



SMYRNA BOARD OF ZONING APPEALS

May 16, 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 April 18, 2024 meeting.
5. New Business:
 - a. Special Exceptions:
 1. Toyin Ogunniyi
4004 Grapevine Loop
6. Staff comments and/or other business
7. Adjournment



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

April 18, 2024

5:00 p.m.

Smyrna Town Hall

Vice-Chairman Jay Michaelson called the regular session of the Smyrna Board of Zoning Appeals to order on April 18, 2024 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: Phil Wilson; Jay Michaelson; Scott Demonbreun; Vanessa Haley

Absent: Steve Sullivan, Councilman

Staff Present: Kevin Rigsby, Town Planner; Jeff Peach, Town Attorney; Benjamin Groce, Asst. Town Attorney; Kathryn Bobbitt, Office Coordinator; Kristi Worrell, Building Official

1. Citizens' Comments: None at this time.

2. Election of Officers

Motion by Scott Demonbreun, seconded by Phil Wilson to nominate Steve Sullivan as Chairman of the Board of Zoning Appeals.

Vote: 4 - 0 Passed - Unanimously

Motion by Scott Demonbreun, seconded by Vanessa Haley to nominate Jay Michaelson as Vice-Chairman of the Board of Zoning Appeals.

Vote: 4 - 0 Passed - Unanimously

3. Approval of Minutes of the March 21, 2024 meeting

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the Minutes of the March 21, 2024 meeting.

Vote: 4 - 0 Passed - Unanimously

4. New Business:

a. Setback Variance:

- 1. Surrey Homes
2005 South Byrnes Street

Location: 2005 South Byrnes Street	Property Owner(s): Surrey Homes
Tax Map/Group/Parcel #: 51D/F/12.00	Zoning/Use Classification: PRD/Single-Family Residential

Request: For two side setback variances, two rear setback variances and one front setback variance for a new construction single family dwelling.



Staff Analysis

The applicant has requested a 0.2' and a 0.6' side setback variance, a 0.4' and a 3.2' rear setback variance and a 0.4' front setback variance on South Byrnes Street for a single family residence. The property is zoned PRD, Planned Residential District, and is 12,012 square feet in size. Minimum side yard setback requirement in this PRD is 7.5', the minimum rear setback is 10' and minimum front setback is 35' for any structure. The original site plan for construction, submitted to the Codes Department, showed the dwelling meeting all setback requirements. A site plan submitted following construction showed a dwelling larger than the originally submitted site plan, as a result, the house is encroaching upon the setbacks.

In addition, there is a public utility drainage easement, which is approximately 7.7' in width at the point of which the residence encroaches on the easement by 0.9'. Public Works has reviewed the plot plan for the subject property and stated they would prefer the foundation not to be located within the easement, but are okay with it due to the drainage system being a pipe structure. However, no other structures may be located within the easement.

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 have varying topography with a drainage easement along the northern property line, however, that would not affect the construction of a residence on this lot as shown from the originally submitted site plan by the developer. The lot also has a non-uniform shape when compared to other rectangular lots with the northern lot line in conjunction with the drainage easement creating a constricted area of the lot for development.
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. Single family dwellings are allowed in this PRD, 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 property owner has not identified financial returns as a reason for requesting this variance, however the structure is complete.
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 developer of the dwelling.
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 PRD district due to a structure encroaching upon setbacks.
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 for a dwelling to be constructed and 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 may 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 have unique circumstances with some varying topography on the property as well as the presence of a 10’ drainage easement and an abnormally shaped lot to constrict development to the western portion of the parcel. While the property is a corner lot, it does have ample space to locate a dwelling while meeting all applicable setback requirements. The applicant submitted a site plan prior to construction with a floorplan that met all setback requirements, however the house was constructed larger than shown on the approved site plan and does not meet setback requirements.

If the Board approves this request, the applicant will be required to pay the difference in permit fees from the originally submitted site plan to the site plan which was constructed. Staff will also need an updated site plan with square footage shown of all areas under roof to ensure fire code compliance is met.

At this time, Vice-Chairman Jay Michaelson acknowledged Oliver Constable with Surrey Homes to speak regarding this request.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve all requested setback variances for 2005 South Byrnes Street to include the two side setback variances, two rear setback variances, and the front setback variance, as requested due to the unique lot shape and varying topography with the above listed staff comments.

Vote: 4 - 0 Passed - Unanimously

2. Tao Nguyen & Thu Pham
2000 E. McLaughlin Street

Location: 2000 E. McLaughlin Street	Property Owner(s): Quynh Nguyen & Trung Khau
Tax Map/Group/Parcel #: 32L/E/27.00	Zoning/Use Classification: R-3/Single-Family Residential

Request: A rear setback variance of 3' for a deck.



Staff Analysis

The applicant has requested a 3' rear setback variance for a deck. The property is zoned R-3, Medium Density Residential, and is 16,327 square feet in size. Minimum rear yard setback requirement in the R-3 district is 8' for accessory structures. A permit was applied for through the Codes Department with a site plan of the proposed deck and was approved for construction. The deck was in the middle of construction when a stop work order was issued by the Codes Department due to the deck encroaching upon the rear setback. The deck has been built per dimensions provided on the site plan. Distances on the site plan are measured to the concrete ditch edge, not the parcel line. Measurements with parcel data show the approximate distance from the parcel line to the edge of the concrete ditch measure 2.5' - 3'. In addition, there is a drainage easement in the rear of the lot and has been granted permission from Public Works for the structure to remain, if approved.

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 have varying topography with a 10' concrete drainage easement along the northern property line, however, that would not affect the construction of a deck on the property.
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 if it were reduced in length.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Decks 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 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 is the homeowner and applicant for building permit.
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-3 district due to a structure encroaching upon setbacks.
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 reduce the size of the deck 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 submitted a site plan prior to construction and the site plan was approved by staff. Upon construction of the deck, a stop work order was issued due to the structure not meeting setback requirements despite being constructed per dimensions provided on the site plan.

If approved, and the deck is covered and attached to the house in the future, a new BZA setback variance would be required since this request is treated as an accessory structure with a minimum 8' setback requirement.

At this time, Vice-Chairman Jay Michaelson acknowledged Kathy Nquyen to speak regarding this request.

At this time, Vice-Chairman Jay Michaelson acknowledged Building Official Kristi Worrell to speak regarding this request.

At this time, Vice-Chairman Jay Michaelson acknowledged Kathy Nquyen to speak regarding this request.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the rear setback variance of 3' for 2000 E. McLaughlin Street with 3ft for the deck with public works approval, topography, and with staff comments.

Vote: 3 - 1 Passed

NAY: Vanessa Haley

- 3. John & Stacie Robinson
101 Westfield Court

Location: 101 Westfield Court	Property Owner(s): John & Stacie Robinson
Tax Map/Group/Parcel #: 27F/C/27.00	Zoning/Use Classification: R-3/Single-Family Residential

Request: A front setback variance of 35' along Oakhaven Drive for a pool.



Staff Analysis

The applicant has requested a 35' front setback variance on Oakhaven Drive for a pool. The property is zoned R-3, Medium Density Residential, and is 0.34 acres in size and has two front setbacks to meet on Westfield Court and Oakhaven Drive. Minimum front yard setback requirement in the R-3 district is 35' for accessory structures; however, when the plat for this subdivision was recorded in 1988, a 40' front setback was required. In addition, there is a 20' drainage easement on the western property line, which is to remain clear and is not proposed to be encroached upon. The applicant is requesting to build a 30' diameter above ground pool and is to be placed behind a fence so as to be out of sight from the public right-of-way.

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, in addition, at the time the plat was recorded, a 40' was required compared to the 35' requirement in the R-3 district today. 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. Pools 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 property owner has not identified financial returns as a reason for requesting this variance, however the applicant has noted the pool has already been paid for.
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. 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 be the minimum to make reasonable use of this structure for the proposed use due to there not being any other location on the property for which the desired pool could be located and meet setbacks.
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. At the time of recording the plat for this subdivision, a 40' front setback was required

compared to the 35' required if the plat were recorded today. There is an existing fence which the structure would be located behind and no encroachment upon the drainage easement is shown. Due to the size of the proposed pool as well as the corner lot with setback requirements, the pool is unable to be located anywhere else on the property to meet all setback requirements without a variance.

At this time, Vice-Chairman Jay Michaelson acknowledged applicant Stacie Robinson to speak regarding this request.

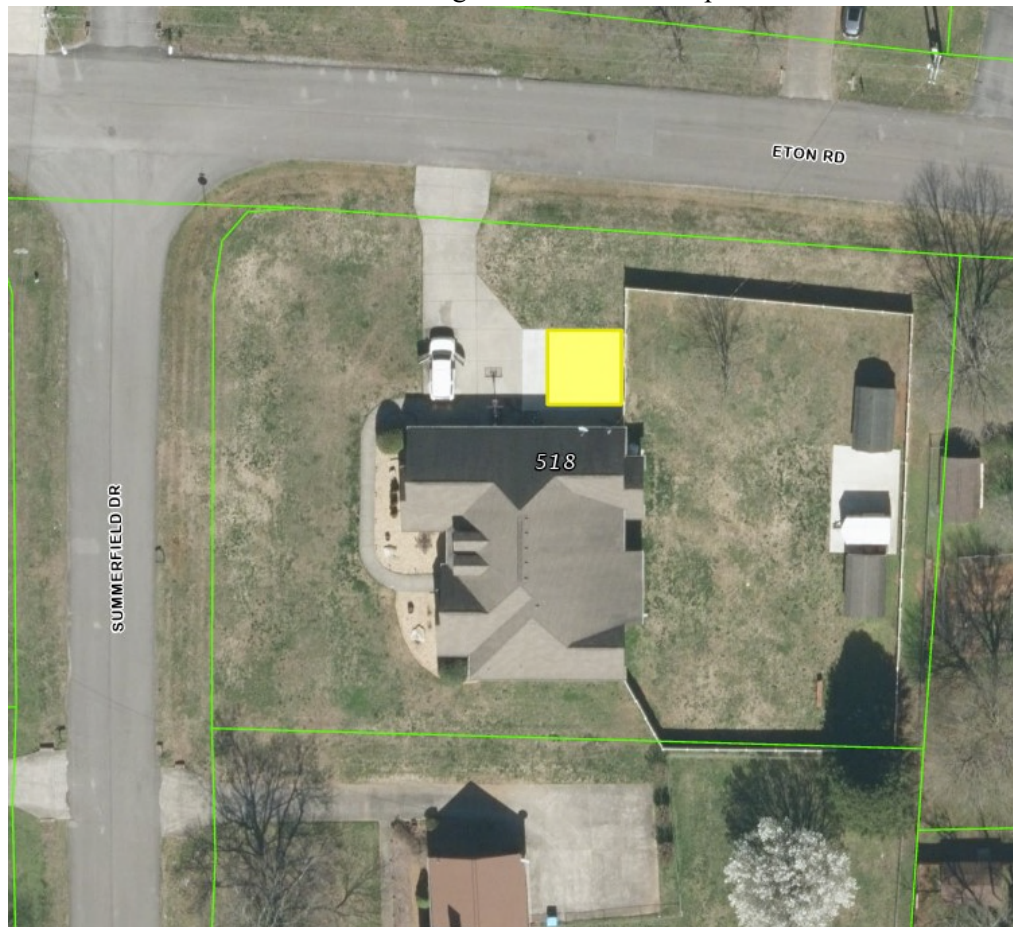
Motion by Phil Wilson, seconded by Vanessa Haley to approve the front setback variance of 35' for 101 Westfield Court with staff comments.

Vote: 4 - 0 Passed - Unanimously

4. Angelyse Stanford
518 Summerfield Drive

Location: 518 Summerfield Drive	Property Owner(s): Cedric & Angelyse Stanford
Tax Map/Group/Parcel #: 50D/B/10.00	Zoning/Use Classification: R-1/Single-Family Residential

Request: A front setback variance of 14' along Eton Road for a carport.



Staff Analysis

The applicant has requested a 14' front setback variance on Eton Road for a carport to be placed roughly 26' from the front property line. The property is zoned R-1, Low Density Residential, and is 0.62 acres in size and has two front setbacks to meet on Summerfield Drive and Eton Road. Minimum

front yard setback requirement in the R-1 district is 35' for accessory structures; however, when the plat for this subdivision was recorded in 1973, a 40' front setback was required. In addition, there is a 10' drainage easement on the eastern property line, which is to remain clear and is not proposed to be encroached upon. The applicant is requesting to build a 20' x 20' (400 SF) carport and is to be placed on top of an existing concrete slab off of the original driveway. The house was constructed roughly 52' setback off the front parcel line on Eton Road. There are two existing detached sheds which total 320 square feet in size, and the maximum detached accessory structure square footage allotment for this property is 800 square feet.

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

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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, in addition, at the time the plat was recorded, a 40' was required compared to the 35' requirement in the R-1 district today.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Carports are allowed within the R-1 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 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 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-1 district due to a structure encroaching upon a front setback. Other properties in single family residential

zoning districts 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 be the minimum to make reasonable use of this structure for the proposed use due to the location of the driveway.
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 due to the distance the structure would be located off of the roadway.
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. At the time of recording the plat for this subdivision, a 40’ front setback was required compared to the 35’ required if the plat were recorded today. If approved, the carport would be approximately 40’ from the edge of pavement on Eton Road and 26’ from the parcel line.

At this time, Vice-Chairman Jay Michaelson acknowledged applicant Angelyse Stanford to speak regarding this request.

Motion by Scott Demonbreun, seconded by Phil Wilson to approve the front setback variance of 14' located at 518 Summerfield Drive with staff comments, due to two front setbacks and the requirement of a front setback of 40' at the time the plat was recorded.

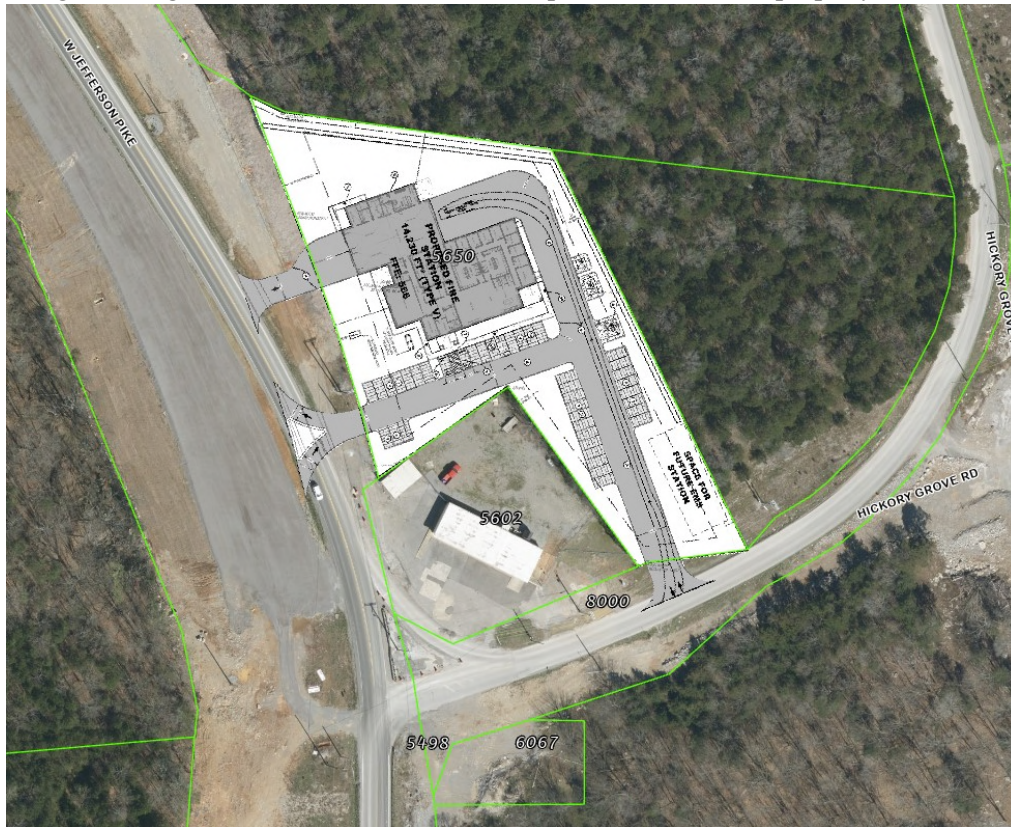
Vote: 4 - 0 Passed - Unanimously

b. Sign Variance:

1. Town of Smyrna
5650 West Jefferson Pike

Location: 5650 W. Jefferson Pike	Property Owner: Town of Smyrna
Tax Map/Parcel #: 20/45.01	Zoning/Use Classification: C-2/Fire Station

Request: A ground sign setback variance of 10' to be placed on the front property line.



Staff Analysis

The Town is requesting a variance to place the ground sign for Fire Station 4 on the front property line along West Jefferson Pike. Due to the curvature of W. Jefferson Pike and placement of overhead utility poles; if the ground sign were to be placed meeting setback requirements, visibility would be obstructed from a utility pole for traffic traveling westbound. In addition, the distance from the front property line to the edge of pavement on W. Jefferson Pike is approximately 68'; if the sign were to meet setbacks, it would be located roughly 78' off the edge of pavement.

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:

- 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 the curvature of W. Jefferson Pike in addition to the overhead utility poles do have the potential to interfere with signage visibility.
- The conditions upon which the petition for a variance is based would not be applicable to other similarly situated properties.
 - There are no other properties in this area which have developed at this time.
- The hardship has not been created by any person having an interest in the property.
 - The Town is the developer of this parcel.
- Financial returns only shall not be considered as a basis for granting a variance.

- The applicant owner has not identified financial returns as a reason for requesting the variance.
- The variance will not be detrimental to the public welfare, injurious to other property, or to the intent and spirit of the ordinance.
 - Staff finds the variance would not have any of the above effects as the sign would be located approximately 68' off of the edge of pavement on W. Jefferson Pike.
- The variance does not confer a special privilege to the applicant that is denied to others.
 - Staff finds that signs are allowed, per the Sign Ordinance, however, it restricts the location for setbacks as to where the sign may be placed on the property.

Conclusion

Staff finds that the subject property is situated approximately 68' off the future edge of pavement for West Jefferson Pike, when completed. If a variance is approved, visibility for motorists would not be impeded. As an emergency service facility, sign visibility is paramount.

No one spoke at the public hearing.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the 10' sign variance request for a ground sign for 5650 West Jefferson Pike, due to topography and the utility pole location with staff comments.

Vote: 4 - 0 Passed - Unanimously

5. Staff comments and/or other business

6. Adjournment

Respectfully submitted:

Certified by:

Kevin Rigsby
Secretary

Vice-Chairman Jay Michaelson



Town of Smyrna

Board of Zoning Appeals Application

APPLICANT INFORMATION:	APPLICANT IS:	THE PROPOSAL PERTAINS TO:
Name: Toyin Ogunniyi	Owner <input checked="" type="checkbox"/>	New Structure <input type="checkbox"/>
Phone Number: (615) 361-3987	Contractor <input type="checkbox"/>	Existing Structure <input checked="" type="checkbox"/>
Email: toeintoy@yahoo.com	Other <input type="checkbox"/>	Signage <input type="checkbox"/>

THIS REQUEST IS FOR:

Zoning Variance <input type="checkbox"/>	Sign Variance <input type="checkbox"/>
Setback Variance <input type="checkbox"/>	Special Exception <input checked="" type="checkbox"/>
Temporary Use Permit <input type="checkbox"/>	Administrative Review <input type="checkbox"/>

PROPERTY INFORMATION

Street Address: 4004 Grapevine Loop Smyrna TN 37167

Tax Map: 32 m	Group: A	Parcel: 12.00
Zoning: PRO	Lot Area: 7,200 SF	

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.

Request for a BZA review for a permit for an addition of an accessory apartment in my unfinished basement.

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: Toyin Ogunniyi	Date: 4/30/2024
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Office Use Only

Staff Initials: MW	Application Fee: 300.00	Date: 5/1/2024
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Affidavit

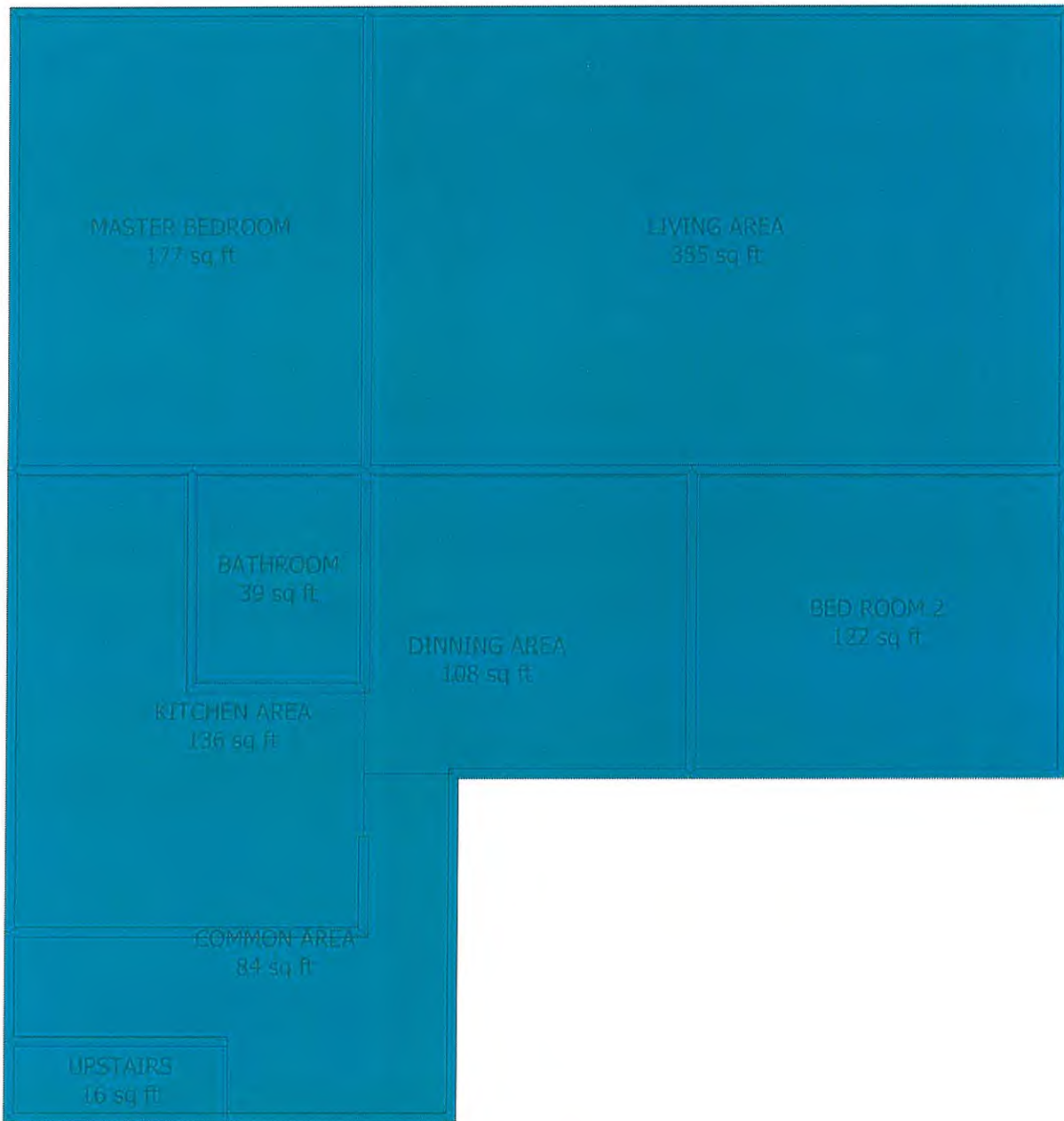
I, Toyin Ogunniyi hereby affirm that I will be responsible for the construction of a 2 bedroom apartment which was unfinished in my basement as at the time of purchase of my home at 4004 Grapevine Loop Smyrna TN 37167.
Sworn before a Notary Public today 4/26/2024.

Toyin Ogunniyi



KDSJA

1. Floor - Grand Total Area - 1119 sq ft





Sent from Yahoo Mail for iPhone

3 attachments



IMG_3048.HEIC
1479K

 **Floorplan letterhead - MUYIWA TOYIN basement blueprint - 1. Floor - 2D Floor Plan.pdf**
2647K

 **Floorplan letterhead - MUYIWA TOYIN basement blueprint - 1. Floor - 3D Floor Plan.pdf**
4164K

'toyeen talabi' via [inspection.request](mailto:inspection.request@townofsmyrna.org) <inspection.request@townofsmyrna.org>

Fri, Apr 26, 2024 at 11:24 AM

Reply-To: toyeen talabi <toeintoy@yahoo.com>

To: permits@townofsmyrna.org

Good morning,

My name is Toyin Ogunniyi. I was at the building permit department last month to obtain permit to finish my unfinished basement and I was told to come with an affidavit stating I intended to work on the basement myself and also a floor plan and square feet.

Attached is the requested information.

Thank you,

Toyin Ogunniyi


House address: 4004 Grapevine Loop Smyrna TN 37167.


[Quoted text hidden]

3 attachments



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4164K

Amberly Duffner <amberly.duffner@townofsmyrna.org>
To: Mitchell Wensman <mitchell.wensman@townofsmyrna.org>

Fri, Apr 26, 2024 at 11:25 AM

They had a pre-permit inspection, however there was not any mention of it being an accessory apartment. Looks like it was decided to turn the basement into a two-bedroom accessory apartment.

[Quoted text hidden]

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Toyin Ogunniyi
Special Exception

Location: 4004 Grapevine Loop	Property Owner: Toyin Ogunniyi
Tax Map/Group/Parcel: 32M/A/12.00	
Zoning/Use Classification: PRD/Single Family Residential	

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:

- 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.
 - 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.
- 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 Grapevine Loop.
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 driveway measures approximately 30’ setback from the garage to the edge of sidewalk in addition to a 2 car garage.
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 all the necessary utilities on site.
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 as the accessory apartment would be located within the existing basement.
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.
- Applicant to verify with the HOA and/or other governing restrictions put upon the property that the use of an accessory apartment is allowed.