

LICENSE AND VARIANCE BOARD

Minutes - 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

September 13, 2023
10:00 AM

1. Roll Call

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

Also Present: 1 – Jeffrey Tucker

Staff: 4 – Dan Campbell, Caitlin Crowe, Russell Martin, and Heather Peacon-Corn

2. Call to Order

Chairperson Penny Mocer called to order the September 13, 2023 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. 2023-190** Show Cause Hearing – Alcohol Beverage Violation – Chen Group Inc. dba The Juicy Crab - 2524 Cobb Parkway SE – Smyrna, GA 30080 – Ming Lou, Agent
Councilmember Ward 1 – Glenn Pickens

Jeffrey Tucker, Assistant City Attorney, asked those that will be providing testimony to stand and raise their right hands so he could swear them in.

Mr. Tucker first addressed Major Louis Defense of the Smyrna Police Department:

- Mr. Tucker reviewed Major Defense's years of service with the Smyrna PD.
- Major Defense described the compliance check at Juicy Crab on March 3, 2023:
 1. An undercover and underage operative was sent into the restaurant bar area.
 2. There were two other officers inside the establishment as witnesses.
 3. Major Defense stayed outside.
 4. The undercover operative ordered an alcoholic beverage and was never asked for identification.
 5. The bar area was steady at the time.

6. The undercover operative was served the alcoholic beverage for which he paid with a serialized \$20.00 bill.
7. The undercover operative exited the establishment at which point Major Defense and Officer Colburn entered and cited the server/bartender for furnishing alcohol to person under 21.

Mr. Tucker asked about training procedures for servers and bartenders. Juicy Crab's manager stated that the portion of training relating to alcohol sales consists of a handbook which details that for alcohol sales, the expectation is to request proper identification. Over serving customers alcohol, recognizing intoxicated customers, etc. is also specifically explained.

The server in question was let go as a result of this incident and she came to Court on September 12, 2023, and paid the fine of \$1000.00 as issued by the Smyrna Police Department on the night of the sting operation.

The Board asked the following:

- Was the bartender/server who was cited overwhelmed or busy at the time of this compliance check? Although the bar was steady, it was not overwhelming, and the kitchen was the only area that required additional floor staff assistance at the time of the incident and was busy due to an overwhelming amount of people that came in and all the orders placed within the same short time frame.
- Was the server under any personal stress or issues at the time of the incident?
None that the management was aware of.

Chairperson Mocerri explained that the Board would need to enter into Executive Session.

B. 2023-210 Enter into Executive Session

Boardmember Richard Garland made a motion to enter into Executive Session; seconded by Boardmember Bo Jones.

The motion to enter into Executive Session carried with the following vote::

Aye: 3 – Chairperson Mocerri, Boardmember Jones, Boardmember Garland

Nay: 0 – None

Recuse: 0 – None

C. 2023-211 Enter into Regular Session

Boardmember Richard Garland made a motion to enter into Executive Session; seconded by Boardmember Bo Jones.

The motion to enter into Executive Session carried with the following vote::

Aye: 3 – Chairperson Mocerri, Boardmember Jones, Boardmember Garland

Nay: 0 – None

Recuse: 0 – None

A. 2023-190 VOTE

Boardmember Richard Garland made a motion to approve the one year probation beginning September 13, 2023; seconded by Boardmember Bo Jones.

The motion to approve the one year probation beginning September 13, 2023 carried with the following vote:

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

D. LIC2023-010 Privilege License Agent Change Request – Beer, Wine, and Liquor (retail pouring) – 730 Concord Road SE – Red Pierce Enterprises LLC, dba Timbers Tavern, with Paula Conner as agent.

Ward 3 Councilmember - Travis Lindley

Application was made for privilege license agent change for Red Pierce Enterprises LLC, dba Timbers Tavern for the sale of beer, wine, and liquor (retail pouring). Paula Conner is the agent applicant.

Paula Conner will be the registered agent responsible for the sale of alcohol at 730 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. Ms. Conner has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Brief discussion took place with the applicant who stated she understands the requirements set forth by the City of Smyrna and acknowledges that from time to time the Smyrna Police department can perform compliance checks.

Boardmember Bo Jones made a motion to approve item LIC2023-010, a privilege license agent change for beer, wine, and liquor (retail pouring) for location 730 Concord Road SE by applicant Red Pierce Enterprises LLC, dba Timbers Tavern with Paula Conner as agent; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

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

**E. V23-060 Public Hearing - Variance Request - V23-060 - Reduce the southern setback from 12 feet to 10.4 feet - Land Lot 525 - 3419 King Springs Road - Chris Broughton
Ward 6 Mayor Pro Tem / Councilmember - Tim Gould**

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 1.06-acre lot on the east side of King Springs Road, at the intersection of King Springs Road and Oakview Drive (see Figure 1). The subject parcel and all adjoining parcels are zoned R-20, with the exception of the parcels to the west, which are zoned R-15; all are occupied by single-family detached residences. The subject property is currently occupied by a 1,417 square foot home with a 1,008 square foot detached garage and 164 square foot shed in the rear of the property. The existing home, originally built in 1954 (prior to the adoption of the City's Zoning Ordinance), has an existing nonconforming setback of 10.4 feet on the southern side of the home. The applicant is proposing to fully renovate the existing one-story home to more closely align with neighboring properties. The existing carport on the northern side of the home will be enclosed with a roughly 341 square foot addition to expand the living room and add a master bedroom and bathroom. A new 870 square foot 3-car side-entry garage with a second-floor loft and bathroom will be added on the front of the existing home to mirror the neighboring property to the south. Additionally, a roughly 263 square foot covered deck will be erected in the rear, off the existing open wood deck.

Due to the existing nonconforming foundation of the home, the most logical area to construct the garage addition is within the southern side setback to decrease disturbance to the subject property and surrounding neighbors. Since the home is currently non-conforming, the hardship is not self-created. Since the home currently sits 107 feet away from the front property line and is on a large acre lot, no additional variances are needed for the proposed work.

Moreover, the existing one-story home is 1,417 square feet, whereas the minimum house size of the R-20 zoning district is 2,100 square feet. With the renovations, the home will be roughly 3,500 square feet, bringing the home into compliance with the R-20 zoning district floor area requirement.

Due to the layout and foundation of the existing home, the garage addition will be constructed within the nonconforming setback, which currently encroaches into the southern side setback by roughly two feet. Strict application of the ordinance would deny the applicant the ability to add any additional square footage to the southern portion of the existing home since the structure is already encroaching into the side setback. Community Development believes the variance is the minimum variance needed bring the home in line with the neighboring R-20 properties.

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 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.

Brief discussion took place with the applicant who agreed with 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 Richard Garland made a motion to approve item V23-060, a public hearing and variance request (V23-060) to reduce the southern setback from 12 feet to 10.4 feet on land lot 525 located at 3419 King Springs Road by applicant Chris Broughton; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

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

- F. V23-061 Public Hearing - Variance Request - V23-061 - Allow gravel parking - Land Lot 346 - 2433 Ventura Place - Kyle Crump**
This item is to be tabled to the October 11, 2023 License and Variance Board meeting at the request of the applicant.
Ward 5 Councilmember - Susan Wilkinson

Boardmember Richard Garland made a motion to table item V23-061; seconded by Boardmember Bo Jones.

The motion to table carried with the following vote:

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

- G. V23-062 Public Hearing - Variance Request - V23-062 - Allow shipping containers to be used as accessory structures - Land Lot 346 - 2433 Ventura Place - Kyle Crump**
This item is to be tabled to the October 11, 2023 License and Variance Board meeting at the request of the applicant.
Ward 5 Councilmember - Susan Wilkinson

Boardmember Richard Garland made a motion to table item V23-062; seconded by Boardmember Bo Jones.

The motion to table carried with the following vote:

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

- H. V23-063 Public Hearing - Variance Request - V23-063 - Allow second accessory structure - Land Lot 561 - 1480 Roswell Street - Hunter Gillam**
This variance request is to be withdrawn at the request of the applicant.

Ward 3 Councilmember - Travis Lindley

Boardmember Richard Garland made a motion to withdraw item V23-063; seconded by Boardmember Bo Jones.

The motion to withdraw carried with the following vote:

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

- I. **V23-064** Public Hearing - Variance Request - V23-064 - Allow accessory structure size above 25% of the primary building - Land Lot 561 - 1480 Roswell Street - Hunter Gillam

This variance request it to be withdrawn at the request of the applicant.

Ward 3 Councilmember - Travis Lindley

Boardmember Richard Garland made a motion to withdraw item V23-064; seconded by Boardmember Bo Jones.

The motion to withdraw carried with the following vote:

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

- J. **V23-065** Public Hearing - Variance Request - V23-065 - Increase the accessory structure height from 15 feet to 16 feet - Land Lot 561 - 1480 Roswell Street - Hunter Gillam

This variance request it to be withdrawn at the request of the applicant.

Ward 3 Councilmember - Travis Lindley

Boardmember Richard Garland made a motion to withdraw item V23-065; seconded by Boardmember Bo Jones.

The motion to withdraw carried with the following vote:

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

5. Approval of Minutes

- A. **MIN2023-087** Approval of the August 23, 2023 License and Variance Board meeting minutes.

Boardmember Bo Jones made a motion to approve item MIN2023-087, the August 23, 2023 License and Variance Board meeting minutes; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Mocerri, Boardmember Jones, Boardmember Garland

Nay: 0 – None

Recuse: 0 – None

6. Other Business / Staff Comment

7. Adjournment

Chairperson Penny Mocerri adjourned the September 13, 2023 License and Variance Board meeting at

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