

# 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 28, 2024

RE: **VARIANCE CASE V24-071**  
**4031 Benell Court – Allow second accessory structure**

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#### **BACKGROUND**

The applicant is seeking a variance to allow a second accessory structure in order to construct a detached accessory structure in the rear of 4031 Benell Court. The maximum accessory structure number is required per Section 501 of the Zoning Code.

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#### **ANALYSIS**

The subject parcel is a 0.55-acre lot located on the south side of the cul-de-sac for Benell Court (see Figure 1). The subject parcel and all adjacent parcels are zoned R-15 and are all occupied by single-family detached residences.

In July 2024, Code Enforcement issued a notice of violation to the subject property for working without a permit and having a second accessory structure. Once alerted, the applicant immediately moved forward with the variance application in preparation for the building permit submittal.

The property is currently occupied by a one-story 3,094 square foot single-family home and 465 square foot inground swimming pool in the rear. The applicant is proposing a 300 square foot detached accessory structure adjacent to the existing pool to be used as a pool house, complete with kitchenette and full bathroom. Per the applicant, the pool house is to be used by the applicant's family members and guests who are visiting or using the adjacent swimming pool. Since the accessory structure ordinance allows one accessory structure or use per lot, a variance is required to build the second structure.

The proposed location of the pool house is in the rear of the lot with the nearest neighboring structure over 50 feet away. The property slopes down significantly from the road down to the house and rear yard, making the pool house not readily visible to the public. Due to the proposed location of the pool house, Community Development believes the proposal will not adversely impact adjacent properties. No other variances for setback reductions or impervious area increase are required. Strict application of the ordinance would deny the applicant any ability to have a detached structure on the property due to the existing swimming pool.

Community Development believes the variance requested is the minimum variance needed to allow for any detached structure due to the existing swimming pool. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties. Community Development believes that the requested variance will not adversely affect surrounding residents. At the time of this report, Community Development has not received any opposition to the variance request.

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## STAFF COMMENTS

The applicant is requesting to deviate from the development standards established by the City for the maximum number of accessory structures. 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 variances will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variances with the following conditions:

1. Approval of the requested variances is conditioned upon substantial compliance with the site plan and elevations submitted with the variance application.
2. The accessory structure shall not be permitted to have an oven or stove without obtaining an additional variance for a second kitchen.
3. The proposed accessory structure shall not be rented or occupied for gain, except as permitted in Article IX of Chapter 22 as it pertains to the operation of short-term rental units.
4. These conditions shall run in perpetuity with the property and as such are also applicable to any future owner.



**Figure – 3**  
**Proposed Front Elevation**



**Figure – 4**  
**Subject Property**



**Figure – 5**  
**View of Pool House from Benell Court**



**Figure – 6**  
**Adjacent Property to the East**



**Figure – 7**  
**Adjacent Property to the West**



**Figure – 8**  
**Adjacent Property across Benell Court**

