



License and Variance Board Meeting - Final

March 13, 2024
10:00 AM

A. MIN2024-033 Approval of the February 28, 2024 License and Variance Board Meeting Minutes

LICENSE AND VARIANCE BOARD

Minutes - Final



A. Max Bacon City Hall
Council Chambers
2800 King Street SE
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

February 28, 2024
10:00 AM

1. Roll Call

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

Staff: 4 – Caitlin Crowe, Jill G. Head, Rahel Turner, and Starla Whiddon

2. Call to Order

Chairperson Richard Garland called to order the February 28, 2024 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. LIC2024-003 Privilege License Agent Change Request – Beer & Wine (retail package) – 1000 S Pioneer Drive SE – GB License LLC, dba goPuff, with Terry Landon Peterson as agent. *Ward 7 Councilmember - Rickey N. Oglesby, Jr.***

Application was made for privilege license agent change for GB License LLC, dba goPuff for the sale of beer & wine (retail package).

Terry Landon Peterson is the agent applicant. Terry Landon Peterson will be the registered agent responsible for the sale of alcohol at 1000 S Pioneer Drive 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. Peterson has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Terry Landon Peterson, applicant/agent, stated that he is the site leader/manager at this location. This is his second time serving as an agent. He is present at the store 40 hours

per week every week. To verify age, delivery partners that deliver orders to customers check ID, look for intoxication, scan customer ID against state license database. They are trained through appropriate training videos and online certification.

Chairperson Garland reminded the applicant the Smyrna Police Department takes this seriously and does perform compliance checks on a routine basis to ensure safety.

Boardmember Jones asked how orders are placed then delivered. Mr. Peterson stated that it is an online-based business through an app or website. A customer places an order, the order goes to the multi-fulfillment center, the driver takes it to the customer. All the drivers are 1099 employees. The business is based out of Philadelphia and are mainly located in college towns and metro areas.

Boardmember Andrea Worthy made a motion to approve item LIC2024-003; 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

- B. LIC2024-004 Privilege License Agent Change Request – Beer & Wine (retail package) – 4330 East West Connector SE, Smyrna, GA 30082 - SF Markets, LLC, dba Sprouts Farmers Market #518 with Patrick Joseph Hughes as agent.
*Ward 7 Councilmember - Rickey N. Oglesby, Jr.***

Application was made for privilege license agent change for SF Markets, LLC, dba Sprouts Farmers Market #518 for the sale of beer & wine (retail package).

Patrick Joseph Hughes is the agent applicant. Patrick Joseph Hughes will be the registered agent responsible for the sale of alcohol at 4330 East West Connector SE, Smyrna, GA 30082. 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. Hughes has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Patrick Joseph Hughes, applicant/agent, stated this is his first time serving as agent. They train their employees through a computer-based training system on alcohol sales and how to properly check for identification. He stated he is in the store 40-60 hours per week, and they have 82 employees. Everybody who purchases alcohol has to show identification, and the point-of-sale system requires the date of birth be entered into the system.

Chairperson Garland reminded the applicant the Smyrna Police Department takes this seriously and does perform compliance checks on a routine basis to ensure safety.

Boardmember Bo Jones made a motion to approve item LIC2024-004; 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

- C. **LIC2024-005** Privilege License Agent Change Request – (Pouring) Liquor, Beer & Wine – 2876 Spring Hill Pkwy SE, Smyrna, GA 30080 - Route 46 Management Associates Corp. dba Hyatt Place Atlanta Cobb Galleria, with Jacqueline A Foley as agent.
Ward 1 Councilmember - Glenn Pickens

Application was made for privilege license agent change for Route 46 Management Associates Corp., dba Hyatt Place Atlanta Cobb Galleria, for Pouring of Liquor, beer & wine.

Jacqueline A Foley is the agent applicant. Jacqueline A Foley will be the registered agent responsible for sale of alcohol at 2876 Spring Hill Pkwy SE, Smyrna, GA 30080. 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. Foley has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Jacqueline A Foley, agent/general manager, stated she oversees the daily processes for food and beverage, HR, etc. She stated she is present at the hotel around 40-50 hours per week. All new employees do ServSafe alcohol training online and a yearly update training as well. Hyatt has a secret shopper that performs compliance checks as well.

Chairperson Garland reminded the applicant the Smyrna Police Department takes this seriously and does perform compliance checks on a routine basis to ensure safety.

Boardmember Andrea Worthy made a motion to approve item LIC2024-005; 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

- D. **LIC2024-006** Privilege License Agent Change Request – Beer & Wine (retail package) – 2530 Cumberland Blvd SE, Smyrna, GA 30080 - SF Markets, LLC, dba Sprouts Farmers Market #530 with Melissa K Sims as agent.
Ward 1 Councilmember - Glenn Pickens

Application was made for privilege license agent change for SF Markets, LLC, dba Sprouts Farmers Market #530 for the sale of beer & wine (retail package).

Melissa K Sims is the agent applicant. Melissa K Sims will be the registered agent responsible for the sale of alcohol at 2530 Cumberland Blvd SE, Smyrna, GA 30080. 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. Sims has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol.

Melissa K Sims, agent, stated she has been an agent previously, and she is in the store 50+ hours per week. Every team member trains through ServSafe computer-based training, and their point-of-sale system requires an entry of a date of birth before the sale can be completed. Ms. Sims added that Sprout's does have their own secret shoppers as well.

Chairperson Garland reminded the applicant the Smyrna Police Department takes this seriously and does perform compliance checks on a routine basis to ensure safety.

Boardmember Bo Jones made a motion to approve item LIC2024-006; 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

**E. V24-014 Public Hearing - Variance Request - V24-014 - Increase the maximum impervious surface area from 35% to 43.2% - Land Lot 406 - 4322 Goswell Road - Teresa Pastore
Ward 4 Councilmember - Charles "Corkey" Welch**

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to increase the impervious surface area from 35% to 43.2% due to the addition of a pool in the rear yard. Section 801 sets the maximum impervious area in the R-15 zoning district at 35%.

The subject parcel is a 0.23-acre lot located on the northwest side of Goswell Road in 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 residences.

A pool permit was issued to the subject property in December 2023 for a 22-foot x 11-foot pool with no pool decking to keep the property under the maximum impervious surface area. However, the pool that was delivered to the property was 30-feet x 15-feet, an increase of 208 square feet than what was approved. Rather than remove the larger pool, the applicant has chosen to submit a variance and subsequent mitigation plan for an increase in impervious surface area.

The subject property is currently occupied by a 2,548 square foot single-family home and 450 square foot swimming pool currently under construction in the rear of the property. After the addition of the pool and the accompanying decking to the property, the impervious surface area increased 8.2% (or 819 square feet) over the allowable 35%. The applicant is proposing to retain the pool in its current form and location.

To offset the increase in impervious surface area, the applicant is adding two flo-wells to the northwest corner of the rear yard. The City Engineer has reviewed the application and is supportive of the proposed mitigation method with the stipulation that a Stormwater Inspection & Maintenance Agreement be recorded prior to final pool inspection.

Community Development believes the requested variance is the minimum variance needed to retain the pool on the property. Similar variances have been approved throughout the city when an appropriate mitigation method has been included and implemented.

The applicant is requesting to deviate from the City's maximum impervious area to retain a swimming pool on the property. 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 with implementation of the proposed mitigation plan; 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 mitigation plan submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court and an as-built certification statement submitted to Community Development prior to completion of the pool permit.

Boardmember Worthy asked if the pool permit was still open. Ms. Crowe stated that it would remain open until the mitigation system has been reviewed and approved.

Chairperson Garland asked if the pool has already been built. Ms. Crowe stated that it is in the process of being built.

Teresa Pastore, applicant, and Shawn Kelly approached. They both stated they agree to and understand the conditions read into record.

Boardmember Jones asked if the pool is fiberglass to which Mr. Kelly stated it is.

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 V24-014; 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

- F. **V24-008** Public Hearing - Variance Request - V24-008 - Reduce the side setback from 10 feet to 4 feet - Land Lot 452 - 995 Valley Drive - Sandra Towe
This request is to be withdrawn at the request of the applicant.
Ward 3 Councilmember - Travis Lindley

Boardmember Andrea Worthy made a motion to withdraw item V24-008 at the request of the applicant; seconded by Boardmember Bo Jones.

The motion to withdraw carried with the following vote:

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

- G. **V24-009** Public Hearing - Variance Request - V24-009 - Allow gravel parking - Land Lot 412 - 802 Smyrna Hill Drive - Hossein Kafaei
This request is to be tabled to the March 13, 2024 License and Variance Board Meeting at the request of staff.
Ward 4 Councilmember - Charles “Corkey” Welch

Boardmember Bo Jones made a motion to table to the March 13, 2024 License and Variance Board meeting item V24-009; seconded by Boardmember Andrea Worthy.

The motion to table carried with the following vote:

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

- H. **V24-010** Public Hearing - Variance Request - V24-010 - Reduce the required parking spaces from 107 spaces to 64 spaces - Land Lot 412 - 802 Smyrna Hill Drive - Hossein Kafaei
This request is to be tabled to the March 13, 2024 License and Variance Board Meeting at the request of staff.
Ward 4 Councilmember - Charles “Corkey” Welch

Boardmember Andrea Worthy made a motion to table to the March 13, 2024 License and Variance Board meeting item V24-010; seconded by Boardmember Bo Jones.

The motion to table carried with the following vote:

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

- I. **V24-011** Public Hearing - Variance Request - V24-011 - Allow 6-foot fence in the front yard - Land Lot 412 - 802 Smyrna Hill Drive - Hossein Kafaei
This request is to be tabled to the March 13, 2024 License and Variance Board Meeting at the request of staff.
Ward 4 Councilmember - Charles “Corkey” Welch

Boardmember Bo Jones made a motion to table to the March 13, 2024 License and Variance Board item V24-011; 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

- J. **V24-012** Public Hearing - Variance Request - V24-012 - Reduce the rear setback from 30 feet to 22 feet - Land Lot 673 - 1900 Sadler Drive - Kevin Lee
This request is to be tabled to the March 13, 2024 License and Variance Board Meeting at the request of the applicant.
Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Boardmember Andrea Worthy made a motion to table to the March 13, 2024 License and Variance Board meeting item V24-012; seconded by Boardmember Bo Jones.

The motion to table carried with the following vote:

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

- K. **V24-013** Public Hearing - Variance Request - V24-013 - Increase the maximum impervious surface area - Land Lot 673 - 1900 Sadler Drive - Kevin Lee
This request is to be tabled to the March 13, 2024 License and Variance Board Meeting at the request of the applicant.
Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Boardmember Bo Jones made a motion to table to the March 13, 2024 License and Variance Board meeting item V24-013; 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

- L. **V24-019** Public Hearing - Variance Request - V24-019 - Allow encroachment into the 10-foot drainage easement and 20-foot sanitary sewer easement - Land Lot 452 - 1009 Manor Drive - Patrick Dodson
This item is to be tabled indefinitely at the mutual request of the applicant and staff.
Ward 3 Councilmember - Travis Lindley

Boardmember Andrea Worthy made a motion to table indefinitely at the mutual request of the applicant and staff item V24-019; seconded by Boardmember Bo Jones.

The motion to table carried with the following vote:

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

- M. **V24-033** Public Hearing - Administrative Appeal - Appeal of the denial of a Certificate of Occupancy/Certificate of Completion - Land Lot 452 - 1009 Manor Drive - Patrick Dodson
This item is to be tabled indefinitely at the mutual request of the applicant and staff.
Ward 3 Councilmember - Travis Lindley

Boardmember Bo Jones made a motion to table indefinitely at the mutual request of the applicant and staff item V24-033; 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

5. Approval of Minutes

- A. **MIN2024-026** Approval of the February 14, 2024 License and Variance Board Meeting Minutes
Citywide

Boardmember Bo Jones made a motion to approve item MIN2024-026; 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 February 28, 2024 License and Variance Board meeting at 10:26 AM.

Facilities are provided throughout City Hall for the 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