



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

November 17, 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 November 17, 2022 at 5:00 p.m. The invocation was given by Chairman Steve Sullivan 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; Jay Michaelson; Scott Demonbreun

Absent: Phil Wilson; Troy Powell

Staff Present: Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Jeff Peach, Town Attorney; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Kathryn Bobbitt, Office Coordinator

1. Citizens' Comments: None at this time.

2. Approval of Minutes of the October 20, 2022 meeting.

Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the minutes of the October 20, 2022 meeting.

Vote: 3 - 0 Passed - Unanimously

3. Old Business:

a. Setback Variance:

1. Joshua Eldred
3911 Henricks Hill Drive

Location: 3911 Henricks Hill Drive	Property Owner(s): Joshua & Ansley Eldred
Tax Map/Group/Parcel #: 32L/D/11.01	Zoning/Use Classification: R-3/Single Family Medium Density Residential

Request: For a rear setback variance to allow a deck 11' 9" off the rear property line.



Staff Analysis

The applicant has requested an 8' 3" rear setback variance to place a deck 11' 9" off the rear property line. The property is zoned R-3, Medium Density Residential, and is 10,000 square feet in size. Minimum rear yard setback requirement in an R-3 zone is 20'. The elevated deck is 40' x 12' in size and connected to the home. The property has a 20' PUDE along the rear property line. Public Works will need to review this request since the structure is built within their drainage easement, however Public Works typically will not allow structures within their easement. There is an existing fence which encloses the rear yard as well. This structure was noticed by Codes Enforcement, in which it was found that no permits had been issued for this structure. 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.
 1. Staff finds that the property has a uniquely shaped angled rear lot line in a pie shape and the lot location along an arced portion of Henricks Hill Drive, which pushes the house further back on the property.
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. Due to the property location along an arc on Henricks Hill Drive, the home is located further back on the property, closer to the rear setback line and the uniquely shaped rear lot lines are not comparable to other lots within the same district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Attached structures are allowed by right in the R-3 zoning district, but are to adhere to all applicable setbacks of the principal structure.
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 creation and size of the lot and house were not completed by the applicant, however the structure has been constructed and 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. 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 R-3 district.
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 setback variance may not be the minimum to make reasonable use of this structure for the proposed use. The structure could be constructed to meet setback requirements at a smaller size.
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 the variance may not have any of the above effects, but is located within a drainage easement.
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 does have an oddly shaped rear lot line. Having the lot located in the arc of Henricks Hill Drive pushes the principal structure towards the rear lot line, creating a constricted building envelope. However, there is a 20' drainage easement in the rear of the lot, which would also need to be approved by the Public Works Department. Public Works has noted that they request the

full 20' easement width to allow sufficient space for equipment and repairs to be made safely and efficiently.

Motion by Councilman Steve Sullivan, seconded by Scott Demonbreun to deny the setback variance located at 3911 Henricks Hill Drive due to Public Works identifying the need for the easement.

Vote: 3 - 0 Passed - Unanimously

4. New Business:

a. Special Exceptions:

1. David & Karen Cuen
102 Mingle Lane

Location: 102 Mingle Lane	Property Owner: David Cuen
Tax Map/Parcel #: 27/2.06	Zoning/Use Classification: R-2/Low Density Residential

Request: For a special exception to allow a bed and breakfast.



Staff Analysis

The applicant has requested a special exception to allow a bed and breakfast at 102 Mingle Lane. The property is zoned R-2, Low Density Residential, and is approximately 5.51 acres in size. The applicant has noted that guests would be allotted 1 bedroom and 1 bathroom. Parking, as noted by the applicant, would be utilized by the existing driveway. Guests would be able to stay for no longer than 10 days, as stated in the Zoning Ordinance.

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:

- 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 a bed and breakfast would not negatively affect the health, safety, and welfare of the public.
- 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.
- Is within the provisions of “Special Exceptions” as set forth in this ordinance.
 - Section 5.051.2 C lists “bed and breakfast” as a special exception in the R-2 district.
- 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.
 1. Access to the site would utilize the existing driveway off of Mingle 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 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 bed and breakfast 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 bed and breakfast.
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 nearby not having a bed and breakfast.
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.
10. 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.

7.061.15 Special Conditions for Bed and Breakfasts

- Meals shall be served to guests only.
- The number of rooms available for rent shall be no more than six.
 - The number of intended rooms to rent shall be one.
- The length of stay shall be no longer than ten days.
 - Applicant has noted that stays will be no longer than ten days.
- Adequate parking shall be provided as required in Article IV, Section 4.010.1.A (2) (b).
 - Zoning Ordinance requires 1.5 spaces/room rented, plus 2 spaces/home. 3.5 spaces are required for this use, and the applicant has noted that the existing driveway would provide sufficient space for the parking requirements.

Conclusion

Staff finds that this lot would provide adequate space for a bed and breakfast. Ample parking exists, and can be added if needed. The lot is located away from other nearby residential properties and could support a bed and breakfast.

No one spoke at the public hearing.

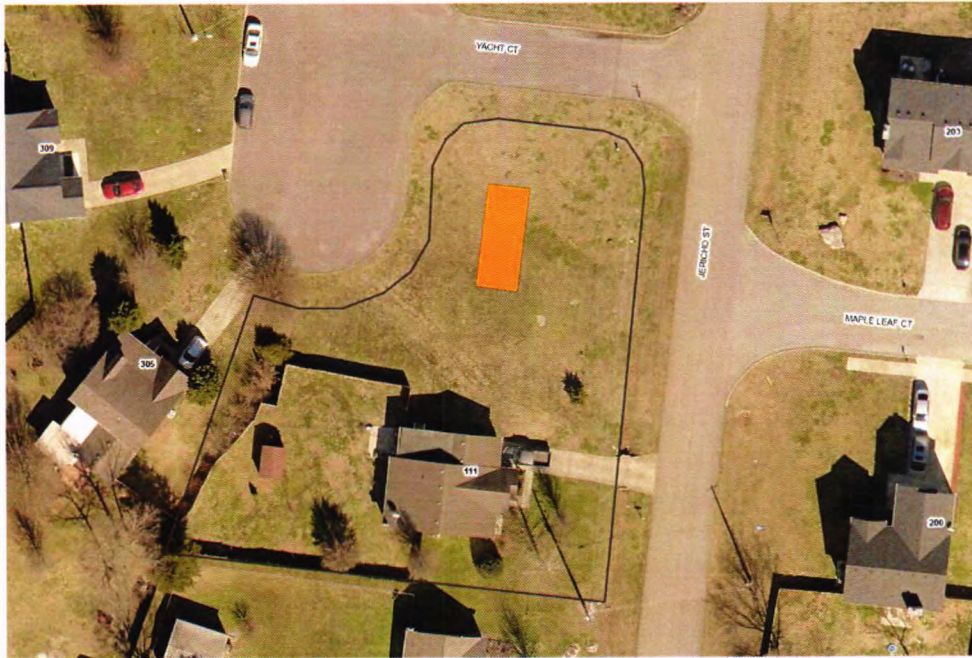
Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the special exception at 102 Mingle Lane with the above listed staff comments.

Vote: 3 - 0 Passed - Unanimously

2. Jessica Jones
111 Jericho Street

Location: 111 Jericho Street	Property Owner: Jessica Jones
Tax Map/Group/Parcel #: 54E/A/18.00	Zoning/Use Classification: R-1/Low Density Single-Family Residential

Request: For a special exception to allow an in-home business and a front setback variance of 20' on Yacht Court.



Staff Analysis

The applicant has requested a special exception to allow an in-home hair salon business within the R-1 zoning district at 111 Jericho Street. The property is approximately 0.51 acres in size. Applicant is proposing to construct a detached structure, 16' x 40' in size, in which the business would occur. Applicant states the business would be in operation roughly 40 hours per week with an average of 25 clients per week. Appointments would be scheduled to have only one client at a time. Additional asphalt is proposed by the applicant to the site for adequate off-street parking.

A front setback variance request of 20' will also be requested for the placement of the building on the property. At the time of recording, a 40' front setback was required. In addition, the front 20' of the 40' setback is noted as a utility easement fronting the right-of-way. If approved with a 20' front setback on Yacht Court, the building would be approximately 31' off of the edge of pavement in the cul-de-sac. Staff would recommend if the applicant desires to shift the building that it not be located any closer than 20' to the property line on Yacht Court; doing so would ensure adequate space is left for the utility easement. As proposed, the front setback on Jericho Street is not encroached upon. 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 business of a hair salon should 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. In-home occupations are considered special exceptions within the Municipal Zoning Ordinance.
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 will utilize the existing driveway off of Jericho Street as well as a proposed parking area extending off of the driveway.
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 provides sufficient space to allow for off-street parking for clients.
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 all the necessary utilities available on site. Consolidated Utility District owns and maintains the water lines that serve this property. A water line is located on the applicant's property, however it is located within the 20' utility easement.
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 business should be compatible with properties in the same district in reference to the above effects.
7. Required yard and other open space.
 1. Staff finds that there is adequate space on this lot to support this business as everything will be conducted in a proposed building
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 within the subdivision not having in-home businesses. Other residential lots have been approved in prior years for in-home businesses.
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.

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 property has a uniquely shaped lot due to the shape of Yacht Court and two front setbacks.
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. Due to the property having two front setbacks, it creates a smaller buildable area than lots with the typical one front setback.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Detached structures are allowed by right in the R-1 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.
 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 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.
 1. Staff finds that the variance requested would not provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-1 district.
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 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.
 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 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 this property is larger in size than typical residential lots and has adequate space to accommodate the proposed structure for the applicant’s business. Being the lot has two front setbacks, along with the Yacht Court cul-de-sac shape, most of the front yard is rendered unusable due to the 40’ front setback requirement. Typical lots zoned and recorded R-1 have a front setback requirement of 35’ that must be met for all structures.

At this time, Chairman Steve Sullivan acknowledged applicant Jessica Jones to speak regarding this request.

Motion by Councilman Steve Sullivan, seconded by Scott Demonbreun to approve the request for an at home occupation of a hair salon and a front setback variance of 20’ on Yacht Court.

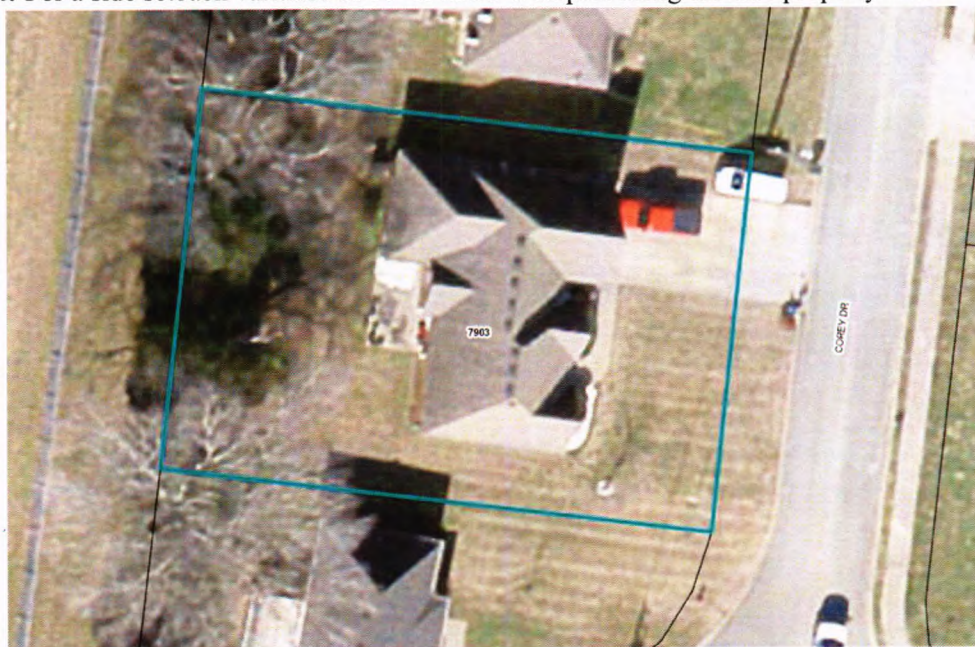
Vote: 3 - 0 Passed - Unanimously

b. Setback Variance:

1. Amanda & Chris Campbell
7903 Corey Drive

Location: 7903 Corey Drive	Property Owner(s): Chris Campbell
Tax Map/Group/Parcel #: 35H/A/105.00	Zoning/Use Classification: R-3/Single Family Medium Density Residential

Request: For a side setback variance of 10’ to allow a carport along the side property line.



Staff Analysis

The applicant has requested a 10' side setback variance to place a carport on the side property line. The property is zoned R-3, Medium Density Residential, and is 10,625 square feet in size. Minimum side yard setback requirement in the R-3 district is 10' for attached structures. The structure is 47' x 10' in size. There is a 15' public utility and drainage easement along the rear property line, however this would not affect the location of this structure if relocated to the rear yard. 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 property is uniform in shape, size and topographic conditions with no unique circumstances.
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 the property is of similar size and shape to other lots within the R-3 district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Attached structures are allowed by right in the R-3 zoning district, but are to adhere to all applicable setbacks of the principal structure.
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 of the structure was 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. 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 R-3 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 setback variance may not be the minimum to make reasonable use of this structure for the proposed use. The structure could be relocated to meet setback requirements.
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 the variance may 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 this property is uniform in size and shape to other lots within the R-3 district and the structure could be relocated on the lot to meet setback requirements.

At this time, Chairman Steve Sullivan acknowledged applicant Chris Campbell to speak regarding this request.

At this time, Chairman Steve Sullivan acknowledged neighbor to the applicant, Brian Ranchino to speak regarding this request.

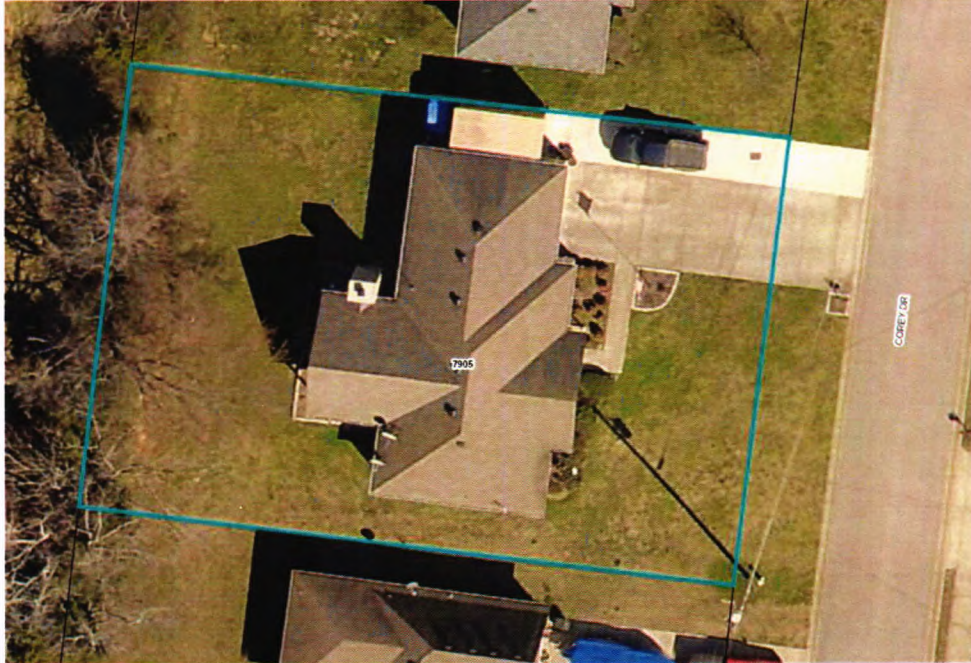
Motion by Jay Michaelson, seconded by Scott Demonbreun to deny the setback variance request at 7903 Corey Drive based on staff recommendations.

Vote: 3 - 0 Passed - Unanimously

- 2. Brian Ranchino
7905 Corey Drive

Location: 7905 Corey Drive	Property Owner(s): Brian Ranchino
Tax Map/Group/Parcel #: 35H/A/106.00	Zoning/Use Classification: R-3/Single Family Medium Density Residential

Request: For a side setback variance to allow a detached shed on the property line.



Staff Analysis

The applicant has requested an 8' side setback variance to place a shed on the side property line. The property is zoned R-3, Medium Density Residential, and is 10,625 square feet in size. Minimum side yard setback requirement in the R-3 zoning district is 8' for detached structures. The shed is 8' x 16' in size. There is a 15' public utility and drainage easement along the rear property line, however this would not affect the location of this structure if relocated to the rear yard.

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:

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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 property is uniform in shape, size and topographic conditions with no unique circumstances.
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 the property is of similar size and shape to other lots within the R-3 district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Detached 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.
 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 creation of the structure was 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. 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 R-3 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 setback variance may not be the minimum to make reasonable use of this structure for the proposed use. The structure could be relocated to meet setback requirements.
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 the variance may 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 this property is uniform in size and shape to other lots within the R-3 district and the structure could be relocated on the lot to meet setback requirements.

At this time, Chairman Steve Sullivan acknowledged applicant Brian Ranchino to speak regarding this request.

At this time, Chairman Steve Sullivan acknowledged neighbor to the applicant, Cliff Doke to speak regarding this request.

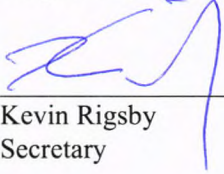
Motion by Scott Demonbreun, seconded by Jay Michaelson to deny the setback variance at 7905 Corey Drive due to staff recommendations.

Vote: 3 - 0 Passed - Unanimously

5. Staff comments and/or other business


6. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman