

**Commission, Board or Committee**  
**Staff Report**  
January 7, 2019



<b>Case No:</b>	18VARIANCE1111
<b>Project Name:</b>	Smyrna Parkway Variance
<b>Location:</b>	8208 Smyrna Parkway
<b>Owner/Applicant:</b>	Danny Smith
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	Chris French, AICP, Planning Supervisor

**REQUEST(S)**

- Variances:
  1. Variance from LDC section 5.1.12.B.2.e to allow the structure to be located further back than the infill setback requirement for the front and street side yards.
- Waiver:
  1. Waiver from LDC section 5.8.1 to not provide a sidewalk along the Bay Pine Drive street frontage.

**CASE SUMMARY/BACKGROUND**

The applicant proposes to construct a single-family residence on a lot zoned R-4 and located within the Neighborhood Form District. The property is subject to the infill development regulations. The approximate infill maximum setback along the Bay Pine Drive frontage is 27 feet. The approximate infill maximum setback along the Smyrna Parkway frontage is 28.5 feet. The applicant proposes a setback of 37 feet from the property line adjacent to Bay Pine Drive and a setback of 41 feet from the property line adjacent to Smyrna Parkway. The stated reason for the request is to preserve the two large trees on the property.

In addition to the variance request, the applicant requests a sidewalk waiver for the Bay Pine Drive frontage. The stated reason for the request is that there are no sidewalks along this street frontage and there would unlikely be sidewalks added in the future as the majority of this street frontage is built out. There is an existing sidewalk in the Smyrna Parkway right-of-way adjacent to the subject property.

**STAFF FINDING / RECOMMENDATION**

It appears that the proposed variance and sidewalk waiver meet the standard of review.

**TECHNICAL REVIEW**

Transportation planning supports the sidewalk waiver request.

**INTERESTED PARTY COMMENTS**

No comments received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The lot is a corner lot and Bay Pine Drive ends at Smyrna Parkway; therefore, the proposed setbacks would not negatively impact surrounding properties or continued development along the block.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The corner lot across Bay Pine Drive from the subject property is an unusually shaped lot with a setback that varies considerably from the other properties along the block; therefore, the proposed setbacks would not alter the essential character of the vicinity.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The proposed additional setback from Bay Pine Drive and Smyrna Parkway will not cause a hazard or nuisance to drivers, pedestrians, or the general public.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance is not an unreasonable circumvention of the zoning regulations because the request would not negatively impact surrounding properties and the preservation of mature trees would further other chapters of the zoning regulations while maintaining the character of the area.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: Most vacant residential properties do not have mature trees of this size on them and the size and shape of this lot allows for the proposed home to be placed in a location that would allow the trees to be preserved.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the regulations would require the two large trees to be removed which would alter the character of this portion of the block and would deprive the applicant from enjoying the shade and other benefits from retaining the trees.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The proposed variance is not the result of actions taken by the applicant subsequent to the adoption of the zoning regulations because the applicant has applied for the variance and has not built the proposed structure.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: There are no sidewalks on Bay Pine Drive; therefore, the waiver would not adversely affect adjacent property owners.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The comprehensive plan envisions an interconnected network of sidewalks and public walkways throughout the county; therefore, a waiver of a small portion of a sidewalk in an area with no sidewalks would not violate the comprehensive plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The proposed waiver is the minimum necessary to afford relief to the applicant as this waiver is restricted to that portion of Bay Pine Drive adjacent to the applicant’s property.

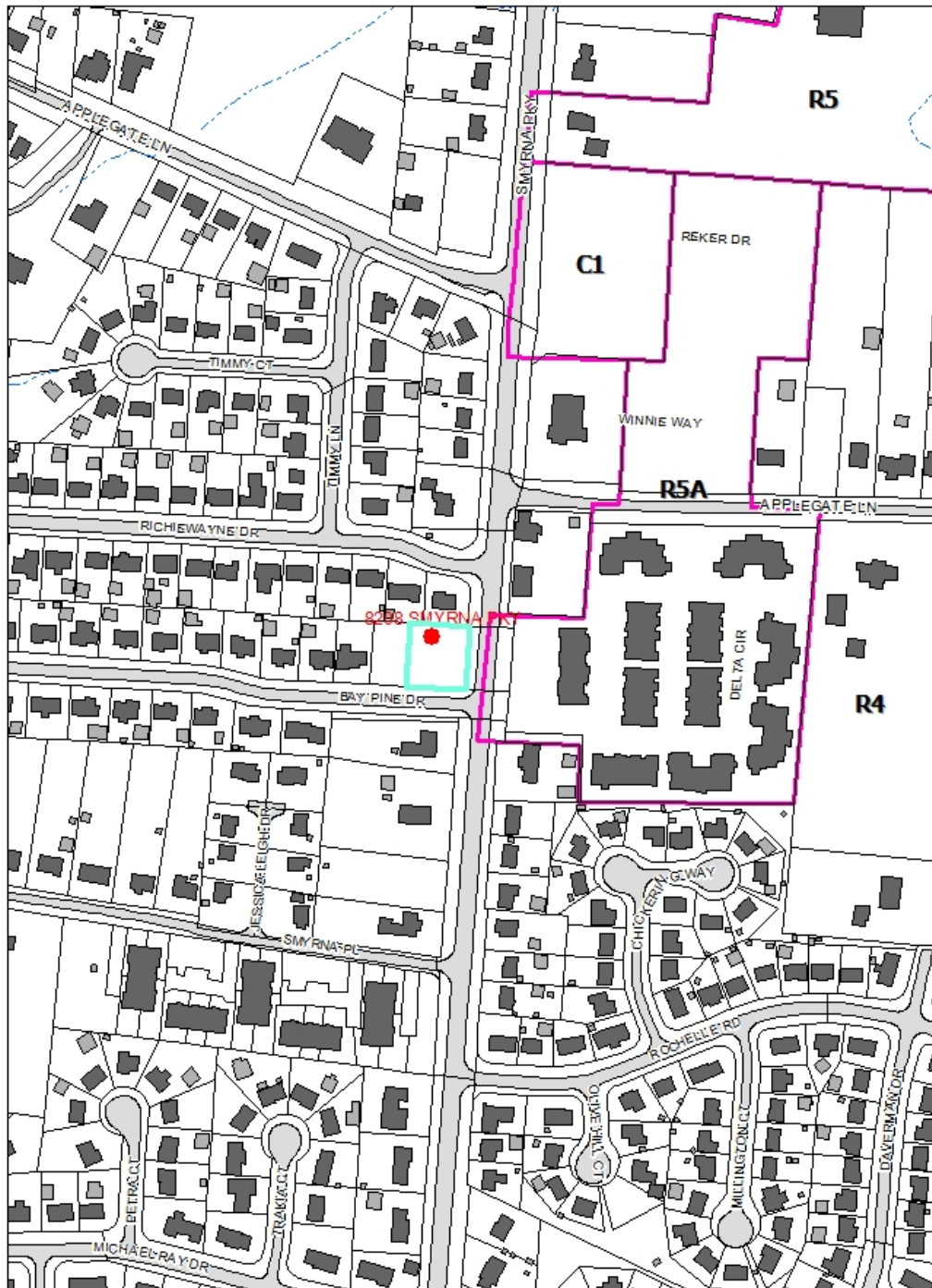
**NOTIFICATION**

Date	Purpose of Notice	Recipients
12/20/18	Hearing before Board of Zoning Adjustments	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District ___

**ATTACHMENTS**

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Site Photographs

1. Zoning Map



N  
1 inch = 284 feet

18VARIANCE1111  
8208 Smyrna Parkway



2. Aerial Photograph



3. Existing and/or Proposed Binding Elements/Conditions of Approval



Subject site from Bay Pine



Subject site from corner



Smyrna Road Sidewalk



Property across Bay Pine



Property across Smyrna Pky.