

# CITY OF SMYRNA

## COMMUNITY DEVELOPMENT

### MEMORANDUM

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To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director  
Caitlin Crowe, Planner I

Date: August 29, 2024

RE: **VARIANCE CASE V24-070**  
**4520 Derby Lane – Increase maximum impervious surface area from 35% to 38.2%**

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#### **BACKGROUND**

The applicant is requesting a variance to increase the impervious surface area from 35% to 38.2% due to the construction of a pool in the rear yard. Section 801 sets the maximum impervious surface area in the R-15 zoning district at 35%.

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#### **ANALYSIS**

The subject parcel is a 0.34-acre lot located on the east side of Derby Lane in the Churchill Downs subdivision (see Figure 1). The subject parcel and all adjoining parcels are zoned R-15 and are all occupied by single-family detached residences.

A pool permit was issued to the subject property in November 2022 with an approved 32.8% impervious surface area. The subject property is currently occupied by a 2,450 square foot single-family home and the 880 square foot swimming pool in the rear of the property. During construction, the applicant expanded the permitted amount of concrete decking that surrounded the pool and thus increased the allowable impervious surface area. After the addition of the pool and accompanying decking on the property, the impervious surface area increased the impervious surface area 3.2% over the allowable 35% (or 483 square feet). The pool has been under construction for nearly two years, so the applicant is proposing to retain the pool in its current form and location.

To offset the increase in impervious surface area, the applicant is installing an infiltration trench between the swimming pool and fence in the side yard. The City Engineer has reviewed the application and is supportive of the proposed mitigation method with the stipulations that a Stormwater Inspection & Maintenance Agreement be submitted prior to final inspection.

Community Development believes the requested variance is the minimum variance needed to retain the pool on the property. Similar variances have been approved throughout the city when an appropriate mitigation method has been included and implemented. At the time of this report, Community Development has not received any calls in opposition to this request.

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#### **STAFF COMMENTS**

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The applicant is requesting to deviate from the City's maximum impervious area to retain a swimming pool on the property. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. After a review of the standards above, Community Development believes that the impervious surface increase will not adversely affect surrounding residents with implementation of the proposed mitigation plan; therefore, staff recommends **approval** of the requested variance with the following conditions:

1. Approval of the requested variance is conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement shall be completed and recorded with the Cobb County Superior Court prior to the issuance of the Certificate of Completion.
3. A stormwater as-built certification statement shall be submitted to Community Development for approval prior to issuance of the Certificate of Completion.

Figure – 1





**Figure – 4**  
**Adjacent Property to the North**



**Figure – 5**  
**Adjacent Property to the South**



**Figure – 6**  
**Adjacent Property across Derby Lane**



**Figure – 6**  
**Adjacent Property across Derby Lane**

