



SMYRNA BOARD OF ZONING APPEALS

March 21, 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 February 15, 2024 meeting
5. New Business:
 - a. Sign Variance:
 1. Michael Strobel
8965 Rocky Fork Almaville Road
 - b. Special Exceptions:
 1. Cutler Capley
111 Long Rifle Road
6. Staff comments and/or other business
7. Adjournment



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:

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: Michael Strobel	Owner <input checked="" type="checkbox"/>	New Structure <input type="checkbox"/>
Phone Number: 615-500-7518	Contractor <input type="checkbox"/>	Existing Structure <input type="checkbox"/>
Email: michael.strobel@ashtonwoods.com	Other <input type="checkbox"/>	Signage <input checked="" type="checkbox"/>

THIS REQUEST IS FOR:	
Zoning Variance <input type="checkbox"/>	Sign Variance <input checked="" 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: 8965 Rocky Fork Almaville Rd		
Tax Map: 054	Group:	Parcel: 054 01700
Zoning: R-3	Lot Area: 101 O/S	

DESCRIPTION OF APPEAL

Describe your request and why a variance is needed. Please submit a site plan and/or photographs if applicable to your request.


Our Saddle Grove community is 22 lots which is under the 36 lot threshold that sign ordinance allows for entry monument. Our entry monument proposed is outside public ROW in Lot 101 O/S and is sized accordingly to be consistent with the other neighborhoods along the Rocky Fork/Almaville corridor.

ALL APPLICANTS OR THEIR REPRESENTATIVES ARE REQUIRED TO ATTEND THE MEETING

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.

APPLICANT AUTHORIZATION

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.

Applicant Signature: 	Date: 3/15/2024
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Office Use Only

Staff Initials:	Application Fee:	Date:
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we will make brackets according to exact height of wood



bronze lettering
stud mounted to
2" deep aluminum
sign



CLIENT:
Acer (Saddle Grove)

PROJECT:
Aluminum with bronze text and mounting arms

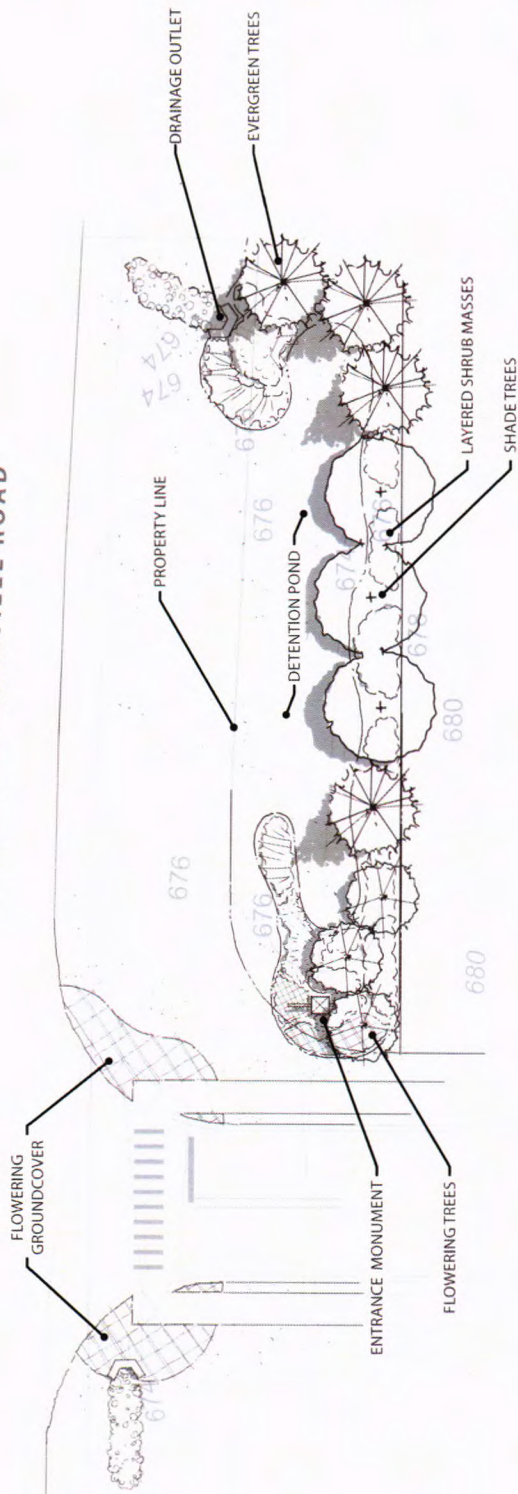
CREATED BY:
MARK HORNER

DATE: 02-05-2024

921 8th Ave. S.
Nashville, TN 37203
615.967.7194



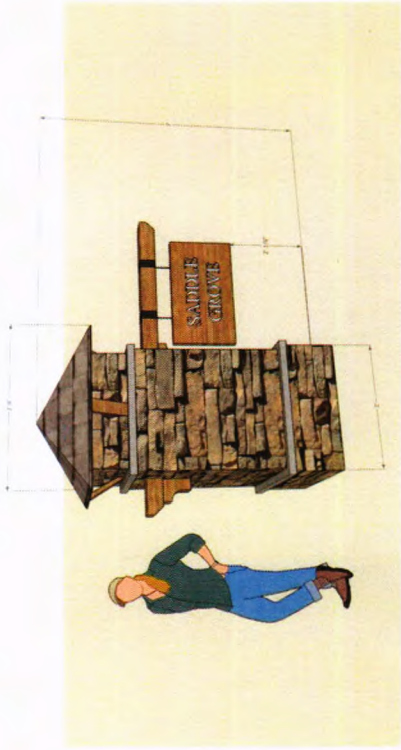
ROCKY FORK ALMAVILLE ROAD



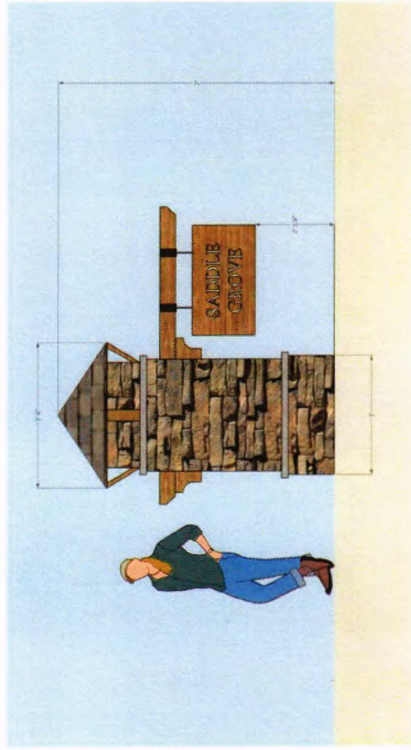
NOVEMBER 27, 2023

SADDLE GROVE
ENTRANCE MONUMENT CONCEPTS - PLAN VIEW



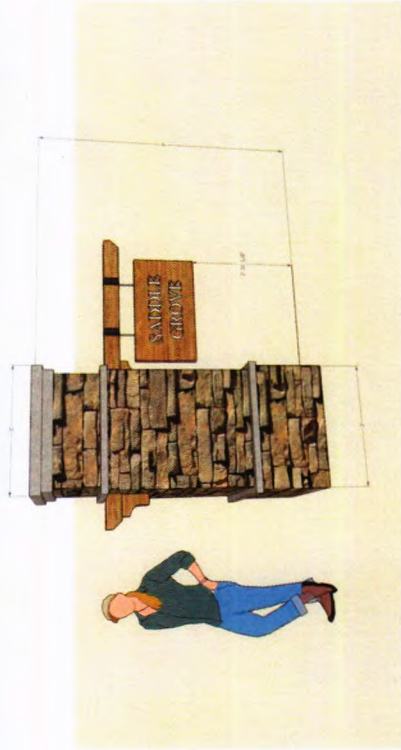


PERSPECTIVE

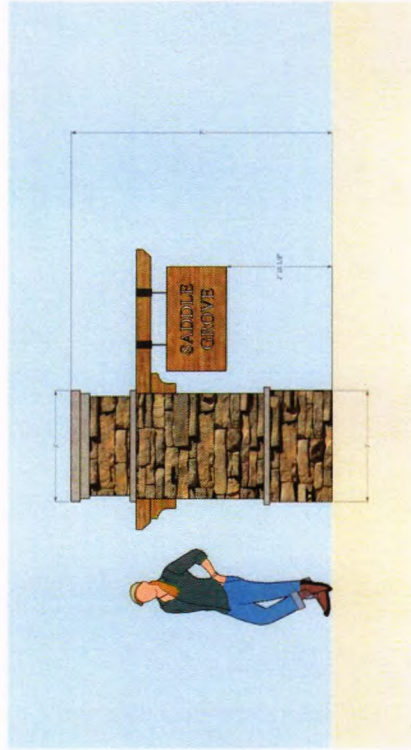


ELEVATION

OPTION 2A



PERSPECTIVE

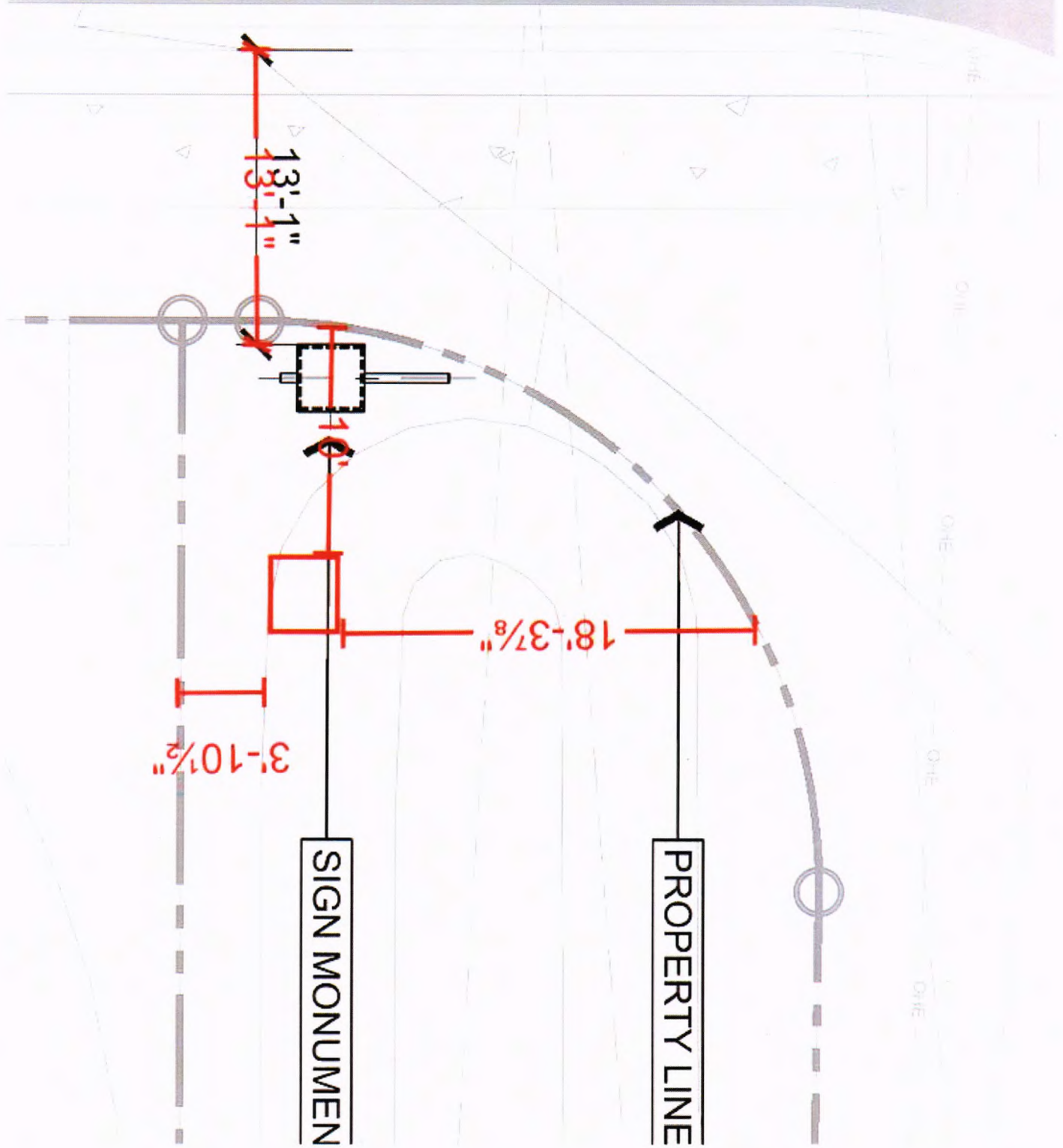


ELEVATION

OPTION 2B



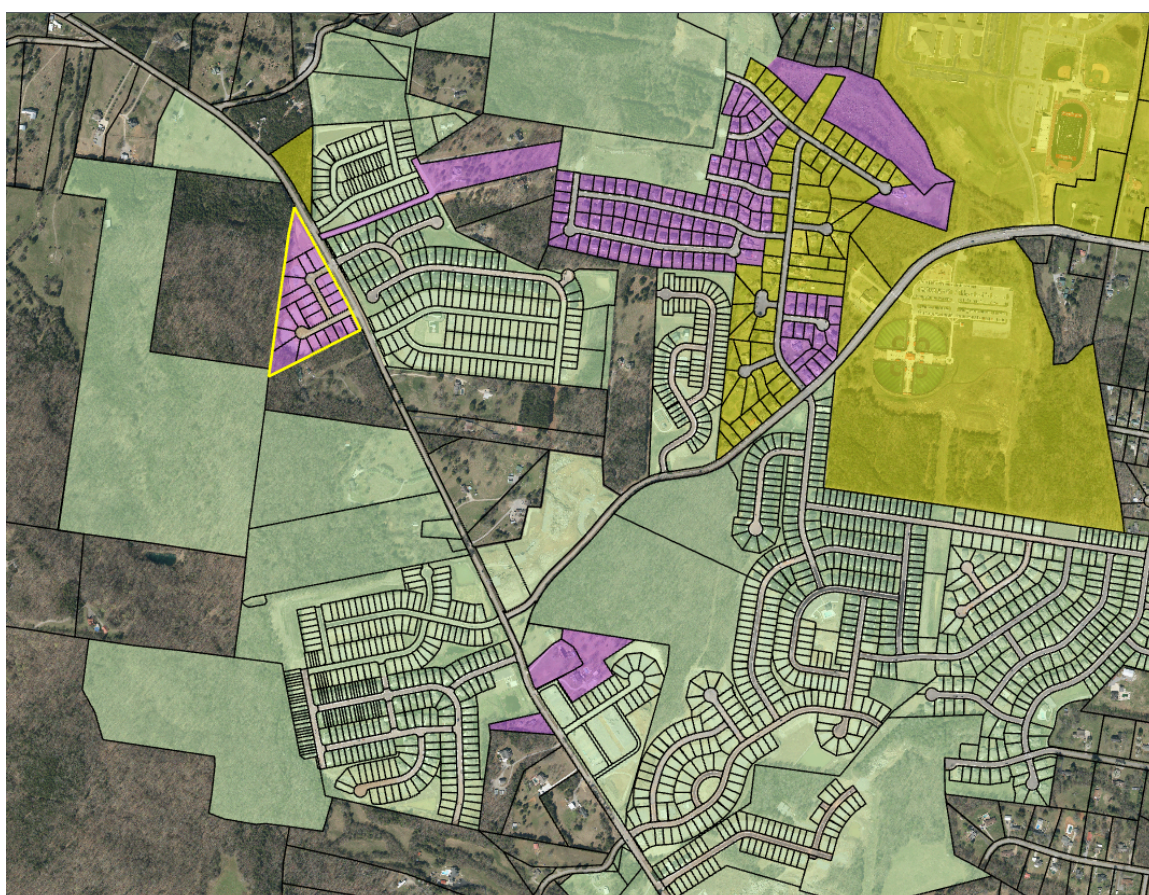
CANNONADE COURT



Saddle Grove
Sign Variance Request

Location: Cannondale Court & Rocky Fork Almaville Road	Property Owner: Ashton Nashville Residential, LLC
Tax Map/Group/Parcel #: 54F/A/18.01	
Zoning/Use Classification: R-3/Single Family Residential	

Request: A subdivision entrance sign for a subdivision containing less than 36 dwelling units.



Staff Analysis

The applicant has requested a sign variance to place a subdivision entrance sign at the main entrance to a subdivision containing 22 single family residential lots. Chapter 4, Section B (1) of the Sign Ordinance states signs may be permitted at the main entrances to a subdivision containing at least thirty-six (36) dwelling units. The Saddle Grove subdivision is currently under construction, approximately half of the lots have building permits applied for, and the developer submitted for a sign permit for an entrance sign for this development.

Chapter 9, Section F. 2 of the Sign Ordinance lists criteria that must be considered by the Board when evaluating a variance request.

- (2) For an action granting a variance, the Board shall state the provisions being varied and shall grant the minimum variance to satisfy the relief of hardship, and shall state the specific hardship which justifies the variance.

The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

- (a) The particular surroundings, shape, or topographic conditions of the specific property involved would result in an exceptional hardship upon the owner as distinguished from an inconvenience.
 - Staff finds that there is no distinct hardship present to the property in regards to the surroundings, shape, or topographic conditions.
- (b) The conditions upon which the petition for a variance is based would not be applicable to other similarly situated properties.
 - Other residentially zoned subdivisions adjacent to the subject subdivision contain greater than 36 dwelling units.
- (c) The hardship has not been created by any person having an interest in the property.
 - The applicant is the developer of the subdivision.
- (d) Financial returns only shall not be considered as a basis for granting a variance.
 - The property owner has not identified financial returns as a reason for requesting the variance, though marketing the development is one of the reasons for requesting a sign.
- (e) The variance will not be detrimental to the public welfare, injurious to other property, or to the intent and spirit of the ordinance.
 - The variance would not have any of the above effects as the sign would be positioned on open space managed by the HOA and meeting all other requirements set forth in the Sign Ordinance pertaining to size and location on the parcel.
- (f) The variance does not confer a special privilege to the applicant that is denied to others.
 - Staff finds that subdivision entrance signs are allowed, per the Sign Ordinance, however, it restricts the subdivision size as to whether a subdivision is allowed to have an entrance sign.

Conclusion

Staff finds that there is no physical hardship with the lay of the land with this request. The applicant is requesting a variance on the minimum required amount of dwelling units within a subdivision to permit for an entrance sign. Other subdivisions within the vicinity of the requested subdivision contain greater than 36 dwelling units and several of those subdivisions have signage. The signage, as proposed, meets the Sign Ordinance requirements for size and location.



Town of Smyrna

Board of Zoning Appeals Application

APPLICANT INFORMATION:	APPLICANT IS:	THE PROPOSAL PERTAINS TO:
Name: <u>Cutler Caplan</u>	Owner <input checked="" type="checkbox"/>	New Structure <input type="checkbox"/>
Phone Number: <u>6153904194</u>	Contractor <input type="checkbox"/>	Existing Structure <input type="checkbox"/>
Email:	Other <input type="checkbox"/>	Signage <input type="checkbox"/>

THIS REQUEST IS FOR:

Zoning Variance Sign Variance

Setback Variance Special Exception

Temporary Use Permit Administrative Review

PROPERTY INFORMATION

Street Address: 111 Long Rifle Rd.

Tax Map: <u>340</u>	Group: <u>D</u>	Parcel: <u>3.00</u>
Zoning: <u>R-1</u>	Lot Area: <u>44,450 SF / 1.02 AC</u>	

DESCRIPTION OF APPEAL

Describe your request and why a variance is needed. Please submit a site plan and/or photographs if applicable to your request.

Requesting permission to build guest house on back of property for daughter and son in law due to economic hardship. Not for business just family.

24' x 20'

ALL APPLICANTS OR THEIR REPRESENTATIVES ARE REQUIRED TO ATTEND THE MEETING

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.

APPLICANT AUTHORIZATION

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.

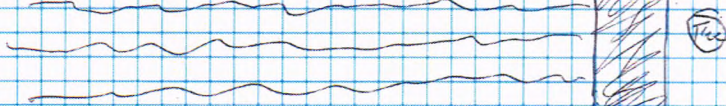
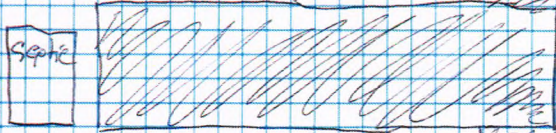
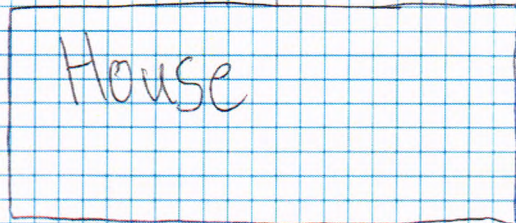
Applicant Signature: <u>[Signature]</u>	Date: <u>3/11/24</u>
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Office Use Only

Staff Initials:	Application Fee:	Date:
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111 long Rifle Rd
37167

270'
12'

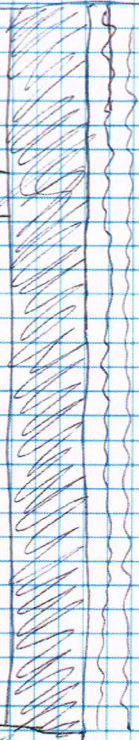
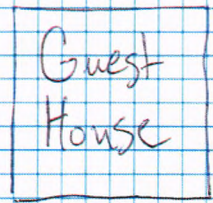


Tree

Tree

Tree

Tree



Cutler Capley
Special Exception

Location: 111 Long Rifle Road	Property Owner: Armando Vera
Tax Map/Group/Parcel: 34O/D/3.00	
Zoning/Use Classification: R-1/ Low 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 apartment at 111 Long Rifle Road. The property is zoned R-1, Low Density Residential, and is 1.02 acres in size. The applicant wishes to build a second dwelling for familial purposes. The proposed structure would be located behind the principal structure approximately 270' off of the front property line and approximately 12' from the northern property line. The structure is to be 20' x 24' (480 SF) in size; the maximum detached accessory structure square footage allowed for this property is 1,200 square feet.

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 accessory apartment would not negatively affect the health, safety, and welfare of the public.
- b. 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.
- c. Is within the provisions of “Special Exceptions” as set forth in this ordinance.
 - Section 5.051.1 C lists “accessory apartment” as a special exception in the R-1 district.
- 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 Long Rifle Road.
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 would provide sufficient space for off-street parking due to the size of the lot and driveway length.
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 water, through CUD, and gas, but the existing residence is served by a septic system. Sewer is located in the rear of the property. If the applicant would like to service the additional structure via a septic system, the applicant will need to coordinate with the TDEC Environmental Office to ensure the

existing septic system can support additional living space, or if a separate septic system will be needed.

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 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.
 - Staff finds that this yard has the necessary yard and open space to meet setback requirements.
8. 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.
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 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.
- The applicant to provide a letter of approval from TDEC before applying for building permits if the new structure is to utilize a septic system.