



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

September 21, 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 September 21, 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 Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Jason King, Asst.

Present: Town Attorney; Jeff Peach, Town Attorney; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Kathryn Bobbitt, Office Coordinator; Dennis Blair, Interim Building Official

1. Citizens' Comments: None at this time.
2. Approval of Minutes of the August 17, 2023 meeting

Motion by Scott Demonbreun, seconded by Vanessa Haley to approve the Minutes of the August 17, 2023 meeting.

Vote: 5 - 0 Passed - Unanimously

3. New Business:
 - a. Special Exceptions:
 1. Ananta Investors, LLC
7912 Corey Drive

Location: 7912 Corey Drive	Property Owner: Ananta Investors, LLC
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Tax Map/Group/Parcel #:
35H/A/95.00

Zoning/Use Classification: R-3/ Medium Density Residential

Request: For a special exception to allow a detached accessory apartment.



Staff Analysis

The applicant has requested a special exception to allow a detached accessory building to be used as an apartment at 7912 Corey Drive. The property is zoned R-3, Medium Density Residential, and is 10,361 square feet in size. The building was originally permitted in September 2019 as a 336 square foot utility shed. An electrical inspection was conducted, but no building inspections occurred, and has never finished the inspection process.

The previous owner was the one who applied for the building permit, but the property was sold in May of 2023. The house has recently been listed for sale in mid August 2023 in which staff received an email inquiry about an apartment in a neighbor's backyard. Upon review of the real estate listing, the utility shed has been converted to an accessory apartment, including a kitchen, full bathroom and bedroom. It's unknown to staff as to when the conversion of the accessory building to living space occurred, however, per a list provided by the applicant, there were a number of renovations which the current owner, and applicant, completed as a part of the renovation process. Work completed included, HVAC for the shed, drywall, trim work, cabinets, a vanity, flooring, tile, doors, finish hardware, appliances and a tankless water heater for the detached building.

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 use of a detached accessory apartment would negatively affect the health, safety, and welfare of the public due to the lack of permitting with the potential hazards in regards to septic and electrical, among others .
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 if the building is not used for rental.
3. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 1. Section 5.051.3 C lists "accessory apartment" as a special exception in the R-3 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 would utilize the existing driveway off of Corey Drive.
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 existing driveway to park 6-7 vehicles.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 1. Refuse collection would 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, but would require inspections to be performed for the utilities that have been installed.
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 a proposed detached accessory dwelling unit 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 as the structure is within accessory building square footage regulations.
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 in

the area not having a detached accessory apartment on the same parcel as the principal structure.

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 this lot provides sufficient space to allow for the detached accessory apartment due to the structure already existing on site and starting the permitting process, but no permitting has been done to ensure all applicable codes and safety requirements are met. If approved, staff recommends putting a condition on this request that the applicant will be required to pay all applicable fees associated with an accessory dwelling unit (Rutherford County Development Tax, Town of Smyrna Impact Fees, Codes inspection fees, etc.). If approved, staff would also recommend adding a condition that the building not be used for rental purposes. Furthermore, any inspections that need to be conducted shall be done by the current property owner prior to selling the property and shall be done within a 1 month timeframe from the meeting date. Permits will need to be obtained for all the work completed and any new items to be completed regardless of the decision by the Board.

At this time, Chairman Steve Sullivan acknowledged Katra Hermes with Ananta Investors, LLC to speak regarding this request.

At this time, Chairman Steve Sullivan acknowledged Dennis Blair the Town of Smyrna Interim Building Official to speak regarding this request.

At this time, Chairman Steve Sullivan acknowledged Katra Hermes with Ananta Investors, LLC to speak regarding this request.

Motion by Phil Wilson, seconded by Scott Demonbreun to deny the special exception for 7912 Corey Drive due to public safety hazard and not meeting the general requirements.

Vote: 5 - 0 Passed - Unanimously

2. Gisela Rodriguez
111 North Hampton Court

Location: 111 North Hampton Ct.	Property Owner: Gisela Rodriguez
Tax Map/Group/Parcel #: 27N/A/25.00	Zoning/Use Classification: R-2/ Low Density Residential

Request: For a special exception to allow an attached accessory apartment.



Staff Analysis

The applicant has requested a special exception to allow an attached accessory apartment at 111 North Hampton Court. The property is zoned R-2, Low Density Residential, and is approximately 14,138 square feet in size. The applicant wishes to convert the attached garage to a living space for familial purposes. There would also be an extra 12' x 13' space behind the garage to be included as part of the accessory apartment. As part of the living space, the applicant would add a bedroom, bathroom, kitchen, dining room and living room.

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 use of an accessory apartment would 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. Section 5.051.2 C lists "accessory apartment" as a special exception in the R-2 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 would utilize the existing driveway off of North Hampton Court.
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.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 1. Refuse collection would 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 a proposed accessory dwelling unit 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 as the structure is attached to the principal structure and can meet setbacks.
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 in the area not having an accessory apartment on the same parcel as the principal structure.
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 this lot provides sufficient space to allow for the accessory apartment. If approved, staff recommends putting a condition on this request that the applicant will be required to pay all applicable fees associated with an accessory dwelling unit (Rutherford County Development Tax, Town of Smyrna Impact Fees, Codes inspection fees, etc.). Staff would also recommend adding a condition that the building not be used for rental purposes.

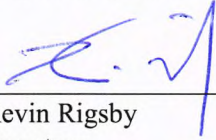
No one spoke at the public hearing.

Motion by Phil Wilson, seconded by Vanessa Haley to approve the special exception at 111 North Hampton Court with the conditions that the applicant will be required to pay all applicable fees associated with an accessory dwelling unit, and that this building not be used for rental purposes.

Vote: 5 - 0 Passed - Unanimously

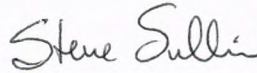
4. Staff comments and/or other business
5. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman