



**TOWN OF SMYRNA
BOARD OF ZONING APPEALS**



MINUTES

May 21, 2026

5:00 PM

Smyrna Town Hall

1. Call to Order

The meeting was called to order by Jay Michaelson, Chairperson at 05:00 PM in the Council Chambers at Smyrna Town Hall, 315 South Lowry Street, Smyrna, Tennessee.

The following Board of Zoning Appeals members and staff were present:

Members:

Jay Michaelson, Chairperson
Wayne Blair
Don Hyde
Tyler Short

Staff:

Mitchell Wensman, Principal Planner
Kevin Rigsby, Town Planner
Kathryn Smith, Office Coordinator
Benjamin Groce, Staff Attorney
Todd Spearman, Asst. Town Manager
Kristi Worrell, Building Official

Prayer

The invocation was given by Board Member Wayne Blair.

Pledge of Allegiance

The Pledge of Allegiance was led by Board Member Don Hyde.

2. Citizen Comments

3. Approval or Correction of Minutes

3.a. April 16, 2026 regular meeting

Following a review of the Minutes of the April 16, 2026 meeting, Board Member Wayne Blair made a motion to approve the minutes; the motion was duly seconded by Board Member Don Hyde. The motion was approved 4-0.

4. New Business

4.a. Setback Variance

**4.a.1. Drazan Kozul
404 Valley View Drive**

Drazan Kozul
Setback Variance

Location: 404 Valley View Drive	Property Owners: Drazan & Sanvila Kozul
Tax Map/Group/Parcel: 27E/B/65.00	
Zoning: R-3	

Request: A front setback variance of 28' to reduce the minimum front setback from 40' to 12' along Griswold Court.



Staff Analysis

The applicant has requested a 28' front setback variance along Griswold Court for an above ground pool approximately 12' off of the property line. Codes Enforcement noticed the pool being constructed without a permit. The homeowner was made aware that a permit would be required and subsequently applied for a building permit. The permit was denied due to front setback encroachment. Had the applicant submitted for a building permit prior to installation of the pool, they would have been made aware of any and all

setbacks at that point. Due to the setback encroachment and the pool having been completed, a setback variance request has been applied for to remedy the violation.

The lot is a corner parcel, which means any structures would be required to meet two front setbacks. When the subdivision was platted in 1992, a 40' front setback was required, which is five feet more than the requirement today of 35'.

An inspection of the pool will need to be conducted by Codes to ensure all appropriate provisions are met. Additional permits may be required as a result of the findings of the initial inspection.

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.
 - Staff finds that the property does have a unique circumstance in regards to the property having a 40' front setback for any structures built.

2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 - The property is a corner lot and has two front setbacks to meet as a result. These two front setbacks create a constricted rear yard for the property owner to build within.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 - Pools are allowed by right within the R-3 zoning district, but are to adhere to any applicable setback requirements.
4. 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 this variance, however the pool is already finished.
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.
 - The applicant is the home owner, 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.
 - Staff finds that the variance requested could provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings within the R-3 zoning district due to a structure being located within the front setback. Other requests have been presented to the Board of Zoning Appeals for similar situations in previous years, and received approval.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 - Staff finds that the requested setback variance may not be the minimum to make reasonable use of this structure for the proposed use as the fence could be relocated and the pool reduced in size to meet setback requirements. Based on the current pool size, a variance would be required as other structures in the rear yard would prevent the applicant from meeting 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.
 - 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.
 - 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.
 - Not applicable.

Conclusion

Staff finds that the property at 404 Valley View Drive is a corner lot, thus requiring two front setbacks to be met for any structure. To that extent, the plat requires a 40' front setback when compared to the R-3 Zoning Ordinance requirement today of 35'. The pool was being constructed/finished when noticed by Codes Enforcement. A permit was then applied for by the applicant and was denied due to setback encroachment.

At this time, Chairperson, Jay Michaelson closed the Board of Zoning Appeals meeting and opened the Public Hearing. Kristi Worrell, Building Official and Drazan Kozul of 404 Valley View Drive spoke regarding the request. With no other speakers, Chairperson, Jay Michaelson closed the Public Hearing and resumed the Board of Zoning Appeals meeting.

Following discussion, Board Member Wayne Blair made a motion to approve the Setback Variance at 404 Valley View Drive with the above listed staff comments. Board Member Tyler Short seconded the motion. Following further discussion, the motion was approved 4-0.

4.b. Special Exception

**4.b.1. James Lebberes
131 & 133 Weakley Lane**

**James Lebberes
Special Exception**

Location: 131 & 133 Weakley Lane	Property Owners: Richland South LLC/Jim & John Realty II LLC
Tax Map/Parcel: 19/33.05	
Zoning: I-1	

Request: For a special exception to allow contract construction services uses within an I-1 zoning district.



Staff Analysis

The applicant has requested a special exception to allow contract construction

services uses within the I-1 zoned property at 131 and 133 Weakley Lane. The property is zoned I-1, and currently has a variety of tenants existing on site, most of which are not industrial in nature. Over the years, approximately 20 special exception requests have been presented to allow these businesses to operate within an industrial district on this property. A majority of the tenants on site have low, if any, customer visits, rather primarily office spaces for the employees with business related product storage. This request is to allow any contract construction business to operate on this site, specifically, this request is resulting from a HVAC business.

A BZA request was presented to the Board in 2009, and was approved for a HVAC repair training business in suite 145. Due to the Minutes from the August 2009 meeting stating the approval was for a specific suite, this request is required to permit the potential use within any suite on the property.

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 requested uses should not negatively affect the health, safety and welfare of the public as there are a variety of

other commercial businesses present on this property today.

- 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 as the surrounding properties have a variety of commercial and industrial uses.
- c. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 - Section 5.053.1 C lists "contract construction services" as a special exception within the I-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 continue to utilize the existing driveway off of Weakley Lane.
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 could provide sufficient space for off-street parking. Due to the nature of a majority of the businesses on site, staff does not foresee high traffic volumes to impact this property as a result of this business.

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 exists.
4. Utilities, with reference to locations, availability, and compatibility.
 - This location has access to the necessary utilities including water, sewer and gas.
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 the proposed business could meet the signage and lighting requirements as stated above and would be required to submit a sign permit application if signage is desired.
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 structures to be used for operations currently exist on site.
8. General compatibility with adjacent properties and other property in the district.
 - Staff finds that the use may be compatible with other properties in the vicinity and other property in the district. Properties in the area contain a variety of uses that are commercial and industrial in nature.
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 uses of contract construction services in addition to uses as allowed by right within the I-1 zoning district. Other properties in the area are zoned a mixture of commercial and industrial with a variety of uses.

At this time, Chairperson, Jay Michaelson closed the Board of Zoning Appeals meeting and opened the Public Hearing. Nobody spoke at the Public Hearing. Chairperson, Jay Michaelson closed the Public Hearing and resumed the Board of Zoning Appeals meeting.

Following discussion, Board Member Don Hyde made a motion to approve the Special Exception for 131 & 133 Weakley Lane with the above listed staff comments. Board Member Wayne Blair seconded the motion. Following further discussion, the motion was approved 4-0.

4.c. Zoning Variance

**4.c.1. James Elliott
603 Rockglen Trace**

**James Elliott
Zoning Variance**

Location: 603 Rockglen Trace	Property Owners: Myra & James Elliott
Tax Map/Group/Parcel: 33N/D/30.00	
Zoning: R-3	

Request: Zoning variance request to exceed the maximum allowed detached accessory structure square footage.



Staff Analysis

The applicant has requested a zoning variance to allow for a 1,200 square foot detached accessory structure at 603 Rockglen Trace.

Per the Zoning Ordinance, accessory structures are allowed within the R-3, medium density single family residential zoning district. Residential lots are allocated a total maximum detached accessory structure square footage, which increases with lot size. The requested property at 603 Rockglen Trace is approximately 29,913 square feet, which would allow for a maximum of 800 square feet of detached accessory structures. For a property owner to build a total of 1,200 square feet of detached structures, their property would need to be at least 1 acre in size.

The applicant states the structure would be used for storage for vehicles, tools, lawn equipment and other household items as well as providing a space for general family usage. It is further stated by the applicant that the structure would not be used for commercial purposes, habitation, or any other activity not permitted by the Zoning Ordinance.

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.
 - Staff finds that the lot is unique in shape as it is angled towards the north at the rear of the site. There is a 20' public utility and drainage easement along the rear property line, but does not affect this request. Additionally, the property has an approximate 10-12 foot drop from the front of the property to the rear in the aforementioned easement.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 - Staff finds there are no unique circumstances with this lot.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 - Accessory structures are permissible in residential districts, but are not to exceed the maximum allowed detached accessory square

footage on the parcel.

4. 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 a 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.
 - The alleged difficulty or hardship as stated by the applicant is due to the shape of the lot and utilizing the maximum buildable area on the parcel. The applicant was not involved with the creation of this 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.
 - Staff finds that the variance requested may provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-3 district due to the lack of hardship relating to the request.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 - Staff finds that the request is not the minimum that will make possible the reasonable use of the property based on the applicant's request.
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.
 - 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.
 - Staff finds that the variance should 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.

- Not applicable

Conclusion

Staff finds that there is no physical hardship pertaining to the request. While the lot is a unique shape when compared to a standard R-3 zoned parcel in Town, it is not a justified hardship for requesting an overage of the maximum allowable detached accessory square footage. The proposed use of the structure is consistent with requirements set forth in the Zoning Ordinance for any other residential property owner.

At this time, Chairperson, Jay Michaelson closed the Board of Zoning Appeals meeting and opened the Public Hearing. James Elliott of 603 Rockglen Trace spoke regarding the request. With no other speakers, Chairperson, Jay Michaelson closed the Public Hearing and resumed the Board of Zoning Appeals meeting.

A motion to approve the request was made by Board Member Tyler Short. No second was offered, therefore the motion failed.

At this time, Chairperson, Jay Michaelson closed the Board of Zoning Appeals meeting and opened the Public Hearing. James Elliott of 603 Rockglen Trace spoke regarding the request. With no other speakers, Chairperson, Jay Michaelson closed the Public Hearing and resumed the Board of Zoning Appeals meeting.

Following discussion, Board Member Wayne Blair made a motion to deny the Zoning Variance for 603 Rockglen Trace due to lack of hardship. Board Member Don Hyde seconded the motion. Following further discussion, the motion was approved 4-0.

5. Staff Comments and/or Other Business

At this time, Principal Planner Mitchell Wensman asked the Board members, staff, and citizens to take the Comprehensive Plan Survey located in the app, on our website, or via the qr code on the screen.

6. Adjournment



Jay Michaelson, Chairperson

Attest:



Kevin Rigsby, Secretary