



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

June 17, 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 June 17, 2021 at 5:00 p.m. The invocation was given by Phil Wilson and the Pledge of Allegiance was led by Scott Demonbreun.

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

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

Absent: Troy Powell

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

1. Call to Order
2. Prayer
Pledge of Allegiance
3. Citizens' Comments: None at this time.
4. Approval of Minutes of the May 20, 2021 meeting

Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the Minutes of the May 20, 2021 meeting.

Vote: 4 - 0 Passed - Unanimously

5. New Business:

- a. Special Exceptions:
 - 1. Shatrina C. Thorps - **WITHDRAWN**
403 Liberty Drive
- b. Setback Variance:
 - 1. **Allison Ashley Combs**
5505 Endurance Lane

Location: 5505 Endurance Lane	Property Owner: Allison Ashley Combs
Tax Map/Parcel #: Map 33-P, Group A, Parcel 24.00	
Zoning/Use Classification: R-3/Medium 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 a semi in ground pool within their front yard setback. In addition, a setback variance will need to be granted; applicant is requesting a 27.5' front setback variance to allow the pool to be 7.5' off the property line along Endurance Court. There is an existing 6' privacy fence surrounding the backyard, so it would not be visible from the roadway. The property is zoned R-3, Medium Density Residential, and approximately 0.25 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 two front setbacks; on Endurance Lane and Endurance Court. Additionally, there is a 15' drainage easement along the rear property line, in which nothing shall be

built.

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 two front setbacks to comply with for any detached structures placed on the property as well as keeping clear of the 15' drainage easement on the rear property line.
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-3 district on a corner lot have less allowable space for accessory structures, so the petition is based on conditions that would generally 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-3 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-3 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 two front setbacks and 15' drainage easement.
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 two front setbacks, which does present a unique circumstance when wanting to locate any accessory structures. There is a 15' drainage easement along the rear property line, which further constricts any detached accessory structure placement. The two front setbacks creates a constrained building envelope compared to lots with the normal one front setback. Two variances are being requested; a front setback request of 27.5' and a zoning variance to construct a semi in ground pool in the front yard along Endurance Court.

At this time, Councilman Steve Sullivan acknowledged applicant Allison Ashley Combs to speak regarding this request.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve a front setback variance of 27.5' on Endurance Court and a zoning variance to place a pool in the front yard on Endurance Court due to the two front setbacks and 15' drainage easement in the backyard.

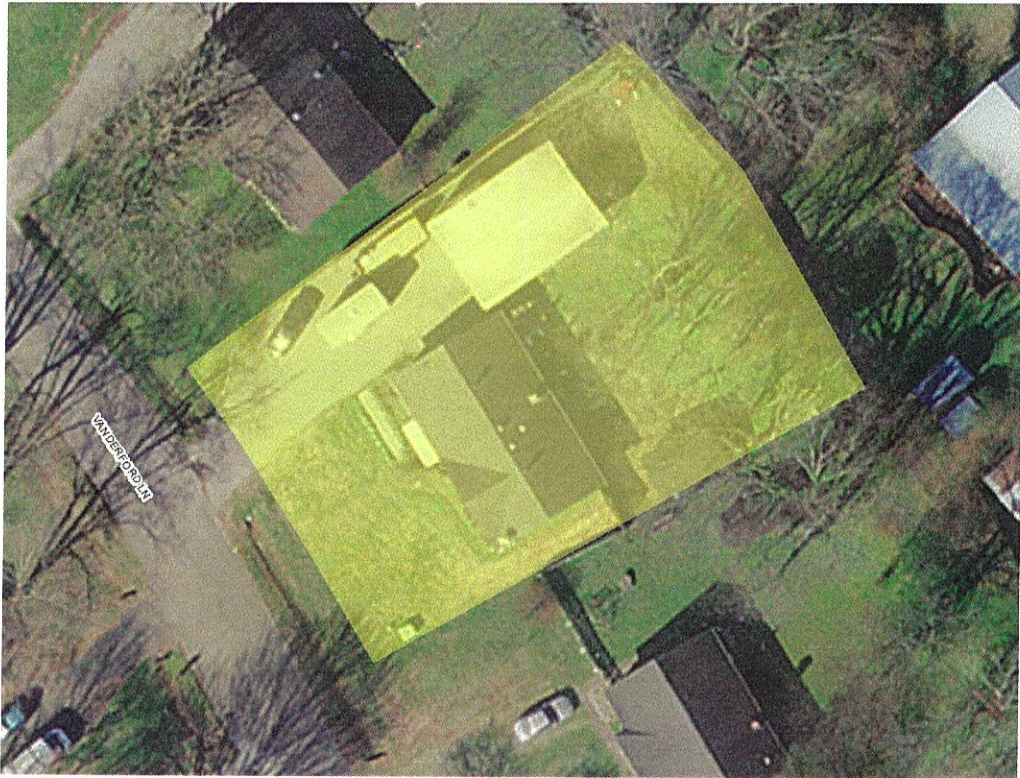
Vote: 4 - 0 Passed - Unanimously

c. Zoning Variance:

1. **Eric Friend**
113 Vanderford Lane

<i>Location:</i> 113 Vanderford Lane	<i>Property Owner:</i> Eric Friend
<i>Tax Map/Group/Parcel #:</i> Map 34-I, Group B, Parcel 19.00	
<i>Zoning/Use Classification:</i> R-2/Low Density Residential	

Request: For a zoning variance to exceed the maximum accessory building square footage.



Staff Analysis The applicant has requested a zoning variance of 336 SF to construct an accessory garage 1200 SF in size. The property is zoned R-2, Low Density Residential, and is approximately 0.29 acres in size. For lots less than .344 acres (15,000 SF) in size, the maximum allowable accessory building square footage may be 600 SF.

In June of 2003, the BZA granted the applicant a 5' side setback variance and a 424 square foot detached accessory building size variance to construct a carport. Due to the recent winter storm in February, ice caused a partial collapse of the existing carport. The applicant is wishing to replace it with a bigger and more supportive structure which would house a RV, personal vehicles and yard equipment.

Currently, there is an approved 1,024 SF of detached accessory buildings (864 SF carport and 160 SF shed); applicant is requesting an increase to 1,360 SF. The existing shed would remain on the property, at 160 SF, with the desired 1,200 SF garage, yields 1,360 SF with the request.

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 there is no specific hardship present; there was no hardships present for the previous request made in 2003, and still no hardship present today to justify a size variance.
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 there are no unique conditions regarding this property that would not be applicable to other property in the same district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 - Customary accessory buildings or structures are allowed by right on residential lots less than 0.33 acre in size, but are not to exceed 600 SF.
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 provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-2 district due to lack of hardship.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 - Staff finds that the requested size of the accessory garage may be kept the same size as the existing carport, but may not be able to accommodate as much desired storage by the applicant.
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.
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 should 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 there is no apparent hardship pertaining to this request of a 336 square foot detached accessory building size variance. This additional 336 SF would be on top of the existing 424 SF variance previously granted in 2003.

At this time, Councilman Steve Sullivan acknowledged applicant Eric Friend to speak regarding this request.

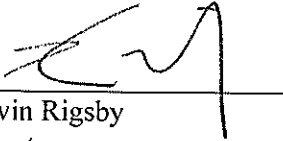
Motion by Scott Demonbreun, seconded by Jay Michaelson to deny a zoning variance request of 336 SF for an accessory garage due to a lack of hardship.

Vote: 4 - 0 Passed - Unanimously

6. Staff comments and/or other business

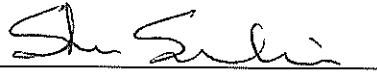
7. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman