



# TOWN OF SMYRNA BOARD OF ZONING APPEALS

## MEETING MINUTES

November 21, 2024

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 21, 2024 at 5:00 p.m. The invocation was given by Vanessa Haley 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; Ken Hill; Jay Michaelson; Scott Demonbreun; Vanessa Haley

Staff Present: Dave Santucci, Town Manager; Todd Spearman, Assistant Town Manager; Ben Groce, Staff Attorney; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Kristi Worrell, Building Official

1. Citizens' Comments:

*"The Town's Public Comment Period shall be reserved for those citizens that have signed up to address a Board or Committee, at least twenty-four (24) hours in advance of the meeting, pursuant to the Town's Public Comment Policy. Speakers are limited to three (3) minutes. Additional comments may be submitted in writing".*

2. Approval of Minutes of the September 19, 2024 meeting

Motion by Scott Demonbreun, seconded by Vanessa Haley to approve the Minutes of the September 19, 2024 meeting.

**Vote: 5 - 0 Passed - Unanimously**

3. New Business:

a. Setback Variance:

- Jasper Fitzhugh  
4022 Wisdom Way

<b>Location:</b> 4022 Wisdom Way	<b>Property Owner(s):</b> Jasper & Yolanda Fitzhugh
<b>Tax Map/Group/Parcel #:</b> 33H/A/43.00	<b>Zoning/Use Classification:</b> R-3/Single-Family Residential

**Request:** A front setback variance of 25' along Serenity Court for a detached garage/carport.



**Staff Analysis**

The applicant has requested a 25' front setback variance on Serenity Court for a detached garage/carport. The property is zoned R-3, Medium Density Residential, and is 0.26 acres in size and has two front setbacks to meet on Wisdom Way and Serenity Court. Minimum front yard setback requirement in the R-3 district is 35' for accessory structures. As presented, the structure would be located approximately 3' from the dwelling and may require additional fire safety precautions to be installed either on the dwelling and/or on the proposed structure. The applicant is requesting to place the carport behind an existing fence.

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 any unique circumstances in regards to physical surroundings, shape or topographic conditions.
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 property is a corner lot and has two front setbacks to meet for any structure. The two front setbacks create a constricted area for any structures to be placed in the rear yard.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
  1. Detached accessory structures are allowed within the R-3 district, but are to adhere to all setback requirements.
4. Financial returns only shall not be considered as a basis for granting a variance.
  1. The applicant 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 applicant is the homeowner, but was not involved with the creation of the lot, nor the construction of the residence.
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 provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-3 district due to a structure encroaching upon a front setback. However, other properties in the same zoning district have requested variances from the BZA in previous years in similar situations and have received approval.
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 the north side of the residence within the fence to meet front setback requirements. In addition, a side setback variance would likely be required in that situation with the size of the desired detached structure and dwelling location on the property. However, the location requested is closest to the existing driveway, which is the reasoning for the request being in the location presented.
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 a corner lot in which two front setbacks are required to be met for any structure. There is an existing fence which the structure would be located behind as presented. There is adequate space on the lot to locate the structure to meet the front setback, but would likely require a side setback variance due to the distance between the dwelling and side lot line in conjunction with the size of the structure requested. If the request is approved, it does not preclude the applicant from adhering to any additional Code/Fire Safety requirements. Code requires a minimum of 5' separation, so staff would recommend a 28' front setback variance if approved.

At this time, Councilman Steve Sullivan opened a public hearing.

Applicants Jasper & Yolnada Fitzhugh spoke at the public hearing.

Motion by Jay Michaelson, seconded by Scott Demonbreun to approve the Setback Variance request located at 4022 Wisdom Way with a 28' front setback on Serenity Court.

**Vote:** 5 - 0 Passed - Unanimously

b. Special Exception:

1. Kourtney Brownlow  
515 Huntly Industrial Drive

<b>Location:</b> 515 Huntly Industrial Dr.	<b>Property Owner:</b> Walford Partners
<b>Tax Map/Group/Parcel #:</b> Map 19C, Group D, Parcel 2.00	<b>Zoning/Use Classification:</b> I-1/General Personal Services

**Request:** For a special exception to allow a fitness studio in an I-1 zoning district.



### **Staff Analysis**

Smyrna Strength and Fitness, LLC is proposing to locate their business at 515 Huntly Industrial Drive and would be the only tenant in the building. At least one of the business owners currently operates a gym facility in Franklin for the past five years. Additionally, the applicant(s) were involved with other fitness facilities in Smyrna between 2014-2022. Staff will be on site between the hours of 5:30AM-6:30 PM with peak hours expected between 5:30-8:00 AM, 11:00-1:00 PM, and 4:00-7:00 PM. Maximum staff present would be 1 or 2. The facility will be an access facility, which allows members to access the facility outside of normal business hours. There are approximately 14 parking spaces currently on site. Typical classes will have around 6-8 participants and if needed, the hours could be restricted for facility usage for non class participants during peak hours. Clients first have a consultation with staff to determine best goals for their journey, in addition a higher membership price helps to regulate the number of clients lower than a traditional gym.

The property at 515 Huntly Industrial Drive has had two BZA requests previously for special exception requests. One in 2002 for a contract construction service, which was approved, and one in 2014 for the use of a gym, and was approved. The approval granted in 2014 had two conditions of approval: the approval would expire after one year if the applicant has not occupied the space and no parking along Huntly Industrial Drive.

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 general personal service use should 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 negatively affect other property in the area in which it is to be located.
- Is within the provisions of "Special Exceptions" as set forth in this ordinance.
  - Section 5.053.1 C lists "general personal service" as a special exception in the I-1 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 shared single access point off of Huntly Industrial Drive with the adjoining tract to the east.
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 building is an existing structure, which has been in operation for several businesses throughout the years prior without issue. Parking will need to be addressed accordingly to ensure no vehicles park on Huntly Industrial Drive.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
  1. Refuse collection would need to be coordinated with a local company for proper disposal and collection of waste.
4. Utilities, with reference to locations, availability, and compatibility.
  1. This location has access to all utilities including gas, water and sewer.
5. Screening and buffering with reference to type, dimensions and character.
  1. Not applicable; the building is currently existing and no additional buffering would be required based on the proposed use.
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 use of a gym would fit the compatibility with properties in the same district in reference to the above effects. Lighting may not shine beyond the property lines if installed on the exterior of the building.
7. Required yard and other open space.

1. Staff finds that there is adequate space on this lot to support the proposed business as the lot is already developed.
8. General compatibility with adjacent properties and other property in the district.
  1. Staff finds that the use may be compatible with the adjacent industrial properties and others in the same district as several properties zoned I-1 have had special exceptions approved in the past for non-industrial uses.
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. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.
  2. Not applicable.

**Conclusion**

Staff finds that the use of a gym on this property would be compatible with surrounding industrial properties as well as other I-1 zoned properties within Town as a variety of special exceptions have been granted previously for other similarly zoned properties. A previous approval was granted from the BZA for the same use on this tract, but that approval has expired based on conditions of approval at the time of the approval in 2014. If approved, staff would recommend a condition that there be no parking on Huntly Industrial Drive.

At this time, Councilman Steve Sullivan opened a public hearing.

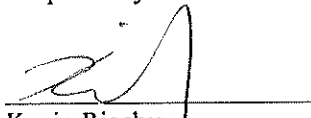
Applicant Kourtney Brownlow spoke at the public hearing.

Motion by Jay Michaelson, seconded by Scott Demonbreun to approve the Special Exception request for 515 Huntly Industrial Drive with the condition of no parking on Huntly Industrial Drive, and above listed staff comments.

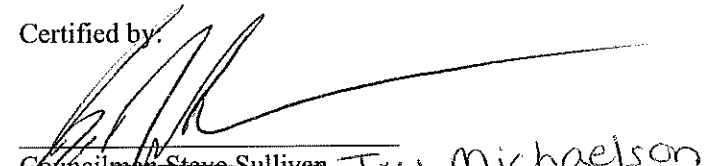
**Vote:** 5 - 0 Passed - Unanimously

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

Respectfully submitted:

  
Kevin Rigsby  
Secretary

Certified by:

  
Councilman Steve Sullivan Jay Michaelson  
Vice-Chairman