

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

July 24, 2024
10:00 AM

1. Roll Call

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

Staff: 4 – Caitlin Crowe, Jill G. Head, Russell Martin, Mark Wolff

2. Call to Order

Chairperson Richard Garland called to order the July 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. V24-052 Public Hearing - Variance Request - V24-052 - Increase the maximum impervious surface area - Land Lot 489 - 2649 Grady Street - Justin Simms
Ward 3 Councilmember - Travis Lindley**

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to increase the impervious surface area from 45% to 63% for a pool in the rear yard. Section 801 sets the maximum impervious area and setbacks in the RDA zoning district.

The subject parcel is a 0.16-acre corner lot located to the east side of Grady Street (see Figure 1). The subject parcel and adjoining parcels to the north, south, and east are zoned RDA while the adjacent parcel to the west is zoned R-15; all are occupied by single-family detached residences.

The subject property is currently occupied by a 2,023 square foot single-family home, built in 2011. The existing house is currently situated in the middle of the lot with a front-entry garage off Grady Street. The applicant is proposing to build a 769 square foot pool and

spa, 145 square foot retaining wall, and 204 square foot paver area in the rear of the property. As the existing impervious coverage is 46% a variance is needed to increase the maximum impervious coverage to install the pool and other landscaping improvements.

After the addition of the pool and other impervious surface improvements to the property, the impervious surface area will be above the allowable 45% by 18% (or 1135 square feet). To offset the increase in impervious surface area, the applicant is adding a french drain to 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 variance is the minimum variance needed to build an outdoor amenity on the property. 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 to build a swimming pool and spa as well as other landscaping improvements 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.

Mark Wolff, City Engineer stated he reviewed the mitigation plan which involved an infiltration system behind the wall. He has asked for a letter from a structural engineer. A recommendation for approval will be based on that engineer's interpretation.

Justin Sims (applicant), 2649 Grady Street stated he understands and agrees with the three conditions read into record.

Sean Murphy, landscape engineer, stated that the homes were built at the maximum impervious limits, so there is no way for anyone in the neighborhood to build anything that does not go over impervious surface limits.

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 V24-052; 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. V24-056 Public Hearing - Variance Request - V24-056 - Allow encroachment into the City's 50-foot undisturbed stream buffer- 0.31 acres - Land Lot 593 - 1546 Walker Street - Kimberly Bunch
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to allow encroachment into the City's 50-foot undisturbed buffer and 75-foot impervious surface setback to build an addition at 1546 Walker Street. The City's stream buffers are controlled by Chapter 46, Article VI.

The subject parcel is a 0.31-acre lot located at the south side of Walker Street (see Figure 1). A stream runs through the property and continues through the adjacent properties to the north and south. The subject parcel and adjacent parcels to the north, east, and south are zoned R-15 and the adjacent property to the west is zoned RDA. All are occupied by single-family detached residences.

The applicant is proposing to build a 497 square foot addition to the rear of the existing 1,263 square foot home. The majority of the lot and the existing home are greatly encumbered by the State's 25-foot undisturbed buffer, the City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious surface setback, with no section of the rear yard untouched by stream buffers. Since the home was built in 1950 and property was platted prior to the Stream Buffer Protection Ordinance in 2005, the hardship is not self-created. No other variances are needed as the property is below their impervious coverage maximum of 35% and the addition meets all building setback requirements.

The proposed addition lies within the City's 50-foot undisturbed buffer and 75-foot impervious surface setback. To offset the encroachment into the stream buffers, the applicant is installing a rain garden to the rear yard, directly behind the proposed addition. 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.

A sewer line runs along the western side of the property and the rear yard. The applicant was unable to verify the exact pipe location without excavation and camera location service. The sewer line appears to be a sufficient distance from the proposed addition. However, the pipe location will need to be verified prior to the issuance of the building permit to ensure the pipe does not service the home on the subject property and run underneath the area of the proposed addition.

Due to the existing stream buffers encumbering the entirety of the rear yard and the existing home, Community Development believes this is the minimum variance needed to allow for any addition and that there should be no negative impacts to adjacent properties if approved. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting relief from the City's 50-foot undisturbed stream buffer and 75-foot impervious surface setback to construct an addition to the existing home. 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 variances shall be conditioned upon substantial compliance with the site plan and 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.
4. The location of the sewer line must be verified prior to issuance of the building permit to ensure no conflicts exist with the sewer line and proposed addition.

Kimberly Bunch (applicant), 1546 Walker Street, asked what the finished document should look like. Ms. Crowe stated that though this is not a stipulation, in the past they have asked when the surveyor is on the property to verify that they place stakes. Boardmember Jones asked the applicant if she was aware of the 10 ft. easement to either side of the sewer line. Ms. Bunch stated that her General Contractor was aware. She stated she understands and agrees with 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 Bo Jones made a motion to approve item V24-056; 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. **V24-057** Public Hearing - Variance Request - V24-057 - Allow encroachment into the City's 75-foot impervious surface setback - 0.31 acres - Land Lot 593 - 1546 Walker Street - Kimberly Bunch

Ward 3 Councilmember - Travis Lindley

No further information to added by staff nor the applicant. The Kimberly Bunch, applicant, stated she understands the 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 V24-057; 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. V24-058 Public Hearing - Variance Request - V24-058 - Allow reduction of the side setback from 10 feet to 5.6 feet - 0.36 acres - Land Lot 667 – 1837 Lochlomond Lane – Aleksandra Lesher
Ward 2 Councilmember - Latonia P. Hines**

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to reduce the side setback from 10 feet to 5.6 feet at 1837 Lochlomand Lane to screen an existing deck. Section 801 governs the setbacks for the R15 zoning district.

The subject parcel is a 0.36-acre lot located on the north side of Lochlomand Lane within the Highlands subdivision (see Figure 1). A stream runs to the north of the property and continues through the adjacent properties to the east and west. The subject parcel and adjoining parcels to the south, west, and east are zoned R-15 and are all occupied by single-family detached residences. The adjacent property to the north is zoned GC (General Commercial) and is occupied by a landscaping company.

The applicant is proposing to modify an existing 192 square foot deck on the rear of the existing home by adding a roof and screening to the structure. The existing deck is non-conforming being 5.6 feet from the side property line. No other variances are needed as the property is well below their impervious coverage maximum of 35% and the deck does not encroach into any stream buffers.

Since the deck is being enclosed, the property no longer remains legally nonconforming. However, since the existing single-family home and deck were already non-conforming, the hardship is not self-created.

The applicant will require relief from the City’s building setback requirements to enclose the deck. Community Development believes the hardship is not self-created, as the deck was originally constructed in this location. Community Development believes this is the minimum variance needed to allow for the deck enclosure, and that there should be no negative impacts to adjacent properties if approved. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting relief from the City’s 10 ft. side setback requirements to enclose an existing 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 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 is conditioned upon substantial compliance with the site plan submitted with the variance application.

Aleksdandra Leshner (applicant), 1837 Lochlomond Lane, stated she was unaware that the existing structure was nonconforming. She stated she 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.

Boardmember Bo Jones made a motion to approve item V24-058; 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

**E. V24-059 Public Hearing - Variance Request - V24-059 - Allow second accessory structure - 0.32 acres - Land Lot 592 – 1555 Roswell Street – Stephen McQuade
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to build a 240 square foot shed in the rear yard of 1555 Roswell Street. The property is currently occupied by an existing single-family home and detached covered patio area. Section 501 controls the maximum allowable number of accessory structures.

The subject parcel is a 0.32-acre lot located on the north side of Roswell Street (see Figure 1). The subject parcel and adjoining parcels to the east and west are zoned RDA while the adjacent parcels to the south are zoned RMC-8; all are occupied by single-family detached residences. The adjacent parcel to the north is considered City right-of-way and is vacant.

The subject property is currently occupied by a 2,938 square foot single-family home and a roughly 188 square foot covered seating area. The applicant is proposing to erect a 240 square foot shed in the rear yard for storage. Since the accessory structure ordinance allows one accessory structure or use per lot, a variance is required to build the second structure.

The proposed location of the shed is in the far rear of the lot with the nearest structure over 70 feet away. Due to the proposed location of the shed, Community Development believes the proposal will not adversely impact adjacent properties. No other variances for setback reductions or impervious area increase are required. Strict application of the

ordinance would deny the applicant any ability to have a storage shed on the property due to the existing detached structure.

The applicant is requesting a variance to allow the construction of a shed. Community Development believes the variance requested is the minimum variance needed to allow for any outdoor storage due to the existing covered patio area. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties. Community Development believes that the requested variance will not adversely affect surrounding residents. At the time of this report, Community Development has not received any opposition to the variance request.

The applicant is requesting to deviate from the City's accessory structure ordinance to erect 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 with the following condition:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Stephen McQuade (applicant), 1555 Roswell Street came forward and stated he understand 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.

Boardmember Andrea Worthy made a motion to approve item V24-059; 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

5. Approval of Minutes

A. MIN2024-100 Approval of the July 10, 2024 License and Variance Board Meeting Minutes

Boardmember Bo Jones made a motion to approve item MIN2024-100; 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 July 24, 2024 License and Variance Board meeting at 10:23 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**