

BOARD OF ADJUSTMENT MINUTES

JANUARY 23, 2019

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in Conference Room D of Building A of the Norman Municipal Complex, 201 West Gray, at 4:30 p.m., on Wednesday, January 23, 2019. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at www.normanok.gov/content/board-agendas in excess of 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 4:32 p.m.

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Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Brad Worster
Curtis McCarty
Mike Thompson
Andrew Seamans

MEMBERS ABSENT

James Howard

A quorum was present.

STAFF PRESENT

Wayne Stenis, Planner II
Roné Tromble, Recording Secretary
Elisabeth Muckala, Asst. City Attorney
Jane Hudson, Interim Planning Director
Scott Sturtz, City Engineer

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Item No. 3, being:

ELECTION OF OFFICERS FOR 2019

Brad Worster moved to re-elect the 2018 slate of officers for 2019: Andrew Seamans, Chair; Curtis McCarty, Vice Chair; and James Howard, Secretary. Curtis McCarty seconded the motion.

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

YEAS	Brad Worster, Curtis McCarty, Mike Thompson, Andrew Seamans
NAYS	None
ABSENT	James Howard

Ms. Tromble announced that the motion to re-elect the existing slate of officers for 2019 passed by a vote of 4-0.

Item No. 4, being:

APPROVAL OF MINUTES OF THE DECEMBER 5, 2018 REGULAR MEETING

Brad Worster moved to approve the minutes of the December 5, 2018 Regular Meeting as presented. Mike Thompson seconded the motion.

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

YEAS	Brad Worster, Curtis McCarty, Mike Thompson, Andrew Seamans
NAYS	None
ABSENT	James Howard

Ms. Tromble announced that the motion to approve the December 5, 2018 Board of Adjustment Regular Meeting Minutes as presented passed by a vote of 4-0.

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Item No. 5, being:

BOA-1516-4a – JAMES AND LOUISE BURRELL REQUEST EXTENSION OF A SPECIAL EXCEPTION TO PERMIT A MOBILE HOME TO SERVE AS A TEMPORARY SECOND DWELLING TO RELIEVE A MEDICAL HARDSHIP FOR PROPERTY LOCATED AT 900 RED ROCK ROAD.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Aerial Photo
4. Application with Attachments

PRESENTATION BY STAFF:

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. Staff recommends approval of the request for a 3 year extension.

PRESENTATION BY THE APPLICANT:

Shiela Pourchot, representing the applicants – This is Mr. Burrell; his wife is not here; also their son is present who occupies the residence. Mr. Burrell is 72 years old and is a disabled vet. I've provided you with just two of his many, many commendations that he has received from the Vet Center. I've also provided you with the improvements that he has done to the premises, and a picture that he took in 2017 when he fell at the premises. He takes lots and lots of medications; the medication that he takes creates problems for him so he needs significant help at the premises. If there's any other time that a medical condition exists, it's this particular case. So we would ask that you approve the special exception as requested.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mike Thompson moved to approve BOA-1516-4a for a period of three years. Brad Worster seconded the motion.

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

YEAS	Brad Worster, Curtis McCarty, Mike Thompson, Andrew Seamans
NAYS	None
ABSENT	James Howard

Ms. Tromble announced that the motion, to approve the three year extension of the Special Exception, passed by a vote of 4-0.

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Item No. 6, being:

BOA-1819-09 – COLBY AND LAURA COWART REQUEST A SPECIAL EXCEPTION TO SECTION 22:431.7 (1)(F) AND A VARIANCE TO SECTION 22:421.1 (3)(G) FOR PROPERTY LOCATED AT 427 IOWA STREET.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Application with Attachments

PRESENTATION BY STAFF:

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. Staff does not support the special exception or variance requests because they do not meet the criteria. Staff suggests a reverse site plan (flip north to south) so the garage can access the alley, and allow the Lahoma Avenue paving project (with new driveway approach) to be built by the City of Norman, thereby using it for access and parking. This would also eliminate the need for the variance to the front yard coverage standard and meet the Engineering Design Criteria.

Additionally, Sec. 22:441(7)(c) provides: "To grant exceptions to the off-street parking requirements as set forth in Article XII, Section 431.5-431.7, when it is determined that the size and shape of the lot to be built on is such that off-street parking provisions could not be complied with, that the proposed use of land is similar in nature to adjacent land uses, and that the proposed use will not create undue traffic congestion in the adjacent streets."

PRESENTATION BY THE APPLICANT:

Colby Cowart, the applicant – I want to note quickly that, should the Board agree with us and grant the exception to the parking in the central core area, we are willing to compromise on the variance for intensity of use. I don't believe it will be possible for us to do the pull-through driveway. So, in that case, I won't need the extra space; I can get the coverage under 50%. One of our main goals on this driveway was to preserve the mature trees. Based on previous experience when we tried to apply for the permit, the first issue that the City notified us on was this 38' guideline. I did come up here and meet with an engineer. They wanted us to push that over, but they were willing to make an exception to that 38' line on the Iowa side. If you guys will agree with us for the exception on the parking, we will not need to seek the variance on the coverage. I also want to emphasize that the parking exception is not a radical demand to do something different; it's purely so that we continue the pattern of the neighborhood and a site plan similar to the rest of the neighborhood. I do acknowledge that they have offered to let us put the drive on Lahoma that was previously existing there. However, the way it's positioned on the lot, it's right in the middle of the lot on Lahoma so it would be very hard to access our garage unless it was kind of in the middle of the lot, and it also highly disrupts our usable land space and private land area. I assume you guys all got to read our justification, so I won't spend too much time on that. I think that the core argument is just that flipping the house, in theory, that does work. That is industry standard; I've done

it before on houses I've built. However, we created this design tailored specifically for this site, specifically to allow for maximum daylight inside the house and to allow our landscaping the maximum sunlight possible. We feel that our site plan achieves this, while not disrupting the current fabric of the neighborhood and, in fact, fitting in very nicely with it. Whereas, if we were required the alley only parking, or the alley in some combination of the alley and Lahoma, we would lose a lot of usable private space, and that private space is dictated by the City's own definitions of what the front, back, and sides of a property are. I also feel that if we were to flip this floorplan, our house is going to face the alley and engage the alley and our house will be addressed on Iowa Street, which I feel kind of creates a disconnect and confusing situation. There are safety issues to consider. If we flipped it on its end, then I'm going to extend my private yard as much as I can and it's going to create a blind spot there. I've owned this property for almost two years. I check on it constantly throughout many times of the day and every now and then I see somebody walking through that alley that I wouldn't want walking through that alley when my wife is there unloading a car with groceries or something else. So I think that needs considered. Also it should be considered that this is a utility corridor, so it has gas lines and electrical lines running above the alleyway. If these services are down, that can potentially impact us on our property. I did point out in my justification a couple of properties that do access from the alley; one would be 507 Nebraska and they still have front parking, but they have an accessory dwelling unit behind that they access through the alley; and then 718 North University, which is an east-west oriented property, so it's not completely similar to mine. I was lucky enough to speak with the owners of both of those properties. Both expressed total support for our plan. Diane Pepler, the owner of 507 Nebraska, told me that driving through that alley once she hit a pothole so big it broke a tie rod in her car. Michael Linaweaver, owner of 718 North University, explained how there have been times when the alley has been blocked and he couldn't access his driveway, forcing him to park on the street. Both have expressed the poor conditions of the alley and how it negatively affects their vehicles and property. Mr. Linaweaver actually provided a letter, since he couldn't be at the hearing today. I probably talked to six or seven of my future neighbors. They all were supportive of this and wanted to be here, but sometimes it's hard to make a 4:30 meeting. I do have a copy of this letter and just some aeriels if you'd like to look at them. There's also a letter that I wrote to my neighbors in there to further explain what we are trying to accomplish. We're not trying to do something crazy; we really want to fit in with them. I will say City staff has generally been a pleasure to work with; they've always been very helpful. But if I will say anything about this process that I've learned, on a project such as this that's kind of unique, I need to probably go multiple levels while I'm consulting with staff. I did consult with staff as I developed these plans and it wasn't until I came to apply for a permit that I finally found out that the Core Area parking requirements were going to be an issue for us. At that point we had produced construction drawings, bid the house, budgeted, got financing – all that stuff based on this. But I do want to emphasize that the staff members I worked with here have been really helpful. Also, I want to emphasize that this does deprive us of some rights. The alternate designs I've explored with this create a situation where I have a courtyard style house or not very much back yard at all. Similar properties nearby get to enjoy the right

of getting to have a private back yard and a front yard. I think if you look at this aerial photo you can kind of get a sense of how the neighborhood is laid out. This image right here has our house superimposed on it so it shows how it fits with these other north-south properties. Just a couple of responses to the staff report: they said the previous improvements never had a driveway onto Iowa Street. I still haven't really gotten a clear answer why that's so pertinent. I don't believe that a house that was built in the 50s should dictate what we're trying to do now. The applicant was made aware of street projects, driveway locations, and suggested reverse site/floor plan. Yes, we've been aware of the street project since purchasing the property. Suggested that we flip the house. As I said, while theoretically possible, it kind of violates all our goals as far as the property. As I mentioned, it's put that way so that it had maximum solar impact. Land use designation is institutional; it was zoned R-1 in 1954. Not sure why that was in the report but we're not seeking a zoning adjustment. We're just trying to build this house. A building permit for a house was approved in 2016 so they assumed it met the regulations but the permit was cancelled at the request of the applicant because it was not paid for or picked up. I may be wrong on this, but I don't believe in 2016 that the Core Area parking requirements had been instituted yet. I was hoping that staff would be able to find those plans so we could see what they had done. I tried to contact the previous owner without success and find those myself. One of the neighbors told me he had trouble getting his design through. It would be interesting to see what he had. I could really go on for a long time about this – how we don't believe it's fair and how it doesn't allow us an efficient use of land, but I don't want to talk your ears off, so can I take any questions from you guys?

Mr. Worster – Can you describe what your parking plan is?

Mr. Cowart – If you look at the site plan there, basically where this front sidewalk is we'll just terminate the driveway there, so you kind of do have a little parking area to pull up in and then the sidewalk to the house. Once we eliminate that, I can get right under 50% on the coverage.

Mr. Worster – Just eliminate the whole drive going to Lahoma, then?

Mr. Cowart – Correct. I believe that's going to be too close to the property corner; I don't think Engineering would ever give me an exception to that. However, like I said, based on our previous experience, I think the Iowa side they can work with us. You should also look on the aerial photos; you'll notice that many of the houses in this neighborhood have driveways that come right up to the intersections. In the northwest corner, there are four houses just across Flood and right on Flood and Dakota – its driveway is literally right at the intersection of Flood, which is a much busier intersection than where our project is. We have pretty low traffic in that area. There's another instance of this if you go down to Kansas and Lahoma. You can see the very close driveways there. I'm all for safety; we don't want to cause any safety problems. But, based on the existing neighborhood and some other properties, we feel that this doesn't create a dangerous situation.

Mr. McCarty – You mentioned a lot of things, so obviously the focal point of your house is on Lahoma. Correct?

Mr. Cowart – Yeah. It's made to engage both Iowa and Lahoma.

Mr. McCarty – With the garage being on Iowa, you're going to have very little engagement. Your house is basically blocked by the garage. So where I'm going with this, and you're talking about a lot of things that are important in design – solar heat gain and direction of the house. If you flip the house and put the garage to the alleyway, your focal point is still on Lahoma. So it doesn't even appear that the house would have to move very far from the current location on the site. Your east exposure and west doesn't even change. The angle of the front porch angles northwest – right?

Mr. Cowart – Well, it faces southwest is what the front door faces. Like I was saying, it's kind of custom designed. It has the angled shape on it. You approach from Lahoma on the south; the intent was that the house looks smaller than it is and kind of disappears. When you flip that, you lose that whole effect.

Mr. McCarty – The house doesn't really harmonize with the community as it is now, though. It's not much of a bungalow style. And your solar heat gain is not going to change at all.

Mr. Cowart – When I say solar, I don't get any solar heat gain. I mean I wanted that north light in my living areas, because I believe many architects/designers would tell you your north light is your more consistent light.

Mr. McCarty – But all you have there is a long rectangular window and a couple of doors. You don't have a lot of windows in that space, if I'm looking at this right.

Mr. Cowart – On the north side of the house? The entire north side is glass doors.

Mr. McCarty – So your main reason when you designed this was – did you not really understand that you had to go to the alleyway?

Mr. Cowart – No, I did not. As I said, I consulted several times with a plan reviewer here, and that issue was never brought up. That's why I mentioned earlier that was a lesson learned I probably needed to go deeper – more levels consulting whenever doing a project such as this.

Mr. Worster – You mentioned that you thought Engineering was going to give you a different setback from the right-of-way on Lahoma. Staff has mentioned a 38' setback from the right-of-way to a drive cut. You say that you think you can get that to be 30 or something?

Mr. Cowart – I think around 32. Kind of what you have drawn there, minus the loop out to Lahoma. Now what you've shown there, that knocks out the giant pecan tree that's right there. Many of the neighbors have expressed they'd like to see that be saved if possible.

Mr. McCarty – So bringing up trees, so your exposure to the north – do you plan on removing all these trees?

Mr. Cowart – Those are all gone already.

Mr. McCarty – Is that from the overhead power lines?

Mr. Cowart – I assume so. They've been gone ever since I've owned the property.

Mr. Worster – There's two big ones on Lahoma.

Mr. Cowart – There's three on Lahoma. There's two sycamore and one black walnut. The black walnut is struggling a little bit right now; I'm assuming due to the road work.

I'm hoping, though, it'll come back in the spring. Again, that's something I can work with Engineering on. You can see on those pictures of the old house the way it's set up. I believe it was a small house that was added onto at some point. They don't really have much of a back yard area there, despite the size of the lot.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to approve the Special Exception under BOA-1819-09, with the driveway work to be completed within 12 months, and it would not have to be on the alley.

Mr. McCarty – You might have mentioned this. Have we allowed any other special exceptions in the Core Area to allow driveways to the fronts?

Mr. Stenis – We did recently for a duplex over toward the hospital area. I don't think I've seen the plans yet for the permit. It was a duplex, so they were going to do a driveway for one dwelling and a driveway for the other dwelling on the street for the convenience of the resident. I think that's the only one I remember.

Ms. Hudson – I need clarification on something. For Public Works, if the Board of Adjustment approves the access on Iowa, when a building permit comes in, will that be signed off on by Public Works.

Mr. Sturtz – It would have to meet the Engineering Design Criteria.

Mr. McCarty – And that's where you're getting into 38' distance.

Mr. Sturtz – That's what speaks to the distance.

Mr. McCarty – Since you're here, Scott, so this is the design criteria that we're speaking of for an approach. And this one that we have here is for curb and gutter street. Is that curb and gutter out there? It is mostly, right? Except the alleyways aren't.

Mr. Cowart – Actually, Lahoma is not curb and gutter right here. It is a current project.

Mr. Stenis – It will be under the current project.

Mr. McCarty – So it's not done right now.

Mr. Stenis – Not today. But they're ...

Mr. Worster – They're working adjacent to this property currently.

Mr. Sturtz – Actually, it's under construction. It's been bid. They're actually working in the section directly adjacent to this property right now installing storm sewer. They continue on through the construction installing curb and gutter. We had to hold up because there were some grade differences at that intersection of Iowa and Lahoma and we had some concerns so we actually delayed this construction just a little bit to make sure that we didn't cause a situation that would flood the yards and deal with the adjacent property owners and their driveways in this area. But it's under construction right now.

Mr. McCarty – This is the City's Type 1 driveway without curb and gutter, so it's open bar ditches I assume, and it's 30' for the same scenario. What's the difference?

Mr. Sturtz – I've got to be honest with you, typically our Transportation Engineer, Angelo Lombardo, actually deals with driveway locations. I don't. So I can't give you an affirmative answer on that.

Mr. Cowart – I spoke with Angelo previously. He's the one that we talked to. We

convinced him that minor variances to accommodate the driveway onto Iowa.

Mr. McCarty – So you think you can make the driveway work is what you're saying? So what I'm concerned about is approve or deny this project and come back, but the driveway, first and foremost, has to meet the requirements onto Iowa Street. Right, Scott? I mean, you would not be able to get a building permit – it doesn't matter what kind of action we take if it doesn't meet that.

Ms. Hudson – That was my concern. I wanted to make sure we were all clear on that.

Mr. McCarty – Which is why I wanted to know which standard we're working off of and what the differences really were, because there's an 8' difference, which is quite a bit when you're trying to do a job close to a corner.

Mr. Worster – I have another point to that. Both Iowa and Lahoma are 60' right-of-ways here, and a normal residential street is 50'. So, if we're measuring from the right-of-way line, there's another 5' that's extra on this particular exact location. So that gets him another 5' closer. So if we keep counting these up from a 40' allowable if it's a ditch on a 50' right-of-way, if we go to a 60' right-of-way ...

Mr. McCarty – This refers to collectors and it says or residential streets. Seems like there would be a difference; wonder if that's a typo.

Mr. Sturtz – It depends. Obviously this is a very old subdivision; it was done years ago. Kind of done as part of a military base almost. So it's a pre-existing condition. This is what we will require if we came in and did it today. So what we're dealing with here is a pre-existing non-conforming situation. If we were to do this today, we'd have to meet these current standards for local street. If it's already wider, we're not going to reduce that at this point in time.

Mr. Cowart – You brought up about the pre-existing conditions. You don't consider that criteria for evaluating this, but I think it does have to be considered due to the fabric of the neighborhood. Doing this would break from the fabric of the neighborhood. I understand the meaning behind the code. I just don't think it was thought out well enough to apply to everything. I know it was done because people were tired of parking lots being made by campus for all these big duplexes that were being built. We're not building a parking lot. We're not building a multi-plex. This is a single-family home that we just are trying to get a driveway on this side because we feel it uses the lot better.

Mr. Worster – Are there any plans to bring the alley to City standards? Because it's gravel.

Mr. Sturtz – That would be something we could work on.

Mr. McCarty – Is he required behind his property at least to make sure the gravel is brought up to standard – he didn't leave a bunch of holes or anything there. Is that something you all would inspect prior to and at the end? I think I've had to go do that before, is why I ask.

Mr. Sturtz – Obviously, if it's a replat, we would require it to actually be completely redone. It's hard when we're dealing with a one-on-one situation with an individual lot. And, in this case, and of course our Center City Form Based Code actually has different. This is not in that area. Typically, the maintenance of that is the City's responsibility.

Mr. Worster – I have a problem holding a homeowner to building new house standards in an addition that was platted 90 years ago that existing City improvements don't meet City standards. I think we should be encouraging people to do infill developments, and not go build a new addition and extend infrastructure. And here we are making it impossible for a guy to get a driveway. In the 9-block area between Dakota and Nebraska – actually it would be the street on the south of Nebraska – University to Pickard, 133 parcels – 13 have access to the alley. Of those 13, 11 also have a driveway in the front. So none of them only have an access to the alley. The two that have access from the alley are half lots, basically. They're on the corner of the alley and the cross street. So there's not a single house in a 9-block area. I bet I could count more if I had all the time in the world to do it. So the whole neighborhood – up above it is Acres and there's no alley. No one else has to drive down the alley to get to their house out of 133 people. Why would we make this guy?

Mr. Cowart – Honestly, I think if you did see it in person, you would fall onto my side very quickly just due to the – these are rough alleys; they're only used by trash trucks.

Mr. McCarty – My concern, first and foremost, is we have a standard that we should try and design to first, and then if you just absolutely can't, then this is kind of like last resort. I feel like that we're here because it was more of a last resort and not really thought that maybe it could work up front. That's where I'm kind of working from a little bit. Because I think you could do it. You'd have to redesign your whole house, and that's not really what I'm asking you to do. I just have a concern that we have these standards and how do we get to this stage where we are today.

Mr. Cowart – I've looked at other options. They just take away so much of my private space. I can't use private space on the front of the house. I mean, I can have a four foot fence, but that's not a privacy fence. To me, that space just becomes wasted because you've got a four foot privacy fence or nothing out there.

AUDIENCE PARTICIPATION:

Dave Boeck, 614 S. Lahoma Avenue – Architect. Was his professor at school. We've talked about this. I sat down with him – he even bought me lunch – just to give him some advice on how to reconfigure this, because he wanted to reconfigure it. But the bottom line is I drove around that neighborhood a lot. Just like you said – and I'm glad you did that research – because every house, including the ones on the new streets, have driveways in the front. The orientation is toward the front. And when you require the orientation to be toward the back or parking off the back, especially on his corner lot, and any corner lot, you eliminate usable private space. Whether you flip the house or don't flip the house, put the garage on the back side of the house – I've done lots of houses in Norman where we were off an alley but the lots were twice as big and twice as deep. If you have a family, you want to have private space; you want to have places for the kids to play safely, and that just doesn't allow that. There's numerous houses there that have a new approach and have a driveway, but then they also have parking for

four or five cars because it's obviously rental units. He's not asking for that; he's asking for a single driveway for him to park his car or park a car in the garage and have a place where the kids can play in safety. To me, that's the most important thing in this is trying to create a new house where he can have a family.

Mr. Cowart – That's our biggest thing, too. We are looking to start our family and we wanted it to be here. But I've got to have that private yard as part of the deal.

Steve Jones, 112 McSha Place – Colby works for me. He's kind of trail-blazing here in the redevelopment area. I mean, I think we should recognize that. He's building a house that's going to be really nice. I understand that the City of Norman wants this area to redevelop over time. Secondly, alleys were pretty popular in the 40s and 50s. I'm not feeling that in this meeting or in my own world. Every movie, TV show we watched, only bad things happen in alleys. I just had to say that. Nothing good seems to happen in an alley. Specifically, I just think you're going to see this more in this area. It's going to redevelop. We can't be thinking about the 50s anymore. I kind of told him six months ago that there's got to come a point where people with hair my color quit making decisions for kids your age because you're in a different world, trying different things; their styles are different. I just want you guys to consider it, because it's important to him and I think it's really going to help the entire neighborhood in the long run.

FURTHER DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to approve the Special Exception for off-street parking in the front yard in the Core Area under BOA-1819-09, with the driveway work to be completed within 12 months, to allow the driveway off of Iowa Street. Curtis McCarty seconded the motion.

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

YEAS	Brad Worster, Curtis McCarty, Mike Thompson, Andrew Seamans
NAYS	None
ABSENT	James Howard

Ms. Tromble announced that the motion, to approve the Special Exception for off-street parking in the front yard in the Core Area and allow a driveway off of Iowa Street, passed by a vote of 4-0.

Mr. Cowarts requested that the Variance for impervious surface in the front yard be postponed to the February 27, 2019 meeting.

Brad Worster moved to postpone the Variance requested under BOA-1819-09 to the February 27, 2019 meeting. Curtis McCarty seconded the motion.

YEAS	Brad Worster, Curtis McCarty, Mike Thompson, Andrew Seamans
NAYS	None
ABSENT	James Howard

Ms. Tromble announced that the motion, to postpone the Variance, passed by a vote of 4-0.

Mr. Seamans noted there is a 10-day appeal period before the decision is final and the permit can be issued.

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Item No. 7, being:

MISCELLANEOUS COMMENTS OF THE BOARD OF ADJUSTMENT AND STAFF

Ms. Muckala reported that the Magnum Energy appeal with regard to conflict with the State statute is currently being briefed. There were five different items on appeal; two of them are addressed in this brief. The remaining issues could be briefed at a later time; those items relate to your application of your own standards as opposed to a conflict with the State law.

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Item No. 8, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 5:29 p.m.

PASSED and ADOPTED this 27th day of February, 2019.


Board of Adjustment