



License and Variance Board Meeting - Final

January 10, 2024
10:00 AM

A. **MIN2024-002** Approval of the December 13, 2023 License and Variance Board Meeting Minutes



City of Smyrna

Issue Sheet

A Max Bacon
City Hall
2800 King Street
Smyrna, GA 30080

File Number:

Agenda Date: 1/10/2024

In Control: License and Variance Board

File Type: Minutes Approval

Agenda Section:
Approval of Minutes

Agenda Number: A

Department: Community Development

Agenda Title:

Approval of the December 13, 2023 License and Variance Board Meeting Minutes

Citywide

ISSUE AND BACKGROUND:

RECOMMENDATION / REQUESTED ACTION:

LICENSE AND VARIANCE BOARD

Minutes - Final



Smyrna Community Center
Oak Room
1250 Powder Springs Street
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

December 13, 2023

10:00 AM

1. Roll Call

Present: 3 – Chairperson Richard Garland, Boardmember Bo Jones, Boardmember Andrea Worthy

Staff: 3 – Caitlin Crowe, Jill G. Head, and Dat Luu

2. Call to Order

Chairperson Richard Garland called to order the December 13, 2023 License and Variance Board meeting held at the Smyrna Community Center in the Oak Room at 10:00 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. V23-073 Public Hearing - Variance Request - V23-073 - Reduce the front setback from 35 feet to 28 feet - Land Lot 704 - 2009 Glenroy Drive - Carlos Guzman
Ward 2 Councilmember - Latonia P. Hines**

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.35-acre lot located on the north side of Glenroy Drive (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are occupied by detached single-family homes, with the exception of the northern parcels, which are zoned RM-12 and are vacant.

The applicant is proposing to remodel the existing 1,201 square foot one-story home by adding a 494 square foot two-car garage addition on the eastern side of the home and a 322 square foot sunroom in the rear. The garage will be erected over the existing driveway and both the garage and sunroom will have a brick façade to match the existing home.

The existing home was constructed in 1959, prior to the adoption of the Zoning Ordinance and has an existing non-conforming front setback of 28 feet due to the covered walkway

in the front of the home. The foundation of the home is also nonconforming, at 33 feet from the front property line. The applicant is proposing to extend the line of the existing home with a 2-foot encroachment into the front setback. However, due to the 7-foot front setback encroachment for the existing covered walkway to the home, the variance is to reduce the front setback to 28 feet to bring the entire home into compliance.

Additionally, the existing house is 1,201 square feet, while the minimum house size of R-15 is 2,000 square feet. With all the renovations, the home will be 2,017 square feet, bringing the home into compliance with the R-15 floor area requirement.

Due to the existing location of the existing home and driveway on the subject property, the proposed garage addition will minimize disturbance to the subject property and surrounding neighbors. Strict application of the ordinance would require the foundation be moved on the existing home to conform to the current code. The variance proposed is the minimum variance needed to construct the garage in line with the current home. The hardship is not self-imposed, as the original home was built prior to the adoption of the Zoning Ordinance. 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 this request.

The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a front setback of 35 feet. The applicant is requesting to construct the garage in the front setback, 28 feet from the front property line. 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 placing the garage in the front setback 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.

Carlos Guzman – 2009 Glenroy Drive, applicant, came forward. He had nothing additional to add, and he stated he understands and agrees with the standard stipulation 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 V23-073, a public hearing and variance request (V23-073) to reduce the front setback from 35 feet to 28 feet on land lot 704 located at 2009 Glenroy Drive by applicant Carlos Guzman; 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

- B. V23-074 Public Hearing - Variance Request - V23-074 - Allow maximum impervious surface area increase from 30% to 55.6% - Land Lot 702 - 2294 Goodwood Boulevard - Fernando Melo
*Ward 2 Councilmember - Latonia P. Hines***

Boardmember Bo Jones made a motion to table this item to the end of formal business to allow time for the applicant to arrive; seconded by Boardmember Andrea Worthy.

The motion carried with the following vote:

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

- C. V23-076 Public Hearing - Variance Request - V23-076 - Reduce the front setback from 35 feet to 23.7 feet - Land Lot 522 - 2995 Reed Street - Bradley Hall
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background for items V23-076 and V23-077:

The subject parcel is a 0.19-acre lot located at the intersection of Reed Street and Love Street (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are occupied by single-family detached residences, with the exception of the southern parcel, which is zoned LC and is occupied by a boutique retail store.

The applicant is proposing to fully renovate the existing ranch home, originally built in 1940. Included in the 687 square foot renovation is the addition of a front porch, rear deck, and an addition in the rear. The 518 square foot addition will add a master bedroom, bathroom, and additional living space to the home with a stucco façade to match the existing home. Furthermore, the existing nonconforming carport and shed will be demolished as part of the renovation of the property. Since the home was built prior to the adoption of the City's Zoning Ordinance, it has existing non-conforming setbacks: a front setback of 27.6 feet, a streetside setback of 17.2 feet, and a side setback of 8.9 feet. Due to the existing non-conforming foundation of the home, any addition to the existing footprint would be within the side or front setbacks. Since the home is currently non-conforming, the hardship is not self-created.

The applicant does not currently have a covered front entry to the existing home. The applicant is proposing to add a 24 square foot covered front porch to enter the home in inclement weather more easily. Since the existing home is currently encroaching into the front setback, there is no room for any frontward expansion, so the hardship is not self-created. Similar front setback variance requests were approved across the street at 2976 Reed Street in 1999 (V99-017) and at 1215 Love Street in 2003 (V03-035). The rear addition will be in line with the existing home, encroaching no more than what exists onsite. Furthermore, the existing one-story home is 1,164 square feet, while the minimum house size of R-15 is 2,000 square feet. With the renovations, the home will be 1,851 square feet, bringing the home closer to compliance with the R-15 floor area requirement.

Due to the layout and foundation of the existing home, the front porch and addition will be constructed within the front and side setbacks, respectively. The proposed variances are not self-created and are a special circumstance since the construction of the home pre-dates the adoption of the City's Zoning Ordinance. Strict application of the ordinance would deprive the property owner of reasonable use of the property by not allowing the property owner the ability to make improvements to the home within the existing footprint. Community Development believes the requests are the minimum variances needed to add any additional square footage to the 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 development standards established by the City for the R-15 zoning district for a front and 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 encroachments will not adversely affect surrounding residents; 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.

Amanda Coffelt – homeowner at 2995 Reed 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 Bo Jones made a motion to approve item V23-076, a public hearing and variance request (V23-076) to reduce the front setback from 35 feet to 23.7 feet on land lot 522 located at 2995 Reed Street by applicant Bradley Hall; 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

**D. V23-077 Public Hearing - Variance Request - V23-077 - Reduce the side setback from 10 feet to 8.11 feet - Land Lot 522 - 2995 Reed Street - Bradley Hall
Ward 3 Councilmember - Travis Lindley**

No further information was presented 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 V23-077, a public hearing and variance request (V23-077) to reduce the side setback from 10 feet to 8.11 feet on land lot 522 located at 2995 Reed Street by applicant Bradley Hall; 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

**E. V23-079 Public Hearing - Variance Request - V23-079 - Allow a gravel parking surface - Land Lot 446 - 2270 Belmont Circle - Cynthia Devine
*Ward 5 Councilmember - Susan Wilkinson***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.70-acre lot located on the north side Belmont Circle, near the intersection of Belmont Circle and Woodland Trail (see Figure 1). The subject parcel and adjacent parcels to the south are occupied by detached single-family homes while the adjacent parcels to the east and west are vacant; all are zoned R-15. The adjacent parcel to the north is zoned RM-12 and is occupied by the Woodland Arms apartment complex.

In October 2023, the applicant was given two Notices of Violation for accessory structures in the front yard and a gravel parking surface without the appropriate permits or variances. Once notified of the violations, the applicant immediately began working with City staff to correct the violations.

The applicant is proposing to retain a gravel driveway leading to the single-family home and detached garage. Per the applicant, the gravel driveway has existed since the home was built in 1930. Section 905 in reference to the City's parking standards reads, "Within all single-family residential zoning districts (R-30, R-20, R-15 and RDA), the parking or storage of motor vehicles shall be prohibited within the required front yard except upon a hard-surface driveway which serves a dwelling structure located on the property." The City's parking standards do not provide any exemptions from this requirement for specific uses or zoning districts. Therefore, the applicant is requesting a variance to retain the gravel driveway.

The gravel driveway has existed prior to the City's Zoning Ordinance, so the variance is not self-created. Additionally, a concrete driveway apron was poured in 2016 prior to the start of the gravel drive to keep any gravel from entering the right-of-way. Community Development is supportive of the proposed variance due to the concrete apron and does not foresee any negative impacts to the surrounding neighbors. At the time of this report, Community Development has not received any opposition to the request.

The applicant is requesting to deviate from the City's single-family parking requirements, which are established in Section 905 of the Zoning Ordinance. 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 and therefore, recommends approval of the requested variance with the following condition:

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

Cynthia Devine – applicant – had no additional information to add. She 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 Bo Jones made a motion to approve item V23-079, a public hearing and variance request (V23-079) to allow a gravel parking surface on land lot 446 located at 2270 Belmont Circle by applicant Cynthia Devine; 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

**F. V23-080 Public Hearing - Variance Request - V23-080 - Allow maximum impervious surface area increase from 35% to 39% - Land Lot 459 - 4040 Kenway Place - Mandy DeSantis
Ward 7 Councilmember - Kathy Young**

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.20-acre lot located on the west side of Kenway Place within the King Valley at Vinings subdivision (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are all occupied by single-family detached homes.

The existing home was originally built in 1999 and was completed with a 39% impervious surface area, which is 4% over the allowable maximum impervious surface area. The applicant is proposing to demolish the existing 240 square foot deck and replace it with a sunroom on the rear of the home. 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 and thus the enhanced value, the property is required to be brought to current code regarding the allowable impervious surface area coverage.

Since the original increase in impervious surface area occurred in 1999 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. Additionally, a similar variance was approved in the neighborhood at 1139 Queensgate Drive in 2016 (V16-029). 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%. 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; 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 and elevations submitted with the variance application.

Wanna Sim (homeowner) came forward. He stated that they are tearing down the existing deck and replacing it with a screened in porch of the same dimensions. Mr. Sim stated he 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 Andrea Worthy made a motion to approve item V23-080, a public hearing and variance request (V23-080) to allow maximum impervious surface area increase from 35% to 39% on land lot 459 located at 4040 Kenway Place by applicant Mandy DeSantis; 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

**G. V23-092 Public Hearing - Variance Request - V23-092 - Allow six-foot fence in front yard - Land Lot 734 - 1800 Lake Park Drive - Depew Holdings, LLC
*Ward 1 Councilmember - Glenn Pickens***

Caitlin Crowe, Planner I, provided the following background for items V23-092, V23-093, V23-094, and V23-095:

The subject parcel is a 2.35-acre corner lot zoned OI (Office Institutional) and is located at the northeastern corner of the intersection of Village Parkway and Lake Park Drive; the property is currently occupied by a variety of health professional offices (see Figure 1). The adjoining properties to the north, west, and south are zoned RM-12 and are occupied

by the Brighton Way apartment complex, the Hillsdale Condominiums, and the Cortland at the Village apartment complex, respectively. The adjacent property to the east is zoned OI and is occupied by a portion of the UCB campus, a vaccine research company.

The subject property is currently occupied by two office buildings: an 18,474 square foot building addressed as 1800 Lake Park Drive and an 11,634 square foot building addressed as 1850 Lake Park Drive. The applicant is proposing to redevelop the property by renovating both buildings into an education facility to be used by the Quadrilingual Academy, a kindergarten through 5th grade private school. Phase I will include a renovation to 1800 Lake Park Drive, with a second phase to come later to renovate 1850 Lake Park Drive into additional classroom space. The current variance requests only consider any redevelopments under Phase I. Due to the proposed educational nature of the site, the applicant is seeking three variances relating to the four proposed playgrounds and multi-sport track area; to allow multiple accessory structures, allow a 6-foot fence in the front yard, and allow accessory structures in the front yard.

Each playground will have fabric canopies over a section of the playground, designed to cover or shade the children during inclement or hot weather. Due to the canopies, play structures, and the property's dumpster being separated from the main structure, there is more than one accessory structure on the parcel, which is not permissible under Section 501.11 of the Zoning Ordinance. However, the canopies, play structures, and dumpster are essential for the business operation and have little effect on the surrounding parcels.

The subject property is a corner lot on two well-travelled roadways. Since the buildings and parking area are existing on the subject property, the only available location to place the playgrounds is within the front yard along Lake Park Drive. Although this is considered a front yard due to the site being a corner lot, the proposed area is actually the rear of the buildings due to the building arrangement on the property. By keeping the playgrounds at the rear of the building, the parking area is left available for child drop-off and pick-up. In order to maintain the safety and privacy of the children while playing outside since the playgrounds are adjacent to the busy roadway, the applicant is requesting a 6-foot black metal privacy fence from the Lake Park Drive entrance to the end of the 1800 Lake Park Drive building. The fence in part will be erected on a new retaining wall along Lake Park Drive, which will give further height and privacy. The City's Transportation Engineer has reviewed the application and does not foresee any issues with sight distance at the entrance or road intersection.

The proposed programming at the school includes food services for the children, which requires an increased trash capacity compared to the previous office park. The applicant is proposing to erect a new 12-foot x 14-foot dumpster enclosure near the existing location. However, the existing dumpster is within the side setback by 10.6 feet, so a side setback variance is required to keep the same footprint upon the rebuild. Since this condition has existed since at least 1993 per the property's recorded plat, the variance is not self-created.

Community Development believes the variances requested are the minimum variances needed to renovate the existing buildings for an education facility on the subject property. Strict application of the ordinance would require any playground structures to be attached to the main structure or be indoors, which would limit the business operations. Community Development does not foresee any negative impacts to adjacent properties should the variances be approved. At the time of this report, Community Development has not received any calls in opposition to these requests.

The applicant has requested variances to allow for a 6-foot fence in the front yard, allow for additional accessory structures, allow accessory structures within the front yard, and reduce the side setback for a dumpster enclosure for the redevelopment of 1800 and 1850 Lake Park Drive. 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 properties; 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.

Chairperson Garland asked Ms. Crowe if these variances will have an effect on the eventual renovation of the second building. Ms. Crowe explained that these variances will not impact the second building unless plans change.

Boardmember Worthy asked if this is just one parcel to which Ms. Crowe answered that it is one parcel, two buildings, but they addressed separately.

Steven Jones – attorney for applicant – Quadrilingual Academy – explained that the school currently operates in Smyrna. The subject property is perfect for the school. They want to be able to place playground equipment in the front and base if off of the playground at the Windy Hill Community Center. Outdoor recreation area is required by state law. Eventually the school will take over both buildings.

Mrs. Jessa Depew, Depew Holdings, LLC, came forward and provided a brief history of how the Quadrilingual Academy came to be. They started with 26 children and 13 staff members. They now have over 120 students, with 40 on the waiting list, and 48 employees. This academy does provide childcare and meals. Does provide childcare. They are the first program in the United States to offer all of these services. Their goal is to stay in Smyrna. They need at least 8K sq. ft. for outdoor recreation, and with this property, they will be able to provide services through 5th grade; they currently provide services through 2nd grade.

Chairperson Garland asked when they anticipate starting construction and opening the facility. Mrs. Depew stated that they anticipate starting construction the first of the year and opening their doors by January 2025. She stated she understands and agrees with the standard condition read into record.

A public hearing was called. The following individuals came forward **in favor** of these variances and spoke briefly about their support for this academy:

Dory Vanderlinden, Nancy Rothman, Cierra Boyd, MaRayun Brown, and Yvonne Njau

Boardmember Bo Jones made a motion to approve item V23-092, a public hearing and variance request (V23-092) to allow six-foot fence in front yard on land lot 734 located at

Lak Park Drive by applicant Depew Holdings, LLC; 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

H. **V23-093** Public Hearing - Variance Request - V23-093 - Allow additional accessory structures - Land Lot 734 - 1800 Lake Park Drive - Depew Holdings, LLC
Ward 1 Councilmember - Glenn Pickens

No additional information was provided by staff nor the applicant.

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

Boardmember Andrea Worthy made a motion to approve item V23-093, a public hearing and variance request (V23-093) to allow additional accessory structures on land lot 734 located at 1800 Lake Park Drive by applicant Depew Holdings, LLC; 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

I. **V23-094** Public Hearing - Variance Request - V23-094 - Allow accessory structures within the front yard - Land Lot 734 - 1800 Lake Park Drive - Depew Holdings, LLC
Ward 1 Councilmember - Glenn Pickens

No additional information was provided by staff nor the applicant.

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

Boardmember Bo Jones made a motion to approve item V23-094, a public hearing and variance request (V23-094) to allow accessory structures within the front yard on land lot 734 located at 1800 Lake Park Drive by applicant Depew Holdings, LLC; 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

- J. **V23-095** Public Hearing - Variance Request - V23-095 - Reduce the side setback from 15 feet to 4.4 feet for a dumpster enclosure - Land Lot 734 - 1800 Lake Park Drive - Depew Holdings, LLC
Ward 1 Councilmember - Glenn Pickens

No additional information was provided by staff nor the applicant.

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

Boardmember Andrea Worthy made a motion to approve item V23-095, a public hearing and variance request (V23-095) to reduce the side setback from 15 feet to 4.4 feet for a dumpster enclosure on land lot 734 located at 1800 Lake Park Drive by applicant Depew Holdings, LLC; 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

- K. **V23-078** Public Hearing - Variance Request - V23-078 - Reduce the side setback from 10 feet to 6.8 feet - Land Lot 417 - 860 Wayland Court - Kevin Shannon
This item is to be withdrawn at the request of the applicant.
Ward 5 Councilmember - Susan Wilkinson

Boardmember Bo Jones made a motion to withdraw at the request of the applicant item V23-078; seconded by Boardmember Andrea Worthy.

The motion to withdraw carried with the following vote:

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

- L. **V23-085** Public Hearing - Variance Request - V23-085 - Allow encroachment into the 75-foot impervious surface area setback - Land Lot 696 - 1921 Sadler Drive - Edward Karram
This item to be tabled to the January 10, 2024 meeting at the request of the applicant.
Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Boardmember Bo Jones made a motion to table item V23-085 to the January 10, 2024 License and Variance Board meeting; 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

- M. V23-086 Public Hearing - Variance Request - V23-086 - Allow new construction on nonconforming lot of record - Land Lot 664 - 2627 Argo Drive - Darrell Smith
This item to be tabled to the January 10, 2024 meeting at the request of the applicant.
Ward 2 Councilmember - Latonia P. Hines**

Boardmember Bo Jones made a motion to table item V23-086 to the January 10, 2024 License and Variance Board meeting; 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

- N. V23-087 Public Hearing - Variance Request - V23-087 - Reduce the side setback from 10 feet to 8.1 feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith
This item to be tabled to the January 10, 2024 meeting at the request of the applicant.
Ward 2 Councilmember - Latonia P. Hines**

Boardmember Bo Jones made a motion to table item V23-087 to the January 10, 2024 License and Variance Board meeting; 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

Boardmember Bo Jones made a motion to table item V23-087; seconded by Boardmember Andrea Worthy.

The motion to table carried with the following vote:

Aye: 3 – Chairperson Garlnad, Boardmember Jones, Boardmember Worthy
Nay: 0 – None
Recuse: 0 – None

- O. V23-088 Public Hearing - Variance Request - V23-088 - Reduce the streetside setback from 23.3 feet to 4.2 feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith
This item to be tabled to the January 10, 2024 meeting at the request of the applicant.
Ward 2 Councilmember - Latonia P. Hines**

Boardmember Bo Jones made a motion to table item V23-088 to the January 10, 2024 License and Variance Board meeting; 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

- P. V23-089 Public Hearing - Variance Request - V23-089 - Reduce the front setback from 35 feet to 12 feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith**
This item to be tabled to the January 10, 2024 meeting at the request of the applicant.
Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table item V23-089 to the January 10, 2024 License and Variance Board meeting; 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

- Q. V23-090 Public Hearing - Variance Request - V23-090 - Reduce the minimum floor area from 2,000 square feet to 1,496 square feet - Land Lot 664 - 2627 Argo Drive - Darrell Smith**
This item to be tabled to the January 10, 2024 meeting at the request of the applicant.
Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table item V23-090 to the January 10, 2024 License and Variance Board meeting; 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

