

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 27, 2023
10:00 AM

1. Roll Call

Present: 2 – Chairperson Penny Mocer and Boardmember Bo Jones

Absent: 1 – Boardmember Richard Garland

Staff: 6 – Tyler Addison, Caitlin Crowe, Kelly Moon, Heather Peacon-Corn, Joey Staubes, and Starla Whiddon

2. Call to Order

Chairperson Penny Mocer called to order the September 27, 2023 License and Variance Board meeting held at the Smyrna Community Center in the Oak Room at 10:01 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. **LIC2023-011** Privilege License Agent Change Request – Beer and Wine (retail package) – 2550 Spring Road SE – RaceTrac, Inc., dba RaceTrac #633, with Tobauis Melson as agent.
Ward 1 Councilmember - Glenn Pickens

Chairperson Mocer explained that the three separate agent change items will be presented all at once because the applicant is the same for all three. Questions and statements will be related to all three locations:

Application was made for privilege license agent change for RaceTrac, Inc., dba RaceTrac #633, #579, and #140 for the sale of beer and wine (retail package). Tobauis Melson is the agent applicant.

Tobauis Melson will be the registered agent responsible for the sale of alcohol at 2550 Spring Road SE. The applicant has been given a copy of the Alcoholic Beverage ordinances and attended the mandatory alcohol awareness workshop.

A background investigation conducted by the Smyrna Police Department failed to reveal information that would preclude issuance of this license. Mr. Melson has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Tobauis Melson, applicant and agent, was present. He has been with Racetrac since 2005. Mr. Melson has not nerved as agent previously. When asked about how raining is conducted for other employees, he explained that they take courses every three months online. He stated that he is in each store approximately three to four times per week. Boardmember Jones asked if they use POS systems to which Mr. Melson replied they do utilize those, and Racetrac does have secret shoppers. Chairperson Mocerri explained that the Smyrna Police Department does run compliance checks, and the City takes alcohol sales very seriously.

Boardmember Bo Jones made a motion to approve item LIC2023-011, a privilege license agent change request for beer and wine (retail package) for location 2550 Spring Road SE by applicant RaceTrac Inc., dba RaceTrac #633 with Tobauis Melson as agent; seconded by Chairperson Penny Mocerri.

The motion to approve carried with the following vote:

Aye: 2 – Chairperson Mocerri, Boardmember Jones
Nay: 0 – None
Absent: 1 – Boardmember Garland

- B. LIC2023-012 Privilege License Agent Change Request – Beer and Wine (retail package) – 4290 East-West Connector SE – RaceTrac, Inc., dba RaceTrac #579, with Tobauis Melson as agent.**
Ward 7 Councilmember - Kathy Young

Boardmember Bo Jones made a motion to approve item LIC2023-012, a privilege license agent change request for beer and wine (retail package) for location 4290 East-West Connector SE by applicant RaceTrac, Inc., dba RaceTrac #579 with Tobauis Melson as agent; seconded by Chairperson Penny Mocerri.

The motion to approve carried with the following vote:

Aye: 2 – Chairperson Mocerri, Boardmember Jones
Nay: 0 – None
Absent: 1 – Boardmember Garland

- C. LIC2023-013 Privilege License Agent Change Request – Beer and Wine (retail package) – 1461 Veterans Memorial Hwy SE – RaceTrac, Inc., dba RaceTrac #140, with Tobauis Melson as agent.**
Ward 7 Councilmember - Kathy Young

Boardmember Bo Jones made a motion to approve item LIC2023-013, a privilege license agent change request for beer and wine (retail package) for location 1461 Veterans Memorial Hwy SE by applicant RaceTrac, Inc., dba RaceTrac #140 with Tobauis Melson as agent; seconded by Chairperson Penny Mocerri.

The motion to approve carried with the following vote:

Aye: 2 – Chairperson Mocer, Boardmember Jones
Nay: 0 – None
Absent: 1 – Boardmember Garland

- D. 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 Bo Jones made a motion to table item V23-061 to the October 11, 2023 License and Variance Board meeting; seconded by Chairperson Penny Mocer.

The motion to table carried with the following vote:

Aye: 2 – Chairperson Mocer, Boardmember Jones
Nay: 0 – None
Absent: 1 – Boardmember Garland

- E. 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 Bo Jones made a motion to table item V23-062 to the October 11, 2023 License and Variance Board meeting; seconded by Chairperson Penny Mocer.

The motion to table carried with the following vote:

Aye: 2 – Chairperson Mocer, Boardmember Jones
Nay: 0 – None
Absent: 1 – Boardmember Garland

- F. V23-067** Public Hearing - Variance Request - V23-067 - Allow second kitchen - Land Lot 339 - 3570 South Sherwood Road - Jeff Cain
Ward 3 Councilmember - Travis Lindley

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.23-acre lot located on the north side of South Sherwood Road in the new Grove at King Springs subdivision (see Figure 1). The subject property and adjacent properties to the north, west, and east are zoned RDA, whereas the parcels to the south are zoned R-15. All parcels are occupied by detached single-family homes, with the exception of the parcel to the north, which is occupied by the Grove at King Springs subdivision stormwater management and conservation area.

The subject property was permitted for a new two-story home with a full basement in March 2023. During the rough inspections in August 2023, the inspector took note of the

second kitchen in the basement and informed the applicant that second kitchens were not allowed per zoning code to which the applicant immediately submitted for the variance. Section 402.24 of the zoning ordinance defines a dwelling unit as, “a building or portion thereof, designed, arranged and used for living quarters for one family only, but not including units in hotels or other such structures designed for transient residence. An individual bathroom and complete kitchen facilities, permanently installed, shall be contained within each dwelling unit.” City’s Zoning Code restricts one complete kitchen per single-family dwelling; therefore, a variance is needed to allow a second kitchen in the basement of the home.

The applicant is requesting the allowance of a kitchen within the basement, to be used as a living space for the applicant’s extended family and is not to be rented or occupied for gain. Since the home buyers are from out of the country, when family and friends come to visit, it is typically for months at a time as opposed to days. To alleviate the burden of cramped quarters for extended periods of time, the applicant is proposing the second kitchen in the basement. The finished basement will include a full bedroom, bathroom, fitness room, and kitchen when completed. The finished basement will appear as part of the main structure and will not be divided by any fire wall. Thus, the addition could not easily be converted to a separate rental unit by future owners. Similar variances, where the second kitchen is enclosed with the main structure or basement have been approved.

The applicant is requesting a second kitchen and full bathroom for visits from international family. Were it not for the kitchen, no other variances would be needed for the new home. Community Development has been supportive of similar variances where the second kitchen has been proposed for family only and where the second kitchen could not easily be converted into a rental unit or duplex. Furthermore, similar variances have been approved in the Heritage at Vinings, Enclave at Cooper Lake and Stonegate subdivisions. These previous variances have been for homes of similar size and type with no known detriment to the surrounding areas.

The applicant has requested a variance to permit a second kitchen in a single-family home. 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 second kitchen will not adversely affect surrounding residents, nor set a negative precedent for future homebuilding in the area. Community Development recommends approval of the requested variance with the following stipulations:

1. The addition is to be utilized by family members only.
2. The applicant shall not lease, rent, or sublet any space in their home.
3. These conditions shall run in perpetuity with the property and as such are also applicable to any future owner.

Jeff Cain, applicant, was present and had nothing additional to add.

Boardmember Jones asked if there is a secondary outside access. Mr. Cain stated that there is a sidewalk around the side with no stairs. Chairperson Mocerri asked if the applicant understand and agrees to the stipulations, to which Mr. Cain stated he does understand and agrees.

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 V23-067, a public hearing and variance request (V23-067) to allow a second kitchen on land lot 339 located at 3570 South Sherwood Road by applicant Jeff Cain; seconded by Chairperson Penny Mocerì.

The motion to approve carried with the following vote:

Aye: 2 – Chairperson Mocerì, Boardmember Jones
Nay: 0 – None
Absent: 1 – Boardmember Garland

5. Approval of Minutes

A. MIN2023-102 Approval of the September 13, 2023 License and Variance Board Meeting Minutes.

Boardmember Bo Jones made a motion to approve item MIN2023-102, the September 13, 2023 License and Variance Board meeting minutes; seconded by Chairperson Penny Mocerì.

The motion to approve carried with the following vote:

Aye: 2 – Chairperson Mocerì, Boardmember Jones
Nay: 0 – None
Absent: 1 – Boardmember Garland

6. Other Business / Staff Comment

7. Adjournment

Chairperson Penny Mocerì adjourned the September 27, 2023 License and Variance Board meeting at 10:14 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