



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

April 20, 2023

5:00 p.m.

Smyrna Town Hall

Chairman Steve Sullivan called the regular session of the Smyrna Board of Zoning Appeals to order on April 20, 2023 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; Jay Michaelson; Scott Demonbreun; Vanessa Haley

Staff Present: Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Kevin Rigsby, Town Planner; Kathryn Bobbitt, Office Coordinator; John Rodgers, Attorney

1. Citizens' Comments: None at this time.

2. Election of Officers:

Motion by Scott Demonbreun, seconded by Phil Wilson to nominate Steve Sullivan as Chairman of the Board of Zoning Appeals.

Vote: 5 - 0 Passed - Unanimously

Motion by Scott Demonbreun, seconded by Phil Wilson to nominate Jay Michaelson as Vice-Chairman of the Board of Zoning Appeals.

Vote: 5 - 0 Passed - Unanimously

3. Approval of Minutes of the March 16, 2023 meeting

Motion by Scott Demonbreun, seconded by Vanessa Haley to approve the minutes for the March 16, 2023 meeting.

Vote: 5 - 0 Passed - Unanimously

- 4. New Business:
 - a. Special Exceptions:
 - 1. Mike Woods
1076 Courier Place

Location: 1068 Courier Place, Ste. 101 1076 Courier Place, Ste. 501 & 502	Property Owner(s): Charles Higgins & Michael Woods
Tax Map/Group/Parcel #: Map 50-N, Group A, Parcel 8.01	Zoning/Use Classification: I-1/Market & Deli and Staffing Agency

Request: For a special exception to allow a general business service use and food and beverage service/retail use in a light industrial district.



Staff Analysis

The applicant has requested a special exception to allow a food and beverage service/retail use and a general business service use within a light industrial district at 1068 Courier Place, Suite 101 and 1076 Courier Place, Suites 501 and 502. The property is zoned I-1, Light Industrial, and is 3.42 acres in size. The Asian Market has been at 1068 Courier Place, Suite 101 and in operation for approximately 18 years, according to the applicant. In 2005, the Board of Zoning Appeals approved a food and beverage service at another location within this development.

In addition, a staffing agency is requesting to locate at 1076 Courier Place, Suites 501 and 502. Two full time employees would be located on site for the business to assist clients seeking jobs. A low to moderate amount of in-and-out traffic is expected for interviews, paperwork and other aspects of the employment process. As an appointment based business, no more than one or two additional vehicles would be present as clients on site.

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 uses of general business service and food and beverage service/retail 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 uses 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 5.053.1 C lists "general business service" and "food and beverage service" as special exceptions in the I-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 will utilize the existing two ingress/egress points off of Courier Place.
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 for parking for the proposed, and existing, businesses and expected traffic volume with the current businesses on site.
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.
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 uses will 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 there is adequate space on this lot to support a staffing company and a market/deli in addition to the other uses present at this site.
8. General compatibility with adjacent properties and other property in the district.
 1. Staff finds that the uses may be compatible with adjacent properties as there are other commercial uses present at this site and in surrounding buildings as well.
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 there is adequate space at the requested location for their business of a staffing agency as well as the use fitting in with surrounding business uses. The Asian Market has been in operation for approximately 18 years, and if the request is approved, would then bring the business into compliance with the Zoning Ordinance.

At this time, Chairman Steve Sullivan acknowledged applicant Mike Woods to speak regarding this request.

