

LICENSE AND VARIANCE BOARD

Action Summary - Final



A Max Bacon City Hall
Council Chambers
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

August 23, 2023
10:00 AM

1. Roll Call

Present: 3 – Chairperson Penny Mocer, Boardmember Richard Garland, Boardmember Bo Jones

Staff: 4 – Tyler Addison, Caitlin Crowe, Jill G. Head, Russel Martin, and Starla Whiddon

2. Call to Order

Chairperson Penny Mocer called to order the August 23, 2023 License and Variance Board meeting held at A. Max Bacon City Hall in Council Chambers at 10:01 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. V23-055** Public Hearing - Variance Request - V23-055 - Reduce the front setback from 35 feet to 21 feet - Land Lot 688 - 2000 Oakdale Court - Vanessa Cummings
Ward 7 Councilmember - Kathy Young

Boardmember Bo Jones made a motion to approve item V23-055, a public hearing and variance request (V23-055) to reduce the front setback from 35 feet to 21 feet on land lot 688 located at 2000 Oakdale Court by applicant Vanessa Cummings; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.25-acre lot located to the southwest of the intersection of Oakdale Court and Oakdale Road (see Figure 1). The subject parcel and adjoining parcels to the north and west are zoned R-15 and are occupied by single-family detached homes. The adjacent properties to the east are zoned R-15 and Light Industrial and are

occupied by a warehouse and package delivery facility, respectively. The adjacent property to the south is zoned Office Distribution and is currently vacant.

The applicant is proposing to fully renovate the existing one-story home; the roughly 260 square foot addition will expand the kitchen and living room while adding a second bedroom and office to make the home a two bedroom and two bath configuration. A new roughly 156 square foot covered front porch will replace the existing 24 square foot stoop for more curb appeal and reprieve from the elements during inclement weather.

The subject property is currently occupied by a 720 square feet single-family home with a septic tank directly off the rear of the home. The home was built in 1952, prior to the adoption of the City's Zoning Ordinance, so it has an existing non-conforming front setback of 34 feet on the eastern side of the home. The septic tank requires a 10-foot clearance around its perimeter, making a rear expansion impossible without moving the septic tank elsewhere on the property. Due to the existing layout of the existing home and septic tank location, any addition to the existing footprint would be within the front setback. Strict application of the ordinance would require the entire interior layout be modified to add the desired square footage on the western portion of the home. Since the home is currently non-conforming, the hardship is not selfcreated. Additionally, the existing one-story home is 720 square feet, while the minimum house size of R-15 is 2,000 square feet. With the renovations, the home will be roughly 1,200 square feet, bringing the home closer to compliance with the R-15 floor area requirement.

The subject property currently has one driveway that bisects the property with driveway aprons on both Oakdale Court and Oakdale Road. Due to the limited sight distance along Oakdale Road and the heavy traffic along the industrial corridor, the applicant will be removing the driveway apron off Oakdale Road with no future vehicular access from that side of the property.

Due to the property having road frontage on both Oakdale Court and Oakdale Road, both sides are considered a front yard regarding fencing. Section 503-A restricts the height of fences within a front yard to four feet. Strict application of the ordinance would require a fence greater than four feet in height be setback 23.3 feet from the property line off Oakdale Road. Being a corner lot on a frequently traveled road, the privacy and safety can often be compromised. Thus, the applicants are requesting a variance to allow a six-foot wooden privacy fence 5 feet from the back of sidewalk on Oakdale Road to provide security and privacy from the busy roadway. Due to the corner lot, Community Development believes it is the minimum variance needed to enclose the yard.

The orientation of the existing house and septic tank location prevents the applicant from building an addition within the building setbacks. Strict application of the ordinance would deny the applicant the ability to add any building square footage to the subject property without removing the septic tank or foundation of the home. The variance proposed is the minimum variance needed to increase the home's footprint and bring it closer to compliance with R-15 standards. Community Development does not foresee any negative impacts to adjacent properties should the variance be approved. At the time of this report, Community Development has not received any calls in opposition to the requests.

The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district which requires a minimum front setback of 35 feet and 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 encroachments 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. The existing driveway entrance along Oakdale Road shall be removed. There shall be no vehicular access to the property along Oakdale Road.
3. The fence shall be erected at least 5 feet from the edge of the sidewalk along Oakdale Road.
4. Approval from the Cobb/Douglas Health Department shall be required prior to permit issuance.

Vanessa Cummings, 2000 Oakdale Court, stated that the home is very small. They are attempting to make sure there is more room in the home. Ms. Cummings stated that she understands the stipulations read into record and agrees with them.

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

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

**B. V23-056 Public Hearing - Variance Request - V23-056 - Allow 6-foot wooden fence in front yard on a corner lot - Land Lot 688 - 2000 Oakdale Court - Vanessa Cummings
*Ward 7 Councilmember - Kathy Young***

No additional information was added.

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

Boardmember Richard Garland made a motion to approve item V23-056, a public hearing and variance request (V23-056) to allow 6-foot wooden fence in front yard on a corner lot on land lot 688 located at 2000 Oakdale Court by applicant Vanessa Cummings; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

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

**C. V23-057 Public Hearing - Variance Request - V23-057 - Variance Continuation for Variance Case V20-007 - Land Lot 489 - 2661 Grady Street - Ashley Camp
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.15-acre lot located on the northern intersection of Grady Street and Elle Court in the Grady Manor subdivision (see Figure 1). The subject parcel and all adjacent properties are zoned RDA and are occupied by single-family residences.

The applicant is proposing to construct a new gable roof over an existing concrete patio and add a ventless fireplace. Patios do not currently require permitting and do not need to meet the required building setbacks since they are flush with the ground. The existing patio is currently encroaching into the exterior side setback by 2.7 feet. The footprint of the patio will remain unchanged with the construction and the existing brick retaining wall will stay in place. The addition of the gabled roof over the patio requires the need for the variance due to the roof structure encroaching into the building setbacks.

Since the lot has three road frontages, there is little outdoor space available to the applicant. Community Development believes the variance requested is the minimum variance needed to construct a usable outdoor space. Community Development does not foresee any negative impacts to adjacent properties should the variance be approved. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting a variance to reduce the exterior side setback for 2661 Grady Street from 10 feet to 7.3 feet for the construction of a covered outdoor patio. 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 shall be conditioned upon the development of the property in substantial compliance with the site plan and elevation submitted with the variance application.

Ashley Camp, 2661 Grady Street, stated she 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 Richard Garland made a motion to approve item V23-057, a public hearing and variance request (V23-057) for variance continuation for variance case V20-007 on land lot 489 located at 2661 Grady Street by applicant Ashley Camp; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

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

**D. V23-058 Public Hearing - Variance Request - V23-058 - Allow 6-foot iron fence in front yard - Land Lot 545 - 5040 Highlands Parkway - Kamryn Johnson
*Ward 7 Councilmember - Kathy Young***

Caitlin Crowe, Planner I, presented the following background:

The subject parcel is a 5.5-acre lot located on the northern side of Highlands Parkway (see Figure 1). The subject parcel and all adjoining parcels are zoned Light Industrial and are occupied by a variety of commercial uses. The subject property and the property immediately to the north are owned by Glock, a company which specializes in the manufacture and distribution of firearms. Per the applicant, the company has active Department of Defense contracts which require a secure facility.

Due to the nature of the business operations, the applicant has requested to install a 6-foot black ornamental iron fence within the front setback for safety and security of the facility. The iron fence will have brick columns every 50 feet with two entrance gates on either driveway. 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 30 feet from the property line, which would eliminate 13 existing parking spaces. Thus, the applicant is requesting a variance to allow the six-foot fence in the front of the parking lot for the facility, roughly 20 feet from the front property line.

The existing Glock facility to the west on Highlands Parkway (6000 Highlands Parkway), has the same black ornamental iron fence along their road frontage with no detriment to the neighboring properties. Community Development believes the variance requested is the minimum variance needed and that, at times, a four-foot fence may not provide adequate security.

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 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. Four-inch caliper overstory trees shall be planted every 40 feet on center for the length of the Highlands Parkway street frontage. Tree plans shall be submitted and approved by the City Arborist prior to gate permit completion (CBP-23-74).

Boardmember Garland asked for clarification about the fencing. He stated that the fencing appears to go around the entire property. Ms. Crowe explained that fencing will go around the entire property. The sides and rear will be chain link which does not require a variance. The front fencing will be the ornamental, iron fencing.

Kamryn Johnson, 5040 Highlands Parkway, confirmed that chain link would be on the sides and rear and ornamental fencing would be on the front. Ms. Johnson stated she understands and agrees with the stipulations read into record.

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

Boardmember Richard Garland made a motion to approve item V23-058, a public hearing and variance request (V23-058) to allow 6-foot iron fence in front yard on land lot 545 located at 5040 Highlands Parkway by applicant Kamryn Johnson; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

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

**E. V23-059 Public Hearing - Variance Request - V23-059 - Allow maximum impervious surface area increase from 45% to 56.16% - Land Lot 170 - 5978 Haddon Place - Tracy Rice
*Ward 7 Councilmember - Kathy Young***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.11-acre lot located on the west side of Haddon Place within the Enclave at Oakdale subdivision (see Figure 1). The subject parcel and all adjoining parcels are zoned RDA and are all occupied by single-family detached homes.

The existing home was originally built in 2006 and was completed with a 52% impervious surface area. Soon after the applicant purchased the home in 2007, the applicant poured a 264 square foot concrete patio in the rear, which further extended the impervious surface area above the allowed 45%. The applicant is proposing to construct a new roughly 146 square foot sunroom addition (12 feet x 12.17 feet) over the existing concrete patio. Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming impervious area. 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.” With the sunroom addition, the property is required to be brought to current code, including the allowable impervious surface area coverage.

Since the original increase in impervious surface area occurred in 2006 and there is no addition of land disturbing activities or stormwater runoff with the current addition proposal, the City Engineer has determined that no remediation is required in order to support the variance.

The subject property is currently buffered from adjacent properties by an existing wooden privacy fence and vegetation so impact to neighboring properties would be minimal. Strict application of the ordinance would deny the applicant any ability to modify any portion of the home since the existing impervious area is already over the allowable maximum impervious coverage. 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 development standards established by the City for the R-15 zoning district, which requires a maximum impervious area of 35%. The applicant is requesting to maintain the increase of the impervious surface area to 44.39% to allow for the expansion of 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 selfcreated 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; therefore, staff recommends approval of the requested variance with the following condition:

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

Tracy Rice, 5978 Haddon Place, stated she 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 Richard Garland made a motion to approve item V23-59, a public hearing and variance request (V23-059) to allow maximum impervious surface area increase from 45% to 56.16% on land lot 170 located at 5978 Haddon Place by applicant Tracy Rice; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

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

5. Approval of Minutes

A. MIN2023-084 Approval of the August 9, 2023 License and Variance Board Meeting Minutes *Citywide*

Boardmember Bo Jones made a motion to approve item MIN2023-084 the August 9, 2023 License and Variance Board meeting minutes; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

6. Other Business / Staff Comment

7. Adjournment

Chairperson Penny Mocerì adjourned the August 23, 2023 License and Variance Board meeting at 10:26 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