

BOARD OF ADJUSTMENT MINUTES

SEPTEMBER 24, 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 September 24, 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.

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Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Hank Ryan
Todd Marple
Andrew Seamans

MEMBERS ABSENT

Tom Ballenger
Cindy Deckard

A quorum was present.

STAFF PRESENT

Wayne Stenis, Planner II
Roné Tromble, Recording Secretary
Susan Connors, Director, Planning & Community
Development
Jeff Wilson, Code Compliance Inspector
Aaron Milligan, Storm Water Pollution Specialist

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Item No. 3, being:

APPROVAL OF MINUTES OF THE AUGUST 27, 2014 REGULAR MEETING

*Hank Ryan moved to approve the minutes of the August 27, 2014 Regular Meeting as presented.
Todd Marple seconded the motion.*

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

YEAS

Hank Ryan, Todd Marple, Andrew Seamans

NAYS

None

ABSENT

Tom Ballenger, Cindy Deckard

Ms. Tromble announced that the motion to approve the August 27, 2014 Minutes as presented passed by a vote of 3-0.

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Item No. 4, being:

BOA-1415-06 – SANDRA GAMBONE REQUESTS A VARIANCE OF APPROXIMATELY 3' TO THE 5' SIDE YARD (EAST) SETBACK AND A VARIANCE OF APPROXIMATELY 17' TO THE 20' REAR YARD (SOUTH) SETBACK FOR AN EXISTING GARAGE FOR PROPERTY LOCATED AT 1800 ELMHURST DRIVE.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Applicant's Statement of Justification
4. Aerial Photo
5. Photos of Existing Conditions
6. Protest Map
7. Protest Letters and Photo Exhibits

PRESENTATION BY STAFF:

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. There were three filed protests on this application.

Mr. Ryan asked if there have been any changes in the facts since the last meeting. Mr. Wilson responded that there have not.

PRESENTATION BY THE APPLICANT:

Sandra Gambone, the applicant – When this garage was built 12 years ago, I was unaware of all of this, of course, and it hasn't been a problem since. I don't know the name of the person who complained – but something about sewer water or something, which I was unaware of sewer water at all because there's nothing running in there. So once that happened, this is, of course, where it brought me. But as far as the rain water being washed through there, that rain water has always come through there. That whole area has always been flooded out. It has always been a problem with the water there. When I had spoken to Wayne, my position is the building is there now; I want to do whatever I have to do to make the neighbor happy, but she has not said anything for twelve years. My mulch gets washed away every year; I replace my mulch every year because of the rain. I didn't realize that it was a problem. As far as contaminants getting into the pipe, I'm not aware of any contaminants whatsoever. We have small children living in the house; it's not like we're haphazardly keeping chemicals and everything out. If that is the main problem and the main concern with pollutants getting into that pipe, I would be more than happy to block that off. I spoke to Aaron Milligan, who is the rain water specialist about trying to reroute the water, which would go somewhere else. It's either going to go on Mike's property or it's going to flood out my entire yard. I have a problem there. My neighbors live downstream. I don't know what to do with the water, other than what we have done. Like I said, it's never been an issue until now. If I'm guilty of putting the building there without a permit and all that, yes, I'm guilty of that. But it's there now and what do we have to do in order not to knock my building down? I'm willing to try to fix the problem. I really couldn't understand the way it's written, without hiring a lawyer to say this is what they really mean by all these special privileges and all of this. I guess I'm at everybody's mercy to say, Sandy, this is what you need to do and I would be willing to do it. That garage was built for one car to sit in there. That's all that garage was built for originally. Then I moved and then my son put his stuff in there. Like I said, I've been there a lot of years. It's not like I'm dumping stuff in the drain. I have other places I could dump things if that were the case. I'm not going to do that. We drink the water. I'm not going to put chemicals in our water system. I've never had to come

do anything like this. I just want to do the right thing and make everybody happy. If my neighbor is not happy because her mulch is getting washed away because of me, then I'll do what I can. Like I said, it's been happening like that for at least 12 years, so now all of a sudden it's a huge problem. That's really all I have to say, other than how do we fix this now? What do I have to do?

Mr. Seamans – You had the building constructed in 1998?

Ms. Gambone – I don't remember the year, but yes.

Mr. Seamans – That's what we had here on our documents. And you hired a contractor to build the facility?

Ms. Gambone – Right.

Mr. Seamans – You assumed that that contractor did everything that was supposed to be done.

Ms. Gambone – Right. I thought that's what they do. I didn't know.

Mr. Seamans – And that's what they do do. That's what they're supposed to do. That's what this one didn't do. This one didn't go down and get a permit for this building and didn't put the building in the right location. So that's where we are. It doesn't really matter how long it's been there.

Ms. Gambone – I understand that. But even with it being on the easement, as far as the utilities are concerned – and I know that it's in the wrong place. I completely understand that. But as far as the utilities are concerned, they don't really have a problem with the building being there. I asked them if they have a problem with it and they don't even have to dig up any more the way they repair all the utilities now. So other than it being put in the wrong place, what do we do about it? I mean, knock the building down now?

Mr. Seamans – That's probably what is going to have to happen.

Mr. Marple asked if the same setbacks were in effect at the time the garage was constructed. Mr. Stenis indicated they were.

AUDIENCE PARTICIPATION:

Mary Rogers, 1805 Burnt Oak Drive – My back yard adjoins hers. I don't know when it was – she's saying 12 years ago. She and her husband came over to our house waving a paper and said they'd had the place surveyed and they pushed their fence back onto my property – they said our fence was on their property and they pushed it back. My husband didn't ask to see the survey or ask where the pins were. He just didn't want a problem with the neighbors, so he said okay. Well, when they pushed the fence back – the fence that was here and our fence got pushed back to here, it always looked like that. We just put up with it. But then this hole that you could bury two dogs in got dug right by the new fence they built, which is filling up with water, weeds, mosquitoes. I've seen two rats in the yard from it. There are trees growing up that's above the building now.

Ms. Gambone – They were actually your trees. They were your bushes.

Ms. Rogers – You don't cut them down. I can't get to them to cut them down.

Mr. Seamans – We're not here to argue what's going on in that sense, as far as trees and rats. But we are looking at how to correct this, what's the violation if there is one, and what we're going to do to move forward.

Mike Nemecek, 1806 Elmhurst – I am the neighbor to the east, so our properties run side-by-side. I've been there over thirty-five years, so I know a lot of history about why the fences were moved and why the previous owner moved the fence, because he didn't want to do the yard. He not only moved the rear, he moved the west side. So when the new owners had it surveyed they moved the fences back to the correct place. But the whole addition, Elmhurst, is sitting on a gradual slope. In my yard, I kind of soup bowled it to keep all of my water. I don't want it running anywhere for all my trees. So drainage is not a problem. They've got it completely guttered. There's nothing that ever flowed over into my property, although it couldn't 'cause of the way I've got it bermed up. But the building has never been a problem. It serves as a privacy barrier for me.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. Ryan commented that his understanding is that the permit would not have been granted, and he doesn't see any justification to continue it.

Mr. Marple commented that drainage is always an issue, but that's not really the issue here. It's the setbacks.

Todd Marple moved to deny the requested Variances. Hank Ryan seconded the motion.

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

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

Ms. Tromble announced that the motion to deny the Variances passed by a vote of 3-0.

Mr. Seamans suggested that the applicant contact a lawyer regarding the contractor's lack of due diligence for the project. He also noted the 10-day appeal period for this decision to District Court.

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Item No. 5, being:

BOA-1415-09 – MARK CRUMPLEY REQUESTS A VARIANCE OF APPROXIMATELY 3.1' TO THE 5' SIDE YARD (NORTH) SETBACK TO ALLOW AN ADDITION TO AN EXISTING GARAGE AT THE SAME SETBACK.

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 was a letter of concern received from an adjoining property owner.

Mr. Seamans commented that the Board would not make any determination on water runoff. Ms. Connors added that would be looked at in the building permit process.

PRESENTATION BY THE APPLICANT:

Mark Crumpley, the applicant – I don't really have anything that I would add. We weren't quite sure how to respond to her request, either, but it brings up a question I had initially. When I first came down, I thought the procedure would be that I would request the building permit, they would deny it, then I would come to you for the variance. When I brought the paperwork down, they said just do the whole thing as the variance all in one package.

Mr. Ryan asked whether there have been any discussions about purchasing a small strip of land from the property owner to the north. Mr. Crumpley said he had thought about it. Several years ago they had to replace a fence and the neighbor offered at that time to move the fence over far enough to allow him not to request a variance. He was not comfortable with moving the fence, but not the ownership. He has not talked to him recently. They have a 10' driveway, so shuffle cars a lot, but they are reluctant to cover more than they have to. They have plenty of room, based on the code, but would rather not if they don't have to.

Jane Crumpley said she thinks the other property owner has some ideas of redeveloping part of the adjacent property, so she doubts it would be an option.

Mr. Crumpley said it is his understanding Lot 6 is now not wide enough to build on.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Hank Ryan moved to grant the Variance as requested. Todd Marple seconded the motion.

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

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

Ms. Tromble announced that the motion to grant the Variance as requested passed by a vote of 3-0. Chairman Seamans noted that there is a ten-day appeal period before the decision is final.

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Item No. 6, being:

MISCELLANEOUS DISCUSSION

None

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Item No. 7, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 5:05 p.m.

PASSED and ADOPTED this 22ND day of OCTOBER, 2014.



Board of Adjustment