



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

July 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 July 20, 2023 at 5:00 p.m. The invocation was given by Phil Wilson and the Pledge of Allegiance was led by Scott Demonbreen.

The following Board of Zoning Appeals members/staff were present/absent:

Present: Steve Sullivan, Councilman; Phil Wilson; Jay Michaelson; Scott Demonbreen; Vanessa Haley

Staff Present: Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Jason King, Asst. 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 June 27, 2023 meeting.

Motion by Scott Demonbreen, seconded by Vanessa Haley to approve the Minutes of the June 27, 2023 meeting.

Vote: 5 - 0 Passed - Unanimously

3. Old Business:

a. Special Exception:

1. Craig Brooks - V.P. of Seven Oaks H.O.A.
100 Goodrich Court

Location: Seven Oaks Boulevard	Property Owner: Seven Oaks H.O.A.
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Tax Map/Group/Parcels: 50C, C, 3.00, 9.00 and 21.00

Tax Map/Group/Parcel: 50C, B, 67.00

Tax Map/Group/Parcel: 50B, A, 21.00

Tax Map/Group/Parcel: 50F, B, 41.01

Zoning/Use Classification: R-3/Single Family Residential

Request: Removal of common spaces on lots 263, 275, 281, 375 and 376 in Sections X and XI and common space in Section V in Seven Oaks subdivision.



Staff Analysis

The concept plan for this subdivision PUD was presented and reviewed by the BZA in June 2000. In 2000, PUDs were administered by the Board of Zoning Appeals, rather than the Planning Commission and Town Council as it is today; this changed in 2002. The zoning of R-3 stayed with the properties, but special conditions were granted to the subdivision for varying lot sizes and setbacks, among other requirements not typical of a standard R-3 zoned property. Due to this, a request to modify the subdivision PUD requirement is being presented to the Board of Zoning Appeals for review.

Seven Oaks subdivision HOA has requested for the removal of six common spaces. The properties utilized for open space and drainage have been sold to separate individuals. The homeowners who purchased the lots, or portion thereof, are required to maintain the property and assume any responsibilities of the property they own.

Homeowners within the subdivision and the HOA are ultimately attempting to dissolve the HOA. The common spaces are currently owned by residents; by selling the common spaces, the HOA now has the possibility of dissolving as maintenance of common areas and detention ponds are no longer required on their behalf with a new land owner.

Conclusion

Staff would recommend one of two options:

1. Denial of the request

1. Maintain the current open spaces and detention areas
2. The Seven Oaks HOA would remain a requirement.
2. Modify the PUD
 1. Apply to Sections 5, 6, 7, 8, 9, 10, 11A and 11B of the Seven Oaks subdivision
 2. Remove the requirement common spaces
 3. Remove the requirement of a H.O.A.
 4. Any future development or subdivision of the common areas would adhere to Zoning Ordinance requirements.
 5. 4 open space lots, or portions thereof (263, 275, part of 375, and 376) are currently dedicated as a public utility and drainage easement and would remain for drainage purposes.
 6. A portion of the common area within Section V is utilized for utility purposes due to a pump station and force main located on Lot 375 and in the common area as part of Section V. This would remain as well.

No one spoke at the Public Hearing.

Motion by Phil Wilson, seconded by Jay Michaelson to amend the Special Exception for Sections 5, 6, 7, 8, 9, 10, 11A and 11B of the Seven Oaks subdivision, with staff recommendation option 2 modifying the PUD.

Vote: 5 - 0 Passed - Unanimously

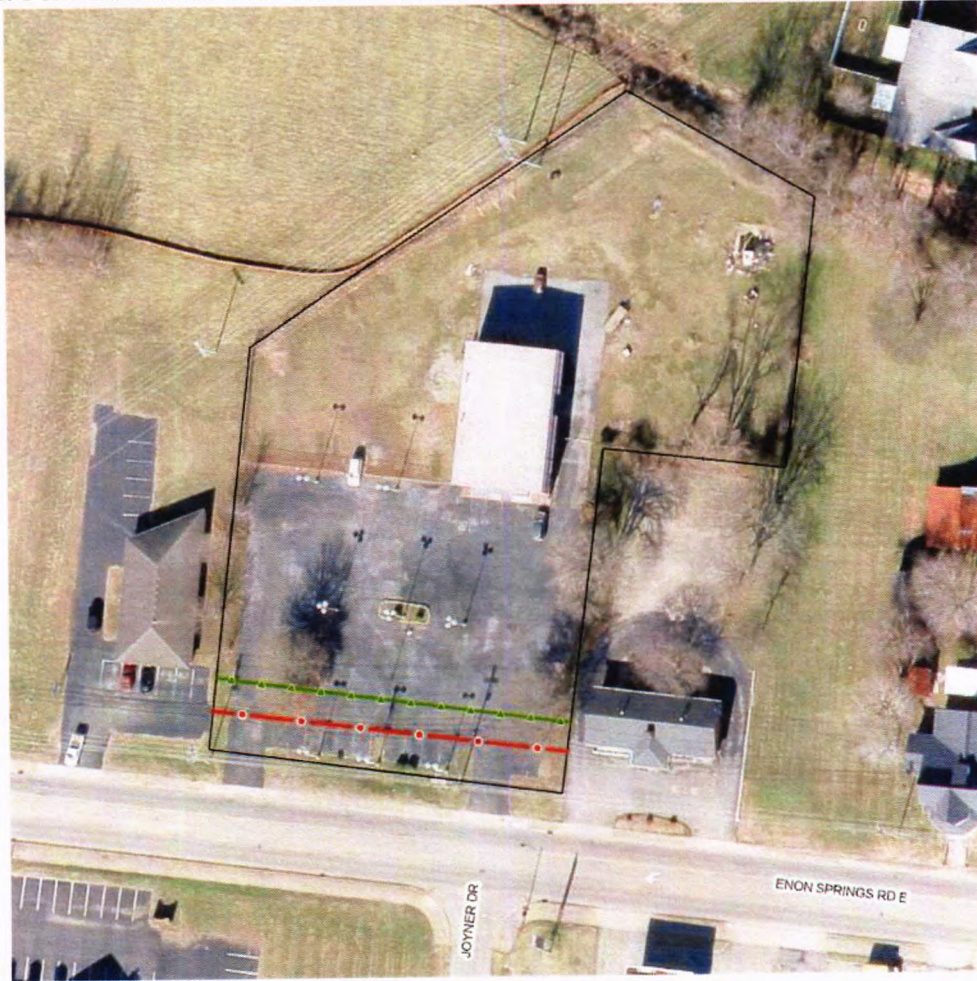
4. New Business:

a. Setback Variance:

1. Alex Ramzi
295 Enon Springs Road East

Location: 295 Enon Springs Rd. E.	Property Owner(s): A&H Auto Sales
Tax Map/Group/Parcel #: 27P/D/8.01	
Zoning/Use Classification: C-2/Vehicular Auto Sales	

Request: For a front setback variance of 18' to allow a fence in the front setback to the property line.



Staff Analysis

The applicant has requested a 18' front setback variance to place a fence in the front yard setback at their place of business. The property is zoned C-2, General Commercial, and is approximately 1.90 acres in size. Minimum front yard setback requirement in the C-2 district is 35' for any structure, but when this lot subdivision was recorded in 1987, the front setback requirement was 40'.

The applicant applied for a fence permit. The application states in several locations that no fence may be placed within the front setback and that the Fire Department must be contacted regarding gate installation. The applicant contacted the Fire Department and discussed gate options to access the site. Town staff also provided an aerial image of the site with a marker showing an approximate location where the fence could be located. This drawing was incorrect. It showed the setback measured from the edge of the road, and not the property line. The applicant began installation of the fence based on the aerial image he was provided and not the text within the application. Posts for the fence were set in the pavement during the course of a weekend to which staff noticed the location of the fence closer than the required 40' setback requirement.

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 does not have a unique shape, topographic conditions or physical surroundings compared to other lots in the same district.
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. The conditions surrounding the reason for this request generally do not apply to other properties within the same district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Fences are allowed by right within the C-2 district, but are to adhere to all applicable provisions of Section 3.180 of the Zoning Ordinance.
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 placement of the fence 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 could potentially provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the C-2 district with a structure located in the front yard setback.
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.
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.



me May 20
to Tammy ▾



Good Morning ,
just a quick question to make sure i
understand well before start any work .
i thought the 40 feet Setback is the
distance from the street to build a
Building .
but we want to make a fence no building .
do we still need to move back 40 feet
from the street to make the Fence ?

...



Tammy Rankin May 22
to me ▾



Good morning,
Nothing can be in the 40 foot setback. Your
building is much farther back than 40 feet.
You need to move the fence back 40 feet
from the street.

...

Thank you
for the
clarification.

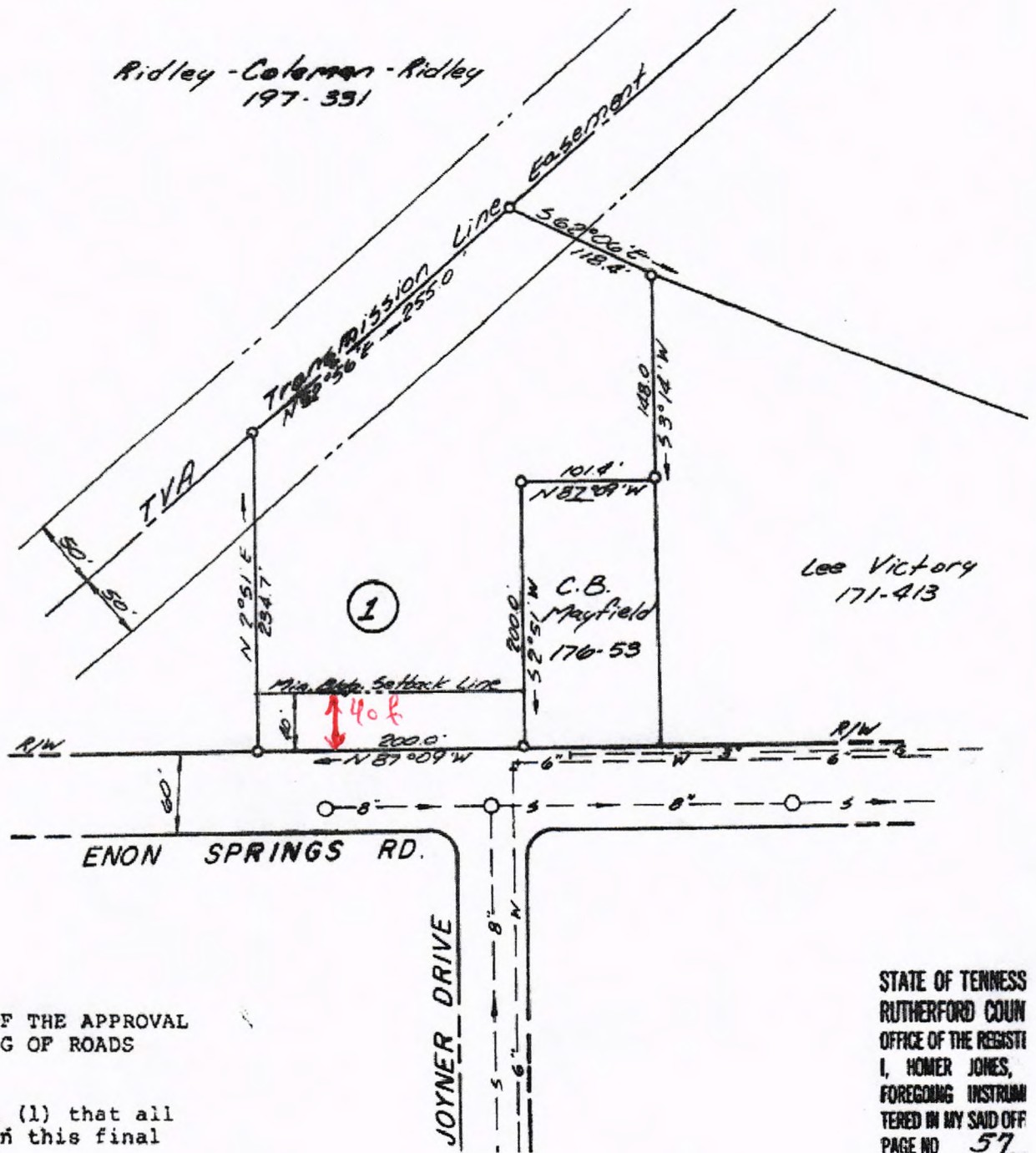
Ok, thank
you.

