

# **CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM**

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To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director  
Joey Staubes, AICP, Planner II

Date: August 31, 2021

**RE: VARIANCE CASE V21-094  
2630 Devin Court – Allow additional accessory structure.**

**VARIANCE CASE V21-095  
2630 Devin Court – Allow encroachment in 10' landscape buffer.**

**VARIANCE CASE V21-096  
2630 Devin Court – Allow encroachment in 20' undisturbed buffer.**

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## **BACKGROUND**

The applicant is requesting a variance to construct an in-ground pool and an 81 sq. ft. storage shed at 2630 Devin Court. Thus, the applicant requires a variance to allow construction of a pool as an additional accessory structure with the addition of the storage shed. Section 501 controls the maximum allowable number of accessory structures. Additionally, Riley's Walk originally required certain lots to provide a 10' and 20' buffer from existing lots outside of the development. For the pool and shed to be allowed a variance from those buffers will be required.

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## **ANALYSIS**

The subject parcel is a 0.17-acre lot located on the east side of Devin Court (see Figure 1). The subject parcel and all adjacent parcels are zoned RDA and are occupied by detached single-family residences.

The subject property is currently occupied by a 3,122 sq. ft. single-family home. The applicant is proposing to add an 81 sq. ft. storage shed, and an in-ground pool in the rear of the property. The accessory structure ordinance allows one accessory structure or use per lot and since both a shed and pool are proposed, a variance is required for a second accessory structure. No variances for setback reduction or impervious area increase are required.

The subject property was conditioned to provide a 10' landscape buffer and 20' undisturbed buffer on existing external properties when Riley's Walk was originally rezoned in 2004 (Z04-022) for 26 lots. Riley's Walk has expanded over time and assembled additional properties, including the adjacent property at the rear of the subject property (Z14-020). The rear adjacent

property is a landlocked flag lot, acquired for open space, that separates the subject property from the homes outside of Riley's Walk on Highland Ave (Figure 1). Thus, the landscape buffer and undisturbed buffer are no longer necessary as that parcel acts as a permanent buffer. Furthermore, the 20' buffer was conditioned to be removed after the final certificate of occupancy was issued; however, the final plat was never updated to remove the 20' buffer. The 10' landscape buffer does not currently have a vegetative buffer. However, the applicant has agreed to install a buffer on the rear property line and restore 7' of the landscape buffer. Approval of the variance would allow an encroachment of 3' into the landscape buffer.

The applicant is requesting variances to allow a second accessory structure and allow encroachment in development buffers at the rear of the property. The subject property is buffered from adjacent properties by an existing 6-foot wooden privacy fence, and the applicant will install an additional vegetative buffer. Community Development believes the variances requested are the minimum variances needed to allow for both extra storage and a swimming pool on the subject property. Due to the evolution of the subdivision over time, Community Development believes the development buffers are no longer necessary and the proposal will not adversely impact adjacent properties. Similar variances for additional accessory structures have been granted where approval would not impact adjacent properties.

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#### **STAFF COMMENTS**

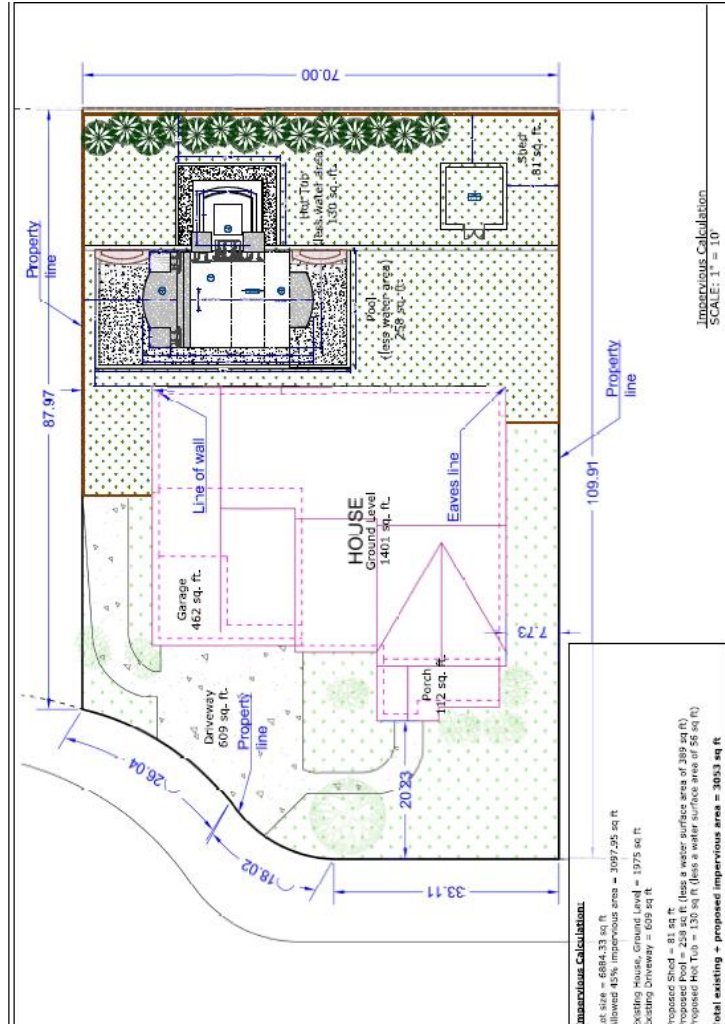
The applicant is requesting to deviate from the City's accessory structure ordinance to allow a second accessory structure and to allow encroachment into a 10' and 20' buffer. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there 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 requests against the variance review standards and found them to be in compliance with the review standards. Community Development believes that the requested variance will not adversely affect surrounding residents. Therefore, Community Development recommends **approval** of the requested variance with the following condition:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted with the variance application.
2. The applicant will install a vegetative buffer along the rear property line.

**Figure – 1**



Figure – 2  
Site Plan





**Figure – 3**  
**Subject Property**



**Figure – 4**  
**Adjacent Property**



**Figure – 5**  
**Adjacent Property**

