

# LICENSE AND VARIANCE BOARD

## Minutes - 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

**February 14, 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, Eddie Matano, Starla Whiddon, and Mark Wolff

### 2. Call to Order

Chairperson Richard Garland called to order the February 14, 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. V24-008** Public Hearing - Variance Request - V24-008 - Reduce the side setback from 10 feet to 4 feet - Land Lot 452 - 995 Valley Drive - Sandra Towe

***This request is to be tabled to the February 28, 2024 License and Variance Board Meeting.  
Ward 3 Councilmember - Travis Lindley***

Boardmember Bo Jones made a motion to table to the February 28, 2024 License and Variance Board meeting item V24-008; 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

- B. V23-081** Public Hearing - Variance Request - V23-081 - Reduce the western side setback from 10 feet to 4 feet - Land Lot 449 - 1015 Hillsdale Street - Leslie Dean  
***Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The applicant is seeking five variances to construct a two-story detached accessory structure in the rear of 1015 Hillsdale Street: reduce the side setback from 10 feet to 4 feet, increase the accessory building size from 25% to 57% of the primary dwelling, reduce the accessory structure rear setback from 5 feet to 4.8 feet, increase the accessory structure height from 15 feet to 18.4 feet, and increase the maximum impervious surface area from 35% to 39.16%. The maximum accessory structure size, height, and distance to the rear property line is required per Section 501 of the Zoning Code whereas the 10-foot side setback and the 35% maximum impervious surface area is associated with Section 801 of the Zoning Code.

The subject parcel is a 0.35-acre lot located on the north side of Hillsdale Street in the Beverly Heights subdivision (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are all occupied by single-family detached residences.

The property is currently occupied by a one-story 2,083 square foot single-family home and a 335 square foot workshop on the northwestern corner of the property. The existing workshop is currently nonconforming, encroaching into the side setback by 7.2 feet. The existing workshop is used by both the applicant's family and the surrounding neighbors and is currently limited in space. The applicant is proposing to demolish the existing workshop and build a two-story 1,193 square foot detached accessory structure in the same footprint. The proposed structure will have two levels: a workshop on the first floor and a living area complete with bedroom, kitchenette, and living room on the second floor, which will be accessed by an interior staircase. Per the applicant, the addition is to be used by the applicant's family members when visiting from out of state. The new structure will have a four-sided shingle façade to match the shingle accents of the existing brick home. Due to the distance from the roadway, the structure will have limited visibility to the public from Hillsdale Street.

The existing two-story home is 2,083 square feet, which means that the 1,193 square foot proposed accessory structure exceeds the allowable accessory structure size by 32% based off the primary structure's gross square footage. Although the footprint of the structure is 664 square feet, the area calculations are almost doubled since the structure has a second level. The existing workshop is currently undersized, leading to the expansion of the footprint on the lower floor. Rather than expanding the existing structure's footprint for the living area addition, the applicant added the second story to minimize land disturbance and impervious surface area.

The applicant has proposed to increase the accessory structure height of the detached garage from 15 feet to 18.4 feet to match the roofline of the primary building more consistently. Due to the size and composition of the accessory structure, the increase in height will allow it to blend in more seamlessly with the existing building and decrease any visual deterrents. To minimize impacts to the adjacent neighbors whose backyards abut the new structure, the applicant will install transom windows on the second floor of the western building elevation so as to allow in natural light while ensuring the neighbor's privacy.

Due to the existing workshop's nonconforming location, the most logical area to construct the new structure is over the same foundation, within the side setback, to decrease disturbance to the subject property. Strict application of the ordinance would deny the

applicant the ability to replace the workshop with any structure since the existing foundation is already encroaching in the side setback. To try and minimize the extent of the setback encroachment, the new structure foundation will be shifted over 1.2 feet further from the western side setback than the existing workshop. However, since the western wall (including the roof overhang) is within 3.1 feet of the side property line, the western accessory structure wall and roof area must be fire rated. Since all nearby buildings exceed the minimum 10 feet of separation from the subject structure, no fire suppression system is required.

After the expansion of the workshop, the impervious surface area will be 4.16% over the allowable 35% (or 637.4 square feet). To offset the increase in impervious surface area, the applicant is installing a dry well in front of the new accessory structure. The City Engineer has reviewed the application and is supportive of the proposed mitigation method.

Due to the close proximity of the new accessory structure to the neighboring properties, the impacted neighbors directly to the west of the structure (2759 and 2749 Fraser Street) have both provided letters of support for the requested variances. Adjacent neighbors at 2771 Fraser Street and 1014 Hillsdale Street have also provided letters in support. The neighboring home at 1020 Powder Springs Street is over 250 feet away and should have minimal impact from the new structure. At the time of this report, Community Development has received no calls in opposition to these requests.

The applicant is requesting to deviate from the development standards established by the City for the maximum accessory structure size of 25% of the main structure, the maximum accessory structure height of 15 feet, the side setback of 10 feet, the accessory structure rear setback of 5 feet and the maximum impervious surface area of 35%. 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 variances will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval of the requested variances is conditioned upon 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.
3. A Stormwater Inspection and Maintenance Agreement shall 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.
4. Any wall within 3.1 feet of the property line shall be fire rated with a maximum of 25% openings in each wall.
5. All bedroom windows must have the minimum required egress of 5.7 square feet with the window in the open position.
6. The proposed accessory structure shall not be rented or occupied for gain.
7. These conditions shall run in perpetuity with the property and as such are also applicable to any future owner.

Mark Wolff, City Engineer, stated that the mitigation plan has dry wells that will capture runoff from rooftops and infiltrate that into the ground. That is standard mitigation technique. This is a sufficient plan for this property.

Leslie Dean, applicant (1015 Hillsdale St), had no further information to provide. She stated that she understands and agrees with the conditions read into record.

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

Boardmember Bo Jones made a motion to approve item V23-081; 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. **V23-082** Public Hearing - Variance Request - V23-082 - Increase the accessory building size from 25% to 57% of the primary dwelling - Land Lot 449 - 1015 Hillsdale Street - Leslie Dean  
***Ward 3 Councilmember - Travis Lindley***

No further information was added by staff nor the applicant.

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 V23-082; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

**Aye:** 3 – Chair Garland, Boardmember Jones, Boardmember Worthy  
**Nay:** 0 – None  
**Recuse:** 0 – None

- D. **V23-083** Public Hearing - Variance Request - V23-083 - Reduce the accessory structure rear setback from 5 feet to 4.8 feet - Land Lot 449 - 1015 Hillsdale Street - Leslie Dean  
***Ward 3 Councilmember - Travis Lindley***

No further information was added by staff nor the 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 V23-083; 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. **V23-084** Public Hearing - Variance Request - V23-084 - Increase the accessory structure height from 15 feet to 18.4 feet - Land Lot 449 - 1015 Hillsdale Street - Leslie Dean

***Ward 3 Councilmember - Travis Lindley***

No further information was added by staff nor the applicant.

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 V23-084; 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. **V23-108** Public Hearing - Variance Request - V23-108 - Increase the maximum impervious surface area from 35% to 39.16% - Land Lot 449 - 1015 Hillsdale Street - Leslie Dean

***Ward 3 Councilmember - Travis Lindley***

No further information was added by staff nor the 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 V23108; 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. **V24-001** Public Hearing - Variance Request - V24-001 - Allow new construction on lot of record below minimum requirements - Land Lot 452 - 3220 Ridgecrest Road - Jordan Deeney

### ***Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting approval for two variances to build a new single-family home at 3220 Ridgecrest Road on a substandard lot. Section 1208 requires a variance to build on a lot of record below minimum requirements whereas Section 801 requires a side setback of 10 feet in the R-15 zoning district.

The subject parcel is a 0.27-acre lot located on the west side of Ridgecrest Road, at the intersection of Ridgecrest Road and Ridgecrest Drive (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are all occupied by detached single-family homes, with the exception of the property to the west, which is occupied by a church. The subject parcel is located within the Smyrna Heights Subdivision, which was platted in 1951, prior to the current Zoning Ordinance, which was implemented in 1976.

The applicant is proposing to demolish the existing 952 square foot home and build a new 2,935 square foot two-story single-family home which will consist of 4 bedrooms and 3 bathrooms. The façade will be brick on the front and hardiplank on the sides and rear. Since the subject property is only 11,761 square feet while the R-15 Zoning District requires lots to be a minimum of 15,000 square feet, a variance must be acquired prior to construction. Since the subject property is an existing lot of record, originally filed for platting in 1951, the hardship is not self-created. Additionally, as noted above, the former one-story structure was 952 square feet while the minimum house size of R-15 is 2,000 square feet. Since the new home will be 2,935 square feet, the home will be brought into compliance with the R-15 floor area requirement.

The applicant is proposing to maintain the existing footprint of the home and driveway to minimize land disturbance to the property, which is almost directly in the middle of the narrow lot. As part of the new construction, the applicant is proposing to add a 12.9-foot wide one-car garage to the southern side of the home to provide some covered parking for the property, which currently does not have a garage or carport of any kind. The applicant reduced the width of the garage as much as possible to try to adhere to the 10-foot side setback while maintaining the required width for a single car. Even with the consideration for the setback, the garage is encroaching into the side setback by 1.1 feet. However, due to the existing driveway location, the most logical area to put the garage is within the side setback so the hardship is not self-created. A similar variance request was approved next door at 3212 Ridgecrest Road in 2021 (V21-039) and across the street at 985 Ridgecrest Drive in 2005 (V05-051).

The subject property is unique in that it has less square footage than what the R-15 zoning district requires; the hardship is not self-created as the property is an existing lot of record. The setback variance requested is the minimum variance needed to build a new single-family home on the subject property with minimal land disturbance. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the City's minimum lot area and setback requirements 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 lot size and setback encroachment 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.

Jordan Deeney, applicant (3220 Ridgecrest Rd), had no further information to provide.

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 V24-001; 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

**H. V24-002 Public Hearing - Variance Request - V24-002 - Reduce the southern side setback from 10 feet to 8.9 feet - Land Lot 452 - 3220 Ridgecrest Road - Jordan Deeney  
*Ward 3 Councilmember - Travis Lindley***

Jordan Deeney, applicant, stated he understands and agrees with the condition read into record for both items.

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 V23-002; 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. V24-003 Public Hearing - Variance Request - V24-003 - Increase the maximum impervious surface area from 45% to 61% - Land Lot 382 - 728 Park Manor Drive - Joel Powell  
*Ward 4 Councilmember - Charles "Corkey" Welch***

Caitlin Crowe, Planner I, provided the following background:



The applicant is requesting a variance to increase the impervious surface area from 45% to 61% due to the construction of a pool in the rear yard. Section 801 sets the maximum impervious area in the RDA zoning district at 45%.

The subject parcel is a 0.11-acre lot located on the south side of Park Manor Drive in the Sherwood Park subdivision (see Figure 1). The subject parcel and all adjoining parcels are zoned RDA and are all occupied by single-family detached residences.

A pool permit was issued to the subject property in March 2023 with the stipulation that the land sale with 732 Park Manor Drive, as shown on the approved plans, would be completed and the property re-platted prior to final inspections being performed. However, rather than purchase neighboring land, the applicant has chosen to submit a variance and subsequent mitigation plan for an increase in impervious surface area.

The subject property is currently occupied by a 2,818 square foot single-family home and 658 square foot swimming pool in the rear of the property. After the addition of the pool and accompanying retaining wall to the property, the impervious surface area increased the impervious surface area 16% over the allowable 45% (or 747 square feet). The pool has been under construction for nearly one year, so the applicant is proposing to retain the pool in its current form and location.

To offset the increase in impervious surface area, the applicant is implementing a infiltration/retention system between the swimming pool and retention wall in the rear yard. The City Engineer has reviewed the application and is supportive of the proposed mitigation method with the stipulations that a private drainage easement be recorded and a Stormwater Inspection & Maintenance Agreement be submitted prior to final inspection.

Community Development believes the requested variance is the minimum variance needed to retain the pool on the property. Similar variances have been approved throughout the City when an appropriate mitigation method has been included.

The applicant is requesting to deviate from the City's maximum impervious area to retain a swimming pool 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 impervious surface increase will not adversely affect surrounding residents with implementation of the proposed mitigation plan; therefore, staff recommends approval of the requested variance with the following conditions:

1. Approval of the requested variance is conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A private drainage easement shall be completed and recorded with the Cobb County Superior Court prior to completion of the pool permit.
3. A Stormwater Inspection and Maintenance Agreement shall 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.



Boardmember Jones asked if the variance has been requested because the property next door was sold. Ms. Crowe stated that is correct.

Mark Wolff, City Engineer, reviewed the mitigation plan and stated that it is in compliance with City standards. It is designed in a way so as to not impact neighbors adversely. It is sized appropriately.

Joel Powell, applicant (1152 Bank St), stated that the property changed hands during the construction process. Sean Murphy, registered landscape architect, stated that the site as it was was already at the max impervious. The city considers the pool surface to be impervious, so they are required to design as if the pool is impervious. All water flows to the house to the rear. By installing the trench, it should and will accommodate any water runoff issues.

A public hearing was called.

David Patty, 732 Park Manor Drive, the neighbor due south who moved into the home next door in July. When he moved into the home, he was immediately faced with this decision to sell a portion of his land. He chose to keep the property lines as they are. He does not want to hold up the pool construction. Since he has moved in, there has been construction debris on his land. He stated he has been patient but would like that space to be returned to its original condition. When he received a letter from Fairbanks Construction, it did not include the mitigation plan. He only received the mitigation plan four days ago. He stated it sounds like there is a good plan in place for water runoff concerns. Mr. Patty further explained that he felt pressured to sell this land, but because he did not, now there is a variance required.

Chairperson Garland stated that from the perspective of the License and Variance Board what is within its purview to consider is the request that is before them. The concerns that Mr. Patty has are not concerns that can be addressed by this board. This is not to say they are not valid, but they cannot be addressed by this board. He recommended Mr. Patty speak to Community Development Director Russell Martin.

Russell Martin, Community Development Director, stated that the letter is a notification to have the opportunity to have these discussions. All of the information is available via FOIA requests. With respect to the process, the permit will be updated with the requirements for the mitigation plan. The pool for the most part is done. Once completed, (decking, infiltration pit, wall) staff will go back out there to inspect it all, the infiltration pit, get as-built certification, appropriate fence, gate and latch, etc. City Engineer's team and environmental techs and grading is addressed, then we can ask Mr. Powell how he plans to address the adjoining property. Ultimately, if it meets all the code requirements, this becomes a civil issue.

Anthony Black and Ashley Black, 728 Park Manor Dr, are the homeowners of the property in question and have lived in Smyrna for more than 20 years. Mr. Black stated he is committed to making sure that Mr. Patty's property is taken care of. The one thing that is holding up removal of the construction debris was a lack of communication between him and Mr. Patty as to whether the property was going to be sold to Mr. Black, and because they were trying to protect the property from further runoff. He is hoping this is the opportunity to begin regular communication as neighbors. He wants to put the property back in a condition that is as close to the original condition that is agreeable to both parties.

Mr. Powell stated that he understands and agrees with the conditions read into record.

Boardmember Andrea Worthy made a motion to approve item V24-003; 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

**J. V24-004 Public Hearing - Variance Request - V24-004 - Allow new construction on lot of record below minimum requirements - Land Lot 488 - 1181 Bank Street - Joel Powell**  
***Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting approval for two variances to build a new single-family home at 1181 Bank Street on a substandard lot. Section 1208 requires a variance to build on a lot of record below minimum requirements whereas Section 801 allows a maximum 35% impervious surface area in the R-15 zoning district.

The subject parcel is a 0.34-acre lot located on the north side of Bank Street (see Figure 1). The subject parcel and adjacent parcels to the south and east are zoned R-15 whereas the adjacent parcels to the north and west are zoned RDA; all properties are occupied by single-family detached residences. The subject parcel was platted in 1910, prior to the current Zoning Ordinance, which was implemented in 1976.

The applicant demolished the former 1,988 square foot home in December 2023 and is proposing to build a new 3,455 square foot two-story single-family home which will consist of 4 bedrooms, 3 bathrooms and 2 ½ bathrooms. The façade will be a mixture of board and batton and hardiplank with a brick water table. Since the subject property is 14,870 square feet, which is just under the R-15 zoning district minimum requirement of 15,000 square feet, a variance must be acquired prior to construction of the new home. However, since the subject property is an existing lot of record, originally filed for platting in 1910, the hardship is not self-created. Additionally, as noted above, the former one-story structure was 1,988 square feet while the minimum house size of R-15 is 2,000 square feet. Since the new home will be 3,455 square feet, the home will be brought into compliance with the R-15 floor area requirement.

In addition to the new home, the applicant is proposing a new swimming pool in the rear yard. With the larger home and pool proposed on the property, the applicant will be over the maximum impervious coverage of 35% by 10.5%. To offset the increase in impervious surface area, an infiltration basin, 13 feet by 25 feet in area, will be constructed near the rear of the property. Stormwater from portions of the proposed patio roof, pool deck, and back yard area will be directed to drain to the basin by way of buried piping and site grading. The City Engineer has reviewed the application and is supportive of the proposed mitigation method.

The subject property is unique in that it has less square footage than what the R-15 zoning district requires; the hardship is not self-created as the property is an existing lot of

record. Similar impervious surface area variances have been approved throughout the city when an appropriate mitigation method has been included. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the City's minimum lot area and maximum impervious surface area 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 lot size and setback encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variances with the following conditions:

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

Mark Wolff, City Engineer, has reviewed the mitigation plan. It is infiltration based on northwest of property. It meets design criteria and standards.

Joel Powell, applicant (1152 Bank Street), stated the property of 1181 Bank Street has been vacant for years. He stated he understands and agrees with the stipulations read into record. Mr. Powell explained that he traditionally sends out certified letters to adjacent neighbors so that he can record that they have done what they are supposed to do. In addition, he personally hand delivers the same letter and sometimes knocks on doors to talk to the neighbors to discuss the projects. There has been no attempt to withhold anything, but sometimes the projects change as hard deadlines are met or they encounter issues. Sean Murphy, landscape architect, stated that this lot is considerably smaller than the other lots in the neighborhood. Just the house and the driveway maxed out the impervious surface. There was no way to add a pool without asking for a variance. The applicant is asking to have what the neighbors already have. The infiltration basin is sized to accommodate for the entire pool surface and roof drainage.

A public hearing was called.

Amy Mclean – 1171 Bank Street – stated when the old house was there the drainage was atrocious. As long as drainage is controlled not just for her property, and from what she understands, it sounds like there is a good plan in place.

Felicia Jones – 2798 Hamby Street – stated she has not seen plans. She would like to understand the plans. Her property sits lower than the property in question. She is not in agreement with this. She is fully supportive of building the house but build a house that fits within the allowable 35%.

Joan Stuart – 1191 Bank Street – stated she is delighted to have neighbors and life there, but she shares concerns about drainage. She expressed surprise there is no one from

Parkview Village present at the meeting because they have issues from runoff from the empty lot.

Joan Martin – 1191 Powder Springs Street – she asked if they considered a cistern. Mr. Murphy stated that a cistern was a possibility that that requires a lot of ongoing maintenance. They selected the most cost-effective and beneficial mitigation measures.

Ray Vito – 1191 Powder Springs Street – stated the best solution is they should not build a pool.

Kevin Mitchell – 2798 Hamby Street – stated that while the other home was still there, on the other side there was a large divot where the ground was starting to sink. Because no one lived there, it was not addressed. Building a pool creates a concern.

Mark Wolff stated that he is happy to meet with anyone who has concerns. The requirements for mitigation when impervious is increased deal with water quality. In the case of a swimming pool, it does not allow infiltration of the water. The mitigation plan in this case is an underground, gravel-filled, industry standard, infiltration pit. It is fully appropriate for this situation.

Russell Martin, Community Development Director, wanted to clarify that the designs that are brought forward are designed by the professionals and are reviewed and approved by Community Development if they meet city code. Each project is designed by the design professional for those individual projects. There are a variety of ways to address the issues. It is site specific. Some solutions solve the problems, and some do not. Community Development does not design or dictate which design solutions are implemented.

Boardmember Bo Jones made a motion to approve item V24-004; 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. V24-005 Public Hearing - Variance Request - V24-005 - Increase the maximum impervious surface area from 35% to 45.5% - Land Lot 488 - 1181 Bank Street - Joel Powell**

***Ward 3 Councilmember - Travis Lindley***

Sean Murphy, landscape architect, stated that the topography drains toward Ms. Mclean's property, the back left corner. A tree had been cut down at some point in the back yard which caused the subsidence in the yard which will be addressed.

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 V24-005; 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

- L. **V24-006** Public Hearing - Variance Request - V24-006 - Allow new construction on lot of record below minimum requirements - Land Lot 554 - 3689 Ashwood Drive - Carlos Guzman  
***Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting to build a new single-family home at 3689 Ashwood 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 0.29-acre lot located on the north side of Ashwood Drive, near the intersection of Ashwood Drive and Ashwood Court (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are occupied by detached single-family homes. The subject parcel is part of the Hickory Hills subdivision, which was platted in 1956, prior to the current Smyrna Zoning Ordinance, which was implemented in 1976.

The subject property is 12,600 square feet, while the R-15 zoning district requires a minimum lot size of 15,000 square feet. Since the subject property is an existing lot of record, originally platted in 1956, 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 applicant is proposing to demolish the existing 1,082 square foot house to the foundation and build a new 2,718 square foot two-story single-family home which will consist of 4 bedrooms and 3 ½ bathrooms. The façade will be a mixture of board and baton and hardiplank. The majority of the home will be rebuilt on the existing foundation and will be accessed off the existing driveway and walkway. As mentioned, the existing one-story home is 1,082 square feet, well below the minimum house size of the R-15 zoning district at 2,000 square feet. With the new construction, the home will be brought into compliance with the R-15 zoning district floor area requirement.

The subject property is unique in that it has less square footage 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 as there is an existing home on the subject property. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting to deviate from the 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.

Carlos Guzman, applicant (3689 Ashwood Dr), had no further information to add.

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 V24-006; 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. V24-007 Public Hearing - Variance Request - V24-007 - Allow encroachment into the 75-foot impervious surface area setback - Land Lot 388 - 4561 Derby Lane - David Balzer**  
***Ward 4 Councilmember - Charles “Corkey” Welch***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to allow encroachment into the City’s 75-foot impervious surface area setback to rebuild an existing deck on the rear of the home. The City’s stream buffers are controlled by Chapter 46, Article VI.

The subject parcel is a 0.34-acre lot located on the north side of Derby Lane. A stream runs to the north of the property and continues through the adjacent properties to the east and west. The subject parcel and all adjoining parcels are zoned R-15 and are all occupied by single-family detached residences. The subject property is within the Churchill Downs subdivision, which was platted in 1985.

The applicant is proposing to rebuild a 392 square foot deck on the rear of the existing home. The existing house and deck was constructed in 1987, prior to the adoption of the stream buffer ordinance in 2005. Currently, the rear yard is greatly encumbered by the State’s 25-foot undisturbed stream buffer, the City’s 50-foot undisturbed stream buffer and the City’s 75-foot impervious surface area setback. No other variances are needed as the property is well below their impervious coverage maximum of 35%.

Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming stream buffer encroachment. Additionally, per Section 1102, “no nonconforming building, structure or use shall be extended, nor shall its total value be enhanced, unless such extensions or alterations conform with the provisions of this ordinance.” Since the deck is being



completely rebuilt, 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.

Since the stream buffer encroachment occurred in 1987 and there is no addition of land disturbing activities or stormwater runoff, the City Engineer has determined that no remediation is required in order to support the variance.

The applicant will require relief from the City's stream buffer ordinance in order to rebuild the deck. 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 outdoor amenity, 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 75-foot impervious surface area setback to rebuild 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.

David Balzer, applicant (1220 Kennestone Cir) stated that the deck was built prior to current codes, and he 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 V24-007; 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. MIN2024-018 Approval of the January 24, 2024 License and Variance Board Meeting Minutes

Boardmember Bo Jones made a motion to approve item MIN2024-018; 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 February 14, 2024 License and Variance Board meeting at 11:17 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