- R. V23-091 Public Hearing - Variance Request - V23-091 - Increase the maximum impervious surface area - Land Lot 664 - 2627 Argo Drive - Darrell Smith**
This item to be tabled to the January 10, 2024 meeting at the request of the applicant.
Ward 2 Councilmember - Latonia P. Hines

Boardmember Bo Jones made a motion to table item V23-091 to the January 10, 2024 License and Variance Board meeting; 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

- S. 2023-239 Approval of the License and Variance Board 2024 meeting calendar.**

Boardmember Bo Jones made a motion to approve item 2023-239, the License and Variance Board 2024 meeting calendar; seconded by Boardmember Andrea Worthy.

The motion to approve carried with the following vote:

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

T. **V23-074** Public Hearing - Variance Request - V23-074 - Allow maximum impervious surface area increase from 30% to 55.6% - Land Lot 702 - 2294 Goodwood Boulevard - Fernando Melo
Ward 2 Councilmember - Latonia P. Hines

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.14-acre lot located on the west side of Goodwood Boulevard within the Oakley Downs subdivision (see Figure 1). The subject parcel and all adjoining parcels are zoned RTD and are all occupied by single-family townhomes, with the exception of the property to the northeast, which is open space.

The subject property is currently occupied by a single-family townhome with a public sanitary sewer easement through the middle of the rear yard. In September 2023, the applicant submitted a building permit to replace the 504 square foot wooden deck in the rear of the property. During plan review, the property survey revealed that the existing deck is not only encroaching into the sanitary sewer easement, but the deck is directly over the sewer pipe. Additionally, the property is currently over the maximum impervious surface area by 26%. Staff were unable to locate permits for the original deck or variances to account for the location or increased impervious surface area.

From historic aerial photography, staff determined that the deck has existed at least since 2013. 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 full deck replacement, the property is required to be brought to current code, including the allowable impervious surface area coverage.

The applicant is proposing to replace the deck with a new, slightly smaller 496 square foot deck, which will be shifted from its current location to be four to six feet off the sewer pipe but remaining within the sanitary sewer easement. Since the existing 20-foot sanitary sewer easement encompasses a majority of the property’s rear yard, the Public Works Assistant Director has agreed to allow the encroachment into the easement to remain, so long as the homeowner provides an indemnity letter and ensures the deck is no longer built directly over the pipe. Additionally, since the original increase in impervious surface area occurred at least in 2013 and there is no addition of land disturbing activities or stormwater runoff with the current deck, the City Engineer has determined that no remediation is required in order to support the variance.

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 RTD zoning district, which requires a maximum impervious area of 30%. 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; 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 site plan submitted with the variance application.
2. An indemnity letter shall be provided by the property owner prior to issuance of the building permit.
3. The portion of the deck on the western side of the home shall either be built of fire-retardant lumber or painted with fire-retardant paint, or as deemed necessary by the Chief Building Official.

Chairperson Garland asked Ms. Crowe if this had been fully vetted through Community Development. Ms. Crowe stated that this still needs to go through the permit building process. The plans themselves have not been approved. Mr. Garland asked Ms. Crowe to explain the indemnity letter mentioned in the second stipulation. Ms. Crowe explained that if there is ever a water/sewer encroachment and if access is required, the deck will need to be removed and replaced at the expense of the homeowner.

Fernando Melo – contractor and applicant – stated he understands and agrees with the three conditions 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 V23-074, a public hearing and variance request (V23-074) to allow maximum impervious surface area increase from 30% to 55.6% on land lot 702 located at 2294 Goodwood Boulevard by applicant Fernando Melo; seconded by Boardmember Bo Jones.

The motion to approve carried with the following vote:

Aye: 2 – Chairperson Garland, Boardmember Worthy
Nay: 0 – None
Recuse: 1 – Boardmember Jones

5. Approval of Minutes

- A. MIN2023-122 Approval of the November 8, 2023 License and Variance Board Meeting Minutes

Boardmember Bo Jones made a motion to approve item MIN2023-122, the November 8, 2023 License and Variance Board meeting minutes; 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 December 13, 2023 License and Variance Board meeting at 11:07 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**