



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

July 21, 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 July 21, 2022 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 Present: Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Jeff Peach, Town Attorney; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Mark Crosslin, Planning Technician; Kathryn Bobbitt, Office Coordinator

1. Citizens' Comments: None at this time.

2. Approval of Minutes of the June 16, 2022 meeting.

Motion by Phil Wilson, seconded by Jay Michaelson to approve the Minutes of the June 16, 2022 meeting.

Vote: 5 - 0 Passed - Unanimously

3. Old Business:

a. Zoning Variance:

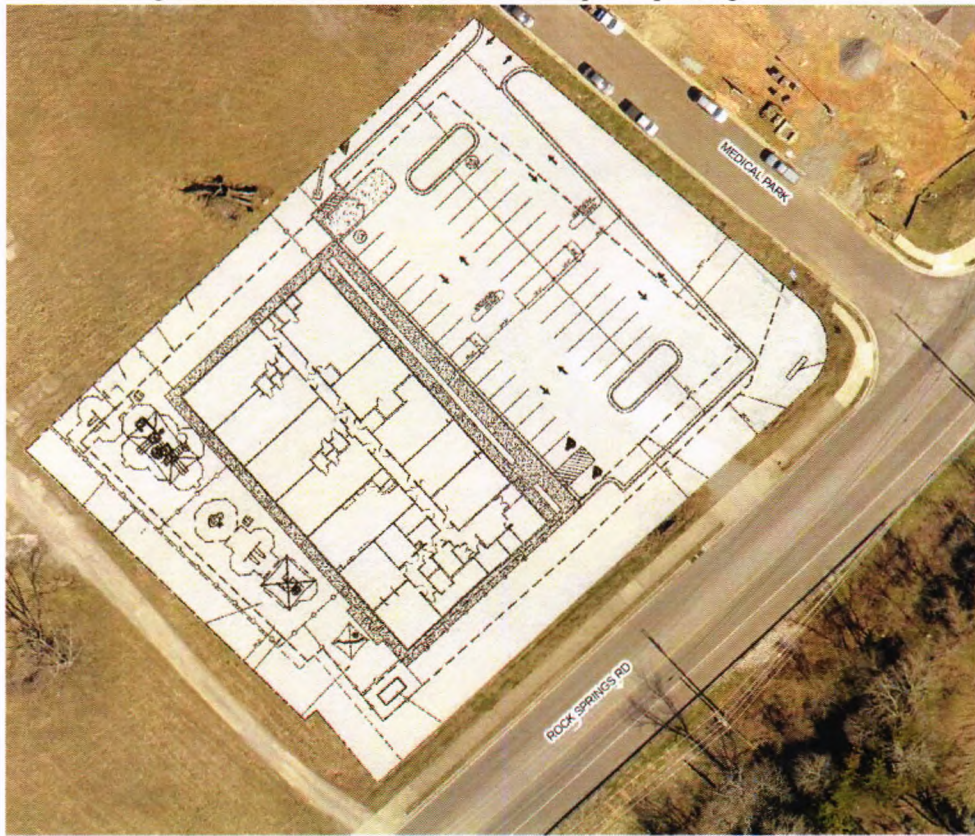
1. RaganSmith Associates, Inc.
Corner of Medical Park and Rock Springs Road

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 5 children. Based on documents submitted by the applicant, there would be 24 employees and approximately 188 students. Using the parking requirement, 62 spaces would be required and the applicant is requesting 45 for the development.

Other local municipality parking requirements for preschools:

- *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.
 1. Staff finds that the lot is uniform in size, shape and topographic conditions. The 100-year floodplain is shown on this property, however any development occurring within the 100-year floodplain must be compensated for via cut and fill.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 1. 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.
 1. Parking spaces are required for educational facilities, but the requirement is 1 space/employee, plus 1 space/5 children.
4. Financial returns only shall not be considered as a basis for granting a variance.
 1. 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.
 1. The alleged difficulty or hardship has been created by the applicant with the proposed layout of the site and development as the existing lot is vacant and can be designed to meet the Ordinance.
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.
 1. 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.
 1. 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.
 1. 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.
 1. 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.
 1. 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.

If there were no floodplain on this property, the applicant would still be unable to meet the Ordinance requirement for parking due to the size of the building and layout of the property.

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

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

Motion by Phil Wilson, seconded by Troy Powell to deny the zoning variance request due to lack of hardship.

Vote: 5 - 0 Passed - Unanimously

4. New Business:
 - a. Special Exceptions:
 1. Henry Wayne Bain
6007 Eugene Drive

Location: 6007 Eugene Drive	Property Owner: Henry & Vickie Bain
Tax Map/Parcel #: Map 32, Parcel 5.14	
Zoning/Use Classification: R-1/ Low Density Residential	

Request: For a special exception to allow a detached accessory apartment.



Staff Analysis

The applicant has requested a special exception to add a detached accessory apartment at 6007 Eugene Drive. The property is zoned R-1, Low Density Residential, and is approximately 2.91 acres in size. The proposed accessory apartment would be located nearby the existing principal structure. The applicant is intending to include a garage, bedroom, kitchen, full bathroom and laundry room. The total of all detached accessory structures on this parcel may not exceed 1,200 square feet. The applicant would be required to submit a variance request if the structure were to exceed the allowed 1,200 detached accessory square foot maximum for this lot. It appears as though there's an existing detached structure on the lot, which would count against the remaining square footage for detached structures the applicant may have. Per the application submittal, the applicant states the purpose of this addition is to create an independent living space for a family member. The family member has already been residing in the home, but this would create an independent living facility for them.

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:

1. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
 1. Staff finds the proposed use of a detached accessory apartment would not negatively affect the health, safety, and welfare of the public.
2. Will not adversely affect other property in the area in which it is located.
 1. Staff finds that the proposed use should not adversely affect other properties in the surrounding area.
3. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 1. Section 5.051.1 C lists "accessory apartment" as a special exception in the R-1 district.
4. 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.
 1. 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.
 1. Access to the site would utilize the existing driveway off Eugene Drive
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.
 1. Staff finds that the lot would provide sufficient space for off-street parking due to the size of the lot.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 1. Refuse collection will proceed in the same manner as currently.
4. Utilities, with reference to locations, availability, and compatibility.
 1. This location has access to all the necessary utilities.
5. Screening and buffering with reference to type, dimensions and character.
 1. 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.
 1. Staff finds that the proposed detached 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.
 1. Staff finds that this yard has the necessary yard and open space to allow for a detached accessory dwelling unit.
8. General compatibility with adjacent properties and other property in the district.

1. Staff finds that the use may not be compatible with adjacent properties due to other lots in the area not having a detached accessory apartment on the same parcel as the principal structure.
9. The following additional rules apply for upper story residential development proposals:
 1. 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.
 2. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.
 1. Not applicable.

Conclusion

Staff finds that this lot would provide sufficient space to allow for a detached accessory apartment due to the size of the property. The maximum allowed detached accessory square footage for this lot is 1,200 square feet. Any existing detached structures, and future structures, would count against the remaining square footage. Staff will need the square footage of all detached structures prior to issuance of a building permit. 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.

At this time, Chairman Steve Sullivan acknowledged applicant Henry Wayne Bain to speak regarding this request.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the special exception for 6007 Eugene Drive with staff comments.

Vote: 5 - 0 Passed - Unanimously

2. Samuel A. Guydon II
5007 Bunker Lane

Location: 5007 Bunker Lane	Property Owner: Samuel Guydon II
Tax Map/Group/Parcel #: Map 32N, Group A, Parcel 25.00	
Zoning/Use Classification: PRD/ Single Family Residential	

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



Staff Analysis

The applicant has requested a special exception to add an accessory apartment at 5007 Bunker Lane. The property is zoned PRD, Planned Residential District, and is approximately 11,835 square feet in size. The proposed accessory apartment would be located in the basement, which is currently partially finished. The applicant is intending to include two bedrooms, a full kitchen and a laundry area in addition to the existing full bathroom. Per the application submittal, the applicant states the purpose of this addition is to create an independent living space for family members. 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:

1. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
 1. Staff finds the proposed use of an accessory apartment would not negatively affect the health, safety, and welfare of the public.
2. Will not adversely affect other property in the area in which it is located.
 1. Staff finds that the proposed use should not adversely affect other properties in the surrounding area.
3. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 1. Woodmont Subdivision is a PRD zoning and does not address accessory apartments within the zoning. Therefore, it is neither allowed by special exception, nor disallowed.
4. 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.
 1. 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.
 1. Access to the site would utilize the existing driveway off Bunker Lane.
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.
 1. Staff finds that the lot would provide sufficient space for off-street parking. The garage sits approximately 35' from the curb, without a sidewalk, allowing adequate parking for 4 vehicles in the driveway.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 1. Refuse collection will proceed in the same manner as currently.
4. Utilities, with reference to locations, availability, and compatibility.
 1. This location has access to all the necessary utilities.
5. Screening and buffering with reference to type, dimensions and character.
 1. 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.
 1. 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.
 1. Staff finds that this yard has the necessary yard and open space to allow for an accessory dwelling unit.
8. General compatibility with adjacent properties and other property in the district.
 1. Staff finds that the use may be compatible with adjacent properties in the area. There was a previously approved accessory apartment within the Woodmont Subdivision. In each case, neither involve an addition onto the principal structure.

9. The following additional rules apply for upper story residential development proposals:
1. 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.
 2. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.
 3. Not applicable.

Conclusion

Staff finds that this lot would provide sufficient space to allow for an accessory apartment due to the addition being within the existing home. The use should not negatively impact any of the surrounding properties and the driveway has adequate parking for four vehicles. 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.

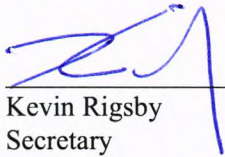
At this time, Chairman Steve Sullivan acknowledged Samuel A. Guydon II to speak regarding this request.

Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the special exception for 5007 Bunker Lane with staff comments.

Vote: 5 - 0 Passed - Unanimously

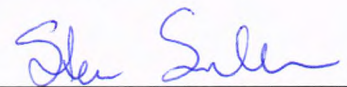
5. Staff comments and/or other business
6. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman