



SMYRNA DEPARTMENT OF PLANNING & ZONING
22 S. Main Street
Smyrna, Delaware
302-389-2332

Board of Adjustment Staff Report

Prepared By: Jeremy J. Rothwell – Senior Planner

Date prepared: July 14, 2020

BOA Date: July 22, 2020

Public Hearing Notices: Advertising Dates
July 5, 2020 (Delaware State News)
July 7, 2020 (Town Hall)

Posted on Subject Property
July 7, 2020

Mailed to Property Owner & Abutting Property Owners
July 22, 2020

Project Number: 20-091

Owner's Name: Tony Hampton

Site Location: 28 Ridge Road Smyrna, DE 19977

Agent's Name: None

Tax Map Number: 1-17-02801-02-9900-00001

Parcel Size: 0.18 acres (7,700 sq. ft.)

Zoning: R-2A Residential

Applicant's Request: The applicant is requesting a variance to exceed the maximum allowable 35% lot coverage by 11.34% (873.34 sq. ft.) to construct a 508 sq. ft. inground pool and accompanying 521 sq. ft. patio.

Zoning & Project History: **May 18, 2005** – Final Subdivision Plat for Hickory Hollow subdivision is approved and recorded by the Town of Smyrna.

February 4, 2013 – As shown on Figure 3 – Future Land Use Within the Town of Smyrna, the before-mentioned parcel is designated as ‘Medium Density Residential.’

Circa 2020 – According to records from the Kent County Department Assessments and Taxation, the present 1-story 1,993 sq. ft. house and uncovered deck is constructed.

March 30, 2020 – According to P.R.I.D.E. records, the applicants purchase the subject single-family dwelling (Deed Reference 10269 0325).

May 1, 2020 – Property owner applies for lot coverage variance.

June 17, 2020 – Staff discovered that the applicant miscalculated the existing lot coverage forcing the project to be moved to the July BOA meeting.

Relevant Sections of the Town of Smyrna Code

Appendix A – Zoning: Section 5.5F – Minimum Requirements (R-2A Zoning District)

- (1) Dwelling, one-family (per unit):
 - (e.) Front yard setback, 20 ft.
 - (f.) Unattached side yard setback, 10 ft.
Attached side yard setback, 0 ft.
 - (g.) Rear yard setback, 30 ft.
 - (h.) Maximum lot coverage, 35%

Statement of Facts:

Existing Lot Coverage

Single-Family Dwelling Footprint – 1,993.34 sq. ft.

Covered Front Porch – 108 sq. ft.

Driveway – 378 sq. ft.

Front Sidewalk – 60 sq. ft.

Existing Total: 2,539 sq. ft. (32.97%)

Allowable Lot Coverage (35%) – 2,695 sq. ft. (156 sq. ft. additional lot coverage permitted)

Proposed Lot Coverage

In-ground Pool – 508 sq. ft.

Coping – 97 sq. ft.

Patio – 400 sq. ft.

Equipment – 24 sq. ft.

Existing + Proposed Lot Coverage = 3,568.34 sq. ft. (46.34%)

Variance Warrants:

- (a) *That special conditions or exceptional practical difficulties exist which are particular to the land, structure or building involved because, among other reasons, of its size, shape, location or topography and which are not applicable to other lands, structures or buildings in the same district;*

Staff Response:

The before-mentioned lot is only 7,700 sq. ft., and with the existing house, driveway, and sidewalk, there is only 156 sq. ft. of additional allowable lot coverage permitted. In short, any accessory structure, covered porch, pool, etc. would most likely require a lot coverage variance.

- (b) *That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;*

Staff Response:

Many houses and lots within the Hickory Hollow Subdivision (and throughout the Town) have swimming pools. There are two questions for the Board of Adjustment: Is a homeowner reasonably entitled to have a pool, and if so, what is the minimum size pool that the applicant would be entitled to? What is the minimum adjustment necessary to rectify a potential entitlement by the applicant for a pool? The applicant has proposed an irregular kidney-shaped 508 sq. ft. in-ground pool that is 37 ft. long and 15 ft. wide at the widest point.

- (c) *That the special conditions and circumstances do not result from the actions of the applicant;*

Staff Response:

The applicant purchased the dwelling and lot in the same configuration as it is today. They have not started any work without the required permits.

- (d) *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 district.*

Staff Response:

The Board of Adjustment has approved other lot coverage variances in the Hickory Hollow subdivision, including in June 2020 for an in-ground pool. However, each application must be heard and reviewed on its own merits. For instance, the lot coverage variance recently granted for a pool at 153 Climbing Vine Drive was to exceed the allowable lot coverage by 1.19% or 91.57 sq. ft. This applicant is requesting to exceed the lot coverage by 11.34% or 873.34 sq. ft.

Site Photographs

