

**BOARD OF ADJUSTMENT MINUTES**

**DECEMBER 14, 2011**

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in the South Conference Room of the Norman Municipal Building, 201-A West Gray, at 4:30 p.m., December 14, 2011. Notice and agenda of said meeting were posted in the Municipal Building at the above address 24 hours prior to the beginning of the meeting.

Item No. 1, being:

**CALL TO ORDER**

Chairman Tom Sherman called the meeting to order at 4:30 p.m.

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Item No. 2, being:

**ROLL CALL**

MEMBERS PRESENT

Margaret Farmer  
Jim Ruhl  
Hank Ryan  
Howard Saxion  
Tom Sherman

MEMBERS ABSENT

None

A quorum was present.

STAFF PRESENT

Doug Kosciński, Manager, Current Planning  
Wayne Stenis, Planner II  
Roné Tromble, Recording Secretary

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Item No. 3, being:

**APPROVAL OF MINUTES OF THE SEPTEMBER 28, 2011 REGULAR MEETING.**

*Hank Ryan moved to approve the minutes of the September 28, 2011 Regular Meeting as submitted. Margaret Farmer seconded the motion.*

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

YEAS

Margaret Farmer, Jim Ruhl, Hank Ryan, Howard Saxion, Tom Sherman

NAYS

None

ABSENT

None

Chairman Sherman announced that the motion to approve the September 28, 2011 Minutes passed by a vote of 5-0.

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Item No. 4, being:

**BOA-1112-8 – MICHAEL & SUSAN THOMAS REQUEST A 20' VARIANCE TO THE 25' SIDE YARD SETBACK (WEST SIDE) TO ALLOW CONSTRUCTION OF A NEW SHOP BUILDING AT THE SAME SETBACK (5') AS THE EXISTING SHOP FOR PROPERTY LOCATED AT 4520 EAST FRANKLIN ROAD.**

**ITEMS SUBMITTED FOR THE RECORD**

1. Staff Report
2. Location Map
3. Applicant's Statement of Justification
4. Aerial Photo with Natural Drainage
5. Aerial Photo with Lot Dimensions and Existing Setbacks

**PRESENTATION BY STAFF**

Mr. Koscinski reviewed the staff report, a copy of which is filed with the minutes. There were no protests filed on this variance request.

Mr. Ryan said he doesn't understand how the decision was made that a variance is required. It looks like there is a wide area to the east of the proposed site where they could build a new structure, or they could have the square footage in a different way and have a lot more than a 5' setback. A 25' setback may be difficult, but it looks like there is quite a bit of room to the east of the current structure.

**PRESENTATION BY THE APPLICANT**

Michael Thomas, the applicant, stated that they will be replacing four old buildings on the property with the new shop. Moving the building to the east makes access from that side difficult because the property falls off sharply to the pond. The property to the west is heavily wooded. He sent a letter out to neighbors inviting comments. Locating the new shop building at the same setback as the existing building makes the property flow well and doesn't block the view from the house up and down the valley. There is a spot at the back of the property, but that is not practical for parking. In front of the house, the septic field is in the way. The proposed shop will really not impact any of the neighboring properties; the hillside behind it is solid trees. The existing building is accessed from the north and south, but they would like to be able to access the new shop building from the north, south, and east. He would like the proposed shop to be 50' by 60'. The water flows from the front pond, across to the second pond and then flows out of it to the south and west and is sometimes a foot deep in that area. The driveway to the house is straight in along the west. They would like to have the shop so that you could drive straight through if both doors were open.

Mr. Ryan asked if the applicant has the plans to show what they are proposing. Susan Thomas responded that they didn't want to spend the money to buy a set of plans without knowing they would be able to build the building they want. Michael Thomas stated that the idea is for a 50' by 60' shop. The current building is probably about 25' by 30' and is an old metal barn with a plywood floor. The surrounding lots are not set up in a way that they can be subdivided. There is currently an oil well at the top of the hill on adjoining property. They plan to consolidate several old buildings into one nice metal building.

Ms. Farmer commented that if the shop were located at the rear of the lot it would necessitate extending the driveway to it. Mr. Thomas indicated they would also have to put in culverts and a driving surface for when there was heavy water present. The septic field is in the front of the house. The location of the shop along the side leaves the view up and down the valley unobstructed and makes the building easier to get around. He would like to put 16' doors on the north side and south side and a 16' door in the middle on the east side with a concrete pad to work on projects outside. The driveway currently runs along the west property line.

Mr. Kosciński asked if the shop could be made longer. Mr. Thomas responded that it could. The area to work with is relatively narrow. He has farm equipment, a 30' boat, a woodworking shop, and other stuff to store in the building.

Chairman Sherman commented that changing the dimensions of the shop from 50' by 60' to 40' by 75' would yield the same area and could then accommodate a 15' setback. Mr. Thomas commented that they felt that if they had to get a variance, they might as well ask for what they want. A 50' wide shop configuration would allow various equipment to be parked in one lane, allow a lane to park cars in, and still provide room for his shop and his wife's shop. Chairman Sherman commented that a 40' shop would still be twice as wide as a double car garage.

Chairman Sherman explained that the Board looks at variance requests based on the situation and what the options are to remedy. Many times there aren't any options to make adjustments. It would seem that some adjustment could be made to the footprint for the building in this case and still get the desired size.

Mr. Saxion said he lives on acreage on 36<sup>th</sup> Avenue and has a long, narrow lot with a creek through his property, so he can sympathize with the constraints on the subject property. This is not downtown Norman. We need to think about where this is – in a rural area of the City. We need to look at the particular location. The applicant knows his property and the constraints on it and knows what will work for him in terms of the size of the building. Given the particular situation, he supports the applicant's request.

Chairman Sherman commented that another factor is that the proposed building will be replacing existing buildings that were only 5' from the property line. Mr. Ryan noted that the new shop will be a completely different scale from the existing buildings and there seems to be enough room for more than a 5' setback. Mr. Thomas countered that the existing 5' setback has been acceptable for many years, the 50' by 60' building won't impact other properties, and it can't even be seen from neighboring houses.

Mr. Kosciński commented that staff believes there are grounds for a variance, and the amount of that variance is for the Board to determine. Mr. Ryan noted that the applicant is requesting an 80% variance. Mr. Thomas commented that moving the shop further from the property line makes the area on the west side of the building wasted, whereas that same area on the east side could be used for a concrete pad to work on equipment.

Ms. Farmer asked if there is a fence on the west side of the property. Mr. Thomas said there is not. Further down there is a barbed wire fence.

Mr. Stenis asked how tall the proposed shop would be. Mr. Thomas said he was envisioning 12' sides. Mr. Stenis asked the square footage of the house. Mr. Thomas indicated it is 1,850 square feet on one story.

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT**

Chairman Sherman commented that this is an extremely narrow lot with natural drainage issues. There are no buildings on other properties close to the property line. Smaller variances are easier to justify because of the situation. This is an unusual situation. He understands Mr. Ryan's desire for more than a 5' setback, but he is not sure what benefit that would have in this particular situation.

Ms. Farmer commented that the Board has approved replacement of buildings in rural areas that were in the wrong place to begin with, and she can remember one that was visible from the road and it was going to be an improvement. This will be an improvement and it will not be visible from the road or the neighboring homes.

*Howard Saxion moved to approve the requested 20' variance due to the unique topographical and drainage issues related to this property. Jim Ruhl seconded the motion.*

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

YEAS	Margaret Farmer, Jim Ruhl, Hank Ryan, Howard Saxion, Tom Sherman
NAYS	None
ABSENT	None

Chairman Sherman announced that the motion to grant the Variance passed by a vote of 5-0. Mr. Kosciński informed the applicant of the 10-day appeal period before the decision is final.

Mr. Ryan urged the applicant to move the building further from the property line if that would work when he begins the project.

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Item No. 5, being:

**BOA-1112-9 – GREENWAVE, L.L.C. REQUESTS A VARIANCE TO THE 25' FRONT YARD SETBACK TO ALLOW CONSTRUCTION OF A COVERED PORCH WITH A SECOND FLOOR BALCONY AND STAIRCASE IN APPROXIMATELY THE SAME LOCATION AS A PRE-EXISTING PORCH THAT WAS DESTROYED BY FIRE FOR PROPERTY LOCATED AT 216 E. MOSIER STREET.**

**ITEMS SUBMITTED FOR THE RECORD**

1. Staff Report
2. Location Map
3. Applicant's Statement of Justification
4. Boundary Survey
5. Photo with Sketch of Proposed Porch
6. Fire Damage Photo

**PRESENTATION BY STAFF**

Mr. Koscinski reviewed the staff report, a copy of which is filed with the minutes. There were no protests filed on this variance request.

Chairman Sherman asked about the photo showing the door and a sketch of a second door. Mr. Koscinski indicated the center door has already been installed and the sketch indicates where the applicant would like to move it.

Mr. Ryan asked if there is anything that would preclude a balcony and exit on the back of the house instead of the front. Mr. Koscinski indicated there is room for a porch in the back. Richard Mayeaux, the applicant, stated that there is a hallway to the back that would provide for a door to exit. Mr. Koscinski stated that no variance would be needed for a balcony and exit on the back of the house.

Mr. Saxion asked if there is any potential for a separate unit on the second floor. Mr. Koscinski indicated the zoning would prohibit that. Mr. Mayeaux stated that this is going to be a single-family house. When he purchased the house, the previous owner had cut it up into four apartments without permission. There is now a kitchen downstairs, a small bath upstairs, and a larger bath downstairs.

Chairman Sherman commented that you generally don't see the stairway to the balcony on single-family residences, unless they are apartment-type residences that you want separate access to the second floor. Mr. Mayeaux said he doesn't object to putting the balcony and stairs on the back. His reasoning is that all four bedrooms are on the second floor and they have code exit windows, but he doesn't want his tenants to have to jump out of a window to save themselves from a fire – it would be nice if they could walk out a door onto a porch and exit. If the back is better for that, he is willing to do that.

Chairman Sherman commented that needing a variance to replace a front porch that was previously existing is different than the extensive porch, balcony, and stairway originally requested.

Mr. Koscinski indicated that the code would allow an uncovered porch, but that would not provide any weather protection. Mr. Mayeaux stated that the front faces north and it would be nice to have something over the front door so the rain doesn't blow directly into the room. The other houses in the area have covered entrances.

Ms. Farmer asked if the main entry door is on the side. Mr. Mayeaux said there is no main entry on the side. Doors had previously been added on the side because they had split the house into four separate apartments. The existing porch slab is about 5' deep; it is original to the house.

Chairman Sherman commented that from an aesthetic and practical view, a front porch is a reasonable request. It seems there is plenty of room in the back for the balcony and stairs to provide a fire exit and a variance is not needed for that.

Mr. Ryan added that the front porch could be covered, but not enclosed.

Mr. Mayeaux said it was his intent to remove the existing slab, which runs along the whole front of the house. If the front porch doesn't include the upper deck, he doesn't think it needs to go all the way across the front.

Mr. Koscinski noted that a variance would only be needed for the porch out to the front post, and a two foot roof overhang beyond that point is allowed. The loan survey indicates the setback to the front of the house is 24'7" so it is already encroaching.

Ms. Farmer commented that she looked at the neighborhood, and most of the houses on this side of the street are set back 25'. It already looks different because it is a two-story house in a basically one-story neighborhood.

Mr. Saxion noted that the driveway is currently gravel. Mr. Mayeaux said it is his intent that the driveway will eventually be paved.

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT**

*Hank Ryan moved to grant a Variance of 5' for a one-story, unenclosed porch. Howard Saxion seconded the motion.*

Chairman Sherman noted that the structure is already encroaching into the setback.

*Hank Ryan offered an amendment that the Variance be 6'. Howard Saxion accepted the amendment to the motion.*

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

YEAS	Margaret Farmer, Jim Ruhl, Hank Ryan, Howard Saxion, Tom Sherman
NAYS	None
ABSENT	None

Chairman Sherman announced that the motion to grant the Variance, as amended, passed by a vote of 5-0. He informed the applicant of the 10-day appeal period before the decision is final.

Item No. 6, being:

**MISCELLANEOUS DISCUSSION**

Chairman Sherman congratulated Ms. Farmer on her reappointment to the Board.

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Item No. 7, being:

**ADJOURNMENT**

There being no further business, Chairman Sherman adjourned the meeting at 5:25 p.m.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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Board of Adjustment