



License and Variance Board Meeting - Final

September 27, 2023
10:00 AM

F. V23-067 Public Hearing - Variance Request - V23-067 - Allow second kitchen - Land Lot 339 - 3570 South Sherwood Road - Jeff Cain



City of Smyrna

Issue Sheet

A Max Bacon
City Hall
2800 King Street
Smyrna, GA 30080

File Number: V23-062

Agenda Date: 9/27/2023

In Control: License and Variance Board

File Type: Variance Item

Agenda Section:
Formal Business

Agenda Number: F

Department: Community Development

Agenda Title:

Public Hearing - Variance Request - V23-067 - Allow second kitchen - Land Lot 339 - 3570 South Sherwood Road - Jeff Cain

Ward 3 Councilmember - Travis Lindley

ISSUE AND BACKGROUND:

The applicant is requesting a variance from Section 402.24 of the Zoning Code to allow a second kitchen in the basement of the new single-family home at 3570 S Sherwood Road. Because the subject property is a single-family residence, the additional kitchen would constitute a second living unit, which is prohibited per the definition of a single-family dwelling.

RECOMMENDATION / REQUESTED ACTION:

The applicant has requested a variance to permit a second kitchen in a single-family home. 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 second kitchen will not adversely affect surrounding residents, nor set a negative precedent for future homebuilding in the area. Community Development recommends approval of the requested variance with the following stipulations:

1. The addition is to be utilized by family members only.
2. The applicant shall not lease, rent, or sublet any space in their home.
3. These conditions shall run in perpetuity with the property and as such are also applicable to any future owner.

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

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

Date: September 11, 2023

RE: **VARIANCE CASE V23-067**
3570 South Sherwood Road – Allow second kitchen

BACKGROUND

The applicant is requesting a variance from Section 402.24 of the Zoning Code to allow a second kitchen in the basement of the new single-family home at 3570 S Sherwood Road. Because the subject property is a single-family residence, the additional kitchen would constitute a second living unit, which is prohibited per the definition of a single-family dwelling.

ANALYSIS

The subject parcel is a 0.23-acre lot located on the north side of South Sherwood Road in the new Grove at King Springs subdivision (see Figure 1). The subject property and adjacent properties to the north, west, and east are zoned RDA, whereas the parcels to the south are zoned R-15. All parcels are occupied by detached single-family homes, with the exception of the parcel to the north, which is occupied by the Grove at King Springs subdivision stormwater management and conservation area.

The subject property was permitted for a new two-story home with a full basement in March 2023. During the rough inspections in August 2023, the inspector took note of the second kitchen in the basement and informed the applicant that second kitchens were not allowed per zoning code to which the applicant immediately submitted for the variance. Section 402.24 of the zoning ordinance defines a dwelling unit as, “a building or portion thereof, designed, arranged and used for living quarters for one family only, but not including units in hotels or other such structures designed for transient residence. An individual bathroom and complete kitchen facilities, permanently installed, shall be contained within each dwelling unit.” City’s Zoning Code restricts one complete kitchen per single-family dwelling; therefore, a variance is needed to allow a second kitchen in the basement of the home.

The applicant is requesting the allowance of a kitchen within the basement, to be used as a living space for the applicant’s extended family and is not to be rented or occupied for gain. Since the home buyers are from out of the country, when family and friends come to visit, it is typically for months at a time as opposed to days. To alleviate the burden of cramped quarters for extended periods of time, the applicant is proposing the second kitchen in the basement. The finished basement will include a full bedroom, bathroom, fitness room, and kitchen when

completed. The finished basement will appear as part of the main structure and will not be divided by any fire wall. Thus, the addition could not easily be converted to a separate rental unit by future owners. Similar variances, where the second kitchen is enclosed with the main structure or basement have been approved.

The applicant is requesting a second kitchen and full bathroom for visits from international family. Were it not for the kitchen, no other variances would be needed for the new home. Community Development has been supportive of similar variances where the second kitchen has been proposed for family only and where the second kitchen could not easily be converted into a rental unit or duplex. Furthermore, similar variances have been approved in the Heritage at Vinings, Enclave at Cooper Lake and Stonegate subdivisions. These previous variances have been for homes of similar size and type with no known detriment to the surrounding areas.

STAFF COMMENTS

The applicant has requested a variance to permit a second kitchen in a single-family home. 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 second kitchen will not adversely affect surrounding residents, nor set a negative precedent for future homebuilding in the area. Community Development recommends **approval** of the requested variance with the following stipulations:

1. The addition is to be utilized by family members only.
2. The applicant shall not lease, rent, or sublet any space in their home.
3. These conditions shall run in perpetuity with the property and as such are also applicable to any future owner.

Figure – 1



Figure – 2
Proposed Finished Basement Plan

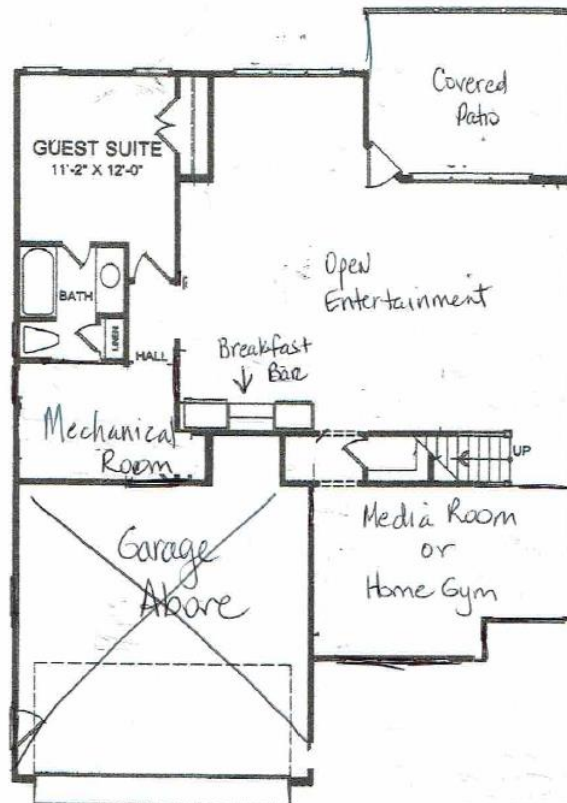


Figure – 3
Subject Property



Figure – 4
Adjacent Property to the East



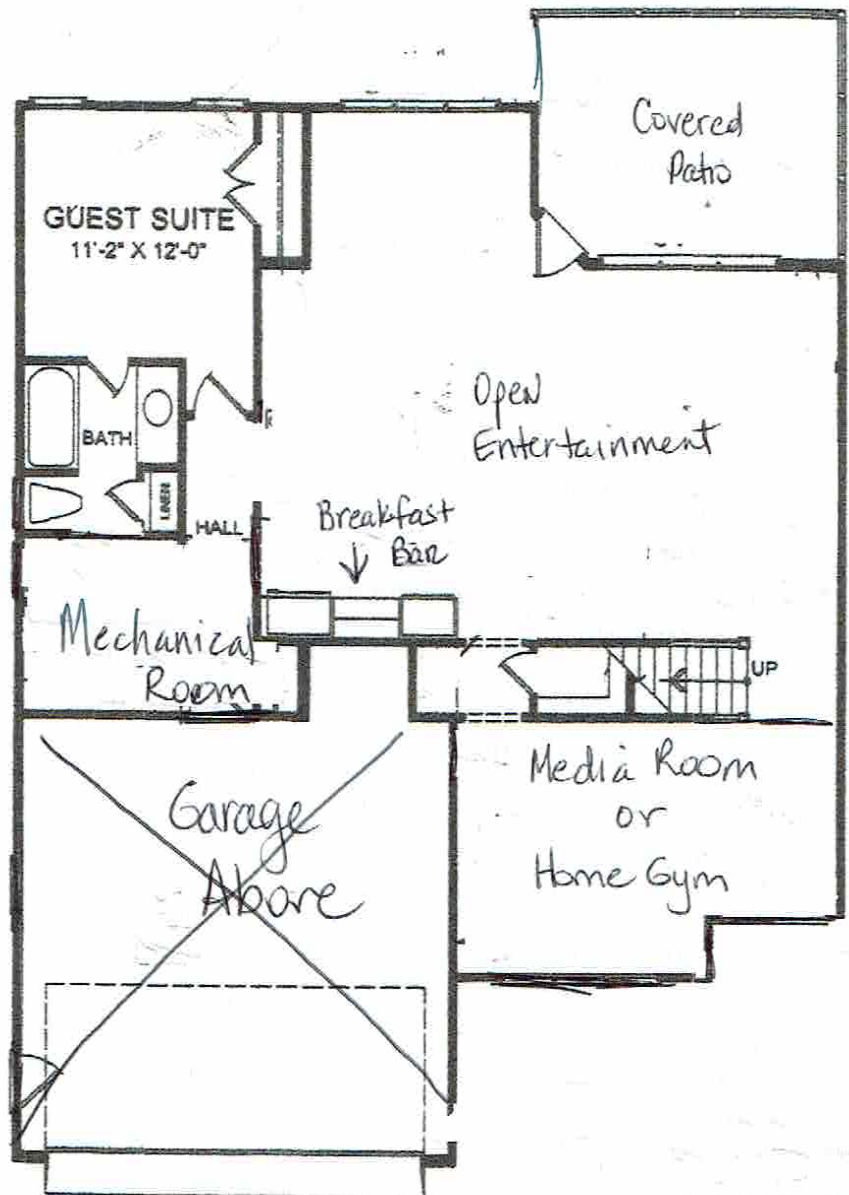
Figure – 5
Adjacent Property to the West



Figure – 6
Adjacent Property across South Sherwood Road



Brookfield



1290 SF

Basement

Variance Application

Applicant

Primary Location

VAR-23-38

Submitted On: Aug 21, 2023

Jeff Cain
7064570012
@ jcainmbg@gmail.com

3570 S SHERWOOD RD SE
SMYRNA, GA 30082

Applicant Information

First Name

Jeff

Last Name

Cain

Street Address

4062 Norton PL SE

City

Smyrna

State

GA

Zip Code

30082

Email

jcainmbg@gmail.com

Phone Number

706-457-0012

Are you the titleholder of the subject property?

Yes

Property Information

Property Address

3570 S Sherwood Rd. SE Smyrna GA 30082

Description of Requested Variances

Installation of a kitchenette with range in the finished basement. My buyers are from Australia and when their parents come to visit them it is for months, not days. They would like to provide a separate private space for their parents/family when visiting so as not to have houseguests in their living space for months at a time.

Comprehensive Narrative

In rendering its decisions, the License and Variance Board shall consider the following factors:

1. Whether there are extraordinary and exceptional conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district.
2. Whether any alleged hardship which is self-created by any person having an interest in the property or is not the result of mere disregard for or ignorance of the provisions from which relief is sought.
3. Whether strict application of the relevant provisions of the zoning code would deprive the applicant of reasonable use of the property for which the variance is sought.
4. Whether the variance proposed is the minimum variance which makes possible the reasonable use of the property.

A comprehensive narrative detailing the extraordinary and exceptional conditions which will necessitate a nonconforming use.

Installing a kitchenette with Range in finished basement. My buyers are from Australia. When their parents/family come to visit them it is for months, not days. They would like to provide a private space in their finished basement for their parents/family to stay when visiting so as not to have them in their living space for extended periods of time.

Acknowledgement

Applicant further affirms they are aware that any knowingly false statement made in the permit application may subject said applicant to prosecution for violation of Georgia Criminal Code, Section 16-10-20 (False Swearing) and a possible fine of not more than \$1,000.00 or imprisonment for not less than one (1) nor more than five (5) years, or both.

Applicant Signature:

true

**NOTIFICATION OF CONTIGUOUS OCCUPANTS
OR LANDOWNERS**


By signature, it is hereby acknowledged that I have been notified ~~to~~ by Midtown Builders Group, LLC

Intends to make an application for a variance for the purpose of _____
Approving a finished basement kitchenette with Range at 3570 S Sherwood SE Smyrna GA 30082

_____ on the premises described in the application.

NAME

ADDRESS


Jennifer Vanderloop

3572 S Sherwood Rd SE

3568 S Sherwood Rd SE

3571 S Sherwood Rd SE

3573 S Sherwood Rd SE

Please have adjacent property owners sign this form to acknowledge they are aware of your variance request. You may also provide certified mail receipts of notification letters sent to adjacent properties. Notification letters shall include a description of the requested variance, the License and Variance Board Meeting date and time, and a copy of the completed variance application. Adjacent and adjoining properties include any property abutting the subject property as well as any properties directly across a street.

City of Smyrna Tax Department

Date 9/23/2022 Type Bill Reference Bill No. 11464

Original Amt.
1,212.86

Balance Due
1,212.86

9/23/2022

Discount

Payment

1,212.86

Check Amount

1,212.86

30123

The Commercial Bank The Grove Property Taxes: Bill #11464

1,212.86

www.techchecks.net ORDER # 536396

Bill No.	Property Description	Map Number	Fair Mkt Value	Assessed Value	Exempt Value	Taxable Value	Millage Rate	Tax Amount
11464	3572 S SHERWOOD RD SE STREET LIGHT RESIDENTIAL	17-0382-0-0080	325,600.00	130,240.00	0.00	130,240.00	8.99	1,170.86 42.00

Pay online at <http://portal.smyrnaga.gov/MSS/citizens/default.aspx>

Important Messages - Please Read

Total of Bills by Tax Type

Taxes not paid by the due date are subject to a 5% penalty after 120 days with an additional 5% assessed after each successive 120 days up to a maximum of 20% of the principal due. In addition, interest will be assessed based on an annual calculation of the Federal Prime Rate plus 3%. This interest rate is charged per month based on the principal due. FIFA charges are a one-time charge of \$25.00

Any questions concerning payment instructions, ownership, or mailing address changes should be directed to The City of Smyrna Tax Department at 770-434-6600

If there is a question concerning the assessment of your property, please contact the Cobb County Tax Assessor's Office at 770-528-3100

Pen	0.00
Int	0.00
Fees	0.00
Adjustments	0.00
Payments	0.00
Back Taxes	0.00
TOTAL DUE	1212.86
DATE DUE	11/15/2022

MIDTOWN BUILDERS GROUP LLC
4062 NORTON PL SE
SMYRNA, GA 30082 USA



If this address is incorrect
please write the correct
address on this portion

CITY OF SMYRNA
Tax Department
PO Box 1226
Smyrna, GA 30081-1226

PAYMENT INSTRUCTIONS

- Please write the bill number(s) on your check
- For a receipt, please include a stamped, self-addressed envelope.
- We send a bill to both you and your mortgage company. If you have changed your mortgage company, forward a copy of your tax bill to them
- If ownership has changed, please forward to new owner.

Bill No.	Map Number	Tax Amount
11464	17-0382-0-0080 STREET LIG	1170.86 42.00
DATE DUE		TOTAL DUE
11/15/2022		1212.86

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR CHECK

City of Smyrna Tax Department

Date 9/23/2022 Type Bill Reference Bill No. 11463

Original Amt.
971.57

Balance Due
971.57

9/23/2022
Discount

Check Amount

30128

Payment
971.57
971.57

The Commercial Bank The Grove Property Taxes: Bill #11463

971.57

www.techchecks.net ORDER # 536396

Bill No.	Property Description	Map No.	Value	Assessed	Exemptions	Net Value	Rate	Taxes	Penalty
11463	3572 S SHERWOOD RD STREET LIGHT RESIDENTIAL	17-0339-0-0030	258,500.00	103,400.00	0.00	103,400.00	8.99	929.57	42.00

Pay online at <http://portal.smyrnaga.gov/MSS/citizens/default.aspx>

Important Messages - Please Read

Total of Bills by Tax Type

Taxes not paid by the due date are subject to a 5% penalty after 120 days with an additional 5% assessed after each successive 120 days up to a maximum of 20% of the principal due. In addition, interest will be assessed based on an annual calculation of the Federal Prime Rate plus 3%. This interest rate is charged per month based on the principal due. FIFA charges are a one-time charge of \$25.00

Any questions concerning payment instructions, ownership, or mailing address changes should be directed to The City of Smyrna Tax Department at 770-434-6600

If there is a question concerning the assessment of your property, please contact the Cobb County Tax Assessor's Office at 770-528-3100

Pen	0.00
Int	0.00
Fees	0.00
Adjustments	0.00
Payments	0.00
Back Taxes	0.00
TOTAL DUE	971.57
DATE DUE	11/15/2022

MIDTOWN BUILDERS GROUP LLC
4062 NORTON PL SE
SMYRNA, GA 30082 USA

← If this address is incorrect
please write the correct
address on this portion

CITY OF SMYRNA
Tax Department
PO Box 1226
Smyrna, GA 30081-1226

PAYMENT INSTRUCTIONS

- Please write the bill number(s) on your check
- For a receipt, please include a stamped, self-addressed envelope.
- We send a bill to both you and your mortgage company. If you have changed your mortgage company, forward a copy of your tax bill to them
- If ownership has changed, please forward to new owner.

Bill No.	Map Number	Tax Amount
11463	17-0339-0-0030 STREET LIG	929.57 42.00
DATE DUE		TOTAL DUE
11/15/2022		971.57

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR CHECK

Cobb County Tax Commissioner

9/20/2022

30113

Date 9/20/2022
Type Bill
Reference 17038200080

Original Amt.
3,563.37

Balance Due
3,563.37

Discount

Check Amount

Payment
3,563.37
3,563.37

The Commercial Bank 2022 Property Taxes: Parcel 17038200080

3,563.37

www.techchecks.net ORDER # 509819

17038200080 \$325,600 \$130,240 1-4-5 City of Smyrna

TAXING AUTHORITY	ASSESSED VALUE	-	EXEMPTION	=	NET ASSESSMENT	x	MILLAGE RATE	=	TAXES DUE
SCHOOL	\$130,240	-	\$0	=	\$130,240	x	0.018900	=	\$2,461.54

Levied by the Cobb County Board of Education representing approximately 69.08% of your taxes due.

COUNTY GENERAL	\$130,240	-	\$0	=	\$130,240	x	0.008460	=	\$1,101.83
COUNTY BOND	\$130,240	-	\$0	=	\$130,240	x	0.000000	=	\$0.00
COUNTY FIRE	N/A	-	N/A	=	N/A	x	N/A	=	N/A

Levied by the Board of Commissioners representing approximately 30.92% of your taxes due.

TAX YEAR	PARCEL ID	DUE DATE	APPEAL AMOUNT	TOTAL TAXES DUE
2022	17038200080	10/15/2022	N/A	\$3,563.37

Payment must be received or USPS Postmarked by the due date. Metered or kiosk postmarks are not proof of timely mailing.

TAX YEAR	PARCEL ID	DUE DATE	APPEAL AMOUNT	TOTAL TAXES DUE	AMOUNT ENCLOSED
2022	17038200080	10/15/2022	N/A	\$3,563.37	

Late fees apply after October 17, 2022
(See back of Bill)



RE202217038200080
17038200080 00003553.374962000000 00

2022 Cobb County Property Tax Bill

3784



MIDTOWN BUILDERS GROUP LLC
4062 NORTON PL SE
SMYRNA GA 30082-3963

IS YOUR INFORMATION UP TO DATE?

My mailing address
has changed.I no longer own
this property.

DATE MOVED:

NEW MAILING ADDRESS:

Signature:

Cobb County Tax Commissioner

Date 9/20/2022 Type Bill Reference 17033900030

Original Amt. 2,829.02

Balance Due 2,829.02

9/20/2022
Discount
Check Amount

Payment
2,829.02
2,829.02

The Commercial Bank 2022 Property Taxes: Parcel 17033900030

2,829.02

www.techchecks.net ORDER # 509819

	3258,500		5103,400	1.15	City of Smyrna		
TAXING AUTHORITY	ASSESSED VALUE	-	EXEMPTION	=	NET ASSESSMENT	x	MILLAGE RATE = TAXES DUE
SCHOOL	\$103,400	-	\$0	=	\$103,400	x	0.018900 = \$1,954.26
Levied by the Cobb County Board of Education representing approximately 69.08% of your taxes due.							
COUNTY GENERAL	\$103,400	-	\$0	=	\$103,400	x	0.008460 = \$874.76
COUNTY BOND	\$103,400	-	\$0	=	\$103,400	x	0.000000 = \$0.00
COUNTY FIRE	N/A	-	N/A	=	N/A	x	N/A = N/A

Levied by the Board of Commissioners representing approximately 30.92% of your taxes due.

TAX YEAR	PARCEL ID	DUE DATE	APPEAL AMOUNT	TOTAL TAXES DUE
2022	17033900030	10/15/2022	N/A	\$2,829.02

Payment must be received or USPS Postmarked by the due date. Metered or kiosk postmarks are not proof of timely mailing.

TAX YEAR	PARCEL ID	DUE DATE	APPEAL AMOUNT	TOTAL TAXES DUE	AMOUNT ENCLOSED
2022	17033900030	10/15/2022	N/A	\$2,829.02	

Late fees apply after October 17, 2022
(See back of Bill)



RE202217033900030
17033900030 00002829.02N00000000.00

2022 Cobb County Property Tax Bill

556



MIDTOWN BUILDERS GROUP LLC
4062 NORTON PL SE
SMYRNA GA 30082-3963



Internal Use

IS YOUR INFORMATION UP TO DATE?



My mailing address
has changed.



I no longer own
this property.

DATE MOVED: _____

NEW MAILING ADDRESS: _____

Signature: _____

