



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

January 16, 2025

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 January 16, 2025 at 5:00 p.m. The invocation was given by Vanessa Haley and the Pledge of Allegiance was led by Scott Demonbreun.

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

Present: Jerome Dempsey, Councilman; Ken Hill; Jay Michaelson; Scott Demonbreun; Vanessa Haley

Staff Present: Todd Spearman, Assistant Town Manager; Ben Groce, Staff Attorney; Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Kathryn Smith, Office Coordinator; Charles King, Engineer;

Kristi Worrell, Building Official; Oksana Strong, Administrative Assistant

1. Citizens' Comments:

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

2. Election of Chairman:

Motion by Scott Demonbreun, to nominate Jay Michaelson as Chairman of the Board of Zoning Appeals.

Vote: 5 - 0 Passed - Unanimously

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

Vote: 5 - 0 Passed - Unanimously

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

Motion by Scott Demonbreun, seconded by Ken Hill to approve the Minutes of the November 21, 2024 meeting.

Vote: 4 - 0 Passed

Other: Councilman Jerome Dempsey (ABSTAIN)

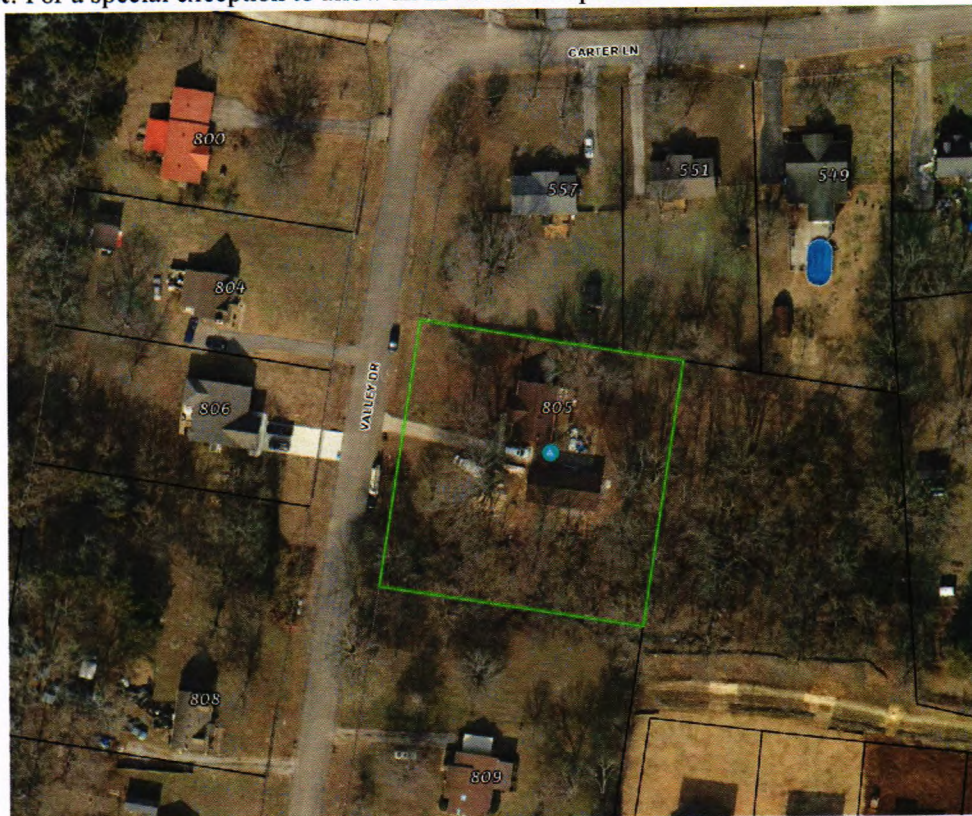
4. New Business:

a. Special Exceptions:

1. Brittney Gamble
805 Valley Drive

Location: 805 Valley Drive	Property Owner: Brittney Gamble
Tax Map/Group/Parcel: 50C/A/28.00	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 805 Valley Drive. The property is approximately 0.86 acres in size and zoned R-1, Low Density Single Family Residential. The applicant would like to operate a dog grooming business located in a space attached to their garage. The applicant would be the sole employee with the intent to service 4-5 dogs for 4 days per week between the hours of 8 AM - 4 PM.

Section 7.060 B of the Zoning Ordinance details the requirements for authorizing special exceptions.

These are detailed below.

Special Exception Requirements

Section 7.060 of the Municipal Zoning Ordinance lists general requirements for a zoning variance request. Those requirements and staff's findings are as follows:

Section 7.060 Procedure for authorizing special exceptions

The following procedure is established to provide procedures for review of a proposed use as a conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether review is required under Section 13-7-206 of the Tennessee Code Annotated, by this ordinance, or whether a review is requested by the Building Official to determine whether a proposed use is potentially noxious, dangerous or offensive.

B. General Requirements:

A conditional use permit (a special exception) shall be provided the Board finds that it:

- Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
 - Staff finds the proposed use of a pet grooming business should not negatively affect the health, safety, and welfare of the public due to the size of the lot and proximity to neighboring homes.
- Will not adversely affect other property in the area in which it is located.
 - Staff finds that the proposed use may not adversely affect other properties in the surrounding area.
- 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.
- 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 Valley Drive.
- 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 provides sufficient space for off-street parking as the applicant's property has an approximately 110' length driveway for parking.
- 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 applicable utilities.
- 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 this proposed business 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 for the business as all activity will be conducted in a facility already constructed.
- 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 area not having a business operating out of the household previously approved by the BZA.
- 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 for the operation of the applicant’s business. If approved, staff would recommend making the following conditions:

- Limiting the number of clients at the dwelling to 1. No overlap of clients.
- The number of employees shall be restricted to people living in the dwelling on site.
- Hours of operation may only occur between the hours of 8:00 AM - 4:00 PM.
- Maximum number of operating days during the week shall not exceed 4.
- Site shall be cleaned accordingly following the departure of each client.
- No boarding of animals.
- All State regulations shall be met.

No one spoke at the public hearing.

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

Motion by Ken Hill, seconded by Scott Demonbreun to approve the Special Exception of an in-home occupation of dog grooming for 805 Valley Drive with staff recommendations.

Vote: 5 - 0 Passed - Unanimously

2. Jakub Wolfe
143 Dale Drive

Location: 143 Dale Drive	Property Owner: Jakub Wolfe
Tax Map/Group/Parcel: 32O/B/45.00	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 143 Dale Drive in the Gwynne Farms subdivision. The property is zoned PRD, Planned Residential Development, and is 7,118 square feet in size. The applicant plans to build out their basement for a second dwelling for familial purposes. Included with the build out is to be a full kitchen/dining room, bathroom, laundry room, living room and bedroom.

Finishing the basement will yield a square footage in excess of 3,600 square feet of total space under roof, which is the threshold for requiring a higher fire flow requirement of 1,750 gallons per minute from the fire hydrants near the dwelling. Based on the building permit, the dwelling is 3,488 square feet under roof and the finished basement would add an extra 1,000 - 1,100 square feet. The nearest fire hydrant tested at 1,100 gallons per minute, which would require the applicant to sprinkle their home.

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.
 - Gwynne Farms 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 Dale Drive.
- 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 has adequate space for four vehicles 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 not be compatible with adjacent properties due to other lots in the subdivision not having received approval for accessory apartments. However, other properties zoned PRD have requested and received approval from the BZA for accessory apartments.
- 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.
- All applicable Code and Fire Department requirements shall be met.

No one spoke at the public hearing.

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

Motion by Scott Demonbreun, seconded by Vanessa Haley to approve the Special Exception of an accessory apartment for 143 Dale Drive with staff recommendations.

Vote: 5 - 0 Passed - Unanimously

b. Setback Variance:

1. Jon C. Armstead
324 Andy Johns Drive

Location: 324 Andy Johns Drive	Property Owner(s): Jon & Ruthe Armstead
Tax Map/Group/Parcel #: 27E/F/64.00	Zoning/Use Classification: R-3/Single-Family Residential

Request: A rear and side setback variance of 5' for a detached storage shed.



Staff Analysis

The applicant has requested a 5' rear and side setback variance for a storage shed in their rear yard. The property is zoned R-3, Medium Density Residential, and is 13,353 square feet in size and has two front setbacks to meet due to the curvature of Andy Johns Road at nearly 90 degrees in the applicant's front yard. Minimum rear and side yard setback requirement in the R-3 district is 8' for detached accessory structures. As presented, the applicant wishes to locate the shed 3' off the side and rear lot lines in the back corner of the property. If the structure met the 8' setback requirement, the proposed shed would be located approximately 2' off of the dwelling, which would present a fire and life safety requirement. Rotating the building to meet the 8' setback requirement would place the shed on the concrete patio. The applicant plans to install a 7' white vinyl privacy fence around the rear yard.

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 unique circumstances in regards to the shape of the lot. Typical residential lots have four sides to the parcel whereas this lot has three due to the long curvature of Andy Johns Drive for the front parcel line.
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 acts as a corner lot and has a large front setback to meet for the principal structure. This large front setback creates a constricted area for any structures to be placed in the rear yard.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Detached accessory structures are allowed within the R-3 district, but are to adhere to all setback requirements.
4. Financial returns only shall not be considered as a basis for granting a variance.
 1. The applicant has not identified financial returns as a reason for requesting this variance.
5. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance.
 1. The applicant is the homeowner, but was not involved with the creation of the lot.
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 rear and side setbacks. However, other properties in the same zoning district have requested variances from the BZA in previous years in similar situations and have received approval.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 1. Staff finds that the requested setback variance may be the minimum to make reasonable use of this structure for the proposed use.
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 as the structure would be located in the rear yard behind a fence.
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 while this property is not a traditional corner lot, due to the curvature of the road, the lot is set up similarly with two front setbacks. The applicant has noted that there will be a vinyl privacy fence installed enclosing the rear yard upon completion of the shed. Code does require a minimum of 5' separation, as presented the structure would have approximately 6' of separation from

the shed to the dwelling.

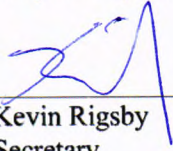
At this time, Chairman Jay Michaelson opened a public hearing to which applicant Jon Armstead spoke regarding this request.

Motion by Councilman Jerome Dempsey, seconded by Ken Hill to approve the 5' side and rear Setback Variance for 324 Andy Johns Drive with staff recommendations.

Vote: 5 - 0 Passed - Unanimously

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

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Jay Michaelson
Chairman