



License and Variance Board Meeting - Final

September 25, 2024
10:00 AM

A. MIN2024-151 Approval of the September 11, 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
Eric Mohrmann, Board Member
Mary Moore, Board Member
Eric Randall, Board Member
Jill G. Head, Secretary

City Attorney Scott Cochran
City Administrator Joseph Bennett
City Clerk Heather K. Peacon-Corn

September 11, 2024
10:00 AM

1. Roll Call

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

Staff: 7 – Tyler Addison, Caitlin Crowe, Kendra Harruff, Jill G. Head, Russell Martin, Starla Whiddon, Mark Wolff

2. Call to Order

Chairperson Richard Garland called to order the September 11, 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. V24-066** Public Hearing - Variance Request - V24-066 - Allow front setback reduction from 35 feet to 33.2 feet - Land Lot 453 - 0.27 acres - 1031 Oakview Drive - Hunter Crigler
Ward 3 Councilmember - Travis Lindley

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.27-acre lot located on the north side of Oakview Drive (see Figure 1). The subject parcel and all adjacent properties are zoned R-15 and are all occupied by single-family detached houses.

he applicant acquired a building permit in May 2024 to fully renovate the existing 964 square foot home with a 484 square foot addition and accompanying 224 square foot deck in the rear. When completed, the home will be 1,672 square feet with 2 bedrooms and 2 bathrooms. Since the renovations to the home will create a 1,672 square foot home, the home will be brought further into compliance with the R-15 floor area requirement of 2,000 square feet.

The existing home currently has an uncovered 33 square foot concrete front porch. As part of the overall renovation, the applicant is proposing to erect a roof over the existing porch to be able to enter the home in inclement weather more easily. The existing home is roughly 3 feet from the front setback line, leaving little room for a roof on the existing front porch, much less any other frontward expansion. The applicant has proposed the new porch will be 33.2 feet from the front property line and will thus encroach on the front setback by 1.8 feet. No other variances are required for the renovations, as all other setbacks are met, and the property will be under the maximum impervious surface area of 35%.

Since the existing home was constructed in 1953, prior to the adoption of the current Zoning Ordinance in 1974, Community Development believes the variance requested is the minimum variance needed to construct a usable front porch in the front yard. Community Development does not foresee any negative impacts to adjacent properties should the variance be approved. Similar variance requests have been approved down the street in 2024 at 986 Oakview Drive (V24-018), in 2012 at 976 Oakdale Drive (V12-011), and in 2005 at 961 Oakview Drive (V05-014). Thus, there is a precedent for variances of this type in the area. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant requests a variance to reduce the front setback for 1031 Oakview Drive from 35 feet to 33.2 feet for the construction of a front porch. 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.

Hunter Crigler, applicant (1031 Oakview Drive), had nothing further to add. He stated he is in agreement 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.

Board Member Andrea Worthy made a motion to approve item V24-066; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

**B. V24-067 Public Hearing - Variance Request - V24-067 - Allow rear setback reduction from 20 feet to 13.4 feet - Land Lot 487 - 0.70 acres - 3020 Trae Court - Ari Kowalsky
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is located on the south side of the Trae Court cul-de-sac (see Figure 1). The subject parcel and adjacent parcels to the north, east, and west are zoned RM-10-C and are within the Trae Court subdivision, all of which will be occupied with single-family homes when complete, with the exception of the property to the west, which is the subdivision's stormwater detention facility. The adjacent property to the south is zoned RHR and is occupied by the Mitchell's Park apartment complex.

Each home in the subdivision has either a deck or patio in the rear for an outdoor amenity as well as a minimum 22-foot driveway. Of the eight permitted homes thus far (out of eleven in the subdivision), the average patio size is 182 square feet, with the smallest patio being 160 square feet due to its location on the corner of Trae Court and Church Street. Since patios that are flush to the ground are not required to meet building setbacks, each previously permitted patio has been almost fully in the rear setback. Due to the topography in the rear of the subject property, a patio would not have been feasible. To maintain a consistent product throughout the subdivision, the applicant has requested a rear setback reduction of 6.6 feet to build a 160 square foot deck on the rear of the house on both the first and second floor. If the home were to be shifted north to provide more room for a deck, a second variance would have been required to reduce the driveway length. Thus, to reduce the scope and number of variances, the applicant has requested the rear setback reduction.

The deck will remain outside the required 10-foot landscape buffer in the rear of the property but will encroach into the 12-foot private drainage easement by 3 feet. The City Engineer has reviewed the application and does not believe the deck will have adverse effects on the overall drainage of the subdivision. Since the drainage easement is private, a variance is not required for the encroachment.

Community Development believes that the encroachment will not adversely affect the surrounding residents, as the nearest structure at the Mitchell Park apartments is over 80 feet away and across a private roadway. With a 6.6-foot encroachment on the rear of home at the back of the subdivision, the requested variance for the encroachment will not be noticeable to the general public. Strict application of the ordinance would have required maximum deck depth of 2 feet to remain out of the rear setback. 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 zoning case Z20-004 for the rear setback of 20 feet to erect a deck on the rear of a new home in the Trae Court subdivision. 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 is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Ari Kowalsky, applicant, added that the variance application is solely for decks. He stated he understands and agrees with the stipulation read into record.

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

Board Member Bo Jones made a motion to approve item V24-067; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

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

**C. V24-068 Public Hearing - Variance Request - V24-068 - Allow rear setback reduction from 20 feet to 11.4 feet - Land Lot 487 - 0.70 acres - 3024 Trae Court - Ari Kowalsky
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is located on the south side of the Trae Court cul-de-sac (see Figure 1). The subject parcel and adjacent parcels to the north, east, and west are zoned RM-10-C and are within the Trae Court subdivision, all of which will be occupied with single-family homes. The adjacent property to the south is zoned RHR and is occupied by the Mitchell's Park apartment complex.

The subject property has a 20-foot sanitary sewer easement on the eastern side of the property and a 12-foot drainage easement and 10-foot landscape buffer in the rear. Due to the reduced buildable area, the proposed home footprint nearly touches all required setbacks while still maintaining the 22-foot minimum driveway. Each home in the subdivision has either a deck or patio in the rear for an outdoor amenity. Of the eight permitted homes thus far (out of eleven in the subdivision), the average patio size is 182 square feet, with the smallest patio being 160 square feet due to its location on the corner of Trae Court and Church Street. Since patios that are flush to the ground are not required to meet building setbacks, each previously permitted patio has been almost fully in the rear setback. Due to the topography in the rear of the subject property, a patio would not have been feasible. To maintain a consistent product throughout the subdivision, the applicant has requested a rear setback reduction of 8.6 feet to build a 136 square foot deck on the rear of the house on both the first and second floor. If the home were to be shifted north to provide more room for a deck, two additional variances would have been required to reduce the driveway length and reduce the front setback. Thus, to reduce the scope and number of variances, the applicant has requested the rear setback reduction.

The deck will remain outside the required 10-foot landscape buffer in the rear of the property but will encroach into the 12-foot private drainage easement by 3 feet. The City Engineer has reviewed the application and does not believe the deck will have adverse effects on the overall drainage of the subdivision. Since the drainage easement is private, a variance is not required for the encroachment. Additionally, the foundation of the home

is touching the sanitary sewer easement. The Public Works Assistant Director and Chief Building Official have both reviewed the application and can support the request with the stipulation that an Engineer's Letter be provided to ensure that if the full 20-foot sanitary sewer easement was used, the foundation of the house would not be compromised.

Community Development believes that the encroachment will not adversely affect the surrounding residents, as the nearest structure at the Mitchell Park apartments is over 50 feet away and across a private roadway. With an 8.6-foot encroachment on the rear of home at the back of the subdivision, the requested variance for the encroachment will not be noticeable to the general public. Strict application of the ordinance would prohibit the erection of any outdoor amenity since the home is proposed to abut the rear setback. 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 zoning case Z20-004 for the rear setback of 20 feet to erect a deck on the rear of a new home in the Trae Court subdivision. 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 condition:

1. Approval is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.
2. An Engineer's Letter with a detail showing the depth of the sanitary sewer pipe and its zone of influence in relation to the house foundation shall be submitted prior to building permit issuance.
3. An as-built survey shall be submitted to Community Development prior to the foundation pour inspection.
4. Survey stakes must be installed to reflect the edge of the sanitary sewer easement and must be maintained throughout construction.

Ari Kowalsky, applicant, added that the issue of sanitary sewer easement is that the deck is a very small portion of it. He stated he 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.

Board Member Andrea Worthy made a motion to approve item V24-068; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Garland, Board Member Jones, Board Member Worthy
Nay: 0 – None

Recuse: 0 – None

**D. V24-069 Public Hearing - Variance Request – V24-069 - Allow rear setback reduction from 20 feet to 16 feet - Land Lot 487 - 0.70 acres - 3028 Trae Court - Ari Kowalsky
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is located on the south side of the Trae Court cul-de-sac (see Figure 1). The subject parcel and adjacent parcels to the north and west are zoned RM-10-C and are within the Trae Court subdivision, all of which will be occupied with detached single-family homes. The adjacent parcel to the east is zoned R-15 and is also occupied by a detached single-family home. The adjacent property to the south is zoned RHR and is occupied by the Mitchell's Park apartment complex.

The subject property has a 20-foot sanitary sewer easement on the western side of the property and a 12-foot drainage easement and 10-foot landscape buffer in the rear. Due to the reduced buildable area, the proposed home footprint nearly touches all required setbacks while still maintaining the 22-foot minimum driveway. Each home in the subdivision has either a deck or patio in the rear for an outdoor amenity. Of the eight permitted homes thus far (out of eleven in the subdivision), the average patio size is 182 square feet, with the smallest patio being 160 square feet due to its location on the corner of Trae Court and Church Street. Since patios that are flush to the ground are not required to meet building setbacks, each previously permitted patio has been almost fully in the rear setback. Due to the topography in the rear of the subject property, a patio would not have been feasible. To maintain a consistent product throughout the subdivision, the applicant has requested a rear setback reduction of 4 feet to build a 136 square foot deck on the rear of the house on both the first and second floor. If the home were to be shifted north to provide more room for a deck, two additional variances would have been required to reduce the driveway length and reduce the front setback. Thus, to reduce the scope and number of variances, the applicant has requested the rear setback reduction.

The foundation of the home is touching the sanitary sewer easement. The Public Works Assistant Director and Chief Building Official have both reviewed the application and can support the request with the stipulation that an Engineer's Letter be provided to ensure that if the full 20-foot sanitary sewer easement was used, the foundation of the house would not be compromised.

Community Development believes that the encroachment will not adversely affect the surrounding residents, as the nearest structure at the Mitchell Park apartments is over 50 feet away and across a private roadway. With a 4-foot encroachment on the rear of home at the back of the subdivision, the requested variance for the encroachment will not be noticeable to the general public. 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 zoning case Z20-004 for the rear setback of 20 feet to erect a deck on the rear of a new home in the Trae Court subdivision. 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 condition:

1. Approval is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.
2. An Engineer's Letter with a detail showing the depth of the sanitary sewer pipe and its zone of influence in relation to the house foundation shall be submitted prior to building permit issuance.
3. An as-built survey shall be submitted to Community Development prior to the foundation pour inspection.
4. Survey stakes must be installed to reflect the edge of the sanitary sewer easement and must be maintained throughout construction.

Ari Kowalsky, applicant, stated he understands and agrees to the stipulations read into record.

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

Board Member Bo Jones made a motion to approve item V24-069; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

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

E. V24-070 Public Hearing - Variance Request - V24-070 - Allow increase in impervious coverage from 35% to 38.2% - Land Lot 388 - 0.34 acres - 4520 Derby Lane - Tameika Matthews
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 38.2% due to the construction of a pool in the rear yard. Section 801 sets the maximum impervious surface area in the R-15 zoning district at 35%.

The subject parcel is a 0.34-acre lot located on the east side of Derby Lane in the Churchill Downs 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 November 2022 with an approved 32.8% impervious surface area. The subject property is currently occupied by a 2,450 square foot single-family home and the 880 square foot swimming pool in the rear of the property. During construction, the applicant expanded the permitted amount of concrete decking that surrounded the pool and thus increased the allowable impervious surface area. After the addition of the pool and accompanying decking on the property, the impervious surface area increased the impervious surface area 3.2% over the allowable

35% (or 483 square feet). The pool has been under construction for nearly two years, so 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 installing an infiltration trench between the swimming pool and fence in the side yard. The City Engineer has reviewed the application and is supportive of the proposed mitigation method with the stipulations that a Stormwater Inspection & Maintenance Agreement be submitted prior to final 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. 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 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 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 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 prior to the issuance of the Certificate of Completion.
3. A stormwater as-built certification statement shall be submitted to Community Development for approval prior to issuance of the Certificate of Completion.

Tameika Matthews, applicant (4520 Derby Lane), stated she understands and agrees to the stipulations read into record.

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

Board Member Andrea Worthy made a motion to approve item V24-070; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

- F. **V24-071** Public Hearing - Variance Request - V24-071 - Allow a second accessory structure - Land Lot 243 - 0.55 acres - 4031 Benell Court - Reginald Jeter

Ward 4 Councilmember - Charles 'Corkey' Welch

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.55-acre lot located on the south side of the cul-de-sac for Benell Court (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are all occupied by single-family detached residences.

In July 2024, Code Enforcement issued a notice of violation to the subject property for working without a permit and having a second accessory structure. Once alerted, the applicant immediately moved forward with the variance application in preparation for the building permit submittal.

The property is currently occupied by a one-story 3,094 square foot single-family home and 465 square foot inground swimming pool in the rear. The applicant is proposing a 300 square foot detached accessory structure adjacent to the existing pool to be used as a pool house, complete with kitchenette and full bathroom. Per the applicant, the pool house is to be used by the applicant's family members and guests who are visiting or using the adjacent swimming pool. Since the accessory structure ordinance allows one accessory structure or use per lot, a variance is required to build the second structure.

The proposed location of the pool house is in the rear of the lot with the nearest neighboring structure over 50 feet away. The property slopes down significantly from the road down to the house and rear yard, making the pool house not readily visible to the public. Due to the proposed location of the pool house, Community Development believes the proposal will not adversely impact adjacent properties. No other variances for setback reductions or impervious area increase are required. Strict application of the ordinance would deny the applicant any ability to have a detached structure on the property due to the existing swimming pool.

Community Development believes the variance requested is the minimum variance needed to allow for any detached structure due to the existing swimming pool. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties. Community Development believes that the requested variance will not adversely affect surrounding residents. At the time of this report, Community Development has not received any opposition to the variance request.

The applicant is requesting to deviate from the development standards established by the City for the maximum number of accessory structures. 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 residents; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval of the requested variances is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.
2. The accessory structure shall not be permitted to have an oven or stove without obtaining an additional variance for a second kitchen.

3. The proposed accessory structure shall not be rented or occupied for gain, except as permitted in Article IX of Chapter 22 as it pertains to the operation of short-term rental units.
4. These conditions shall run in perpetuity with the property and as such are also applicable to any future owner.

Reginald Jeter, applicant, (4031 Benell Court), stated he agrees with and understands the stipulations read into record.

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

Board Member Bo Jones made a motion to approve item V24-071; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

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

**G. V24-072 Public Hearing - Variance Request - V24-072 - Allow rear setback reduction from 25 feet to 14.6 feet - Land Lot 617 - 0.24 acres - 1700 Harlington Road - Dwayne Wiggins
*Ward 7 Councilmember - Rickey N. Oglesby Jr.***

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to reduce the rear setback from 25 feet to 14.6 feet at 1700 Harlington Road to screen an existing deck. The rear setback of 25 feet is regulated by the Woodland Gate Unit I plat, recorded in 2001.

The subject parcel is a 0.24-acre lot located on the northwestern side of the cul-de-sac of Harlington Road within the Woodland Gate subdivision (see Figure 1). The subject parcel and all adjoining parcels are zoned RDA and are all occupied by single-family detached homes within the Woodland Gate subdivision.

The applicant is proposing to replace an existing 192 square foot deck on the rear of the existing home with a 204 square foot screened-in porch and open deck addition. When the home was built in 2001, the builder encroached into the rear setback by 10.4 feet to build the original deck without obtaining a variance. Since the deck is being enclosed, the property no longer remains legally nonconforming. However, since the existing deck was already nonconforming, the hardship is not self-created. Additionally, no other variances are needed as the property is below their impervious coverage maximum of 45% and the addition does not encroach into the drainage easement in the rear of the property.

The applicant will require relief from the City's building setback requirements to enclose the deck. Community Development believes the hardship is not self-created, as the deck was originally constructed in this location. Community Development believes this is the minimum variance needed to allow for the deck enclosure, and that there should be no negative impacts to adjacent properties if approved. A similar variance was approved earlier in 2024 directly behind the property at 5011 Duxford Drive (V24-049), thus there is

a precedent for variances of this type in the area. 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 Woodland Gate Unit I subdivision plat, which requires a rear setback of 25 feet. 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 is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Dwayne Wiggins, applicant (1700 Harlington Road), stated he understands and agrees with the stipulation read into record.

