



## TOWN OF SMYRNA BOARD OF ZONING APPEALS

### MEETING MINUTES

August 18, 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 August 18, 2022 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; Scott Demonbreun

Absent: Jay Michaelson; Troy Powell

Staff Brian Hercules, Town Manager; Jeff Peach, Town Attorney; Kevin Rigsby, Town Planner;

Present: Kathryn Bobbitt, Office Coordinator; Mark Crosslin, Planning Technician

1. Citizens' Comments: None at this time.

2. Approval of Minutes of the July 21, 2022 meeting.

Motion by Scott Demonbreun, seconded by Phil Wilson to approve the Minutes of the July 21, 2022 meeting.

**Vote:** 3 - 0 Passed - Unanimously

3. New Business:

a. Setback Variance:

1. Randall & Lori Keys  
710 Saint Francis Avenue

<b>Location:</b> 710 St. Francis Avenue	<b>Property Owners:</b> Randall E. and Lori Keys
<b>Tax Map/Group/Parcel #:</b> Map 28O, Group B, Parcel 35.00	
<b>Zoning/Use Classification:</b> R-3/Medium Density Residential	



**Staff Analysis:**

The applicant has requested a rear setback variance of 11' to allow a 9' rear setback in order to construct a cover over an existing deck. The property requested is located at 710 St. Francis Avenue within the Hunter's Point subdivision. The property is zoned R-3, Medium Density Residential, and has a minimum rear setback requirement of 20'. The lot has a 20' public utility and drainage easement along the rear property line. The back wall of the house is approximately 22' from the rear property line, and the existing deck extends 12' from that wall. The applicant received approval from the Public Works Dept. in 1998 to construct a deck within the public easement. The current policy of the Public Works Department is to not approve requests for structures within drainage easements. Therefore, the existing approval for the deck is still valid but adding a roof would not be approved. This has been communicated to the applicant by the Public Works Director. A deck is not required to meet the same minimum setback since there is no roof. The applicant wishes to repair this deck and extend a cover over it, which is the reason for the application.

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 710 St. Francis Avenue is a relatively level and rectangular lot with a large easement in the backyard.
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 that the placement of the house on the lot as well as the architecture of the house creates a somewhat unique situation. The garage extends beyond the front wall of the house to the front minimum setback of 40', but the bulk of the house is approximately 58'+ from the street. This creates a small rear yard. The front setback in R-3 is now 35', but it was 40' at the time this lot was platted and this house was built.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
  1. Covered decks are allowed by right in the R-3 zoning district, but are to adhere to any applicable setbacks.
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 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.
  1. The creation and size of the lot as well as the house placement and design 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.
  1. There have been similar requests within this neighborhood. The house at 406 Spring Hill Drive was approved for a 5' rear setback variance for a sunroom in January 2000, and the house at 801 Bromley Court was denied a 12' rear setback variance for a covered deck in June 2009.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
  1. Staff finds that in order to utilize the rear yard with any additional building square footage, the requested setback variance may be the minimum to make possible the reasonable use of the land or building.
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 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.
  1. 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.

1. Not applicable.

**Conclusion:**

Staff finds that this property is relatively level and rectangular in shape. The house is constructed with the garage extending forward from the main house, which has the effect of creating a small rear yard. The house was also built when the R-3 district had a 40' minimum front setback, which pushes the house 5' further back than it would be today. There is a public utility and drainage easement in the rear yard, but it does not affect the placement of the covered deck. It is the recommendation of the Public Works Dept. that the applicant amend the plat to remove the easement since the ditch was moved to the adjoining property to the rear and the easement is no longer needed. This would allow for the deck to be covered if the BZA finds that there is sufficient hardship to grant the variance request. The hardship noted by the applicant is the extreme narrowness of the rear lot and the easement occupying the entirety of the rear lot.

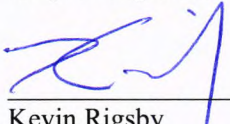
At this time, Chairman Steve Sullivan acknowledged applicant Lori Keys to speak regarding this request.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve a rear setback variance of 11 feet at 710 Saint Francis Avenue for a 9 feet setback with staff comments.

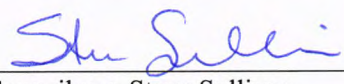
**Vote:** 3 - 0 Passed - Unanimously

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