

LICENSE AND VARIANCE BOARD

Action Summary - 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

January 10, 2024
10:00 AM

1. Roll Call

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

Staff: 6 – Caitlin Crowe, Jill G. Head, Russell Martin, Heather Peacon-Corn, Starla Whiddon, and Mark Wolff

2. Call to Order

Chairperson Richard Garland called to order the January 10, 2024 License and Variance Board meeting held at A. Max Bacon City Hall in Council Chambers at 10:03 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. LIC2023-014** Privilege License Agent Change Request – Beer, Wine, & Liquor (retail package) – 2230 South Cobb Drive SE – Rosa Wine LLC, dba Leroy's Liquor, with Kumilachew Andargie Belay as agent.

Ward 5 Councilmember - Susan Wilkinson

Application was made for privilege license agent change for Rosa Wine LLC, dba Leroy's Liquor for the sale of beer, wine, & liquor (retail package). Kumilachew Andargie Belay is the agent applicant.

Kumilachew Andargie Belay will be the registered agent responsible for the sale of alcohol at 2230 South Cobb Drive SE. 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. Belay has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Kumilachew Belay, applicant, came forward. He is the officer and owner of this business as well as the new agent. He stated he has not been an agent for another liquor store, but has been an agent at a gas station. There are currently three employees. Employees are trained upon hiring to check for proper identification, and their POS system requires input of ID information.

Chairperson Garland stated that this privilege is taken seriously by the City of Smyrna. Smyrna Police Department does perform compliance checks.

Boardmember Andrea Worthy made a motion to approve item LIC2023-014, a privilege license agent change request for beer, wine, & liquor (retail package) for Rosa Wine LLC, dba Leroy's Liquor located at 2230 South Cobb Drive SE with Kumilachew Andargie Belay as agent; 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. LIC2024-001 Privilege License Agent Change Request – Beer & Wine (retail package) – 677 Concord Road SE – Asit Business, Inc, dba One Stop 616, with Dharmik Patel as agent.

Ward 3 Councilmember – Travis Lindley

Application was made for privilege license agent change for Asit Business, Inc, dba One Stop 616 for the sale of beer & wine (retail package). Dharmik Patel is the agent applicant.

Dharmik Patel will be the registered agent responsible for the sale of alcohol at 677 Concord Road SE. 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.

Dharmik Patel, applicant and manager, came forward. He stated he has been manager for three years. He explained they recently installed a new POS system that allows them to scan ID's, and employees also check them manually. They currently have two employees.

SPD takes these privilege license seriously. They will routinely perform compliance checks.

Boardmember Andrea Worthy made a motion to approve item LIC2024-001, a privilege license agent change request for beer & wine (retail package) for Asit Business, Inc. dba One Stop 616 located at 677 Concord Road SE with Dharmik Patel as agent; 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

**C. V23-085 Public Hearing - Variance Request - V23-085 - Allow encroachment into the 75-foot impervious surface area setback - Land Lot 696 - 1921 Sadler Drive - Edward Karram
*Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to allow encroachment into the City's 75-foot impervious setback to allow for the construction of a new swimming pool at 1921 Sadler Drive. The City's stream buffers are controlled by Chapter 46, Article VI.

The property received a denial of the impervious surface area variance request by Mayor and Council in December 2022 (Variance Case V22-055). The applicant has resubmitted the same request with a different site plan and smaller pool to address the City Engineer's previous mitigation concerns.

The subject parcel is a 0.23-acre lot located on the north side of Sadler Drive (see Figure 1). A stream runs through the northern border of the property and continues through the adjacent western and eastern properties as well as a 15-foot drainage easement just north of the deck on the rear of the home. The subject parcel and all adjoining parcels to the east, south, and west are zoned RDA and are occupied by single-family detached residences within the Stonecrest Manor subdivision. The adjacent parcel to the north is in Unincorporated Cobb County and is currently vacant.

The subject property is currently occupied by a 2,716 square foot single-family home with a stream running through the north of the property. Due to the stream, the rear yard is encumbered by the State's 25-foot stream buffer, the City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious surface area setback. The applicant has designed the pool to stay out of the 50-foot undisturbed buffer but encroaches into the 75-foot impervious surface area setback by 318 square feet. The proposed pool is outside the stream buffers as much as possible without infringing on the house foundation. No other variances are needed as the property is well below their impervious coverage maximum of 45% and there are no additional accessory structures.

The applicant will require relief from the City's stream buffer ordinance in order to construct the pool and decking in the rear yard. The applicant will mitigate the 318 square foot encroachment by installing 165 square feet of pervious pavers and extend the impervious surface area setback 153 square feet to the west of the existing deck. The new impervious area would be contiguous with the existing setback area and will require an update to and recording of the parcel plat to delineate the new impervious setback limits. The City Engineer has reviewed the application and accompanying mitigation plan and supports the method used for buffer mitigation.

Due to the existing stream buffers and drainage easement in the rear yard, Community Development believes these are the minimum variances needed to allow for any outdoor amenity. Due to the size of the pool and location of the pool in the rear yard, Community Development believes the proposal will not adversely impact adjacent properties. Strict application of the ordinance would deny the applicant the ability to build any outdoor

amenity in the rear yard due to the existing stream buffers. 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.

The applicant is requesting relief from the City's 75-foot impervious surface area setback to install an in-ground swimming pool in the rear yard. 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 conditions:

1. Approval is conditioned upon substantial compliance with the site plan and mitigation plan submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement must be completed and recorded with the Cobb County Superior Court and an as-built certification statement submitted to Community Development prior to completion of the pool permit.
3. A plat shall be submitted to the City for approval and recorded with the Cobb County Superior Court to show the extension of the impervious surface area setback prior to completion of the pool permit.

Mark Wolff, City Engineer, stated that he has reviewed the plan and worked with the applicant. The plan is acceptable.

Wayne Melnick, property owner, stated that he appreciated the staff he worked with – Catilin Crowe and Mark Wolff – and mentioned they were fantastic. He stated he understands and agrees with the three conditions 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 V23-085, a public hearing and variance request (V23-085) to allow encroachment into the 75-foot impervious surface area setback on land lot 696 located at 1921 Sadler Drive by applicant Edward Karram; 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. V23-096 Public Hearing - Variance Request - V23-096 - Reduce the northern side setback from 12 feet to 6.6 feet - Land Lot 556 - 3405 Pretty Branch Drive - Edwin McGhee**
Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Caitlin Crowe, Planner I, provided the following background:

The applicant is seeking a variance to reduce the northern side setback for an addition on an existing non-conforming single-family home located at 3405 Pretty Branch Drive. Section 801 sets the setback requirements in the R-20 zoning district and Section 1102 sets the requirements for extending nonconforming uses.

The subject parcel is a 0.74-acre lot on the east side of Pretty Branch Drive, near the termination of the road (see Figure 1). The subject parcel and all adjoining parcels are zoned R-20 and are all occupied by single-family detached residences.

The subject property is currently occupied by a 2,334 square foot ranch home that is pushed towards the rear of the lot, accessed via a long and sloped driveway. The existing home, originally built in 1955 (prior to the adoption of the City's Zoning Ordinance), has an existing nonconforming setback of 6.6 feet due to the carport on the northern side of the home. Since the home is currently non-conforming, the hardship is not self-created. The applicant is proposing to renovate the existing one-story home to enclose the existing carport for a two-car garage and add roughly 650 square foot of living space to create a utility room, family room and additional bedroom and bathroom. The added utility closet will continue the nonconforming line of the existing carport, then pivot in almost 5 feet for the bedroom and bathroom to keep as much of the setback intact as possible.

Due to the existing nonconforming foundation and driveway access to the home, the most logical area to construct the addition is within the side setback to decrease disturbance to the subject property and surrounding neighbors. If it were not for the existing nonconforming setback, no variances would be required for the proposed addition. The neighboring property at 3393 Pretty Branch Drive received a southern side setback variance from 12 feet to 7 feet in November 2023 for a detached accessory structure (V23-070). Since the proposed addition will pivot in to 10.3 feet away from the neighboring property line, the location of the neighboring structure and the addition will be more than 15 feet apart, so no fire suppression system is required.

Due to the layout and foundation of the existing home, the addition will be constructed within the nonconforming setback, which currently encroaches into the northern side setback by 5.4 feet. Strict application of the ordinance would deny the applicant the ability to add any additional square footage to the northern portion of the existing home since the structure is already encroaching into the side setback. Due to the size of the lot and location of the house in the rear yard, Community Development believes the proposal will not adversely impact adjacent properties, nor be readily visible to the public. 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-20 zoning district for a side setback reduction. 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 conditions:

1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan and elevations submitted with the variance application.
2. Gutters and downspouts will be installed to divert stormwater away from adjacent properties.

Edwin McGhee, applicant, came forward and had no additional information to provide. He stated he 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 V23-096, a public hearing and variance request (V23-096) to reduce the northern side setback from 12 feet to 6.6 feet on land lot 556 located at 3405 Pretty Branch Drive by applicant Edwin McGhee; 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. V23-097 Public Hearing - Variance Request - V23-097 - Allow new construction on lot of record below minimum requirements - Land Lot 664 - 2608 Argo Drive - Nichelle Bell
Ward 2 Councilmember - Latonia P. Hines

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting to build a new single-family home at 2608 Argo Drive on a substandard lot. Section 1208 requires a variance to build on a lot of record below minimum lot size requirements.

The subject parcel is a 0.27-acre lot located on the west side of Argo Drive (see Figure 1). The subject parcel and the adjacent parcels to the north and west are zoned R-15. Two of the adjacent parcels to the south are zoned R-12, with the third zoned R-15. The adjacent parcels to the east are zoned RDA. The subject parcel and adjacent parcels are all occupied by detached single-family homes with the exception of one parcel to the north, which is currently vacant. The subject parcel is a homesite which was first recorded in the Cobb County Deed Book in 1955, prior to the current Smyrna Zoning Ordinance, which was implemented in 1974.

The subject property is only 11,579 square feet with a 50-foot road frontage while the R-15 zoning district requires a minimum lot size of 15,000 square feet and 85 feet of road frontage. Since the subject property is an existing lot of record, originally filed in the Deed Book in Cobb County in 1955, the hardship is not self-created. If it were not for the nonconforming lot, no other variances would be required to build the new home.

The existing 1,117 square foot home is currently in a state of disrepair and has been vacant for several years (see Figures 4 and 5). Aside from the nonconforming lot, the existing home is also encroaching into both the front and northern side setbacks and is

well below the minimum house size of the R-15 zoning district at 2,000 square feet. The applicant is proposing to demolish the existing house and build a new roughly 2,500 square foot two-story single-family home on the subject property in compliance with all setbacks and floor area requirements for the R-15 zoning district. The new façade will be primarily siding with a brick water table with a modern look to the architecture.

The subject property is unique in that it has less square footage and road frontage than what the R-15 zoning district requires. The hardship is not self created as the property is an existing lot of record. The variance requested is the minimum variance needed to build a new single-family home on the subject property. Community Development does not believe building a new single-family home on the subject property in accordance with the R-15 zoning requirements will negatively impact the surrounding properties. Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the City's minimum lot area requirement established for the R-15 zoning district. 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. Community Development believes that the requested variance will not adversely affect surrounding properties. Therefore, staff recommends approval of the requested variance with the following condition:

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

Nichelle Bell – 126 Belmont Drive, Atlanta – applicant, came forward. She expressed her appreciation for Mrs. Crowe's professionalism and assistance. She stated she understands and agrees to 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 Andrea Worthy made a motion to approve item V23-097, a public hearing a variance request (V23-097) to allow new construction on lot of record below minimum requirements on land lot 664 located at 2608 Argo Drive by applicant Nichelle Bell; 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

- F. **V23-098** Public Hearing - Variance Request - V23-098 - Reduce the eastern side setback from 35 feet to 32.7 feet - Land Lot 775 - 1324 Koa Court - Gregg Jones
Ward 1 Councilmember – Glenn Pickens

Caitlin Crowe, Planner I, provided the background on items V23-098, V23-099, V23-100, V23-101, V23-102, V23-103, and V23-104. Each individual item will be voted on separately:

The applicant is requesting a variance on seven new single-family townhome residences in the Rowan Walk subdivision to build decks on the rear of each unit. During the rezoning in 2019 to RM-10-PD (zoning case Z19-019), the subject property was approved with conditions for an eastern side setback of 35 feet for the townhomes.

The subject parcels are located on the east side of Koa Court, at the intersections of Koa Court and Rawlings Chase, Mountain Ash Lane and Wicker Wood Place (see Figure 1). The subject parcels and all adjacent parcels to the north, south, and west are zoned RM-10-PD and are within the Rowan Walk subdivision, all of which will be occupied with single-family townhomes. The adjacent property to the east is zoned R-15 and is occupied by the Argyle Elementary School.

The applicant has applied for eastern side setback reductions on seven units (lots 96 through 102; 1348 through 1324 Koa Court), which encompass two townhome buildings on the east side of Koa Court. In May 2023, the applicant submitted and permitted plans with foundations meeting the setback requirements listed in the zoning stipulations. However, rather than using the standard 10 feet by 10 feet deck as used on the other townhomes within the subdivision, the decks were reduced to a width of 7.5 feet.

