

LICENSE AND VARIANCE BOARD

Action Summary - 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

September 25, 2024
10:00 AM

1. Roll Call

Present: 3 – Chairperson Richard Garland, Board Member Bo Jones, Board Member Eric Randall

Staff: 4 – Caitlin Crowe, Jill G. Head, H. Houze, Russell Martin

2. Call to Order

Chairperson Richard Garland called to order the September 25, 2024 License and Variance Board meeting held at A. Max Bacon City Hall in Council Chambers at 10:01 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. **LIC2024-022** Privilege License Agent Change Request – Beer & Wine (Pouring), Sunday sales and Special hours – 2579 S Cobb Dr SE, Smyrna, GA 30080 - Naija Cuisines African Restaurant & Bar, DBA Naija Cuisines with Frasquita Stroman as agent.

Ward 5 Councilmember - Susan Wilkinson

Board Member Bo Jones made a motion to hold until the end of Formal Business item LIC2024-022; seconded by Board Member Eric Randall.

The motion to hold carried with the following vote:

Aye: 3 – Chairperson Garland, Boardmember Jones, Public Works Director Randall

Nay: 0 – None

Recuse: 0 – None

**B. V24-077 Public Hearing - Variance Request - V24-077 - Increase the maximum impervious surface area from 45% to 50.03% - Land Lot 330 - 577 Lakeview Terrace - Matthew Berry
*Ward 7 Councilmember - Rickey N. Oglesby Jr.***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting two variances to cover an existing deck at 577 Lakeview Terrace: increase the impervious surface area from 45% to 50.03% and reduce the rear setback from 25 feet to 14 feet. Section 801 sets the maximum impervious surface area of the RDA zoning district at 45% whereas the rear setback of 25 feet is regulated by the Lakeview at Vinings Phase Two plat, recorded in 2003.

The subject parcel is a 0.16-acre lot located on the south side of Lakeview Terrace (see Figure 1). The subject parcel and all adjoining parcels are zoned RDA and are all occupied by single-family detached homes within the Lakeview at Vinings subdivision.

The existing home was originally built in 2003 with the deck encroaching into the rear setback by 9 feet without obtaining the required variances. The applicant is proposing to demolish the existing 216 square foot deck on the rear of the home and replace it with a covered deck. 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 roof addition and thus the enhanced value, the property is required to be brought to current code regarding the rear setback. However, since the existing deck was already non-conforming, the hardship is not self-created.

The existing deck is 16 feet from the rear property line; with the addition of the roof and subsequent eaves, the new roofed structure will be 14 feet from the property line. Community Development believes this is the minimum variance needed to enable a roof to fully cover the existing deck footprint without requiring the replaced deck to reduce in size.

The original home was permitted without the deck shown on the approved plans, which caused the lot to exceed the allowable 45% impervious surface area. Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming impervious area. Due to previous drainage improvements, the property has an existing stormwater infiltration system which collects runoff water from the house roof. Since this system treats impervious area that is more than sufficient to account for the area being added, the City Engineer is supportive of the variance without additional mitigation efforts.

The applicant will require relief from the City's building setback and impervious surface requirements to rebuild and cover the deck. Community Development believes the hardship is not self-created, as the deck was originally constructed in this location. Strict application of the ordinance would deny the applicant any ability to modify any portion of the home since the existing impervious area is already over the allowable maximum impervious coverage. Similar variances have been approved throughout the city when an appropriate mitigation method has been implemented. At the time of this report, Community Development has not received any calls in opposition to the requests.

The applicant is requesting to deviate from the development standards established by the Lakeview at Vinings subdivision plat and RDA development standards, which requires a

rear setback of 25 feet and a maximum impervious surface area of 45%, respectively. 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 encroachments will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following condition:

1. Approval of the requested variances is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Matthew Berry, applicant, stated that he understands and agrees to the standard condition read into record.

