



SMYRNA BOARD OF ZONING APPEALS

June 13, 2024
5:00 p.m. meeting

Smyrna Town Hall

AGENDA

1. Call to Order
2. Prayer
Pledge of Allegiance
3. Citizens' Comments: None at this time.
4. Approval of Minutes of the May 16, 2024 meeting
5. New Business:
 - a. Special Exception:
 1. Braulio A. Sanchez
1155 Old Jefferson Pike
6. Staff comments and/or other business
7. Adjournment



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

May 16, 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 May 16, 2024 at 5:00 p.m. The invocation was given by Vanesa Haley and the Pledge of Allegiance was led by Vice-Chairman Jay Michaelson.

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

Present: Steve Sullivan, Councilman; Jay Michaelson; Vanessa Haley

Absent: Phil Wilson; Scott Demonbreun

Staff Present: Jeff Peach, Town Attorney; Benjamin Groce, Attorney; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner

1. Citizens' Comments: None at this time.
2. Approval of Minutes of the April 18, 2024 meeting.

Motion by Jay Michaelson, seconded by Vanessa Haley to approve the Minutes of the April 18, 2024 meeting.

Vote: 3 - 0 Passed - Unanimously

3. New Business:
 - a. Special Exceptions:
 1. Toyin Ogunniyi
4004 Grapevine Loop

Location: 4004 Grapevine Loop	Property Owner: Toyin Ogunniyi
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Request: For a special exception to allow an accessory apartment.



Staff Analysis

The applicant has requested a special exception to allow an accessory apartment at Grapevine Loop. The property is zoned PRD, Planned Residential Development, and is 7,200 square feet in size. The applicant wishes to build out their basement for a second dwelling for familial purposes. Included with the build out is to be a kitchen, dining room, bathroom, living room and two bedrooms.

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 an accessory apartment would 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 adversely affect other properties in the surrounding area.
- Is within the provisions of “Special Exceptions” as set forth in this ordinance.
 - Woodmont Subdivision is a PRD zoning and does not address accessory apartments within the zoning. Therefore, it is neither allowed by special exception, nor disallowed. Staff would recommend the applicant check with their HOA and covenant restrictions as to whether an accessory apartment would be permitted.
- 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:

- 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.
 - Access to the site would utilize the existing driveway off of Grapevine Loop.
- 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.
 - Staff finds that the lot may provide sufficient space for off-street parking as the driveway measures approximately 30’ setback from the garage to the edge of sidewalk in addition to a 2 car garage.
- Refuse and service areas, with particular reference to the items in 1. and 2. above.
 - Refuse collection would proceed in the same manner as currently.
- Utilities, with reference to locations, availability, and compatibility.
 - This location has access to all the necessary utilities on site.
- Screening and buffering with reference to type, dimensions and character.
 - Not applicable.
- Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
 - 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.
- Required yard and other open space.
 - Staff finds that this yard has the necessary yard and open space to meet setback requirements as the accessory apartment would be located within the existing basement.
- General compatibility with adjacent properties and other property in the district.
 - Staff finds that the use may be compatible with adjacent properties due to other lots in the subdivision having been previously approved by the BZA for an accessory apartment.
- The following additional rules apply for upper story residential development proposals:
 - 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.
 - 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.).
- Adding a condition that the building not be used for rental purposes.
- Applicant to verify with the HOA and/or other governing restrictions put upon the property that the use of an accessory apartment is allowed.

Motion by Jay Michaelson, seconded by Vanessa Haley to approve the special exception allowing an accessory apartment at 4004 Grapevine Loop with staff recommendations.

Vote: 3 - 0 Passed - Unanimously

4. Staff comments and/or other business

5. Adjournment

Respectfully submitted:

Certified by:

Kevin Rigsby
Secretary

Councilman Steve Sullivan
Chairman



Town of Smyrna

Board of Zoning Appeals Application

APPLICANT INFORMATION:		APPLICANT IS:	THE PROPOSAL PERTAINS TO:
Name: Braulio A Sanchez	Phone Number: 615 495 0611	Owner <input checked="" type="checkbox"/>	New Structure <input type="checkbox"/>
Email: sbraulio28@yahoo.com		Contractor <input type="checkbox"/>	Existing Structure <input checked="" type="checkbox"/>
		Other <input type="checkbox"/>	Signage <input type="checkbox"/>
THIS REQUEST IS FOR:			
Zoning Variance <input checked="" type="checkbox"/>	Sign Variance <input type="checkbox"/>	Setback Variance <input type="checkbox"/>	Special Exception <input type="checkbox"/>
Temporary Use Permit <input type="checkbox"/>	Administrative Review <input type="checkbox"/>		
PROPERTY INFORMATION			
Street Address: 1155 Old Jefferson Pike Smyrna TN 37167			
Tax Map: 26	Group: -	Parcel: 11.05	
Zoning: R-1	Lot Area: 5.12 AC		
DESCRIPTION OF APPEAL			
<p><i>Describe your request and why a variance is needed. Please submit a site plan and/or photographs if applicable to your request.</i></p> <p>Being able to use my personal storage to keep electrical supplies for my work on the constructions subdivisions</p> <p>Daily 8 cars arrive to my storage with 12 people</p>			
ALL APPLICANTS OR THEIR REPRESENTATIVES ARE REQUIRED TO ATTEND THE MEETING			
<p>Approval by the Board of Zoning Appeals does not remove any requirements or prohibitions that may be in place because of any restrictive covenants affecting your property. Violation of restrictive covenants could result in legal action against you by a homeowner's association or individual homeowners within your neighborhood. The Town of Smyrna will not be liable if action is taken against you due to violation of such covenants.</p>			
APPLICANT AUTHORIZATION			
<p>I hereby certify that I am the authorized applicant, representing all property owners involved in this request and am aware that approval received from the Board of Zoning Appeals does not authorize any activities which are prohibited by any Town Ordinance, covenant restrictions, deed restrictions or HOA regulations.</p>			
Applicant Signature: Brabo Sanchez		Date: 5-17-24	
Office Use Only			
Staff Initials: mmw	Application Fee: 300.00	Date: 5-20-24	

5-23-24 * BOX TRUCK DELIVERY ONCE PER WEEK AMAZON / FEDEX APPROXIMATELY 3 TIMES PER WEEK * RECEIVED EMAIL FROM APPLICANT STATING INFORMATION

Braulio Sanchez
Special Exception

Location: 1155 Old Jefferson Pike	Property Owner: Braulio Sanchez
Tax Map/Parcel: 26/11.05	
Zoning/Use Classification: R-1/Single Family Residential	

Request: For a special exception to allow an in-home occupation.



Staff Analysis

The applicant has requested a special exception to allow an in-home occupation at 1155 Old Jefferson Pike. The applicant operates an electrical company with approximately 12 employees. Per the application, an average of eight vehicles arrive daily with employees as well as a box truck delivery once per week with other Amazon and FedEx deliveries throughout the week. The property was sold in 2021; the previous owner operated a fencing business out of the house without issue. Staff has received phone calls from surrounding property owners in regards to the traffic generated from the applicant’s business.

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:

- a. 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 an electrical company would not negatively affect the health, safety, and welfare of the public due to the size and location of the lot within the subdivision.
- b. Will not adversely affect other property in the area in which it is located.
 - Staff finds that the proposed use may adversely affect other properties in the surrounding area due to the traffic generated by the employees of the applicant's business as well as deliveries to the residence.
- c. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 - Customary incidental home occupations are a permitted right within the Municipal Zoning Ordinance within all residential districts. In the event questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals determines the legality.
- d. 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.
 - Access to the site would utilize the existing driveway off of Old Jefferson Pike.
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.
 - Staff finds that the lot may provide sufficient space for off-street parking as the applicant owns both 1154 and 1155 Old Jefferson Pike. In addition, the driveways and lot size is of sufficient size to accommodate vehicles for parking on site.

3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 - Refuse collection would proceed in the same manner as currently.
4. Utilities, with reference to locations, availability, and compatibility.
 - This location has access to gas and water, however, the property is serviced by a septic system.
5. Screening and buffering with reference to type, dimensions and character.
 - 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.
 - Staff finds that a proposed business should fit the compatibility with properties in the same district in reference to the above effects.
7. Required yard and other open space.
 - Staff finds that this yard has the necessary yard and open space to meet setback requirements as the lot is 5.12 acres in size and an accessory structure is already constructed where equipment is stored.
8. General compatibility with adjacent properties and other property in the district.
 - Staff finds that the use may not be compatible with adjacent properties due to other lots in the subdivision not having a similar intensity business operating out of the household.
9. The following additional rules apply for upper story residential development proposals:
 - a. 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.
 - b. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.
 - Not applicable.

Conclusion

Staff finds that this lot provides sufficient space for the operation of the applicant's business, however, greater than average traffic is generated as a result of business operations. There is an accessory structure on site that stores all goods for the business and the lot is located in the rear of George E Young Subdivision. As a result, any deliveries and employees must travel through the entire subdivision to arrive at the applicant's residence and place of business on a daily basis.