

BOARD OF ADJUSTMENT MINUTES

JUNE 25, 2014

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in Conference Room D of the Norman Municipal Building A, 201-A West Gray, at 4:30 p.m., on June 25, 2014. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at www.normanok.gov/content/board-agendas at least 24 hours prior to the beginning of the meeting.

Item No. 1, being:

CALL TO ORDER

Chairman Andrew Seamans called the meeting to order at 4:30 p.m.

* * *

Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Hank Ryan
Cindy Deckard
Todd Marple
Tom Ballenger
Andrew Seamans

MEMBERS ABSENT

None

A quorum was present.

STAFF PRESENT

Wayne Stenis, Planner II
Roné Tromble, Recording Secretary
Susan Connors, Director, Planning & Community
Development

* * *

Item No. 3, being:

APPROVAL OF MINUTES OF THE MAY 28, 2014 REGULAR MEETING

Todd Marple moved to approve the minutes of the May 28, 2014 Regular Meeting as presented. Hank Ryan seconded the motion.

There being no further discussion, a vote was taken with the following result:

YEAS

Hank Ryan, Cindy Deckard, Todd Marple, Tom Ballenger,
Andrew Seamans

NAYS

None

Ms. Tromble announced that the motion to approve the May 28, 2014 Minutes as presented passed by a vote of 5-0.

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Item No. 4, being:

BOA-1314-19 – IDEAL HOMES OF NORMAN, L.P. REQUESTS A VARIANCE OF APPROXIMATELY 2' TO THE 5' SIDE YARD (WEST) SETBACK FOR A NEW HOME LOCATED AT 716 PAINTED FOREST ROAD.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report with Photos
2. Location Map
3. Applicant's Statement of Justification
4. Applicant's Exhibits

PRESENTATION BY STAFF:

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. There were no filed protests or support letters on this application.

Mr. Ryan asked what a POI radius pin is. Zach Roach, from Ideal Homes, responded it is point of inflection. Mr. Stenis added that it denotes a change in direction.

PRESENTATION BY THE APPLICANT:

Zach Roach, Ideal Homes – By state law, the surveyor is required to mark and pin any POI – point of inflection – that is on a property line. What we think happened is that the pin he should have pulled off of got yanked out and they had another pin in the ground and just went off it, and that's the 2.8 feet that we have it's out. It was an unfortunate deal, but that's what we've got right now so that's why we're coming to this Board.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. Ryan commented that this is one of those unfortunate errors, and that's what the Board is here for. They didn't intentionally take the wrong pin. With the shorter eaves, it seems that we don't have a safety issue.

Hank Ryan moved to grant the Variance as requested. Tom Ballenger seconded the motion.

There being no further discussion, a vote was taken with the following result:

| | |
|------|---|
| YEAS | Hank Ryan, Cindy Deckard, Todd Marple, Tom Ballenger, Andrew Seamans |
| NAYS | None |

Ms. Tromble announced that the motion to grant the Variance as requested passed by a vote of 5-0. Chairman Seamans noted that there is a ten-day appeal period before the decision is final.

* * *

Item No. 5, being:

BOA-1314-20 – ROBERT CASTLEBERRY REQUESTS A VARIANCE OF APPROXIMATELY 11' TO THE 15' SIDE YARD (EAST) SETBACK FOR THE NORTHEAST CORNER OF A PROPOSED COVERED PERGOLA, TAPERING TO NO VARIANCE AT THE SOUTHEAST CORNER OF THE PERGOLA, FOR PROPERTY LOCATED AT 4701 WINDRUSH CIRCLE.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Applicant's Statement of Justification
4. Applicant's Exhibits

PRESENTATION BY STAFF:

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. There were no filed protests on this application but there was a letter of support from the adjacent neighbor.

Mr. Marple asked if the 15' build line is because it is a corner lot. Mr. Stenis responded affirmatively. Mr. Marple commented that it looks like several feet from the property line to the street on the east, so this would not be crowding anybody.

PRESENTATION BY THE APPLICANT:

Kevin Sutter, Green Okie, the contractor representing the applicant, was available to answer any questions.

Robert Castleberry, the applicant, was also present.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. Ryan commented that, if this had not been a corner lot, very little variance would be needed.

Todd Marple moved to grant the Variance as requested. Cindy Deckard seconded the motion.

There being no further discussion, a vote was taken with the following result:

| | |
|------|---|
| YEAS | Hank Ryan, Cindy Deckard, Todd Marple, Tom Ballenger, Andrew Seamans |
| NAYS | None |

Ms. Tromble announced that the motion to grant the Variance as requested passed by a vote of 5-0. Chairman Seamans noted that there is a ten-day appeal period before the decision is final and a building permit can be issued, although a building permit application can be submitted prior to that time.

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Item No. 6, being:

MISCELLANEOUS DISCUSSION

A. UPDATE ON THE SPECIAL EXCEPTION GRANTED FOR 523 EAST MAIN STREET.

Ms. Connors reported that staff was asked to look at the building permit that was granted for this driveway at 523 East Main Street. I also asked the Legal Department to look at the permit. What is built out there is what was submitted for the permit and we granted that permit for the double driveway and the parking. We went through the minutes and we realize that there was a discussion and in the discussion it talked about we just want what everybody else has out there and we just want a single driveway. However, the motion that was made was to grant the special exception as requested. The title that was on the agenda was to grant a curb cut and parking area and the motion that was made was to grant as requested. The motion was for a curb cut and a parking area; there wasn't any specificity in the motion about a single lane curb cut as identified on that drawing. We need to just help you be more specific in your motions. They had a different drawing attached to the building permit application.

Mr. Ryan believes the Board has been intentionally misled on this. What they intended to build originally showed a single width curb cut. They came into our Board. They could have presented us with what was submitted for the building permit and said this is what we want to build. They did not. They never requested a double curb cut. They requested a curb cut like the others. And they presented the single width as being like the others.

Ms. Connors responded that, whether we were misled or not, the motion did not specify anything but a curb cut and a parking area, and that is what they presented as the building permit. And, although it didn't match identically to the drawing that they submitted with your packet, based on your motion we had nothing to stand on to say you can't have this.

Mr. Ryan – So what they presented to us as what they wanted to do has no enforceability? Ms. Connors explained that the motion did not specify a condition except for a curb cut and a parking area. If there's something specific, we need that in the motion so that, when they go to the building permit, we can say there are limitations on what you were granted. We don't have this happen very often because they usually go with the drawing, but because they didn't go with the drawing the motion wasn't specific enough to say you only get a single curb cut and you have to build the parking area as shown on your site plan because we didn't identify that in the motion. We did all the research that we could do to see if there was something different that should have occurred and the attorneys agreed that, although it wasn't identical, your motion didn't specify that it needed to be per this drawing. So we have no recourse. They did, in fact, build a curb cut with a parking area.

Mr. Seamans asked about the amount of specificity needed in future motions. Ms. Connors responded that if there's a drawing and you want it specifically to that drawing, then you should say per the drawing that's attached to our staff report, or make other conditions that it can only be a single lane curb cut, or whatever needs to happen. Our legal ads are pretty general because we're trying to make sure that we don't miss something that somebody could construe as misadvertisement. I'm sorry that I can't come back with better news.

Mr. Seamans commented that it's a learning experience for the Board and for staff.

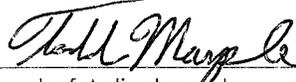
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Item No. 7, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 5:00 p.m.

PASSED and ADOPTED this 23RD day of JULY, 2014.


Board of Adjustment