In order to keep a consistent product throughout the subdivision, the applicant has requested the eastern side setback reduction of 2.3 feet to build the subdivision's standard 10-foot by 10-foot decks. Both townhome buildings are as close to the front of the property as the 48-foot Utility Access Easement will allow and the front-entry driveway on each of the units are at the required 20 feet in length from the back of the sidewalk. Without compromising the length of each of the townhomes, which are a maximum of 46 feet, the applicant will be encroaching into the eastern side setback by 2.3 feet.

Community Development believes that the encroachment will not adversely affect the surrounding residents, as the nearest structure at the Argyle Elementary School is over 270 feet away. With a 2.3 feet encroachment on the rear of internal townhomes, the requested variances for the encroachments will not be noticeable to the general public. Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the development standards established by zoning case Z19-019 for the eastern side setback of 35 feet to erect decks on the rear of seven new townhomes in the Rowan Walk subdivision. 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 is conditioned upon substantial compliance with the site plans and elevations submitted with the variance application.

Gregg Jones, applicant/owner, added that he had already submitted and gotten approved for one property with a smaller deck. He stated that he understands and agrees with 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 Bo Jones made a motion to approve item V23-098, a public hearing and variance request (V23-098) to reduce the eastern side setback from 35 feet to 32.7 feet on land lot 775 located at 1324 Koa Court by applicant Gregg Jones; 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

**G. V23-099 Public Hearing - Variance Request - V23-099 - Reduce the eastern side setback from 35 feet to 32.7 feet - Land Lot 775 - 1328 Koa Court - Gregg Jones
*Ward 1 Councilmember – Glenn Pickens***

No additional information was provided by staff or applicant.

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 V23-099, a public hearing and variance request (V23-099) to reduce the eastern side setback from 35 feet to 32.7 feet on land lot 775 located at 1328 Koa Court by applicant Gregg Jones; 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

**H. V23-100 Public Hearing - Variance Request - V23-100 - Reduce the eastern side setback from 35 feet to 32.7 feet - Land Lot 775 - 1332 Koa Court - Gregg Jones
*Ward 1 Councilmember – Glenn Pickens***

No additional information was provided by staff or applicant.

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 V23-100, a public hearing and variance request (V23-100) to reduce the eastern side setback from 35 feet to 32.7 feet on land lot 775 located at 1332 Koa Court by applicant Gregg Jones; 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

I. **V23-101** Public Hearing - Variance Request - V23-101 - Reduce the eastern side setback from 35 feet to 32.7 feet - Land Lot 775 - 1336 Koa Court - Gregg Jones
Ward 1 Councilmember – Glenn Pickens

No additional information was provided by staff or applicant.

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 V23-101, a public hearing and variance request (V23-101) to reduce the eastern side setback from 35 feet to 32.7 feet on land lot 775 located at 1336 Koa Court by applicant Gregg Jones; 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

J. **V23-102** Public Hearing - Variance Request - V23-102 - Reduce the eastern side setback from 35 feet to 32.7 feet - Land Lot 775 - 1340 Koa Court - Gregg Jones
Ward 1 Councilmember – Glenn Pickens

No additional information was provided by staff or applicant.

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 V23-0102, a public hearing and variance request (V23-102) to reduce the eastern side setback from 35 feet to 32.7 feet on land lot 775 located at 1340 Koa Court by applicant Gregg Jones; 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

K. **V23-103** Public Hearing - Variance Request - V23-103 - Reduce the eastern side setback from 35 feet to 32.7 feet - Land Lot 775 - 1344 Koa Court - Gregg Jones
Ward 1 Councilmember – Glenn Pickens

No additional information was provided by staff or applicant.

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 V23-103, a public hearing and variance request (V23-103) to reduce the eastern side setback from 35 feet to 32.7 feet on land lot 775 located at 1344 Koa Court by applicant Gregg Jones; 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

**L. V23-104 Public Hearing - Variance Request - V23-104 - Reduce the eastern side setback from 35 feet to 32.7 feet - Land Lot 775 - 1348 Koa Court - Gregg Jones
*Ward 1 Councilmember – Glenn Pickens***

No additional information was provided by staff or applicant.

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 V23-104, a public hearing and variance request (V23-104) to reduce the eastern side setback from 35 feet to 32.7 feet on land lot 775 located at 1348 Koa Court by applicant Gregg Jones; 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

**M. V23-105 Public Hearing - Variance Request - V23-105 - Allow 6-foot wooden fence in front yard on a corner lot - Land Lot 624 - 1741 Point Pleasant - Yassmin Yousef
*Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to allow for a 6-foot wooden privacy fence in the front yard on the corner lot at 1741 Point Pleasant. Section 503-A controls the location and height of fences in the Zoning Code.

The subject parcel is a 0.35-acre lot located on the northeastern corner of the intersection of Ridgehurst Drive and Point Pleasant (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are occupied by single-family detached homes.

The subject property is located off Ridgehurst Drive, the main road within the Vinings Glen subdivision. The applicant is proposing to fully enclose her backyard with a 6-foot wooden fence, which is currently fenced-in on the rear and side. The proposed fence will be located behind the existing trees and shrubs planted along Ridgehurst Drive so there should be minimal visible impact.

Due to the property having road frontage on two sides as a corner lot, 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 on the Ridgehurst Drive side. However, since the property significantly slopes down from the roadway into the rear yard, this would not provide any privacy from the roadway. Thus, the applicant is requesting a variance to allow a six-foot wooden privacy fence 12 feet off the back of the curb on Ridgehurst Drive to provide security from the busy roadway.

The applicant is requesting a variance to allow a six-foot wooden privacy fence to be erected along Ridgehurst Drive to provide safety and security for her family. The Assistant City Engineer went out to the site and determined that there was not a site distance issue caused by the proposed fence. Community Development believes the variance requested is the minimum variance needed and that, at times, a four-foot fence may not provide adequate privacy on a corner lot.

The applicant is requesting to deviate from the development standards established by Section 503-A, which requires a four-foot fence in the front yard. 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 fence height will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:

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

Boardmember Worthy asked for clarification that this variance is not height, not setback. Mrs. Crowe confirmed it was fence height.

Yassmin Yousef - 1741 Point Pleasant – applicant, had no additional information to provide. She stated she understands and agrees to the standard condition read into record.

A public hearing was called. Paul Shumway, 4040 Ridge Hurst Drive, came forward. He stated that he does not support this variance request because his concern is what long-term property values will do if the fence becomes unsightly over the years.

Boardmember Bo Jones made a motion to approve item V23-105, a public hearing and variance request (V23-105) to allow 6-foot wooden fence in front yard on a corner on land lot 624 located at 1741 Pint Pleasant by applicant Yassmin Yousef; 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

- N. V23-086** Public Hearing - Variance Request - V23-086 - Allow new construction on nonconforming lot of record - Land Lot 664 - 2627 Argo Drive - Darrell Smith

This item to be tabled indefinitely.

Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table indefinitely item and variance request V23-086 to allow new construction on nonconforming lot of record on land lot 664 located at 2627 Argo Drive by applicant Darrell Smith; 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

- O. V23-087** Public Hearing - Variance Request - V23-087 - Reduce the side setback from 10 feet to 8.1 feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith

This item to be tabled indefinitely.

Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table indefinitely item and variance request V23-087 to reduce the side setback from 10 feet to 8.1 feet on land lot 664 located at 2627 Argo Drive by applicant Darrell Smith; 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

- P. V23-088** Public Hearing - Variance Request - V23-088 - Reduce the street side setback from 23.3 feet to 4.2 feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith

This item to be tabled indefinitely.

Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table indefinitely item and variance request V23-088 to reduce the street side setback from 23.3 feet to 4.2 feet on land lot 664 located at 2627 Argo Drive by applicant Darrell Smith; 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

- Q. V23-089** Public Hearing - Variance Request - V23-089 - Reduce the front setback from 35 feet to 12 feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith

This item to be tabled indefinitely.

Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table indefinitely item and variance request V23-089 to reduce the front setback from 35 feet to 12 feet on land lot 664 located at 2627 Argo Drive by applicant Darrell Smith; 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

- R. V23-090** Public Hearing - Variance Request - V23-090 - Reduce the minimum floor area from 2,000 square feet to 1,496 square feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith

This item to be tabled indefinitely.

Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table indefinitely item and variance request V23-090 to reduce the minimum floor area from 2,000 square feet to 1,496 square feet on land lot 664 located at 2627 Argo Drive by applicant Darrell Smith; 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

- S. V23-091** Public Hearing - Variance Request - V23-091 - Increase the maximum impervious surface area - Land Lot 664 - 2627 Argo Drive - Darrell Smith

This item to be tabled indefinitely.

Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table indefinitely item and variance request V23-091 to increase the maximum impervious surface area on land lot 664 located at 2627 Argo Drive by applicant Darrell Smith; 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

5. Approval of Minutes

**A. MIN2024-002 Approval of the December 13, 2023 License and Variance Board Meeting Minutes
*Citywide***

Boardmember Bo Jones made a motion to approve item MIN2024-002, the December 13, 2023 License and Variance Board meeting minutes; 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 January 10, 2024 License and Variance Board meeting at 10:50 PM.

Facilities are provided throughout City Hall for 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