



# TOWN OF SMYRNA BOARD OF ZONING APPEALS

## MEETING MINUTES

November 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 November 18, 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: Steve Sullivan, Councilman; Phil Wilson; Jay Michaelson; Scott Demonbreun; Troy Powell

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

Present: 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 of the August 19, 2021 meeting.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the Minutes of the November 18, 2021 meeting.

**Vote:** 5 - 0 Passed - Unanimously

3. New Business:
  - a. Setback Variance:
    1. Carla Anderson & Jason Long  
619 Glenties Drive

<i>Location:</i> 619 Glenties Drive	<i>Property Owner:</i> James Long Jr.
<i>Tax Map/Group/Parcel #:</i> Map 33-M, Group F, Parcel 10.00	

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



#### Staff Analysis

The applicant has requested a zoning variance to place a pool within their front yard setback. In addition, a front setback variance will need to be granted. The applicant is requesting a 21' front setback variance off Almaville Road. The property is zoned R-3, Medium Density Residential, and is approximately 10,000 square feet in size. Minimum front yard setback requirement in an R-3 zone is 35'. The property has two front setbacks; applicant is proposing a front setback variance of 21' along Almaville Road to allow for a 14' setback. The proposed pool is to be roughly 18' x 33' in size. There is an existing fence which encloses the rear yard as well.

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 property has two front setbacks that must be met by the owner under the zoning ordinance of 35 feet for structures.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
    - Due to the property having two front setbacks, the front setback of the lot would affect the location of the proposed pool placement in the backyard being one of the front setbacks is in the rear yard.
  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 in the R-3 zoning district, but are to adhere to all 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 creation and size of the lot and house were not completed 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 any special privileges denied by the ordinance to other lands, structures, or buildings in the R-3 district due to the hardship listed above. There is another property on Glenties Drive which has received front setback variance for a structure in their rear yard due to the two front setbacks.
  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 may be the minimum to make reasonable use of this structure for the proposed use.
  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 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 this property does have two front setbacks in which any structure must meet. Having the second front setback located in the rear yard creates a much more constricted building envelope than on normal lots with one front setback. There is another residence on Glenties Drive which has been granted the same requests in previously due to similar issues with their property. Two variances are being requested, a zoning variance to located a pool in a front setback and a front setback variance of 21' on Almadale Road.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the zoning variance to locate a pool in a front setback, and a 21' front setback variance along Almaville Road due to the property having two front setbacks.

**Vote:** 5 - 0 Passed - Unanimously

2. Town of Smyrna  
401 Enon Springs Road West

<i>Location:</i> 401 Enon Springs Road ,W.	<i>Property Owner:</i> Town of Smyrna
<i>Tax Map/Group/Parcel #:</i> Map 28-M, Group D, Parcel 2.00	
<i>Zoning/Use Classification:</i> R-2/Low Density Residential	

**Request:** For a front setback variance for an expansion of Fire Station No. 1.



#### Staff Analysis

The Town is requesting a front setback variance to expand the existing Fire Station No. 1 on Enon Springs Road, West. A 30' front setback variance is being requested off Frank Street. The property is zoned R-2, Low Density Residential, and is approximately 1.07 acres in size. When platted, this property had a minimum front yard setback requirement of 40'. The property has two front setbacks; applicant is proposing a front setback variance of 30' along Frank Street to allow for a 10' setback. The proposed addition is to be roughly 1,517 square feet in size to accommodate for sleeping quarters. The engineer for this project noted the new Building Code requires a fire wall and structural separation between the existing and new building, which shifts the addition closer to the property line. This property was previously granted a setback variance during the January 1993 meeting. Minutes from the meeting do not state how many feet of a setback variance was requested, however it was approved.

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 property has two front setbacks that must be met of 40 feet for structures.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
  - Due to the property having two front setbacks, the front setback on Frank Street would affect the location of the proposed addition in addition to the 40' front setback requirement.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
  - Buildings are allowed by right in the R-2 zoning district, but are to adhere to all 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 creation and size of the lot were not completed 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 any special privileges denied by the ordinance to other lands, structures, or buildings in the R-2 district due to the hardship listed above. Other properties have received setback variances due to the property having two front setbacks.
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 the minimum to make reasonable use of this structure for the proposed use due to the Building Code requiring a fire wall and structural separation between the structures.
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 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 this property does have two front setbacks in which any structure must meet in addition to the Building Code requirements of a fire wall and structural separation. Having the second front setback creates a much more constricted building envelope than on normal lots with one front setback. There was a previous request for a front setback variance in 1993, for this property, which was approved.


At this time, Chairman Steve Sullivan acknowledged Town Manager Brian Hercules to speak regarding this request.

Motion by Jay Michaelson, seconded by Scott Demonbreun to approve a 30' front setback variance on Frank Street for a building addition due to current Building Code requirements, and the property having two front setbacks.


**Vote:** 5 - 0 Passed - Unanimously

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

Respectfully submitted:

  
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Kevin Rigsby  
Secretary

Certified by:

  
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Councilman Steve Sullivan  
Chairman  
Vice-Chairman  
Phil Wilson