

**BOARD OF ADJUSTMENT MINUTES**

**AUGUST 28, 2013**

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in Conference Room C of the Norman Municipal Building A, 201-A West Gray, at 4:30 p.m., August 28, 2013. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at [www.normanok.gov/content/board-agendas](http://www.normanok.gov/content/board-agendas) at least 24 hours prior to the beginning of the meeting.

Item No. 1, being:

**CALL TO ORDER**

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

\* \* \*

Item No. 2, being:

**ROLL CALL**

MEMBERS PRESENT

Hank Ryan  
Cindy Deckard  
Thomas Ballenger

MEMBERS ABSENT

Andrew Seamans

A quorum was present.

STAFF PRESENT

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

\* \* \*

Item No. 4, being:

**APPROVAL OF MINUTES OF THE JULY 24, 2013 REGULAR MEETING**

*Hank Ryan moved to approve the minutes of the July 24, 2013 Regular Meeting as presented.  
Cindy Deckard seconded the motion.*

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

YEAS

Hank Ryan, Cindy Deckard, Tom Ballenger

NAYS

None

ABSENT

Andrew Seamans

Vice Chairman Ballenger announced that the motion to approve the July 24, 2013 Minutes as presented passed by a vote of 3-0.

\* \* \*

Item No. 5, being:

**BOA-1314-1 – CURTIS McCARTY REQUESTS A VARIANCE OF APPROXIMATELY 2' TO THE 25' FRONT YARD SETBACK FOR A PORTION OF A NEW HOME THAT ENCROACHES IN THE CURVED SETBACK AT 4715 KENSAL RISE PLACE.**

**ITEMS SUBMITTED FOR THE RECORD**

1. Staff Report
2. Location Map
3. Applicant's Statement of Justification
4. Site Plan
5. Aerial Photo

**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.

**PRESENTATION BY THE APPLICANT**

Curtis McCarty, C.A. McCarty Construction – This was unintentional when it was done. The street has a pretty good curve to it. The house is somewhat rectangular and curves and rectangles don't always go well together. This lot has some very unusual circumstances that were there when it was purchased: the drainage flume on the north edge of the property; the metal fencing around two sides which are not on the property line; and the sidewalk that was installed by the developer did not follow the property lines. It has created some really difficult situations on this lot. We don't feel like it will affect anyone else's property interests. We have already been to City Council for the utility easement encroachment, and that was approved by City Council. We are just asking for the variance for the building line encroachment in the front.

Mr. Ryan asked who the developer is. Mr. McCarty responded that it is Carrington Place, L.L.C. and Richard McKown. The neighborhood is unique and has a lot of walkways and ponds. When they were laying out the sidewalks around the ponds it created some of the circumstances that they are now trying to fix. The street has a little more curve than it looks like, which is where the foundation contractor made the mistake. It's hard to get the curves exactly right.

**AUDIENCE PARTICIPATION**

None

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

Mr. Ryan commented that curved lots are an ongoing issue. It would help if things weren't designed to be right on the setback line.

*Hank Ryan moved to approve 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, Thomas Ballenger
NAYS	None
ABSENT	Andrew Seamans

Vice Chairman Ballenger announced that the motion to grant the Variance as requested passed by a vote of 3-0. He noted the 10-day appeal period before the decision is final.

\* \* \*

Item No. 6, being:

**BOA-1314-4 – STEVE DAVIS AND EDDIE ROTHERMEL REQUEST A VARIANCE OF APPROXIMATELY 2.5' TO THE 20' REAR YARD SETBACK TO ALLOW FOR AN ADDITION TO THE EXISTING HOUSE TO BE IN LINE WITH THE EXISTING GARAGE FOR PROPERTY LOCATED AT 539 SHAWNEE.**

**ITEMS SUBMITTED FOR THE RECORD**

1. Staff Report
2. Location Map
3. Applicant's Statement of Justification
4. Site Plan
5. Plat Map

**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.

Mr. Ryan commented that we are looking at a variance which is based on an existing garage that is over the property line. He is uncomfortable granting a variance based on what might be an illegal structure. Mr. Stenis stated the garage is existing and has been there since 1930 and there are a number of ways to rectify the property line issue. The request is for an addition on the house, which is internal to the lot, and is a separate issue from the garage encroachments. Mr. Ryan commented that the compelling issue for the variance is to line the addition up with the garage.

Ms. Connors explained that the regulations did not exist in 1930 so we can only second guess what was happening then. The portion of the garage extending over the property line is an issue that they should deal with, but we can't force them to because it has been there so long, and before our regulations were in place. Even if they do address the garage, they won't necessarily tear it down and they will still have the intrusion into the rear yard setback that has been there since 1930. We felt that it was appropriate to line this addition up with what has been existing for so long. Mr. Stenis added that staff would work with the applicants to remedy the property line encroachment before or at the same time as a building permit is considered.

Mr. Ballenger asked if the property line would be re-established since the existing structure has been there for that length of time. Mr. Stenis explained that there are a number of solutions; one would be to do a lot line adjustment. Mr. Ryan indicated an option might be adverse possession because of the amount of time involved. Ms. Connors noted that, because this garage overlaps the property line, there may be others in the block with similar issues.

**PRESENTATION BY THE APPLICANT**

Steve Davis, the applicant – We didn't know until just now that the garage was over the property line. You're talking about the west side of the garage encroaching on the property line and not the back of the garage. That's news to me. I don't know what the remedy is, other than talking to the neighbors and buying that piece of land from them and going through the process, and I'm certainly willing to do that. We're doing this project as an aging in place; we have no bedrooms or full baths downstairs. Everything is upstairs. Reaching a point in our live where we're thinking we love the neighborhood, we want to stay there, love our neighbors on both sides, and want to stay there, but to do that we need to have a full bathroom with a roll-in shower and have someplace that we can get to a bedroom without having steps. That was the

intent, and then lining it up with the garage was just aesthetically trying to make it look like it belongs in the neighborhood, not that it was some kind of add-on that was done later. Obviously, people are going to realize that when they see the bathroom doesn't have a commode from the 1930s, but it would be something that is updated but look in character with the neighborhood and give us the opportunity to stay in that area. The aging in place is really important for us, from the standpoint of being able to have something that is on the same level, that has doors that wheelchairs could get through. You don't know what the future holds.

**AUDIENCE PARTICIPATION**

None

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

Mr. Ryan commented that the garage encroachment over the property line is not the Board's problem, but he would hate to see them have to come back for some other kind of variance. He would hope they would resolve the issue before they get too far into the addition.

Dave Boeck, the architect for the project, commented that he has been involved in many projects where buildings were on the property line, although not over the property line. He has also been involved in lot line adjustments, which are easy to do and usually both parties are interested in doing them to clean things up.

*Cindy Deckard moved to approve the variance as requested. Hank Ryan seconded the motion.*

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

YEAS	Hank Ryan, Cindy Deckard, Thomas Ballenger
NAYS	None
ABSENT	Andrew Seamans

Vice Chairman Ballenger announced that the motion to grant the Variance as requested passed by a vote of 3-0. He noted the 10-day appeal period before the decision is final.

Mr. Boeck asked if the plans can be submitted and reviewed during the 10-day waiting period. Mr. Stenis indicated the plans can be submitted, but the building permit cannot be issued during that time.

\* \* \*

Item No. 7, being:

**BOA-1314-5 – CAROL AND MIKE LINDBLAD REQUEST A VARIANCE OF APPROXIMATELY 3' TO THE 20' REAR YARD SETBACK TO ALLOW CONSTRUCTION OF A COVERED PATIO EXTENDING TO THE 17' UTILITY EASEMENT FOR PROPERTY LOCATED AT 3002 MEADOW AVENUE.**

**ITEMS SUBMITTED FOR THE RECORD**

1. Staff Report
2. Location Map
3. Applicant's Statement of Justification
4. Site Plan
5. Elevations
6. Aerial Photo

**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.

Mr. Ryan asked if this is a case where the setback is measured from the support post rather than the roof overhang, and could be moved back with a roof overhang. Mr. Stenis indicated a 2' roof overhang is allowed.

**PRESENTATION BY THE APPLICANT**

Scott Foster, representing the applicants – If we move the posts back 3', we will lose 3' of roof, because we have 2' of overhang currently. When Mike and Carol purchased this home, we looked at the mortgage certification and the survey and the one thing it didn't have was the 20' setback; it had the 17' utility easement. The intent was to create a nice outdoor living space and we found out about the build line in the back. We took it to the utility easement specifically because we didn't want to encroach on any utility easements and have to go through the process that Mr. McCarty just went through. Because of the golf course behind, because of the functionality of the house, because of the other people who have maximized without permitting, we came in to ask for a variance.

**AUDIENCE PARTICIPATION**

None

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

Mr. Ryan commented that the request seems reasonable. They are avoiding the utility easement while trying to maximize their use. There were no protests so it doesn't appear to affect anyone else.

*Hank Ryan moved to approve 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, Thomas Ballenger
NAYS	None
ABSENT	Andrew Seamans

Vice Chairman Ballenger announced that the motion to grant the Variance as requested passed by a vote of 3-0. He noted the 10-day appeal period before the decision is final.

\* \* \*

Item No. 8, being:

**BOA-1314-6 – ZAIN FUEL, INC. REQUESTS A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REQUIREMENTS OF SECTION 431.5 TO ALLOW A TOTAL OF 18 PARKING SPACES, RATHER THAN THE 19 SPACES THAT WOULD BE REQUIRED FOR PROPERTY LOCATED AT 1226 S. CLASSEN BOULEVARD.**

**ITEMS SUBMITTED FOR THE RECORD**

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

**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.

Mr. Ballenger asked whether both spaces numbered 16 and 17 on the site plan are to be removed. Mr. Stenis indicated only number 16 will be removed.

Mr. Ryan asked what is existing. Mr. Stenis responded that there is a triangular addition to the southwest, with retail on the ground floor and apartment above. They want to build the same thing on the northeast side of the building.

**PRESENTATION BY THE APPLICANT**

Shawn Lord, Krittenbrink Architecture, representing the applicant – We're maximizing the land use as much as possible to the limits of the lot. As you can see, it's an existing circumstance; a lot of space is taken up by the pumps for the gas station. Our owner is trying to make the most use of his lot that he can. We agree with the staff's recommendation and findings, that state this will not cause any undue traffic congestion.

Mr. Ryan asked if there is anything that shows the proposed construction. Mr. Lord had renderings of the proposed structure. It will be a wedge shape. It will have residential above.

Mr. Ballenger asked how parking space 16 will be marked so that it is not used. Mr. Lord said they will put in a curb so it is not a space, and maybe plant a tree.

Mr. Ryan asked if there are bike racks. Mr. Lord indicated that they could accommodate bike racks if necessary. Ms. Deckard commented that this is a heavy pedestrian area.

**AUDIENCE PARTICIPATION**

None

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

*Hank Ryan moved to approve the Special Exception 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, Thomas Ballenger
NAYS	None
ABSENT	Andrew Seamans

Vice Chairman Ballenger announced that the motion to grant the Special Exception as requested passed by a vote of 3-0. He noted the 10-day appeal period before the decision is final.

Mr. Ballenger asked how soon the addition would be finished. Mr. Lord said the applicant originally wanted to start the project in mid-September, but he thought it would be closer to the end of September before all the documents are ready to go.

\* \* \*

Item No. 9, being:

**MISCELLANEOUS DISCUSSION**

None

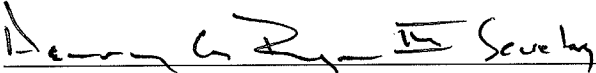
\* \* \*

Item No. 10, being:

**ADJOURNMENT**

There being no further business, Vice Chairman Ballenger adjourned the meeting at 5:10 p.m.

PASSED and ADOPTED this 25<sup>th</sup> day of September, 2013.

  
\_\_\_\_\_  
Board of Adjustment