



License and Variance Board Meeting - Final

September 25, 2024

10:00 AM

-
- B. V24-077** Public Hearing - Variance Request - V24-077 - Increase the maximum impervious surface area from 45% to 50.03% - Land Lot 330 - 577 Lakeview Terrace - Matthew Berry



City of Smyrna

Issue Sheet

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

File Number: V24-143

Agenda Date: 9/25/2024

In Control: License and Variance Board

File Type: Variance Item

Agenda Section:

Formal Business

Department: Community Development

Agenda Title:

Public Hearing - Variance Request - V24-077 - Increase the maximum impervious surface area from 45% to 50.03% - Land Lot 330 - 577 Lakeview Terrace - Matthew Berry

Ward 7 Councilmember - Rickey N. Oglesby Jr.

ISSUE AND BACKGROUND:

The applicant is requesting two variances to cover an existing deck at 577 Lakeview Terrace: increase the impervious surface area from 45% to 50.03% and reduce the rear setback from 25 feet to 14 feet. Section 801 sets the maximum impervious surface area of the RDA zoning district at 45% whereas the rear setback of 25 feet is regulated by the Lakeview at Vinings Phase Two plat, recorded in 2003.

RECOMMENDATION / REQUESTED ACTION:

The applicant is requesting to deviate from the development standards established by the Lakeview at Vinings subdivision plat and RDA development standards, which requires a rear setback of 25 feet and a maximum impervious surface area of 45%, respectively. 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 variances with the following condition:

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

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director
Caitlin Crowe, Planner I

Date: September 17, 2024

RE: VARIANCE CASE V24-077
577 Lakeview Terrace – Increase the maximum impervious surface area from 45% to 50.03%

VARIANCE CASE V24-078
577 Lakeview Terrace – Reduce the rear setback from 25 feet to 14 feet

BACKGROUND

The applicant is requesting two variances to cover an existing deck at 577 Lakeview Terrace: increase the impervious surface area from 45% to 50.03% and reduce the rear setback from 25 feet to 14 feet. Section 801 sets the maximum impervious surface area of the RDA zoning district at 45% whereas the rear setback of 25 feet is regulated by the Lakeview at Vinings Phase Two plat, recorded in 2003.

ANALYSIS

The subject parcel is a 0.16-acre lot located on the south side of Lakeview Terrace (see Figure 1). The subject parcel and all adjoining parcels are zoned RDA and are all occupied by single-family detached homes within the Lakeview at Vinings subdivision.

The existing home was originally built in 2003 with the deck encroaching into the rear setback by 9 feet without obtaining the required variances. The applicant is proposing to demolish the existing 216 square foot deck on the rear of the home and replace it with a covered deck. 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 roof addition and thus the enhanced value, the property is required to be brought to current code regarding the rear setback. However, since the existing deck was already non-conforming, the hardship is not self-created.

The existing deck is 16 feet from the rear property line; with the addition of the roof and subsequent eaves, the new roofed structure will be 14 feet from the property line. Community Development believes this is the minimum variance needed to enable a roof to fully cover the existing deck footprint without requiring the replaced deck to reduce in size.

The original home was permitted without the deck shown on the approved plans, which caused the lot to exceed the allowable 45% impervious surface area. Since the Stormwater Ordinance does not differentiate between replaced and new impervious area, a variance is required for the nonconforming impervious area. Due to previous drainage improvements, the property has an existing stormwater infiltration system which collects runoff water from the house roof. Since this system treats impervious area that is more than sufficient to account for the area being added, the City Engineer is supportive of the variance without additional mitigation efforts.

The applicant will require relief from the City's building setback and impervious surface requirements to rebuild and cover the deck. Community Development believes the hardship is not self-created, as the deck was originally constructed in this location. 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. Similar variances have been approved throughout the city when an appropriate mitigation method has been implemented. At the time of this report, Community Development has not received any calls in opposition to the requests.

STAFF COMMENTS

The applicant is requesting to deviate from the development standards established by the Lakeview at Vinings subdivision plat and RDA development standards, which requires a rear setback of 25 feet and a maximum impervious surface area of 45%, respectively. 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 variances with the following condition:

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

Figure - 1



Figure - 2
Site Plan

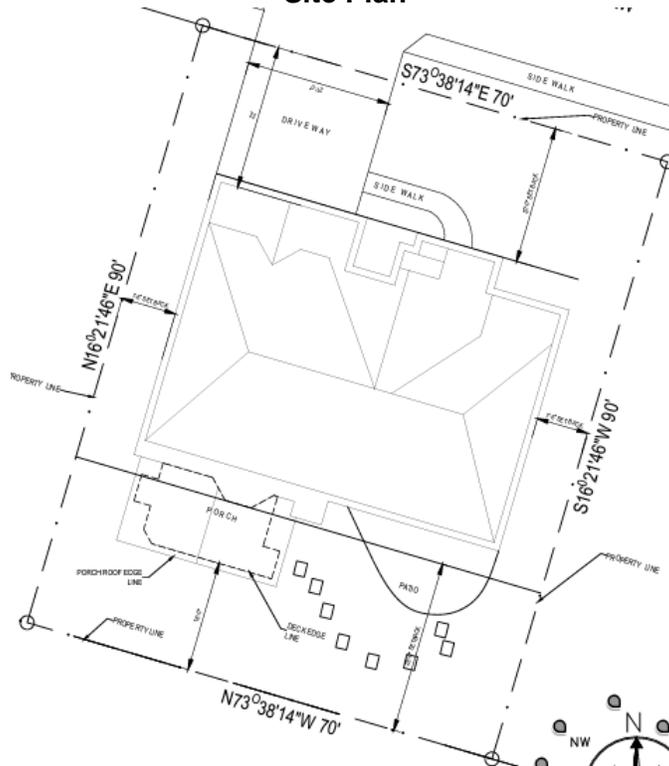


Figure – 3
Proposed Rear Elevation



Figure – 4
Subject Property



Figure – 5
Adjacent Property to the East

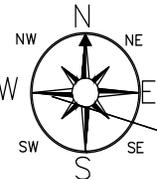
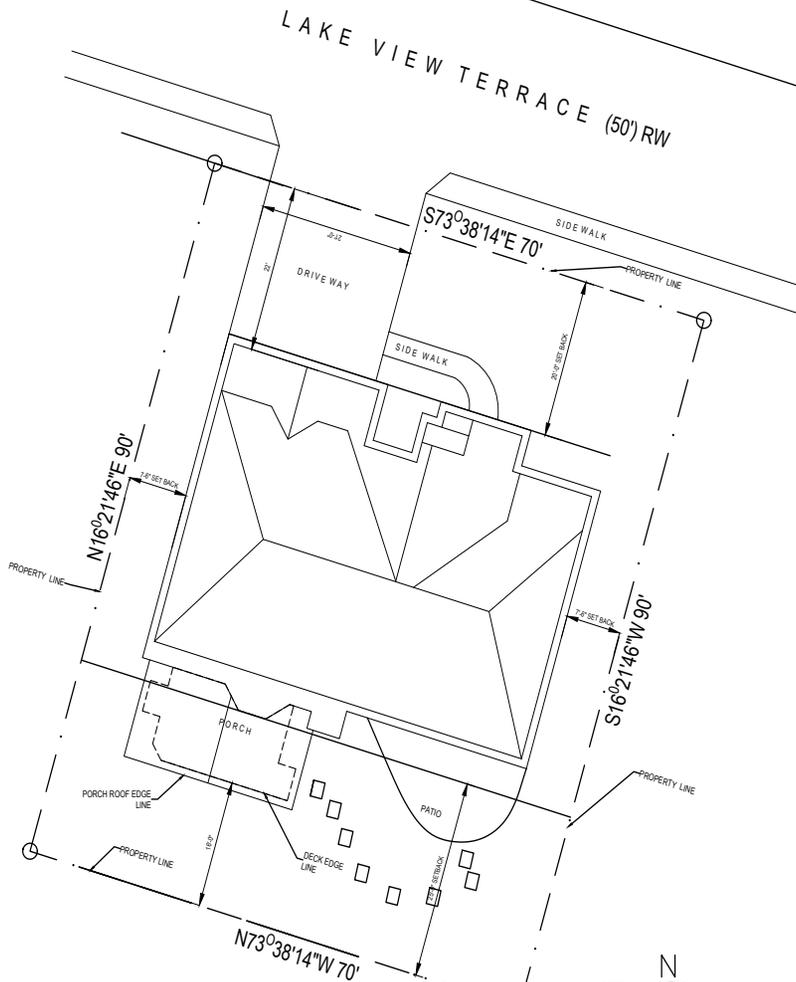


Figure – 6
Adjacent Property to the West



Figure – 7
Adjacent Property across Lakeview Terrace






PROPOSED SITE DEVELOPMENT PLAN
 SCALE: 1/8" = 1'

LAKE VIEW TERRACE (50') RW

NO.	DATE	DESCRIPTION	REVISIONS

DATE OF THIS PLOT

SEAL

THESE DRAWINGS ARE NOT
 APPROVED FOR CONSTRUCTION
 UNLESS SIGNED AND SEALED BY THE
 ARCHITECT AND APPROVED BY THE
 LOCAL BUILDING AND PLANNING
 DEPARTMENT'S APPROVAL. ALL OTHER
 PLAN REVISIONS HAVE
 BEEN OBTAINED.

DRAWINGS PREPARED FOR
YANOVER CONSTRUCTION

CLIENT NAME:
 MATT BERRY

LOCATION:
 577 LAKE VIEW
 TERRACE, SE
 MABLETON
 GA. 30126

DRAWING TITLE
 SITE PLAN
 PROPOSED

REVISION FOR
 CONSTRUCTION
 JOB NUMBER
 SCALE: AS NOTED
 DATE
 SHEET

ISSUED FOR CONSTRUCTION

A03

Variance Application

VAR-24-57

Submitted On: Aug 21, 2024

Applicant

 Matthew Berry
 678-488-6389
 @ mattberry05@gmail.com

Primary Location

577 LAKEVIEW TER SE
SMYRNA, GA 30126

Applicant Information

First Name

Matthew

Last Name

Berry

Street Address

577 Lakeview Terrace

City

Smyrna

State

GA

Zip Code

30126

Email

mattberry05@gmail.com

Phone Number

6784886389

Are you the titleholder of the subject property?

Yes

Property Information

Property Address

577 Lakeview Terrace

Description of Requested Variances

Setback variance and impervious surface increase related to completing a new covered deck to replace existing uncovered deck

Please check the box below if the requested variance(s) includes an increase in the maximum impervious surface area or an encroachment into a City stream buffer.

true

****If the request includes an increase in the maximum impervious surface area or an encroachment into a City stream buffer, a stormwater mitigation plan is REQUIRED prior to submittal of the variance application.****

Please contact City Engineer, Mark Wolff with any questions relating to the stormwater mitigation plan; 678-631-5546 or mwolff@smyrnaga.gov.

Comprehensive Narrative

In rendering its decisions, the License and Variance Board shall consider the following factors:

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.

A comprehensive narrative detailing the extraordinary and exceptional conditions which will necessitate a nonconforming use.

We are seeking to replace our existing back deck, which was completed with the original construction of the home in 2003, with a gabled covered deck. The original deck was, for some reason, not included in the original construction permit, and is within the 25 foot rear setback (it is approximately 15 feet from the rear property line). We are seeking approval for the new structure to be built within the same footprint in this setback.

The deck also would increase the impervious surface amount of the property to about 50% of the lot. The property has extensive drainage improvement already in place which should completely mitigate any stormwater impact. The City Engineer has reviewed our drainage and agrees that it mitigates the issue.

Acknowledgement

Applicant further affirms they are aware that any knowingly false statement made in the permit application may subject said applicant to prosecution for violation of Georgia Criminal Code, Section 16-10-20 (False Swearing) and a possible fine of not more than \$1,000.00 or imprisonment for not less than one (1) nor more than five (5) years, or both.

Applicant Signature:

true

**NOTIFICATION OF CONTIGUOUS OCCUPANTS
OR LANDOWNERS**

By signature, it is hereby acknowledged that I have been notified by Matthew Berry

Intends to make an application for a variance for the purpose of Expansion into rear setback and increase in impervious surface area

on the premises described in the application.

NAME	ADDRESS
<u>[Signature]</u>	<u>575 Lakeview Ter</u>
<u>[Signature]</u>	<u>578 Lakeview Ter</u>
<u>[Signature]</u>	<u>579 Lakeview Ter</u>
<u>Jake Duffy</u>	<u>4905 Hillcrest Way</u>
<u>[Signature]</u>	<u>580 Lakeview Ter</u>

Please have adjacent property owners sign this form to acknowledge they are aware of your variance request. You may also provide certified mail receipts of notification letters sent to adjacent properties. Notification letters shall include a description of the requested variance, the License and Variance Board Meeting date and time, and a copy of the completed variance application. Adjacent and adjoining properties include any property abutting the subject property as well as any properties directly across a street.

Munis Self Service

Real Estate (Your House or Land)

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Payments/Adjustments

As of 8/20/2024

Bill Year	2023
Bill	1558

Activity	Posted	Entered	Reference #	Paid By/Reference	Amount
Gl Account Update	7/1/2024	7/1/2024	41144		\$0.00
Gl Account Update	7/1/2024	7/1/2024	23234		\$0.00
Adjustment	11/20/2023	11/20/2023	290049		\$0.00
Payment	10/24/2023	10/25/2023	3251493	CORELOGIC	\$1,137.05
Abatement	9/17/2023	9/18/2023	2809	HOMEOWNER TAX RELIEF GRANT	(\$161.82)

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Printed: 8/20/2024

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
PLANET HOME LENDING

BERRY MATTHEW T & ELIZABETH

Payment Date: 10/12/2023

Tax Year	Parcel ID	Due Date	Appeal Amount		Taxes Due
2023	17033000600	10/15/2023	Pay:	N/A or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$4,608.26	\$0.00



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