



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

March 18, 2021

5:00 p.m.

Smyrna Town Hall

Chairman Steve Sullivan called the regular session of the Smyrna Board of Zoning Appeals to order on March 18, 2021 at 5:00 p.m. The invocation was given by Troy Powell and the Pledge of Allegiance was led by Jay Michaelson.

The following Board of Zoning Appeals members/staff were present/absent:

Present: Steve Sullivan, Councilman; Phil Wilson; Jay Michaelson; Scott Demonbreun; Troy Powell

Staff: Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Jeff Peach, Town Attorney; Eric

Present: Hennessee, Assistant Town Attorney; Jennifer Bizarri, Planning Technician; Kathryn Bobbitt, Office Coordinator; Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Charles King, Engineer

1. Citizens' Comments: None at this time.
2. Approval of Minutes for the originally scheduled February meeting, held on March 2, 2021

Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the Minutes for the February meeting held on March 2, 2021.

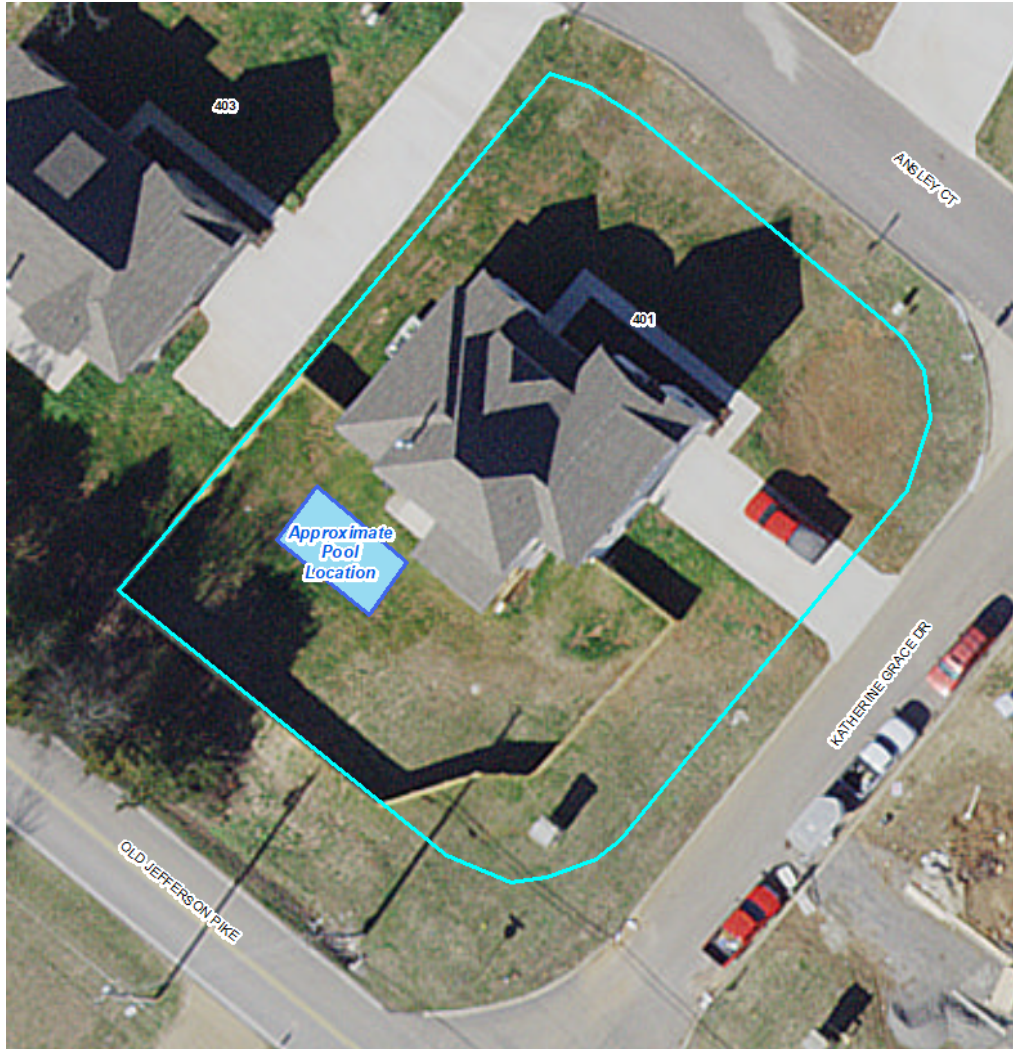
Vote: 5 - 0 Passed - Unanimously

3. New Business:
 - a. Setback Variance:

- 1. Carole Cartwright
401 Ansley Court

| | |
|--|-----------------------------------|
| Location: 401 Ansley Court | Property Owner: Carole Cartwright |
| Tax Map/Parcel #: Map 27-D, Group E, Parcel 10.00 | |
| Zoning/Use Classification: R-2/Low Density Residential | |

Request: For a zoning variance to allow a pool in the front yard and front setback variance.



Staff Analysis The applicant has requested a zoning variance to place an in ground pool within their front yard setback. In addition, a setback variance will need to be granted; applicant is requesting a 7’ front setback variance to allow the pool to be 28’ off the property line along Old Jefferson Pike. There is an existing privacy fence, surrounding the backyard, so it would not be visible from the roadway. The property is zoned R-2, Low Density Residential, and approximately 0.34 acres in size with a front setback of 35’. Pools are allowed in residential districts, but may not be placed in a front yard. This property has three front setbacks on Old Jefferson Pike, Katherine Grace Drive and Ansley Court.

Section 7.080 D of the Zoning Ordinance detail the requirements for variances not involving special flood hazard areas. These are detailed below.

Zoning Variance Requirements

Section 7.080 of the Municipal Zoning Ordinance lists general requirements for a zoning variance request. Those requirements and staff’s findings are as follows:

Section 7.080 Procedure for authorizing zoning variances

The purpose of a variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

B. Standards for Variances not Involving Special Flood Hazard Areas:

The board shall not grant a variance unless it makes finding based upon evidence presented to it as follows:

1. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out must be stated.
 - Staff finds that the lot is a corner lot, giving the owner three front setbacks to comply with for any detached structures placed on the property.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 - Staff finds that lots in the R-2 district on a corner lot have less allowable space for accessory structures, so the petition is based on conditions that would not be applicable to other property within the same district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 - Pools are permitted in the R-2 district, but are to adhere to applicable setbacks.
4. Financial returns only shall not be considered as a basis for granting a variance.
 - The property owner has not identified financial returns as a reason for requesting a variance.
5. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance.
 - The alleged difficulty or hardship was not created by the applicant.
6. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same districts.
 - Staff finds that the variance requested will not provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-2 district.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 - Staff finds that the request may be needed to make possible the full use of the property. Without this request, the placement of a detached accessory structure would be difficult due to the constrained building envelope with three front setbacks.
8. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.
 - Staff finds that the variance will not be detrimental to the public welfare or injurious to

other property or improvements in the area due to it being enclosed behind a fence.

9. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.
 - Staff finds that the variance will not have any of the above effects.
10. Variances may be issued for the reconstruction rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places upon a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building, and provide the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historic designation.
 - Not applicable

Conclusion

Staff finds that the property does have three front setbacks, which does present a unique circumstance when wanting to locate any accessory structures. The three front setbacks creates a constrained building envelope compared to lots with the typical one or even a normal corner lot with two front setbacks. Two variances are being requested; a front setback request of 7' and a zoning variance to construct an in ground pool in the front yard along Old Jefferson Pike.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the zoning variance for an in ground pool within in the front yard setback along Old Jefferson Pike, and a 7 foot front setback variance to allow the pool to be 28 feet off the property line along Old Jefferson Pike due to the property's three front setbacks.

Vote: 5 - 0 Passed - Unanimously

4. Staff comments and/or other business
5. Adjournment

Respectfully submitted:

Certified by:

Kevin Rigsby
Secretary

Councilman Steve Sullivan
Chairman