



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

April 15, 2021

5:00 p.m.

Smyrna Town Hall

Vice-Chairman Phil Wilson called the regular session of the Smyrna Board of Zoning Appeals to order on April 15, 2021 at 5:00 p.m. The invocation was given by Troy Powell and the Pledge of Allegiance was led by Scott Demonbreun

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

Present: Phil Wilson; Jay Michaelson; Scott Demonbreun; Troy Powell

Absent: Steve Sullivan, Councilman

Staff Present: Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Jeff Peach, Town Attorney; Jennifer Bizarri, Planning Technician; Kathryn Bobbitt, Office Coordinator; Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Kathy Ferrell, Public Information Officer

1. Citizens' Comments: None at this time.

2. Approval of Minutes of the March 18, 2021 meeting

Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the March 18, 2021 meeting Minutes.

Vote: 4 - 0 Passed - Unanimously

3. New Business:

a. Temporary Use Permit:

1. Eric Dykes
Tridon Drive

Location: Tridon Drive

Property Owner: Swanson Development, LP

Tax Map/Parcel #: Map 50, Parcel 14.01 & Map 50, Parcel 14.00

Zoning/Use Classification: C-2/Vacant

Request: For a temporary use permit to allow a religious tent revival.



Staff Analysis

The applicant has requested a temporary use permit to allow for a tent revival to be held on a vacant parcel on Tridon Drive. The applicant has requested this temporary use permit from April 22nd – May 22nd between the hours of 6pm – 11pm. Anticipated attendance for this event would be between 200-300 people. Applicant is proposing for a roughly 1 acre parking area in the northwestern portion of the property with overflow parking on the vacant tract across Tridon Drive. Applicant has noted that there will be trained volunteers assisting parking and guiding pedestrian flow. There will be four tents to accommodate this event; main tent being 30' x 50' and three smaller 10' x 10' tents. Additionally, two portable toilets would be made available to attendees.

The Municipal Zoning Ordinance requirements for this use are detailed below.

Section 4.030 Temporary Use Regulations

The following regulations are necessary to govern the operation of certain necessary or seasonal use non-permanent in nature. Application for a Temporary Use Permit shall be made to the Building Official. Said application shall contain a graphic description of the property to be utilized and a site plan, to determine yard requirements setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such

use is located:

D. Religious Tent Meetings:

In any commercial district, except the P-O, Professional and Office District, a temporary structure may be permitted to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off street parking can be provided.

Staff Recommendation

Staff recommends approval of this request with the following conditions:

1. The applicant adheres to required setbacks with placement of tents and parking.
2. Parking on the grass is permitted with volunteers directing traffic.
3. Applicant shall obtain a tent permit from the Codes Department as well as abiding by all applicable building, fire and electrical codes.

Jennifer Martin, Director of the event, spoke regarding this request.

Motion by Jay Michaelson, seconded by Scott Demonbreun to approve the Temporary Use Permit for a religious tent revival on Tridon Drive with the following conditions:

1. The applicant adherers to required setback with placement of tents and parking.
2. Parking on the grass is permitted with volunteers directing traffic.
3. Applicant shall obtain a tent permit from the Codes Department as well as abiding by all applicable building, fire, and electrical codes.
4. The event dates from April 22, 2021 - May 22, 2021 from the hours of 6:00pm - 11:00pm.

Vote: 4 - 0 Passed - Unanimously

b. Setback Variance:

1. Jamshid Akbari
167 North Lowry Street

<i>Location:</i> 167 North Lowry Street	<i>Property Owners:</i> Jamshid Akbari
<i>Tax Map/Group/Parcel #:</i> Map 28-E, Group C, Parcel 17.00	
<i>Zoning/Use Classification:</i> C-2/Automobile Sales	

Request: A side and rear setback variance for a detached garage.



Staff Analysis The applicant has requested a rear setback variance of 9' 6" and a side setback variance of 6' 6" to allow for a detached garage behind the principal structure. Property request is located at 167 North Lowry Street and has a lot size of approximately 0.36 acres, currently grandfathered for automobile sales. The property is zoned C-2, and has a minimum rear setback requirement of 20' and minimum required side setback of 15'. The structure was installed without pulling the appropriate permits. In addition, the structure will be required, if approved by the Board of Zoning Appeals, to be reviewed by the Planning Commission and reviewed by the Building Official to ensure it meets building code requirements.

Applicant states that the principal structure is 3' 4" from the side property line, therefore the 6' 6" side setback variance request is greater than the existing building. Additionally, they state the room in the rear of the property is needed for deliveries and wrecker drop offs due to the narrowness of the lot at 83.86'.

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 uniform in shape and size with adequate space to locate the structure to meet setback requirements.
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 the lot may be narrower than many other C-2 zoned properties, but there is still adequate space to locate the structure in order to comply with setback requirements.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 - Detached structures are allowed by right in the C-2 zoning district, but are to adhere to any applicable setbacks of the principal structure.
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 this 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 creation and size of the lot was not completed by the applicant, but the placement of the structure is a result of 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.
 - In commercial districts, any detached structures are required to meet setback regulations. This structure was built without permitting in which it would have been addressed. Granting the variance would confer special privilege to the applicant, which would normally be denied upon permitting.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 - Staff finds that the requested setback variance is not the minimum that will make possible the reasonable use of the structure as the applicant has a large enough lot to locate the structure to meet setback requirements.
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 should not be detrimental to the public welfare or injurious to other property or improvements in the area due to the structure being located in the rear of the property.
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 granting this variance should not create 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 this property is fairly uniform in shape with adequate space to locate the garage to ensure all setback requirements are met. While the property is narrower than other C-2 zoned parcels, the width still allows for setbacks to be met. The principal structure, according to a recent survey, is 3' 4" off the property line, so the side setback request is less intrusive on the property line. Rutherford County Property Assessor shows the principal structure being built in 1945, which would have predated Smyrna Zoning. The detached garage was constructed without permits in which this could have been communicated to the applicant and relocated before construction.

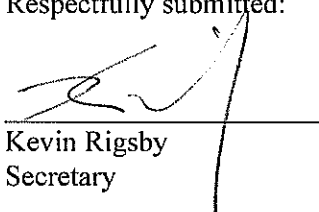
Ed Stevens with Stevens Design-Consulting spoke as a representative of the property owner and applicant in regard to this request.

Motion by Scott Demonbreun, seconded by Jay Michaelson to deny the side and rear Setback Variance Request for the detached garage due to a lack of hardship and adequate space the building on the property while meeting setback requirements.

Vote: 4 - 0 Passed - Unanimously

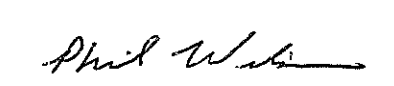
4. Staff comments and/or other business
5. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Phil Wilson
Vice-Chairman