



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

March 20, 2025

5:00 p.m.

Smyrna Town Hall

Chairman Jay Michaelson called the regular session of the Smyrna Board of Zoning Appeals to order on March 20, 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; Kristi Worrell, Building Official

1. Call to Order
2. Prayer
Pledge of Allegiance
3. 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".

4. Approval of Minutes of the February 20, 2025 meeting

Motion by Scott Demonbreun, seconded by Vanessa Haley to approve the Minutes of the February 20, 2025 meeting.

Vote: 5 - 0 Passed - Unanimously

5. New Business:

a. Setback Variance:

1. Tree of Hope, LLC
528 Breslin Avenue

Location: 528 Breslin Avenue	Property Owner(s): Rocio Murillo
Tax Map/Group/Parcel #: 32D/A/42.00	Zoning/Use Classification: R-3/Single-Family Residential

Request: A rear setback variance of 4' for an attached sunroom.



Staff Analysis

The applicant has requested a 4' rear setback variance for an addition of a sunroom in the rear yard. The proposed addition would be 408 square feet in size. The property is zoned R-3, Medium Density Residential, and is 10,468 square feet in size and is located on a modified cul-de-sac. Minimum rear yard setback requirement in the R-3 district is 20' for any structure attached to the principal structure. There is a 10' PUDE located along the rear lot line, which would not be obstructed as part of the proposed addition. In addition, as noted on the recorded final plat from 1995, a sinkhole or depression area is shown in the eastern property corner; this also would not be altered by the request.

A previous permit was applied for an addition to the existing dwelling and was constructed. Upon inspection from the Codes Department, it was found that the structure was not built to the dimensions as shown on the approved site plan. As a result, the structure was then removed.

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 since it is located at the end of a cul-de-sac. Typical residential lots have four sides with a rectangular shape whereas the subject parcel resembles an oblong pie shape.
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 a uniquely shaped lot due to the cul-de-sac along the front lot line. This situation is not atypical of other lots within Town that are located on a cul-de-sac.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Additions are allowed within the R-3 district, but are to adhere to all setback requirements of the principal structure.
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 represents 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 the rear 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. An addition could still 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 should not be detrimental to the public welfare or injurious to other property or improvements in the area as the structure would not be located in any easements.
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 not a traditionally shaped lot and being at the end of a cul-de-sac creates a pie shaped lot. However, based on the submitted plans, an addition could still be constructed and meet setback requirements. A plan was previously submitted and constructed incorrectly, resulting in the demolition of the built addition. This plan is to construct the previously approved addition including an extra 126 square feet yielding a total addition of 408 square feet.

At this time, Chairman Jay Michaelson acknowledged Jeff Davenport of 609 Woodhaven Drive to speak at the public hearing.

At this time, Chairman Jay Michaelson acknowledged Ismael Sarabia of 101 Macaw Lane La Vergne, TN 37086 to speak at the public hearing.

Motion by Scott Demonbreun, seconded by Vanessa Haley to deny the rear setback variance of 4' for an attached sunroom located at 528 Breslin Avenue based on lack of hardship as they can redesign within the setbacks.

Vote: 5 - 0 Passed - Unanimously

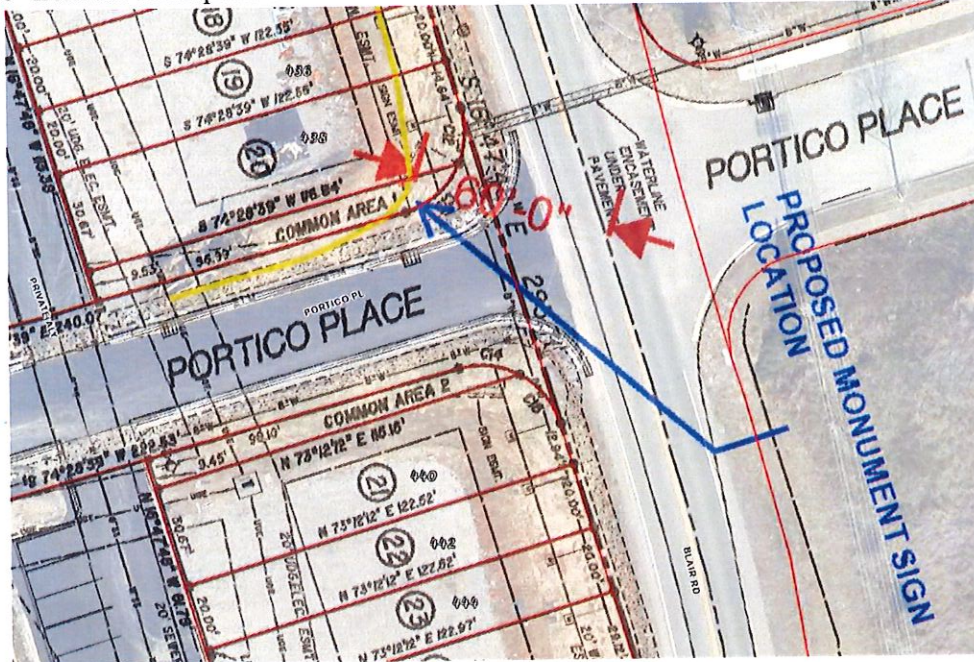
b. Sign Variance:

1. Gaven Schultz
291 Blair Road

Location: Intersection of Portico Place and Blair Road	Property Owner: Blair Road LLC
Tax Map/Group/Parcels #: 29N/C/20.00, 20.01	Zoning/Use Classification: PRD/Multi-Family Residential

Request:

A sign variance of 15' to install a northern subdivision entrance sign, on the north side of Portico Place, 60' from the centerpoint of Portico Place and Blair Road.



Staff Analysis

Portico Place subdivision is requesting to install subdivision entrance signs at the northern intersection of Portico Place and Blair Road. The Sign Ordinance requires a minimum setback from the centerpoint of the intersection of at least 75'. A sign easement area is shown on the plat, however no aspect pertaining to signage is reviewed as part of the plat process. All signs require a separate permit and are to meet Sign Ordinance requirements.

The applicant stated they are in discussions with the Utilities Department to locate the northern entrance sign within utility easements/within proximity of the underground utilities. In addition, the applicant has requested the southern entrance sign in the location shown due to the placement of utility pedestals in the nearby vicinity of the proposed location. The applicant states that if the signs were to meet setback requirements, it would be located behind the utility pedestal and interfere with the constructed townhomes. The applicant met with the Utilities Department and came to an agreement that the footers for the sign could be located no closer than 2' to the gas main.

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 there are no unique circumstances in regards to the surroundings, shape, or topographic conditions of the specific property. There is a 20' utility easement along the front of the lots which front Blair Road and underground gas line on the northern side of Portico Place, which would prevent a sign from being located in that space without

approval from the Utilities Department.

- The conditions upon which the petition for a variance is based would not be applicable to other similarly situated properties.
 - Staff finds the conditions upon which the petition for a variance is based would not be applicable to other similarly situated properties. The sign could be reduced in size to meet the 75' setback from the centerpoint of the intersection.
- The hardship has not been created by any person having an interest in the property.
 - The subdivision plat and construction of the dwellings was completed by the applicant. The utility pedestals are a requirement of our Codes Department.
- Financial returns only shall not be considered as a basis for granting a variance.
 - The applicant 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 may not be detrimental to or injurious to other property or to the public welfare. Using details found in the Subdivision Regulations, staff created a vision triangle and found that the proposed placement of the signs do not impede motorists' vision.
- 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 signs may be placed on the property.

Conclusion

Staff finds that the applicant is involved with the construction of the dwellings and subdivision of property to build the dwellings. The placement and size of the open spaces to locate the subdivision entrance sign is a constricted area and restricts the location desired to install a sign due to the design of the subdivision plat. Any sign placement within a utility easement or in close proximity to underground utilities will require approval from the Utilities Department, which was obtained within 2' of the gas main. The utility pedestals are a requirement by our Codes Department, and placing the signs to meet setbacks would interfere with constructed townhomes to maintain visibility from Blair Road.

No one spoke at the public hearing.

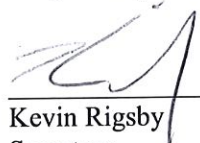
Motion by Scott Demonbreun, seconded by Councilman Jerome Dempsey to deny the sign variance of 15' to install a northern subdivision entrance sign, on the north side of Portico Place, 60' from the centerpoint of Portico Place and Blair Road due to lack of hardship and concern for the utilities and the amount of available space elsewhere.

Vote: 5 - 0 Passed - Unanimously

6. Staff comments and/or other business

7. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Jay Michaelson
Chairman