



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

March 17, 2022

5:00 p.m.

Smyrna Town Hall

Vice-Chairman Phil Wilson called the regular session of the Smyrna Board of Zoning Appeals to order on March 17, 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: Phil Wilson; Jay Michaelson; Scott Demonbreun; Troy Powell

Absent: Steve Sullivan, Councilman

Staff Present: Todd Spearman, Assistant Town Manager; Jeff Peach, Town Attorney; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Kathryn Bobbitt, Office Coordinator; Kathy Ferrell, Public Information Officer; Charles King, Engineer

1. Citizens' Comments: None at this time.
2. Approval of Minutes of the November 18, 2021 meeting

Motion by Scott Demonbreun, seconded by Troy Powell to approve the Minutes of the March 17, 2022 meeting.

Vote: 4 - 0 Passed - Unanimously

3. New Business:
 - a. Temporary Use Permit:
 1. Contagious Love International Ministries
Tridon Dive

D. Religious Tent Meetings:

In any commercial district, except the P-O, Professional and Office District, a temporary structure may be permitted to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off street parking can be provided.

Staff Recommendation

Staff recommends approval of this request with the following conditions:

1. The applicant adheres to required setbacks with placement of tents and parking.
2. Parking on the grass is permitted with volunteers directing traffic.
3. Applicant shall obtain a tent permit from the Codes Department as well as abiding by all applicable building, fire and electrical codes.

Motion by Scott Demonbreun, seconded by Troy Powell to approve the temporary use permit for Contagious Love International Ministries located on Tridon Drive with the above listed staff comments.

Vote: 4 - 0 Passed - Unanimously

b. Zoning Variance:

1. Stephen & Tina Scheitel
116 Edison Circle

<i>Location:</i> 116 Edison Circle	<i>Property Owner:</i> Stephen & Tina Scheitel
<i>Tax Map/Group/Parcel #:</i> Map 13K, Group D, Parcel 1.00	
<i>Zoning/Use Classification:</i> R-1/Low Density Residential	

Request: For a setback variance to allow an attached garage 12' off the rear property line.



Proposed 38' x

50' Attached Building - Green Bldg

Relocated Existing 12' x 24' Building - Blue Bldg

Staff Analysis The applicant has requested a rear setback variance to construct an attached garage. The applicant is requesting a 13' rear setback variance to allow the building to be 12' off the rear property line. The property is zoned R-1, Low Density Residential, and is approximately 0.72 acres in size. Minimum rear yard setback requirement in an R-1 zone is 25'. The proposed building is to be 38' x 50' (1,900 SF) and would be attached via a breezeway to the principal structure. There is a 10' PUDE along the northern and rear property lines, none of which would be affected by this structure. The applicant states water flows along the southern property line, across the driveway, into the drainage ditch in the front yard. While the applicant states the southern portion of the property is utilized for drainage, the recorded plat does not denote the area as a drainage easement. Furthermore, the structure could be reduced in size to meet setbacks.

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 uniform in shape and the yard is relatively flat.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 - The property is typical to other properties found within the R-1 district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 - Building additions onto the principal structure 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.
 - 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 would provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-1 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 setback variance is not 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 there is no hardship present as part of this request for a 13' rear setback variance. While staff doesn't ignore the applicant's concerns regarding water flow on their property, the plat doesn't denote the area as a designated drainage easement. The structure could be reduced in size and still accommodate for storage purposes that the applicant desires.

At this time, Vice-Chairman Phil Wilson acknowledged applicant Tina Scheitel to speak regarding this request.

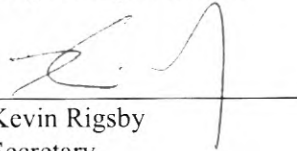
At this time, Vice-Chairman Phil Wilson acknowledged applicant Stephen Scheitel to speak regarding this request.

Motion by Jay Michaelson, seconded by Scott Demonbreun to deny the zoning variance for 116 Edison Circle due to lack of hardship.

Vote: 4 - 0 Passed - Unanimously

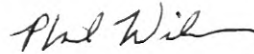
4. Staff comments and/or other business
5. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Phil Wilson
Vice-Chairman