

LICENSE AND VARIANCE BOARD

Minutes - Final



A Max Bacon City Hall
HR Training Room
2800 King Street SE
Smyrna, GA 30080

Penny Mocer, Chairperson
Richard Garland, Board Member
Bo Jones, Board Member
Brian Marcos, Board Member
Eric Mohrmann, Board Member
Mary Moore, Board Member
Andrea Worthy, Board Member
Jill G. Head, Secretary

City Attorney Scott Cochran
City Administrator Joseph Bennett
City Clerk Heather K. Peacon-Corn

May 24, 2023
10:00 AM

1. Roll Call

Present: 3 – Chairperson Richard Garland, Boardmember Bo Jones, and Boardmember Mary Moore

Also Present: 0 –

Staff: 5 – Caitlin Crowe, Jill Head, Dat Luu, Russell Martin, and Kelly Moon

2. Call to Order

Chairperson Richard Garland called to order the May 24, 2023, License and Variance Board meeting held at A. Max Bacon City Hall in the HR Training Room at 10:01 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. **LIC2023-008** Privilege License Agent Change Request – Beer, Wine, and Liquor (retail pouring) – 2467 Cobb Parkway SE – GMRI, Inc. dba Olive Garden #1136, with Sara Elizabeth Hall as agent.

Ward 1 Councilmember - Glenn Pickens

Elizabeth Mahoney, attorney, and Sara Hall, General Manager of Olive Garden, were present. Ms. Mahoney stated that Ms. Hall is at the restaurant around 45 hours per week. Ms. Hall explained that this is her first time as an agent, but she has been with Olive Garden for 20 years. When asked about the protocols followed for alcohol sales, Ms. Hall stated that the training is extensive. There is a module that is used to teach warning signs so staff does not over-serve. It also addresses date of birth requirements, etc. The computer system in place communicates with the bartenders and requires a birthdate be entered before a drink can be made whether that's on the bartender's side or the server's side.

Chairperson Garland stated that the City of Smyrna takes alcohol licensing seriously, and the Smyrna Police Department can and will perform compliance checks.

Boardmember Bo Jones made a motion to approve item LIC2023-008, a privilege license agent change request for beer, wine, and liquor (retail pouring) for GMRI, Inc. dba Olive Garden #1136 located at 2467 Cobb Parkway SE, with Sara Elizabeth Hall as agent; seconded by Boardmember Mary Moore.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

**B. V23-030 Public Hearing - Variance Request - V23-030 - Reduce the minimum separation between emissions stations from 1,000 feet to 650 feet - Land Lot 413 - 860 Concord Road - Jeff Carter
*Ward 3 Councilmember - Travis Lindley***

Boardmember Bo Jones made a motion to withdraw per the applicant's request item V23-030; seconded by Boardmember Mary Moore.

The motion to withdraw carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

**C. V23-031 Public Hearing - Variance Request - V23-031 - Reduce the northern side setback from 15 feet to 5 feet for a dumpster enclosure - Land Lot 631 - 2979 Jonquil Drive - Anthony Pope
*Ward 2 Councilmember - Latonia P. Hines***

Caitlin Crowe, Planner I, provided the following background for the next four agenda items:

The subject parcel is a 0.33-acre lot located on the east side of Jonquil Drive. The subject parcel and adjacent parcel to the south are both currently vacant, the parcel to the west is the existing Atlanta Star Plumbing location, and the parcel to the north is occupied by an online auto sales business; all are zoned GC (General Commercial). The adjacent properties to the east are zoned R-15 and are occupied by single-family detached homes.

The subject property and adjacent parcel to the south was rezoned in March 2022 from R-15 to General Commercial (Z22-001). The intention of the rezoning request was for Atlanta Star Plumbing to move across the street from 2978 to 2979 Jonquil Drive to make room for a larger assemblage on the west side of Jonquil Drive. The applicant is proposing to build a new 2,240 square foot office building on the subject property, which will be erected from shipping container materials. Due to the property's location near Spring Road, a redevelopment of the property requires that the site meet Corridor Design District (CDD-2) overlay requirements as well as the current Zoning Code.

Per the Spring Road Corridor Design District (Section 717.71.b), parcels accessed by side streets require a minimum lot size of 1 acre. However, the subject property is only 0.33 acres. Since the subject property is an existing lot of record, originally filed for platting in 1946, the hardship is not self-created. Due to the size of the lot being well below the required 1-acre lot area, the setback requirements create a tight buildable area. Due to the constraints of the site, the applicant is requesting to reduce the northern side setback from 15 feet to 5 feet, the southern setback from 15 feet to 6.3 feet, the front setback from 50 feet to 31 feet, and reduce the landscape buffer in the front from 15 feet to 5 feet.

In order to accommodate Waste Management's requirements for their garbage trucks as well as a 20-foot two-way access road to the north, the proposed building will be shifted into the front setback by 19 feet and into the southern side setback by nearly 9 feet. This in turn forced the dumpster location to remain in the northern side setback to remain accessible for the garbage trucks. Since dumpster enclosures are considered accessory structures when not connected to the building, its location in the side setback requires a variance.

Additionally, in order to accommodate the Spring Road overlay requirements as well as parking space and aisle width standards, the ADA parking area in the front of the building will encroach into the required 15-foot landscape buffer between the parking area and the City right-of-way. The majority of the parking spaces will be in the rear of the property per the Spring Road overlay requirements, but the ADA parking was required to be in the front for easier access to the lobby area. The current civil plans show two street trees and shrubs being planted between Jonquil Drive and the parking area to help ease the look of the asphalt so there should be no negative impact.

The subject property is unique in that it has less square footage than what the Spring Road Corridor Design district requires, which necessitates several variances to accommodate a usable building; the hardship is not self-created as the property is an existing lot of record. The setback variances requested are the minimum variances needed to build a new office building on the subject property. At the time of this report, Community Development has not received any calls in opposition to this request.

The applicant is requesting to deviate from the City's required Spring Road Corridor overlay district requirements. 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 variances will not adversely affect surrounding properties. Therefore, Community Development 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.

Anthony Pope, architect, and Britt and Maria Pereira, owners of Atlanta Star Plumbing, were present. Chairperson Garland asked if the service vans would be on the property each night. Ms. Pereira confirmed that is the case. Boardmember Moore asked them to speak about the history of their business. Ms. Pereira stated that the side of the street that

their current location is, a developer is going to build restaurants, and through the process of a property transfer, the development would be easier with their property. The building they are moving into on the opposite side is a little smaller. They have been in business since 1997 and have been in Smyrna since 2011. The applicant is in agreement 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 V23-031, a public hearing and variance request (V23-031) to reduce the northern side setback from 15 feet to 5 feet for a dumpster enclosure on land lot 631 located at 2979 Jonquil Drive by applicant Anthony Pope; seconded by Boardmember Mary Moore.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

- D. V23-032 Public Hearing - Variance Request - V23-032 - Reduce the landscape buffer from 15 feet to 5 feet in the front of the property - Land Lot 631 - 2979 Jonquil Drive - Anthony Pope**
Ward 2 Councilmember - Latonia P. Hines

No further information was presented.

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 V23-032, a public hearing and variance request (V23-032) to reduce the landscape buffer from 15 feet to 5 feet in the front of the property on land lot 631 located at 2979 Jonquil Drive by applicant Anthony Pope; seconded by Boardmember Mary Moore.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

- E. V23-039 Public Hearing - Variance Request - V23-039 - Reduce the southern side setback from 15 feet to 6.3 feet - Land Lot 631 - 2979 Jonquil Drive - Anthony Pope**
Ward 2 Councilmember - Latonia P. Hines

No further information was presented.

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 V23-039, a public hearing and variance request (V23-039) to reduce the southern side setback from 15 feet to 6.3 feet on land lot 631 located at 2979 Jonquil Drive by applicant Anthony Pope; seconded by Boardmember Mary Moore.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

**F. V23-040 Public Hearing - Variance Request - V23-040 - Reduce the front setback from 50 feet to 31 feet - Land Lot 631 - 2979 Jonquil Drive - Anthony Pope
*Ward 2 Councilmember - Latonia P. Hines***

No further information was presented.

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 V23-040, a public hearing and variance request (V23-040) to reduce the front setback from 50 feet to 31 feet on land lot 631 located at 2979 Jonquil Drive by applicant Anthony Pope; seconded by Boardmember Mary Moore.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

**G. V23-034 Public Hearing - Variance Request - V23-034 - Allow new construction on lot of record below minimum requirements - Land Lot 519 - 2484 Adams Drive - Rick Kolb
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background for the next five agenda items:

The subject parcel is a 0.19-acre lot located on the west side of Adams Drive (see Figure 1). The subject parcel and adjacent parcels to the north and west are zoned R-20 whereas the adjacent parcels to the south and east are zoned RDA; all are occupied by detached single-family homes. The subject parcel is located within the J. H. Taylor Subdivision, which was platted in 1944 in Cobb County, prior to the current Smyrna Zoning Ordinance, which was implemented in 1974.

The subject property was annexed into the City in May 2021 through House Bill 744, which brought several Unincorporated Cobb County islands into the City's jurisdiction. Through the annexation, all annexed properties were brought into the City of Smyrna in the R-20 zoning district, which was Cobb County's equivalent zoning district. However, the subject property is only 8,042 square feet while the R-20 zoning district requires a minimum lot size of 20,000 square feet. Since the subject property is an existing lot of

record, originally filed for platting in 1944 in Cobb County and then annexed accordingly into the City, the hardship is not self-created.

The applicant is proposing to demolish the existing 742 square foot ranch house and build a new 3,920 square foot two-story single-family home on the subject property, which will include three bedrooms and three bathrooms. The façade will be a mixture of brick and hardiplank. As mentioned, the existing one-story home is 742 square feet, well below the minimum house size of the R-20 zoning district at 2,100 square feet. With the rebuild, the home will be brought into compliance with the R-20 zoning district floor area requirement.

Due to the property being well below the required 20,000 square feet lot area, the setback requirements create an unfeasible buildable area. The proposed home is centered in the middle of the lot to minimize the scale of the variances needed but due to the constraints of the site, the applicant is requesting to reduce the side setbacks to build the new home. Additionally, to limit land disturbance, the new home is being placed on roughly the same footprint as the previous home, including the front setback encroachment. However, in accordance with Section 1205, since the average front setback for the homes zoned R-20 within 200 feet is 16 feet, no variance is required to allow for a 25-foot front setback.

The existing home has a one-car driveway along the northern property line, which is encroaching into the required 5-foot driveway setback. When the new home is erected, the applicant is proposing to move the driveway to be in line with the new garage, which will be 8.3 feet from the property line. However, due to the narrowness of the lot, the typical standard of a two-car driveway (along with the front setback encroachment) will be more than 25% of the front yard. Since the driveway width is typical of today's homes and will allow additional parking off the narrow road of Adams Drive, staff is supportive of the variance.

The subject property is unique in that it has less square footage than what the R-20 zoning district requires; the hardship is not self-created as the property is an existing lot of record. The setback variances requested are the minimum variances needed to build a new single-family home on the subject property in line with the surrounding neighborhood. Furthermore, variances of this nature have been approved in the past for the property to the north, 2474 Adams Dr (V21-028), so no negative precedent would be set. 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, side setbacks, and impervious surface requirements established for the R-20 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 variances will not adversely affect surrounding properties. Therefore, Community Development 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.

Rick Kolb, applicant, was present. Mr. Kolb added that the house they will build will be 2,650 sq. ft., not the 3,920 sq. ft. that was submitted in error. Ms Crowe stated that the new square footage does not change the recommendation because it still meets the R-20 minimum requirements. Boardmember Moore asked if the applicant has worked with the City in the past. Mr. Kolb stated that he has many times. Mr. Kolb stated that he is agreement with the standard condition read into record.

Chairperson Garland stated that it is understood that each item needs to be voted on separately, but he wanted the minutes to reflect that it is also understood that a public hearing will be called once for all five items since the only people present are staff and the applicant. A public hearing was called, and no one came forward in favor of or in opposition to this and the next four items.

Boardmember Mary Moore made a motion to approve item V23-034, a public hearing and variance request (V23-034) to allow a new construction on lot of record below minimum requirements on land lot 519 located at 2484 Adams Drive by applicant Rick Kolb; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

**H. V23-035 Public Hearing - Variance Request - V23-035 - Reduce the northern side setback from 12 feet to 8.3 feet - Land Lot 519 - 2484 Adams Drive - Rick Kolb
*Ward 3 Councilmember - Travis Lindley***

Boardmember Mary Moore made a motion to approve item V23-035, a public hearing and variance request (V23-035) to reduce the northern side setback from 12 feet to 8.3 feet on land lot 519 located at 2484 Adams Drive by applicant Rick Kolb; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

**I. V23-036 Public Hearing - Variance Request - V23-036 - Reduce the southern side setback from 12 feet to 7.9 feet - Land Lot 519 - 2484 Adams Drive - Rick Kolb
*Ward 3 Councilmember - Travis Lindley***

Boardmember Mary Moore made a motion to approve item V23-036, a public hearing and variance request (V23-036) to reduce the southern side setback from 12 feet to 7.9 feet on land lot 519 located at 2484 Adams Drive by applicant Rick Kolb; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore

Nay: 0 – None
Recuse: 0 – None

- J. **V23-037** Public Hearing - Variance Request - V23-037 - Reduce the driveway setback from 5 feet - Land Lot 519 - 2484 Adams Drive - Rick Kolb

This request is to be withdrawn

Ward 3 Councilmember - Travis Lindley

Boardmember Mary Moore made a motion to withdraw item V23-037; seconded by Boardmember Bo Jones.

The motion to withdraw carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

- K. **V23-038** Public Hearing - Variance Request - V23-038 - Allow over 25% of the front yard to be impervious surface area - Land Lot 519 - 2484 Adams Drive - Rick Kolb

Ward 3 Councilmember - Travis Lindley

Boardmember Mary Moore made a motion to approve item V23-038, a public hearing and variance request (V23-038) to allow over 25% of the front yard to be impervious surface area on land lot 519 located at 2484 Adams Drive by applicant Rick Kolb; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

5. Approval of Minutes

- A. **MIN2023-052** Approval of the May 10, 2023, License and Variance Board Meeting Minutes

Boardmember Bo Jones made a motion to approve item MIN2023-052, the May 10, 2023, License and Variance Board meeting minutes; seconded by Boardmember Mary Moore.

The motion to approve carried with the following vote:

Aye: 3 – Boardmember Garland, Boardmember Jones, Boardmember Moore
Nay: 0 – None
Recuse: 0 – None

6. Other Business / Staff Comment

7. Adjournment

Chairperson Richard Garland adjourned the May 24, 2023, License and Variance Board meeting at 10:29 AM.

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