

CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM

To: License and Variance Board

From: Ken Suddreth, Community Development Director
Joey Staubes, AICP, Planner II

Date: April 19, 2018

**RE: VARIANCE CASE V18-035
2191 Church Road – Allow rear setback reduction from 20 feet to 8 feet to retain
existing non-conforming deck.**

BACKGROUND

The applicant is requesting a variance to reduce the rear setback from 20 feet to 8 feet in order to retain an existing non-conforming deck and to allow necessary maintenance of the deck within the same footprint. The non-conforming deck was built when the original home was constructed. Section 801 controls rear setbacks in residential zoning districts.

ANALYSIS

The subject parcel is located to the north of Church Road, within the Oakdale Preserve Subdivision (See Figure 1). The subject parcel and all adjoining parcels to the north, east, and west are zoned RAD and are occupied with single family homes. The property to the south is in Unincorporated Cobb County and occupied by a multi-family development.

The applicant is requesting a variance to retain an existing non-conforming deck that was constructed when the original home was built. The applicant only anticipates repairing boards and railings as needed, and will not be increasing the footprint of the deck. The deck on the subject property is the same size as the decks on the adjacent properties. However, the subject property is at the end of a private drive and the rear property boundary is not as deep as the adjacent lots on the same drive. Thus, the configuration of the lot is what makes the subject property's deck non-conforming.

The placement and orientation of the house has existed since it was built so the hardship is not self created. The applicant is only requesting to retain the deck in the current configuration. Strict application of the ordinance would require the applicant to remove the deck and build according to current standards. The variance proposed is the minimum variance needed, as the deck is an existing non-conforming structure. Community Development has not received any call in opposition to the request.

STAFF COMMENTS

The applicant is requesting to deviate from the development standards established by the City for the rear setback of 20 feet. The applicant is requesting a variance to reduce the rear setback to 8 feet to retain an existing non-conforming deck. 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. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. Similar variances have been approved throughout the city. At the time of this report, Community Development has not received any phone calls regarding the variance request. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following condition:

1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan submitted with the variance application.

Figure – 1



**Figure – 2
Subject Property**



**Figure – 3
Subject Property Rear**



Figure – 4
Proposed Site Plan