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

Board Member Andrea Worthy made a motion to approve item V24-072; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

**H. V24-073 Public Hearing - Variance Request - V24-073 - Allow encroachment into the City's 50 ft. undisturbed stream buffer - Land Lot 488 - 0.25 acres - 1088 Parkview Place - Adam Ingleson
*Ward 3 Councilmember - Travis Lindley***

Caitlin Crowe, Planner I, provided the following background:

The subject parcel is a 0.25-acre lot located on the west side of Parkview Place in the Parkview Village subdivision (see Figure 1). A stream runs through the rear of the property and continues through the adjacent properties to the north and south. The subject parcel and adjacent parcels to the north, east, and south are zoned RDA whereas the adjacent properties to the west are zoned R-15; all properties are occupied by detached single-family homes.

The applicant is proposing to replace an existing roughly 294 square foot deck with a roughly 364 square foot deck which will be half open-air deck and half a screened-in porch. The rear yard and a majority of the home itself is greatly encumbered by the State's 25-foot undisturbed buffer, the City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious surface setback, with no section of the rear yard untouched by

stream buffers. Since the property was platted in 2004, prior to the Stream Buffer Protection Ordinance in 2005, the hardship is not self-created. No other variances are needed as the property is below their impervious coverage maximum of 45%.

Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming stream buffer encroachments. 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." Since the deck is being completely rebuilt with the addition of a screened-in porch, the property no longer remains legally nonconforming. However, since the existing single-family home and deck were already non-conforming, the hardship is not self-created.

Since the stream buffer encroachment occurred in 2004 and the additional land disturbing activity is considered minor and over previous impervious material, the City Engineer has determined that no remediation is required in order to support the variances.

Due to the existing stream buffers encumbering the entirety of the rear yard and the existing home, Community Development believes these are the minimum variances needed to allow for any replacement of the existing deck and that there should be no negative impacts to adjacent properties if approved. At the time of this report, Community Development has not received any calls in opposition to the request.

The applicant is requesting relief from the City's 50-foot undisturbed stream buffer and City's 75-foot impervious surface setback to install a deck and screened porch in the rear yard. According to Section 46-160 of the Stream Buffer Protection Ordinance, variances must be reviewed under the following standards: (1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; (2) The locations of all streams on the property, including along property boundaries; (3) The location and extent of the proposed buffer or setback intrusion; (4) Whether alternative designs are possible which require less intrusion or no intrusion; (5) The long-term and construction water-quality impacts of the proposed variance; (6) Whether as a result of an exchange of buffer area the net buffer area is not reduced; and (7) Whether issuance of the variance is at least as protective of natural resources and the environment. After a review of the standards above, Community Development and the City Engineer believe that the encroachment will not adversely affect surrounding residents nor the existing stream; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval of the requested variances shall be conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.

Adam Ingleson, applicant (1088 Parkview Place), stated he understands and agrees with the stipulation read into record.

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

Board Member Bo Jones made a motion to approve item V24-073; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

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

I. **V24-074** Public Hearing - Variance Request - V24-074 - Allow encroachment into the City's 75 ft. impervious surface setback - Land Lot 488 - 0.25 acres - 1088 Parkview Place - Adam Ingleson
Ward 3 Councilmember - Travis Lindley

Neither staff nor the applicant had any further information to add. The applicant stated he understands and agrees with the stipulation read into record.

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

Board Member Andrea Worthy made a motion to approve item V24-074; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

J. **V24-075** Public Hearing - Variance Request - V24-075 - Allow reduction of the streetside setback from 23.3 feet to 15.9 feet - Land Lot 488 - 0.33 acres - 1191 Bank Street - Joan Stuart
Ward 3 Councilmember - Travis Lindley

Caitlin Crowe, Planner I, provided the following background:

The applicant is requesting a variance to reduce the streetside setback from 23.3 feet to 15.9 feet to allow for the construction of an addition on a single-family residence at 1191 Bank Street. The development standards established by the City for the R-15 zoning district requires a minimum streetside setback of 23.3 feet.

The subject parcel is a 0.33-acre lot located at the northwest intersection of Bank Street and Hamby Street (see Figure 1). The subject parcel and adjoining parcels to the west and south are zoned R-15. The adjacent property to the north is zoned RDA and the adjacent properties to the east are zoned CBD. All properties, including the subject property, are occupied by detached single-family homes.

The subject property currently consists of a 1,269 square foot home, shed, and inground swimming pool. A large red maple tree takes up the southwestern corner of the property. The applicant is requesting a variance to encroach into the streetside setback to build a roughly 252 square foot addition on the east side of the existing home. The addition will consist of a new bedroom and half bath and have cement siding, painted to match the existing home. Due to the existing shed and pool in the rear yard and the maple tree in the front, the most logical area to construct the addition is within the streetside setback to decrease disturbance to the subject property and surrounding neighbors

The existing one-story home is 1,269 square feet, while the minimum house size of R-15 is 2,000 square feet. With the renovations, the home will be 1,521 square feet, bringing the home closer to compliance with the R-15 floor area requirement. Furthermore, the closest building, in this case across Hamby Street, will be nearly 70 feet from the addition, thus no fire suppression system is required.

Due to the location of the existing home and the existing accessory structures on the property, the location of the proposed addition will minimize disturbance to the subject property and surrounding neighbors. Strict application of the ordinance would deny the applicant the ability to add any building square footage to the subject property. The variance proposed is the minimum variance needed to increase the home's footprint. 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 minimum streetside setback of 23.3 feet. 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.

Joan Stuart, applicant (1191 Bank Street), stated she understands and agrees with the stipulation read into record.

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

Board Member Bo Jones made a motion to approve item V24-075; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

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

- K. V24-076 Public Hearing - Variance Request - V24-076 - Allow an increase in impervious coverage from 35% to 40.7% - Land Lot 523 - 0.48 acres - 3036 Lee Street - Andrew Pepiot**
Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Caitlin Crowe, Planner I, provided the following background:

The applicant is seeking a variance to increase the impervious surface area from 35% to 40.7% to build a new deck and accompanying patio on the side of the single-family home located at 3036 Lee Street. Section 801 sets the maximum impervious surface area of the R-15 zoning district.

The subject parcel is a 0.48-acre lot located on the west side of Lee Street (see Figure 1). The subject parcel and adjoining parcels to the east, west, and south are zoned R-15 and are all occupied by single-family detached homes. The two adjacent properties to the north are both zoned LC (Limited Commercial) and are occupied by a swimming school and future daycare facility.

The subject property is currently occupied by a 3,522 square foot single-family home, built in 1930, which has had significant renovations over the years. As part of a large landscaping endeavor on the property, the applicant is proposing to build a deck on the side of the house with an accompanying tiered stone patio. The current home, driveway, and shed constitute a 32.5% existing impervious surface area. After the addition of the deck and patio to the property, the impervious surface area will be 5.7% over the allowable 35% (or 222 square feet).

To offset the increase in impervious surface area on the property, the applicant is adding a drywell to the southwest 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 the issuance of the building permit for the deck.

Community Development believes the requested variance is the minimum variance needed to add more outdoor amenity space on the property. Similar variances have been approved throughout the city when an appropriate mitigation method has been included and implemented. 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 conditions:

1. Approval of the variance is conditioned upon substantial compliance with the mitigation plan and elevations submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court prior to issuance of the building permit.
3. A stormwater as-built certification statement shall be submitted to Community Development for approval prior to issuance of the Certificate of Completion.

Mark Wolff, City Engineer, stated he has reviewed this item, He stated in addressing the as-built certification – the applicant is working with a landscape architect for the mitigation plan which includes a proprietary device. The as-built certification can be done by the design professional, and the City will accept that.

Andrew Pepiot, applicant (3036 Lee Street), stated he 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.

Board Member Andrea Worthy made a motion to approve item V24-076; seconded by Board Member Bo Jones.

The motion to approve carried with the following vote:

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

5. Approval of Minutes

A. MIN2024-139 Approval of the August 28, 2024 License and Variance Board Meeting Minutes

Board Member Bo Jones made a motion to approve item MIN2024-139; seconded by Board Member Andrea Worthy.

The motion to approve carried with the following vote:

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

6. Other Business / Staff Comment

7. Adjournment

Chairperson Richard Garland adjourned the September 11, 2024 License and Variance Board meeting at 10:40 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