

Memorandum

To: Mayor Nelson and Members of the City Council

From: Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer

Date: January 31, 2022

Subject: Variance Request – 518 Rosedale Rd NE

Background

Ryan and Kelsey Hollihan, 518 Rosedale Road NE, submitted an application for a variance from Section 16.20.090 of the Zoning Code limiting impervious surface coverage to 50% of any zoning lot located in the R-1 zoning district and from Appendix E of the Zoning Code limiting maximum percentage of lot coverage for all structures in the R-1 zoning district to 35%.



The applicant is seeking the variance to permit construction of a 16 foot by 32 foot pool in their backyard for aquatic therapy purposes.

The site is located on the 500 block of Rosedale Road NE, between Terrace Road and Monroe Street. The property is guided for low density residential in the 2040 Comprehensive Plan. The property is zoned

R-1, Single Family Residential – allowed uses include single-family homes. Property records show that the house on the property was constructed in 1965.

Performance standards within the R-1 zoning district are as follows:

Dwelling, single family – front yard	35 feet
Dwelling, single family – rear yard	40 feet
Dwelling, single family – side yard	10 feet
Accessory uses, rear yard	5 feet
Accessory uses, side yard	5 feet

Appendix D sets the maximum percentage of lot coverage of all structures in the R-1 district at 35%. The applicant's property is approximately 10,050 square feet, which would accommodate a maximum structure lot coverage of 3,517 square feet. With the swimming pool addition, the total square footage of all structures on the property is 3,782 square feet or 37.6% of the total lot size.

Section 16.20.090 limits impervious surface coverage to 50% of any lot located in the R-1 zoning district. For the applicant's property, the maximum impervious surface permitted is 5,025 square feet. The addition of the pool will increase the impervious surface amount to approximately 5,829 square feet, or 58%.

Previous applications: Variance from front yard setback standards to permit the construction of a porch (2020); Zoning permit for fence.

Variance

Section §16.60.040 of the City of Spring Lake Park's zoning code outlines the criteria for considering variances:

"The City Council may grant a variance from the strict application of this title and impose conditions and safeguards on the variance so granted only in instances where their strict enforcement would cause practical difficulties in complying with the official control because of circumstances unique to the individual property under consideration, and may grant a variance only when it is demonstrated that such actions will be in harmony with the general purposes and intent of this title and when the variances are consistent with the Comprehensive Plan. "Practical difficulties" as used in connection with granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also includes, but is not limited to, direct sunlight for solar energy systems. A variance shall not be granted to allow a use that is not allowed in the zoning district involved."

Recommendation

The Planning Commission recommended approval of the variance on a 3-2 vote.

The majority of the Planning Commission found that the swimming pool will not alter the character of the neighborhood as the pool is a modest sized pool. In-ground pools are found on a number of properties in the community, and therefore are residential in nature. In addition, there is existing privacy fencing on the west and south property lines. Combined with the house to the south and the accessory building to the east, the pool will be completely screened. The applicant is seeking to utilize the pool for aquatic therapy and not for commercial use. The size of the existing lot is a consideration; however, the property owner did not create this unique circumstance.

A minority of the Planning Commission expressed concerns about the amount of impervious surface on the lot, rainwater runoff during significant storm event, and the negative impact the project will cause to the neighborhood character and aesthetic.

If the City Council wishes to approve the variances, the City Council would adopt Resolution 22-06, which includes the following conditions:

1. Applicant shall comply with all swimming pool performance standards specified in Section 16.28.020 of the Zoning Code.
2. Applicant shall apply for a building permit prior to construction of the pool.
3. Applicant shall ensure that no runoff from the additional impervious surface shall impact property owners to the west and south of the applicant's property.
4. Applicant shall construct a rain garden to treat storm water runoff generated by additional impervious surface created by the swimming pool.
5. Applicant shall remove the concrete walkway on the west side of the existing accessory building and replace it with pervious pavers or other pervious surface approved by the City Engineer to reduce the amount of impervious surface on the property.

If the City Council wishes to deny the variance, the City Council would adopt Resolution 22-06(A)¹, which makes the following findings of fact.

1. The proposed addition greatly exceeds the impervious surface standard set forth the Zoning Code.
2. Exceeding the impervious surface standard increases the amount of rainwater that can run off the property, thereby creating flooding situations for neighboring properties and further contributing to the overloading of the City's storm water system.
3. All of the homes along Rosedale Road are within the impervious surface and structure limitations set forth within City Code. The proposed pool addition will significantly increase structure and impervious surface coverage, thereby changing the character of the neighborhood.
4. The aesthetic of the property will be negatively impacted due to the significant amount of impervious surface on the property.

¹ 22-06(A) is meant to assist the City Council in differentiating the two resolutions. If the City Council was to approve this resolution, it would officially be numbered Resolution 22-06.

If you have any questions regarding this application, please don't hesitate to contact me at 763-784-6491.