



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

February 15, 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 February 15, 2024 at 5:00 p.m. The invocation was given by Chairman Steve Sullivan 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; Jay Michaelson; Scott Demonbreun; Vanessa Haley

Absent: Phil Wilson

Staff Present: Brian Hercules, Town Manager; Todd Spearman, Assistant Town Manager; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Kathryn Bobbitt, Office Coordinator; Kristi Worrell, Building Official

1. Citizens' Comments: None at this time.

2. Approval of Minutes of the November 16, 2023 meeting

Motion by Scott Demonbreun, seconded by Vanessa Haley to approve the Minutes of the November 16, 2023 meeting.

Vote: 4 - 0 Passed - Unanimously

3. New Business:

a. Setback Variance:

1. Cole Mayhugh
903 Mason Tucker Drive

Location: 903 Mason Tucker Drive	Property Owner(s): Thomas Mayhugh
Tax Map/Group/Parcel #: 28C/A/48.00	Zoning/Use Classification: R-4/Medium Density Residential

Request: For a side setback variance of 7' and a front setback variance of 16' to allow a detached storage building within the front setback.



Staff Analysis

The applicant has requested a 7' side setback variance and a 16' front setback variance for a detached storage unit in front of the principal structure. The structure is 8' x 40' located in the front setback along Chorleywood Court. The property is zoned R-4, Medium Density Residential, and is 16,040 square feet in size. Minimum front yard setback requirement in the R-4 district is 35' for any structure. If approved, the structure would be roughly 32' from the edge of pavement on Chorleywood Court or approximately 19' from the parcel line.

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 is uniform in shape, size with varying topographic conditions, but not affecting the placement of the structure.
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 has no distinguishable features that would deem the petition for a variance as the lot has ample space to locate the structure to meet setback requirements.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Detached accessory structures are allowed in R-4 zones, but are to adhere to all applicable setback requirements.
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 applicant placed the structure without proper permitting through the Codes Department.
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 would provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-4 district with a structure encroaching upon the front and side 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 due to the ability to relocate the structure to meet setback requirements.
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 does not have unique circumstances with the exception of some varying topography on the property. The applicant placed this structure without proper permitting and the structure does not meet setback requirements. If the Board votes to deny the request, staff would recommend a timeline be placed on the applicant to have the structure removed.

No one spoke at the public hearing.

Motion by Scott Demonbreun, seconded by Vanessa Haley to deny the setback variance request for 903 Mason Tucker Drive due to lack of hardship. The structure must be removed by March 30, 2024.

Vote: 4 - 0 Passed - Unanimously

4. Staff comments and/or other business

At this time, Chairman Steve Sullivan opened the floor for discussion to reconsider the setback variance for 407 Morton Lane from the November 16, 2023 meeting.

Motion by Councilman Steve Sullivan, seconded by Scott Demonbreun to reconsider the setback variance for 407 Morton Lane from the November 16, 2023 meeting.

Vote: 4 - 0 Passed - Unanimously

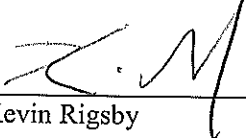
At this time, the board discussed the setback variance for 407 Morton Lane.

Motion by Councilman Steve Sullivan, seconded by Scott Demonbreun to approve the 32' front setback variance and the fence to remain as submitted at 407 Morton Lane.

Vote: 4 - 0 Passed - Unanimously


5. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman