



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

June 16, 2022

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 16, 2022 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; Troy Powell

Absent: Scott Demonbreun

Staff Present: Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Eric Hennessee , Assistant Town Attorney; Mitchell Wensman, Planner; Charles King , Engineer

1. Citizens' Comments: None at this time.
2. Approval of Minutes of the May 19, 2022 meeting

Motion by Phil Wilson, seconded by Jay Michaelson to approve the Minutes of the May 19, 2022 meeting.

Vote: 4 - 0 Passed - Unanimously

3. New Business:
 - a. Special Exceptions:
 1. Norman Williams
113 Deer Road

Location: 113 Deer Road	Property Owner: Norman & Leigh Williams
Tax Map/Group/Parcel #: Map 27L, Group A, Parcel 32.00	Zoning/Use Classification: R-1/Low Density Residential



Request: For a special exception to allow an attached accessory apartment.

Staff Analysis

The applicant has requested a special exception to construct an attached accessory apartment at 113 Deer Road. The property is zoned R-1, Low Density Residential, and is approximately 0.68 acres in size. The addition is to be 1,440 SF in size (30' x 48'). Proposed addition would be attached to the carport, located behind the house. The applicant is intending to include a garage, bedroom and living room with kitchen. Per the application submittal, the applicant states the purpose of this addition is to create an independent living space for family members, which the applicants would be taking care of.

Section 7.060 B of the Zoning Ordinance details the requirements for authorizing special exceptions. These are detailed below.

Special Exception Requirements:

Section 7.060 of the Municipal Zoning Ordinance lists general requirements for a zoning variance request. Those requirements and staff's findings are as follows: Section 7.060 Procedure for authorizing special exceptions

The following procedure is established to provide procedures for review of a proposed use as a

conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether review is required under Section 13-7-206 of the Tennessee Code Annotated, by this ordinance, or whether a review is requested by the Building Official to determine whether a proposed use is potentially noxious, dangerous or offensive.

B. General Requirements :

A conditional use permit (a special exception) shall be provided the Board finds that it:

- a. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
 - Staff finds the proposed use of an accessory apartment would not negatively affect the health, safety, and welfare of the public.
- b. Will not adversely affect other property in the area in which it is located.
 - Staff finds that the proposed use should not adversely affect other properties in the surrounding area.
- c. Is within the provisions of “Special Exceptions” as set forth in this ordinance.
 - Section 5.051.1 C lists “accessory apartment” as a special exception in the R-1 district.
- d. Conforms to all applicable provisions of this ordinance for the district in which it is to be located as well as the provisions cited in Sections 7.060 and 7.061, and is necessary for public convenience in the location planned.
 - Staff finds that this site may be able to conform to all provisions of the Municipal Zoning Ordinance as listed in Criteria Review Section 7.060 C.

C. Criteria for Review:

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions (Section 7.061), and that satisfactory provisions and arrangement has been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - Access to the site would utilize the existing driveway off Deer Road.
2. Off-street parking and loading areas where required, with particular attention to the items in item 1. above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
 - Staff finds that the lot would provide sufficient space for off-street parking.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 - Refuse collection will proceed in the same manner as currently.
4. Utilities, with reference to locations, availability, and compatibility.
 - This location has access to water and gas. Sewer is located roughly 430’ away on Valley View Drive, but the home is connected to a septic tank. The applicant will be required to contact TDEC to coordinate the feasibility of this addition with the existing septic tank.
5. Screening and buffering with reference to type, dimensions and character.
 - Not applicable.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.

- Staff finds that the proposed accessory dwelling unit use should fit the compatibility with properties in the same district in reference to the above effects.

7. Required yard and other open space.

- Staff finds that this yard has the necessary yard and open space to allow for an attached accessory dwelling unit.

8. General compatibility with adjacent properties and other property in the district.

- Staff finds that the use may not be compatible with adjacent properties due to other lots in the area not having an accessory dwelling unit on the same property as the existing dwelling unit.

9. The following additional rules apply for upper story residential development proposals:

a. All upper story residential development proposals shall require a certified statement demonstrating a firm agreement for parking reserved exclusively for the use of the upper story residential development.

b. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.

- Not applicable.

Conclusion

Staff finds that this lot would provide sufficient space to allow for an attached accessory apartment addition in the backyard. The use should not negatively impact any of the surrounding properties. If approved, staff recommends putting a condition on this request that the applicant will be required to pay all applicable fees associated with an accessory dwelling unit (Rutherford County Development Tax, Town of Smyrna Impact Fees, Codes inspection fees, etc.). Staff would also recommend adding a condition that the building not be used for rental purposes. Approval from TDEC for the septic system shall be submitted prior to issuance of a building permit.

Motion by Jay Michaelson, seconded by Troy Powell to approve the special exception of an attached accessory apartment at 113 Deer Road with staff comments.

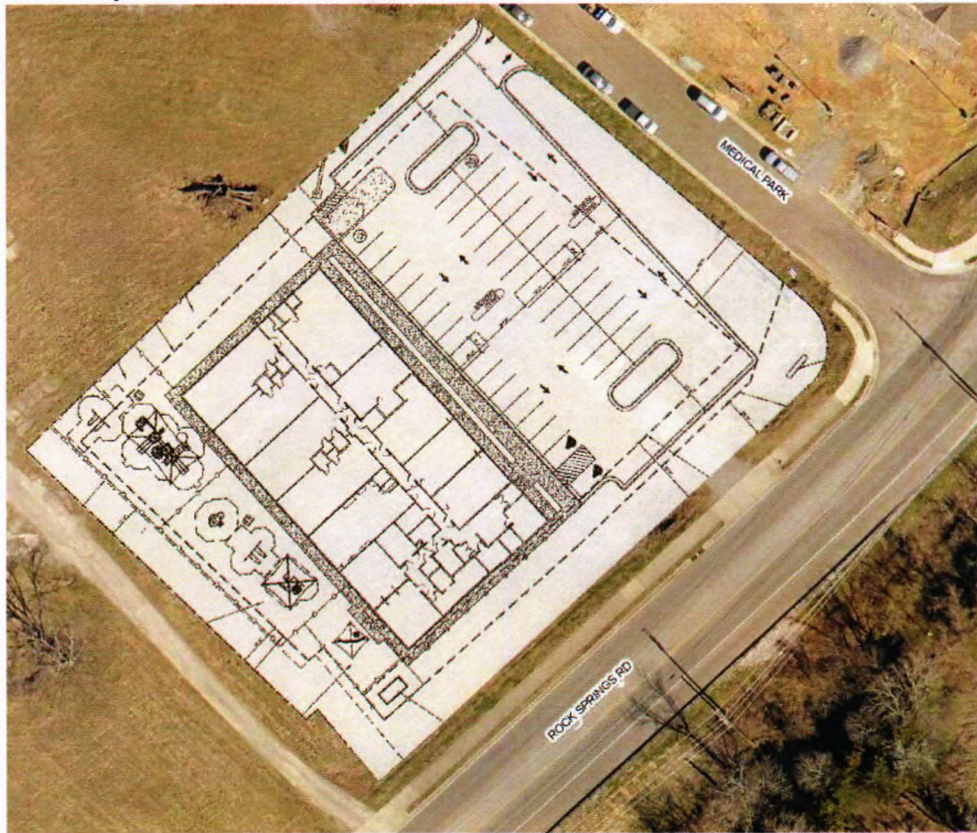
Vote: 4 - 0 Passed - Unanimously

b. Zoning Variance:

1. RaganSmith Associates, Inc.
Corner of Medical Park and Rock Springs Road

Location: Rock Springs Rd. & Medical Park	Property Owner: J & K Properties
Tax Map/Parcel #: Map 28, Parcel 119.00	Zoning/Use Classification: C-2/Educational Facility

Request: For a zoning variance to reduce the amount of required parking for an educational facility.



Staff Analysis

The applicant has requested a zoning variance of 28 parking space reduction for their proposed educational facility at the corner of Rock Springs Road and Medical Park. The property is zoned C-2, General Commercial, and is approximately 1.46 acres in size. The Zoning Ordinance parking requirement for kindergarten or nursery uses are 1 space per employee, plus 1 space per 4 students. Based on documents submitted by the applicant, there would be 26 employees and approximately 188 students. Using the parking requirement, 73 spaces would be required and the applicant is requesting 45 for the development.

Other local municipality parking requirements:

- Brentwood: 1 space/5 children at maximum occupancy, plus 1 space/employee on maximum shift, plus 1 dropoff space/10 children. This would require 82 spaces.
- Franklin : No listed requirement as it may vary based on the use. The City may determine the minimum based on the closest comparable use or approve an alternate standard based on a parking study based on anticipated traffic, size and type of development and a nationally-accepted standard for parking.
- Murfreesboro: 1 space/5 children; which would require 38 spaces.
- Lebanon: 1 space/2 employees, plus 1 overflow parking/8 students and employees; which would require 40 spaces.
- Mt. Juliet: Similar requirements to Smyrna in 1 space/employee, plus 1 space/4 students.

The applicant has submitted studies from other Primrose School locations across New Jersey to show that parking never neared full capacity during peak hours in the morning and afternoon. The size of these buildings range from 12,275 square feet to 14,100 square feet.

Section 7.080 D of the Zoning Ordinance details 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 size, shape and topographic conditions.
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 circumstances with this lot.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance. Parking spaces are required for educational facilities, but the requirement is 1 space/employee, plus 1 space/4 students.
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 has been created by the applicant with the proposed layout of the site and development.
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 may provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the C-2 district due to the 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 reduction in parking is the minimum that will make possible the reasonable use of the property while accommodating landscaping and drainage requirements among others for this use. This would not necessarily apply to a different use as allowed in the C-2 district.
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 would 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 physical hardship with the lay of the land. However, several other surrounding municipalities have parking requirements which are less than our requirement, closer to the requested amount of spaces. Studies from other Primrose Schools show the required parking in the Zoning Ordinance far exceeds the expected number of spaces that are to be utilized on a normal day. A request to modify the text of the Zoning Ordinance for the number of off-street parking spaces required for this use is a possibility to consider.

At this time, Chairman Steve Sullivan acknowledged Wes Magill with RaganSmith to speak regarding this request.

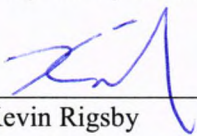
At this time, Chairman Steve Sullivan acknowledged Ted Tillman with Primrose to speak regarding this request.

Motion by Phil Wilson, seconded by Troy Powell to defer the zoning variance to allow staff adequate time to review any potential hardships with the floodplain

Vote: 4 - 0 Passed - Unanimously

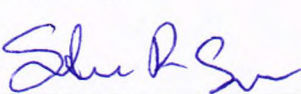
4. Staff comments and/or other business
5. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman