway is roughly 30 feet from the road intersection. The City Engineer has reviewed the proposed driveway location and, although would prefer the driveway moved as far from the intersection as possible, can support the proposed location.

Since the driveway will primarily cut through the Colonial Pipeline Easement, the applicant has gained an Encroachment Agreement with Colonial Pipeline Company to use the property for access. In the Agreement, the company stipulates that the drive must be gravel with a concrete apron since they do not allow permanent structures to be installed within the easement. Since this is a stipulation added by the Colonial Pipeline Company, this hardship is not self-created. As the Agreement already requires, a concrete apron is also stipulated by the Public Works Department so that all gravel is retained on the property and does not enter the City right-of-way.

The variances proposed are the minimum variances needed to construct any type of addition in line with the current home due to the existing Colonial Pipeline Easement. The hardship is not self-imposed, as the easement existed prior to the construction of the home. 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 City for the R-15 zoning district, which requires a front setback of 35 feet and a paved parking surface. 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 garage in the front setback and gravel driveway 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 submitted with the variance application.
2. The combination plat to adjust the property line to accommodate the new driveway location shall be recorded with the Cobb County Superior Court prior to permitting.
3. A concrete driveway apron shall be installed in the City right-of-way for the new driveway entrance along Green Forest Parkway.

Boardmember Jones asked if the gravel driveway going to be over the easement or over the entirety. Ms. Crowe stated that everything within the city right-of-way will be required to be concrete.

Chris Westerman, 824 Reed Road, stated he has to do the concrete apron. With the driveway, they are going to do a paver edge or paver runner for aesthetics. He is looking at crush and run rather than large gravel. He stated he understands the conditions 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 V24-022; 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

- D. **V24-023** Public Hearing - Variance Request - V24-023 - Allow a gravel driveway - Land Lot 408 - 824 Reed Road - Chris Westerman
Ward 4 Councilmember – Charles “Corkey” Welch

Staff nor the applicant had additional information to provide for this item.

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 V24-023; 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

5. Approval of Minutes

A. MIN2024-047 Approval of the April 10, 2024 License and Variance Board Meeting Minutes

Boardmember Andrea Worthy made a motion to approve item MIN2024-047; 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

6. Other Business / Staff Comment

7. Adjournment

Chairperson Richard Garland adjourned the April 24, 2024 License and Variance Board meeting at 10:15 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