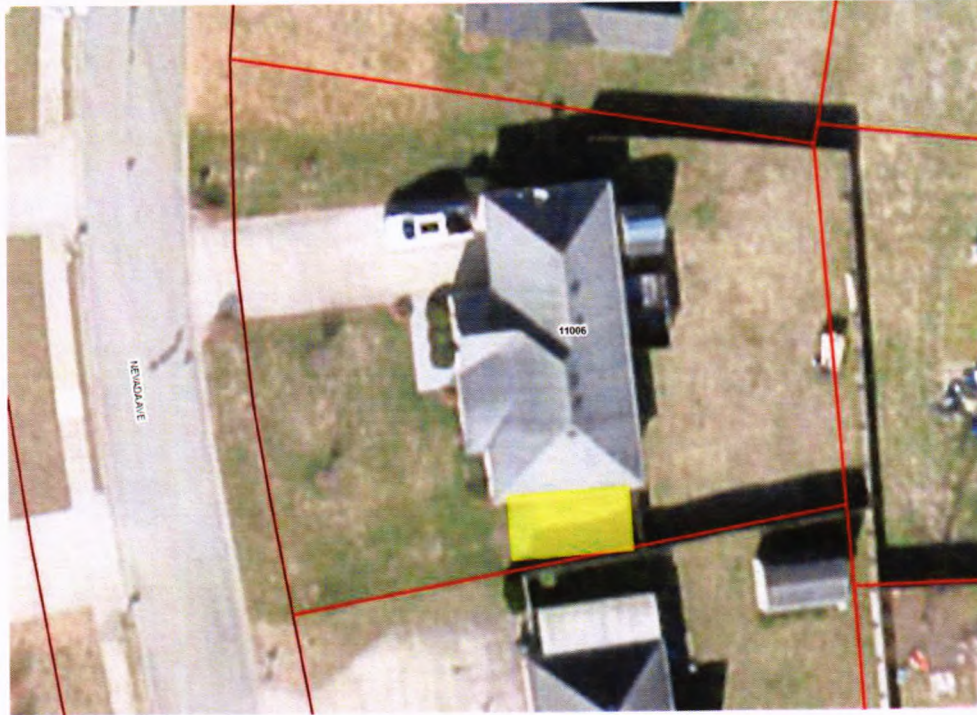
Motion by Phil Wilson, seconded by Scott Demonbreun to approve the special exception for 1076 Courier Place as presented.

Vote: 5 - 0 Passed - Unanimously

b. Setback Variance:

1. Robert Childress
11006 Nevada Avenue

Location: 11006 Nevada Avenue	Property Owner(s): Robert Childress
Tax Map/Group/Parcel #: 34M/C/54.00	Zoning/Use Classification: R-3/Single Family Medium Density Residential



Staff Analysis

The applicant has requested an 8' side setback variance to place a carport on the side property line. The property is zoned R-3, Medium Density Residential, and is 11,429 square feet in size. Minimum side yard setback requirement in an R-3 zone for detached structures is 8'. There is a 10' public utility and drainage easement along the rear lot line, in which no structures may be located. The structure, according to the applicant, is over 75% complete and is being constructed by a contractor servicing the Nashville area. The structure was observed by Code Enforcement in March and was noted that no permits had been applied for the 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 pie shaped appearance due to the lot being located along an arc in Nevada Avenue. The front property line is approximately 41 feet longer than the rear lot line, but the lot is approximately 1,400 square feet larger than the minimum lot size for a property zoned R-3.
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. There is a 10' drainage easement located along the rear lot line, which constricts the building envelope for any structures located in the rear yard, however this does not affect the structure pertaining to this request.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Detached carports are allowed by right in the R-3 zoning district, but are to adhere to all applicable setbacks of detached 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 carport is currently under construction without a permit.
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 a 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 be the minimum to make reasonable use of this structure for the proposed use as the structure is nearly completely constructed.
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 relatively uniform in shape to other lots within the R-3 district, however there is a slightly abnormal shape due to the curvature of Nevada Avenue making the front lot line approximately 41' longer than the rear lot line. The lot is roughly 1,400 square feet larger than the minimum lot size within the R-3 zone. Detached structures are allowed by right in this district, but have a minimum 8' side setback. Construction of this carport was started by a contractor without permits being applied for by either the applicant nor contractor and was noticed by Codes Enforcement.

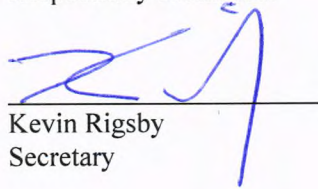
At this time, Chairman Steve Sullivan acknowledged applicant Robert Childress to speak regarding this request.

Motion by Phil Wilson, seconded by Jay Michaelson to approve the 8ft side setback due to the hardship of the irregular shape of the lot.

Vote: 5 - 0 Passed - Unanimously

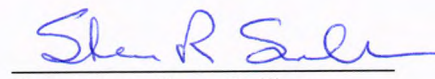
5. Staff comments and/or other business
6. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman