



License and Variance Board Meeting - Final

September 11, 2024
10:00 AM

F. V24-071 Public Hearing - Variance Request - V24-071 - Allow a second accessory structure - Land Lot 243 - 0.55 acres - 4031 Benell Court - Reginald Jeter



City of Smyrna

Issue Sheet

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

File Number: V24-131

Agenda Date: 9/11/2024

In Control: .

File Type: Variance Item

Agenda Section:

Formal Business

Department: Community Development

Agenda Title:

Public Hearing - Variance Request - V24-071 - Allow a second accessory structure - Land Lot 243 - 0.55 acres - 4031 Benell Court - Reginald Jeter

Ward 4 Councilmember - Charles 'Corkey' Welch

ISSUE AND 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.

RECOMMENDATION / REQUESTED ACTION:

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



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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: August 28, 2024

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

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.

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.

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 – 1



Figure – 2
Site Plan

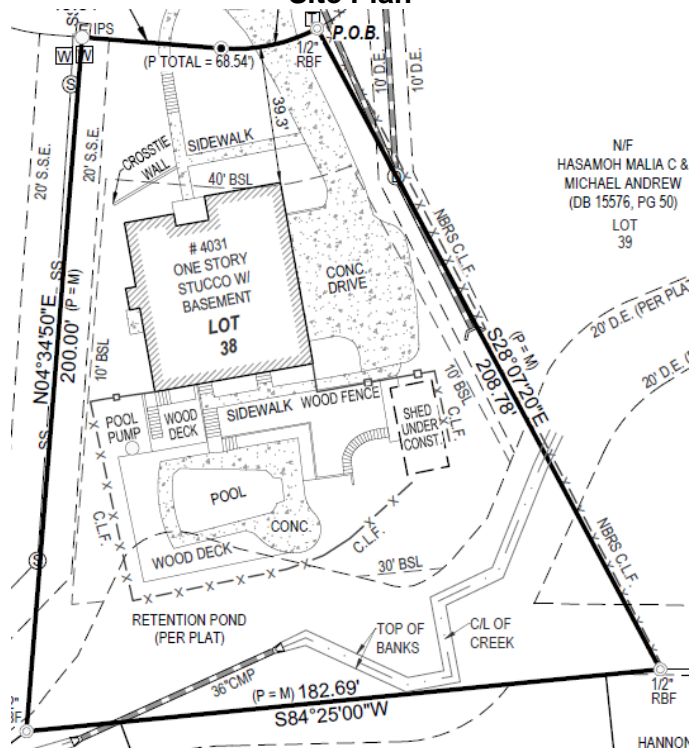


Figure – 3
Proposed Front Elevation



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





Variance Application

VAR-24-53

Submitted On: Aug 6, 2024

Applicant

 Reginald Jeter
 7034007121
@ jetman2@yahoo.com

Primary Location

4031 BENELL CT
SMYRNA, GA 30082

Applicant Information

First Name	Last Name
Reginald	Jeter
Street Address	City
4031 Benell Ct	Smyrna
State	Zip Code
Georgia	30082
Email	Phone Number
jetman2@yahoo.com	7034007121

Are you the titleholder of the subject property?
Yes

Property Information

Property Address
4031 Benell Ct, Smyrna GA

Description of Requested Variances
Secondary accessory structure for pool and pool house that will be located in place of where the storage unit was originally.

Please check the box below if the requested variance(s) includes an increase in the maximum impervious surface area or an encroachment into a City stream buffer.

--

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.

Adding additional space for lounging, pool house and recreational use. There will be two sides of the unit, being divided by the bathroom in the middle of the two. There will be a 100amp breaker/ 120v circuit panel that will be used for a microwave, small refrigerator and wall AC unit. There will be no stove/range, washer/dryer, hvac system, standard refrigerator, ect that would need additional power. Structure size will be approx. 25x12. Dens will be 11x12 and 8x12. Bathroom will be 6x6 with a holding tank for the toilet.

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 by/that Reginald and Carla Jeter intends to make an application for a variance for the purpose of building a secondary structure, located at 4031 Benell Ct SE, Smyrna GA 30082, in the backyard on the premises described in the application.

<u>Name</u>	<u>Signature</u>	<u>Address</u>
Katie Wachholtz	Katie Wachholtz	4020 Benell Ct
MICHAEL HASAMON	Michael Hasamon	4029 Benell Ct
Pete Ryder	Pete Ryder	4030 Benell Ct
Kami Finkel-Hannon	Kami Finkel-Hannon	4340 Fawn Ln
Paula Butler	Paula E Butler	4342 Fawn Ln
Jason Carter	Jason Carter	4344 Fawn Ln

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 the 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 the street.



Printed: 8/8/2024

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
FIFTH THIRD BANK

CHAMBLEE VICKI A

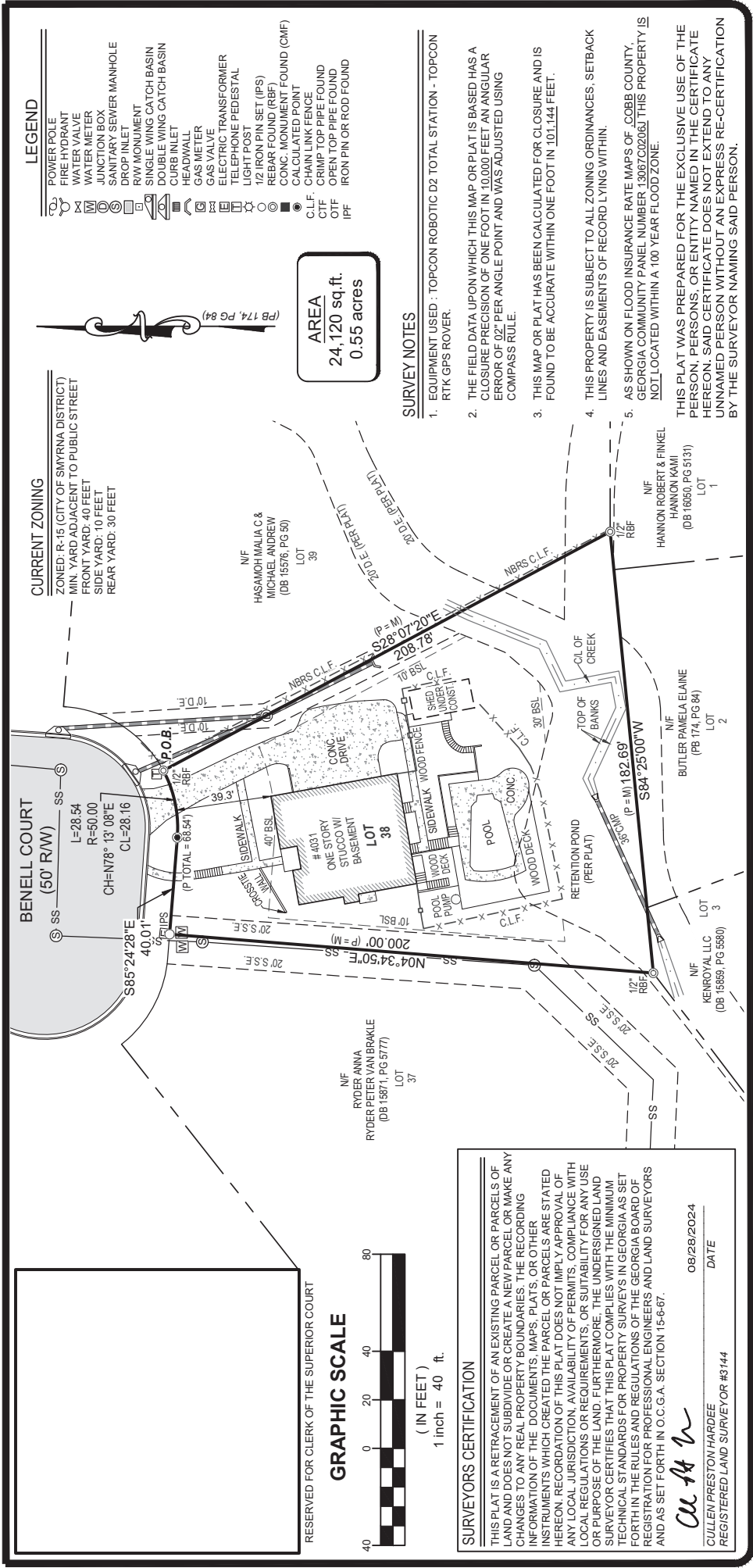
Payment Date: 10/12/2023

Tax Year	Parcel ID	Due Date	Appeal Amount		Taxes Due
2023	17024300300	10/15/2023	Pay:	N/A or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$745.56	\$0.00



Scan this code with your
mobile phone to view
this bill!!

#83119



LEGEND

- POWER POLE
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- JUNCTION BOX
- SANITARY SEWER MANHOLE
- DROP INLET
- R/W MONUMENT
- SINGLE WING CATCH BASIN
- DOUBLE WING CATCH BASIN
- CURB INLET
- REGRADING
- GAS METER
- GAS VALVE
- ELECTRIC TRANSFORMER
- TELEPHONE PEDESTAL
- TELEPHONE POST
- 12" IRON PIN SET (IPS)
- REBAR FOUND (RBF)
- CONC. MONUMENT FOUND (CMF)
- CALCULATED POINT
- C.L.F. CHAIN LINK FENCE
- CTF CRIMP TOP PIPE FOUND
- OTF OPEN TOP PIPE FOUND
- IPF IRON PIN OR ROD FOUND

AREA
24,120 sq.ft.
0.55 acres

SURVEY NOTES

- EQUIPMENT USED : TOPCON ROBOTIC D2 TOTAL STATION - TOPCON RTK GPS ROVER
 - THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AN ANGULAR ERROR OF 02" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.
 - THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 101,144 FEET.
 - THIS PROPERTY IS SUBJECT TO ALL ZONING ORDINANCES, SETBACK LINES AND EASEMENTS OF RECORD LYING WITHIN.
 - AS SHOWN ON FLOOD INSURANCE RATE MAP'S OF COBB COUNTY, GEORGIA COMMUNITY PANEL NUMBER 13067C02061 THIS PROPERTY IS NOT LOCATED WITHIN A 100 YEAR FLOOD ZONE.
- THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS RE-CERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

1258 CONCORD ROAD SE SUITE 108
SMYRNA, GEORGIA 30080
Ph. (678) 295-2522
www.united-uls.com

UNITED LAND SURVEYING
COA NO. LSF 001321

AS-BUILT BOUNDARY SURVEY FOR:
REGGIE JETER
LOT 38, BLOCK A, UNIT 3
HERITAGE MILL FKA NORTON PLACE
LAND LOT 243, 17TH DISTRICT
2ND SECTION, COBB COUNTY
GEORGIA

REVISIONS	
1.	
2.	
3.	
4.	

LEGAL REFERENCE:	
DEED BOOK: 16152	PAGE: 3689
PLAT BOOK: 174	PAGE: 84

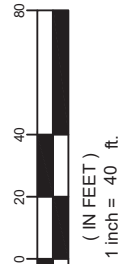
SHEET 1 OF 1

PLAT DATE:	08/28/2024
FIELD DATE:	08/19/2024
SCALE:	1" = 40'
DRAWN BY:	C.E.M
REVIEWED BY:	C.P.H



JOB NUMBER:
24-377

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

SURVEYORS CERTIFICATION

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

Cullen Preston Hardee
CULLEN PRESTON HARDEE
REGISTERED LAND SURVEYOR #3144
08/28/2024
DATE

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