Board Member Randall stated there were previous stormwater issues. He wanted to know if those issues had been corrected. Mr. Berry answered that there is an underground drainage and a retention basin built on the property that keeps water from pooling.

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

Board Member Eric Randall made a motion to approve item V24-077; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

**C. V24-078 Public Hearing - Variance Request - V24-078 - Reduce the rear setback from 25 feet to 14 feet - Land Lot 330 - 577 Lakeview Terrace - Matthew Berry
*Ward 7 Councilmember - Rickey N. Oglesby Jr.***

Staff nor the applicant had further information to add. The applicant understands and agrees to the standard condition read into record previously.

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

Board Member Bo Jones made a motion to approve item V24-078; seconded by Board Member Eric Randall.

The motion to approve carried with the following vote:

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

**D. V24-079 Public Hearing - Variance Request - V24-079 - Reduce the front setback from 35 feet to 33.4 feet - Land Lot 453 - 961 Sharon Circle - Nick Vinson
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting several variances to renovate the existing property at 961 Sharon Circle: to reduce the front setback from 35 feet to 33.4 feet, reduce the streetside setback from 23.3 feet to 15.6 feet, and allow a 6-foot wooden fence in the front yard on a corner lot. The development standards established by the City for the R-15 zoning district require a minimum front setback of 35 feet and streetside setback of 23.3 feet. Section 503-A controls the location and height of fences in the Zoning Code.

The subject parcel is a 0.30-acre lot located at the northwest intersection of Ridgecrest Road and Sharon Circle (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15; all are occupied by detached single-family homes.

The applicant is proposing to fully renovate the existing 1,240 square foot home with a 570 square foot addition in the rear of the existing house. The renovations will add a new owner's suite complete with walk-in-closet and bathroom, a new deck, and new carport as well as reconfiguring the interior to create a total of 3 bedrooms and 3 ½ bathrooms. With the renovations, the home will be 1,810 square feet, bringing the home closer to compliance with the R-15 floor area requirement of 2,000 square feet.

The existing home currently has an uncovered 16 square foot concrete front stoop. As part of the overall renovation, the applicant is proposing to replace the existing stoop with a 97 square foot covered front porch to enjoy the front yard as well as enter the home in inclement weather more easily. The existing home is 4.4 feet from the front setback line, leaving little room for a roof on the existing front porch, much less any other forward expansion. The applicant has proposed the new porch 33.4 feet from the front property line and will thus encroach on the front setback by 1.6 feet. Community Development believes the variance requested is the minimum variance needed to construct a usable front porch on the subject property.

Per the Cobb County Tax Assessor, the existing detached carport was built with the home in 1953, prior to the adoption of the current Zoning Ordinance in 1974. The applicant is proposing to remove the existing structure and replace it in the same location with a new attached carport. Due to the existing driveway location, the most logical area to construct the carport is within the streetside setback to decrease disturbance to the subject property and surrounding neighbors. Since the existing carport is currently non-conforming, the hardship is not self-created.

Due to the property having road frontage on both Ridgecrest Road and Sharon Circle, both sides are considered a front yard regarding fencing. Section 503-A restricts the height of fences within a front yard to four feet. Strict application of the ordinance would require a fence greater than four feet in height be setback 23.3 feet from the property line off Ridgecrest Road. Being a corner lot on a frequently traveled road, the privacy and safety can often be compromised. Thus, the applicants are requesting a variance to allow a six-foot wooden privacy fence to replace the existing 4-foot chain link to provide security and privacy from the busy roadway. Due to the corner lot, Community Development believes it is the minimum variance needed to enclose the rear yard with a privacy fence.

Strict application of the ordinance would deny the applicant the ability to add any building square footage to the subject property without moving the foundation of the existing home. The variances proposed are the minimum variances needed to increase the home's footprint and bring it closer to compliance with R-15 standards. 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 the requests.

The applicant is requesting several variances for an addition and fence at 961 Sharon Circle: to reduce the front setback from 35 feet to 33.4 feet, reduce the streetside setback from 23.3 feet to 15.6 feet, and allow a 6-foot wooden fence in the front yard on a corner lot. 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 encroachments and fence will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following condition:

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

Board Member Randall wanted to clarify the location of the 6' tall fence. Mrs. Crowe stated that it will just be along Ridgecrest where the existing chain link fence is.

Nick Vinson, applicant, plans to take the fence about one foot inside the property line.

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

Board Member Eric Randall made a motion to approve item V24-079; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

**E. V24-080 Public Hearing - Variance Request - V24-080 - Reduce the streetside setback from 23.3 feet to 15.6 feet - Land Lot 453 - 961 Sharon Circle - Nick Vinson
*Ward 3 Councilmember - Travis Lindley***

Staff nor the applicant had further information to add. The applicant understands and agrees to the standard condition read into record previously.

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

Board Member Bo Jones made a motion to approve item V24-080; seconded by Board Member Eric Randall.

The motion to approve carried with the following vote:

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

**F. V24-081 Public Hearing - Variance Request - V24-081 - Allow 6-foot wooden fence in the front yard on a corner lot - Land Lot 453 - 961 Sharon Circle - Nick Vinson
*Ward 3 Councilmember - Travis Lindley***

Staff nor the applicant had further information to add. The applicant understands and agrees to the standard condition read into record previously.

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

Board Member Eric Randall made a motion to approve item V24-081; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

**G. LIC2024-022 Privilege License Agent Change Request – Beer & Wine (Pouring), Sunday sales ~~and Special hours~~ – 2579 S Cobb Dr SE, Smyrna, GA 30080 - Naija Cuisines African Restaurant & Bar, DBA Naija Cuisines with Frasquita Stroman as agent.
*Ward 5 Councilmember - Susan Wilkinson***

Board Member Eric Randall made a motion to amend item LIC2024-022 to eliminate the Special Hours request as noted above; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

Application was made for privilege license agent change for Naija Cuisines African Restaurant & Bar, DBA Naija Cuisines for the sale of beer & wine (Pouring), Sunday Sales and Special hours. Frasquita Stroman is the agent applicant.

Frasquita Stroman will be the registered agent responsible for the sale of alcohol at 2579 S Cobb Dr SE, Smyrna GA 30080. 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. Ms. Stroman has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Frasquita Stroman, applicant, came forward. Chairperson Garland mentioned to the applicant that there were violations that took place a year ago. He wanted to know what measure have been taken to address those violations. Ms. Stroman stated that they now participate in quarterly alcohol training classes. New employees are trained prior to serving, and they installed a new Point of Sale machine that scans ID's. They also eyeball the ID's, and they bring questionable ones to management. Mr. Garland also mentioned that there are still complaints from neighborhoods about noise. Ms. Stroman stated she is aware of the noise complaints. They installed soundproof walls, and Smyrna officers did come to check on the upgrades. Ms. Stroman stated that she has received alcohol training and has her license. She has been working with this facility for years, and she has background working in clubs in South Carolina.

Chairperson Garland explained to Ms. Stroman that Smyrna takes these privilege licenses seriously. The police will do random compliance checks.

Board Member Eric Randall made a motion to approve item LIC2024-022, Privilege License Agent Change Request – Beer & Wine (Pouring), Sunday sales – 2579 S Cobb Dr SE, Smyrna, GA 30080 – Naija Cuisines African Restaurant & Bar, DBA Naija Cuisines with Frasquita Stroman as agent; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

5. Approval of Minutes

A. MIN2024-151 Approval of the September 11, 2024 License and Variance Board Meeting Minutes

Board Member Bo Jones made a motion to approve item MIN2024-151; seconded by Board Member Eric Randall.

The motion to approve carried with the following vote:

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

6. Other Business / Staff Comment

7. Adjournment

Chairperson Richard Garland adjourned the September 25, 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**