Thank you.

← Reply

→ Forward

Ridley - Coleman - Ridley
197-331



Lee Victory
171-413

C.B.
Mayfield
170-53

CERTIFICATE OF THE APPROVAL
OR BONDING OF ROADS

I hereby certify: (1) that all
designated roads on this final

STATE OF TENNESS
RUTHERFORD COUN
OFFICE OF THE REGISTRAR
I, HOMER JONES,
FOREGOING INSTRUMENT
ENTERED IN MY SAID OFFICE
PAGE NO 57

Conclusion

Staff finds that the property does not have any unique physical attributes associated with the lot. The applicant contacted staff regarding a fence permit to which the applicant was supplied with paperwork noting that the fence may not be located inside the 40 foot front setback as well as a diagram showing incorrect location placement for the fence within the front setback. The applicant followed the diagram and placed the fence in the noted location, which does not meet the 40 foot setback requirement. Posts were mounted in the parking lot area over the course of a weekend to which staff noticed the posts located within the setback.

Tammy Rankin's emails were submitted as an exhibit to the Public Hearing.

At this time, Chairman Steve Sullivan acknowledged applicant Alex Ramzi to speak regarding this request.

Motion by Jay Michaelson, seconded by Scott Demonbreun to deny the Setback Variance at 295 Enon Springs Road East due to lack of hardship.

Vote: 5 - 0 Passed - Unanimously

b. Zoning Variance:

- 1. Craig Brooks
100 Goodrich Court

Location: Seven Oaks Blvd. & Clayton Ct.	Property Owner: Craig Brooks
Tax Map/Group/Parcel #: 50B/A/21.00	
Zoning/Use Classification: R-3/Vacant	

Request: For a zoning variance to allow an accessory structure on a lot without a principal residence.



Staff Analysis

The applicant has requested a zoning variance to allow for an accessory structure to serve as the principal structure on an R-3 zoned property which is currently vacant. The lot served as open space for the Seven Oaks Subdivision and was sold to residents of the subdivision.

Per the Zoning Ordinance, customary accessory structures, including private garages and non-commercial workshops, are considered a permitted use within the R-3 zoning district. However, an accessory building is defined as a subordinate building, or structure, the use of which is incidental to that of a principal building and located in the side or rear yard of the same lot therewith. A principal building can be defined as a building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

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 and 500-year floodplain are present on this site and compensation would be required if development were to occur in those areas.
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. Accessory structures are allowed in residential districts, but are to only be placed on a lot in which a residence is also located.
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 site previously designated as open space and owned by the HOA.
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 request is the minimum that will make possible the reasonable use of the property based on the applicant request.
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. The site was previously owned by the HOA for the subdivision and sold off to home owners within the subdivision as someone has to maintain the property without an HOA. The applicant would like to utilize the property rather than leave it undeveloped with a Smyrna utility pump station and force main.

At this time, Chairman Steve Sullivan acknowledged applicant Craig Brooks to speak regarding this request.

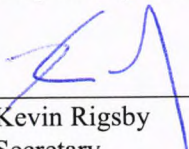
Motion by Phil Wilson, seconded by Jay Michaelson to deny the Zoning Variance request for 100 Goodrich Court due to lack of hardship and the Zoning Ordinance being clear on what an accessory structure is and how it requires a primary structure.

Vote: 5 - 0 Passed - Unanimously

5. Staff comments and/or other business

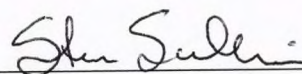
6. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman