

# 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

**January 08, 2025**  
**10:00 AM**

### 1. Roll Call

**Present:** 3 – Chairperson Andrea Worthy, Board Member Bo Jones, Board Member Eric Randall

**Staff:** 6 – Caitlin Crowe, Jill G. Head, H. Houze, Russell Martin, Starla Whiddon, Mark Wolff

### 2. Call to Order

Chairperson Andrea Worthy called to order the January 8, 2025 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. LIC2025-001** Privilege License Agent Change Request – Liquor, Beer & Wine (retail package) and Sunday Sales – 3150 Highlands Pkwy SE STE 202 , Smyrna, GA 30082 - Mengstab and Banks Distribution LLLP, DBA Prohibition Liquor and Wine with Randy Earl Banks as agent.  
***Ward 7 Councilmember - Rickey N. Oglesby Jr.***

Randy Early Banks, agent and new owner of the store, came forward. He stated that he has been in training with the previous owner for the last two years. He has been trained on what to look for and what to ask for when requesting identification. Mr. Banks was present in the store 3-4 times a week during training and will be present nearly every day after this agent change. Employees are trained by taking alcohol training classes.

Chairperson Worthy stated that application was made for privilege license agent change for Mengstab and Banks Distribution LLLP, DBA Prohibition Liquor and Wine for the sale of Liquor, beer & wine (retail package) and Sunday Sales. Randy Earl Banks is the agent applicant.

Randy Earl Banks will be the registered agent responsible for the sale of alcohol at 3150 Highlands Pkwy SE STE 202 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. Banks has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Chairperson Worthy explained that the Smyrna Police Department performs compliance checks.

Board Member Jones asked if they had plans on acquiring a POS system to scan ID's. Mr. Banks stated they currently have the Clover system and are going to order a fake ID detector.

Board Member Randall asked if it is their policy to ID everyone regardless of age. Mr. Banks stated he has all employees ID everyone.

Board Member Bo Jones made a motion to approve item LIC2025-001; seconded by Board Member Eric Randall.

The motion to approve carried with the following vote:

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

- B. LIC2025-002** Privilege License Agent Change Request – Beer & Wine (retail package) and Sunday Sales – 3240 S Cobb Dr SE, Smyrna, GA 30082 - The Kroger Co with Stephen Aldridge as agent.

***Ward 5 Councilmember - Susan Wilkinson***

Stephen Michael Aldridge, Jr, agent and store leader, came forward. He has been with Kroger for over 15 years. He served as agent at his last store. Kroger policy is to verify age by checking ID, and all are checked regardless of age. They do not currently have an ID scanner. If a vertical ID/underage ID is presented, the cashier must verify it with a manager. On day one, employees have web-based learning, online training courses, and they must adhere to GA law and company policy. Each year, everyone must retake training. If an infraction occurs, all employees must retake training.

Chairperson Worthy stated that application was made for privilege license agent change for The Kroger Co for the sale of beer & wine (retail package) and Sunday Sales. Stephen Aldridge is the agent applicant.

Stephen Aldridge will be the registered agent responsible for the sale of alcohol at 3240 S Cobb Dr 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. Aldridge has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Chairperson Worthy explained that the Smyrna Police Department performs compliance checks.

Board Member Eric Randall made a motion to approve; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

- C. **LIC2025-004** Privilege License Agent Change Request – Beer & Wine (Pouring and Sunday Sales) – 1435 Highland Ridge Rd SE Ste A, Smyrna, GA 30082 - Pihu Pizzeria LLC, dba Johnny's Pizza with Kinjal Kanubhai Patel as agent.  
***Ward 7 Councilmember - Rickey N. Oglesby Jr.***

Kinjal Patel, agent and owner/operator, came forward. This will be the third store, and he will be present seven days a week, at least 50-60 hours a week. He has served as agent at the other two stores. Mr. Patel stated that servers have to have a pouring permit with the state/city. If a server is unsure, management on duty verifies ID. They have bi-weekly meetings with training scenarios.

Chairperson Worthy stated application was made for privilege license agent change for Pihu Pizzeria LLC, DBA Johnny's Pizza for the sale of beer & wine (Pouring and Sunday Sales). Kinjal Kanubhai Patel is the agent applicant.

Kinjal Kanubhai Patel will be the registered agent responsible for the sale of alcohol at 1435 Highland Ridge Rd SE Ste A, 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. Patel has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Chairperson Worthy stated that the Smyrna Police Department performs compliance checks.

Board Member Randall asked if their policy is to card all patrons ordering alcohol. Mr. Patel stated that it is mandatory to card everyone. If there is ever a customer violation, the police department is always called.

Board Member Bo Jones made a motion to approve item LIC2025-004; seconded by Board Member Eric Randall.

The motion to approve carried with the following vote:

**Aye:** 3 – Chairperson Worthy, Board Member Jones, Board Member Randall  
**Nay:** 0 – None

**Recuse:** 0 – None

**D. V25-001 Public Hearing - Variance Request - V25-001 - Allow encroachment into the City's 50-foot undisturbed stream buffer - Land Lot 315 - 3910 W Cooper Lake Road - Portico Properties**

***Ward 4 Councilmember - Charles 'Corkey' Welch***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 1.03-acre lot located on the north side of W Cooper Lake Drive and is currently vacant (see Figure 1). The subject parcel and adjacent parcels to the south, east and west are zoned R-15 and are occupied by single-family detached homes. The adjacent parcel to the north is zoned R-20 and is occupied by a neighboring residence's tennis court. The subject parcel is located within the Cooper Lake Hills Subdivision, which was platted in 1979, prior to the Smyrna Stream Buffer Ordinance, which was implemented in 2005.

The applicant is proposing to build a two-story single-family home on the subject property, which has historically been a vacant lot. The new home will include four bedrooms and four bathrooms with a mixture of hardy plank and board and batten siding. The subject property is greatly impacted by the State's 25-foot stream buffer, City's 50-foot undisturbed buffer, and the City's 75-foot impervious surface setback due to a creek that runs along the middle of the property. A 20-foot sanitary sewer easement also runs up the eastern length of the property and bisects the rear yard, essentially halving the buildable area of the lot. The applicant has designed the building footprint and construction disturbance to stay out of the State's 25-foot stream buffer but encroaches into both the City's 50-foot undisturbed stream buffer and the 75-foot impervious surface setback due to the setback and topography constraints. No other variances are needed for the construction of the new home.

In order to construct the new home, the applicant will disturb the City's 50-foot undisturbed stream buffer by 2,265 square feet and the City's 75-foot impervious surface area setback by 2,287 feet, for a total stream buffer impact of 4,552 square feet. (Note that the actual impervious impacts are 476 square feet and 1,351 square feet in the 50-foot and 75-foot buffers, respectively.) The applicant will mitigate the rear yard disturbance by extending the 50-foot undisturbed buffer into the 75-foot impervious surface setback by 2,265 square feet and then extend the 75-foot impervious surface setback by 1,351 square feet. The new impervious area will be contiguous with the existing stream buffers and will require an update to and recording of the parcel plat to delineate the new undisturbed and impervious setback limits. The Engineering Department has reviewed the application and accompanying mitigation plan and supports the method used for buffer mitigation per the Georgia Stormwater Management Manual requirements.

Community Development believes the hardship is not self-created, as the lot of record has existed before the stream buffer ordinance was adopted. Community Development believes this is the minimum variance needed to allow for any building construction, and that there should be no negative impacts to adjacent properties if approved. Similar variances have been approved throughout the city when an appropriate mitigation method has been included. Community Development has not received any calls in opposition to the request.

According to Section 46-160 of the Stream Buffer Protection Ordinance, stream buffer 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 Engineering Department believe that the encroachments will not adversely affect surrounding residents nor the existing stream; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval is conditioned upon substantial compliance with the elevation and site plan submitted with the variance application.
2. A plat shall be submitted to the City for approval and subsequently recorded with the Cobb County Superior Court to show the extension of the undisturbed buffer and impervious surface setback prior to issuance of the building permit.

Board Member Randall explained that as the Public Works Director, this falls under his umbrella overall. He asked of the City Engineer, Mark Wolff, if there are any BMP's that have been considered to mitigate the flow after development to address the steepness of the slopes. Mr. Wolff stated that nothing was considered by the applicant to his knowledge.

Joshua Gentes, Portico Properties, came forward. He is the site supervisor in charge of building the home. He stated they are planning to sod everything that gets disturbed. Anything on the steeper bank would be stapled down. He would be happy to consider and accommodate other stipulations. The company specializes in custom home-building on difficult lots. He has reached out to neighbors. Board Member Randall asked if they tables this item to consider further BMP's, would that be problematic. He explained that the request for this is because the buffers are in place to protect the streams. Mr. Randall would be happy with a stipulation that they work with staff to develop an appropriate permanent level-spreader. Mr. Gentes stated they would be fine accommodating the stipulation and added that a berm would be added and sodded so as not to not send water the the neighbor's lots. He also stated he understands the the stipulations read into record as well as the third one that will be added.

A public hearing was called.

Craig Mages – 3920 W. Cooper Lake – stated that when he moved into his house in 1994, the city said there was no possibility for a home to be built on this property. He now wonders why it is possible now. He stated he wants to be on the record that he is opposed to this item.

Lisa Liounakos – 3885 W. Cooper Lake – stated she lives across from the property in question and has been in community for 28 years. She does not understand how a driveway and entrance to the lot can work on the ½ acre and curvature of the property. She stated she wants to be on the record that she is opposed to this item, and she worries that this opens the door for others to come into the area and build along the stream.

Chairperson Worthy asked Ms. Crowe to clarify – the request is to allow encroachment into the city's undisturbed stream buffer. If they were not asking for this variance, there

would not have been any necessity to come before this board. Mrs. Crowe affirmed that is the case and added that the property was platted in 1979 well before the stream buffer ordinance in 2005. The houses to the left, right, and across were all built within the stream buffers and would not have been able to be built based on today's standards. In addressing Mr. Mages' point that he had been told this property could not be built upon, it is true that it has remained vacant for many years because it is difficult to build on; however, this company has found an opportunity in it with these variances.

Board Member Eric Randall made a motion to approve item V25-001 with the added stipulation that the applicant will work with staff to develop BMP's to prevent erosion in a permanent condition; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

**E. V25-002 Public Hearing - Variance Request - V25-002 - Allow encroachment into the City's 75-foot impervious surface setback - Land Lot 315 - 3910 W Cooper Lake Road - Portico Properties  
*Ward 4 Councilmember - Charles 'Corkey' Welch***

No other information was provided by staff nor the applicant.

A public hearing was called.

Lisa Liounakos, 3885 W. Cooper Lake, asked how long this project will take and where the equipment will be placed during construction.

Joshua Gentes, Portico Properties, stated that once they are granted the permit, they should be done within six months. The first month will be for clearing the lot. He stated he would be happy to speak to any neighbors. He added that some equipment will be on the roads temporarily, but they will try to keep equipment off the roads as often as they can. Mr. Gentes stated he understands and agrees with the stipulations read into record.

Board Member Bo Jones made a motion to approve item V25-002 with the added stipulation that the applicant will work with staff to develop BMP's to prevent erosion in a permanent condition; seconded by Board Member Eric Randall.

The motion to approve carried with the following vote:

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

## **5. Approval of Minutes**

**A. MIN2025-004 Approval of the December 11, 2024 License and Variance Board Meeting Minutes**

Board Member Bo Jones made a motion to approve item MIN2025-004; seconded by Board Member Eric Randall.

The motion to approve carried with the following vote:

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

**6. Other Business / Staff Comment**

**7. Adjournment**

Chairperson Andrea Worthy adjourned the January 8, 2025 License and Variance Board meeting at 10:38 AM.

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

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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](http://www.smyrnaga.gov)  
City Hall, 2800 King Street SE, Notice Boards