

# CITY OF SMYRNA

## COMMUNITY DEVELOPMENT

### MEMORANDUM

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To: License and Variance Board

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

Date: December 8, 2017

RE: **VARIANCE CASE V17-056**  
**2139/2141 Valley Oaks Drive – Allow duplex on one lot to be converted to two fee simple lots.**

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#### BACKGROUND

The applicant is requesting a variance to convert a single story duplex on one lot into two fee simple lots so the units may be sold to two separate buyers. In order for the deeds to be recorded the applicant will need to record a plat with a property line dividing the two units. A similar variance for 2136/2138 Valley Oaks Dr was approved for a variance in 2000.

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#### ANALYSIS

The subject parcel is located on the east side of Valley Oaks Dr (see Figure 1). The subject parcel is zoned RD (Residential Duplex), and contains the original 3,000 sq. ft. single story duplex. The applicant proposes to sell each unit to two independent buyers with the fire wall acting as the property divider. The adjacent properties to the north, south, and west are zoned RD and are occupied by duplex residences. The properties to the east are zoned R-15 and are occupied by single family residences.

The lot is 12,500 square feet (0.28 acres) as one lot. Once divided the two lots will be an average of 6,250 sq. ft. Allowing the property to be split along the firewall of the duplex, assumes an interior setback of 0 feet. Also, as indicated on the plat, the existing property is non-conforming with respect to the stream buffer ordinance. However, since this is an existing condition and was constructed prior to the City's adoption of the stream buffer ordinance Community Development considers this to be a legal non-conforming condition.

On October 2, 2000, a variance was granted by Council for the same request at 2136 & 2138 Valley Oaks Dr, which is adjacent to the subject property. Thus, approval would not set a negative precedent. If approved, the variance allows the two units to be sold separately while

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the structure remains in its existing condition. Should the property be demolished or wholly rebuilt, the new structure shall comply with current codes and standards.

The subject property is unique in that it has two horizontal duplex units on one lot in the RD zoning district. The hardship is that in its current configuration the property can only be sold to one buyer. The variance requested is the minimum variance required. Furthermore, variances of this nature have been approved in the same subdivision, and no negative precedent would be set. Community Development believes the ability to split the duplex into two fee simple properties will not have a negative impact on adjacent properties.

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**STAFF COMMENTS**

The applicant is requesting a variance to allow a duplex to be converted into two fee simple lots. 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 the four (4) standards and believes that the reduction will not adversely affect surrounding residents. At the time of this report, Community Development has received no opposition to this request from surrounding property owners. Therefore, staff recommends **approval** of the requested variance with the following condition:

1. Approval of the requested variance applies to the property in its current configuration. Should the property be demolished and/or rebuilt in whole, the subject property shall comply with current codes and ordinances as required in Article XI – Non-Conforming Uses.

Figure – 1



Figure – 2  
Subject Property



**Figure – 3**  
**Adjacent Properties**



