

BOARD OF ADJUSTMENT MINUTES

FEBRUARY 25, 2015

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., February 25, 2015. 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

Vice Chairman Curtis McCarty called the meeting to order at 4:35 p.m.

Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Hank Ryan
Curtis McCarty
Brant Alexander
Kristen Dikeman (arrived at 4:36 p.m.)

MEMBERS ABSENT

Andrew Seamans

A quorum was present.

STAFF PRESENT

Susan Connors, Director, Planning & Community
Development
Wayne Stenis, Planner II
Leah Messner, Asst. City Attorney
Roné Tromble, Recording Secretary

Item No. 3, being:

APPROVAL OF MINUTES OF THE JANUARY 28, 2015 REGULAR MEETING

Hank Ryan moved to approve the minutes of the January 28, 2015 Regular Meeting as presented. Brant Alexander seconded the motion.

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

YEAS

Curtis McCarty, Brant Alexander, Kristen
Dikeman

NAYS

None

ABSTAIN

Hank Ryan

ABSENT

Andrew Seamans

Ms. Tromble announced that the motion to approve the January 28, 2015 Minutes as presented passed by a vote of 3-0-1.

Item No. 4, being:

BOA-1415-19 – JEAN EDWARDS REQUESTS A VARIANCE TO THE REQUIRED 25' FRONT YARD SETBACK TO ALLOW AN EXISTING GARAGE TO REMAIN ON PROPERTY LOCATED AT 504 ROSEDALE.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Application and Statement of Justification
3. Photos
4. Aerial Photo
5. Support Map and Support Letters

PRESENTATION BY STAFF:

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes.

Mr. Ryan asked why it took so long to find that it was non-conforming, since it was built in 2009. Mr. Stenis believes a complaint was filed with Code Enforcement.

Mr. Ryan commented that when he pulled the County Assessor's map, it looks like the garage is actually in the right-of-way. It looks like all of the houses in the area are on the property line. Mr. Stenis explained that the County's property lines are consistently in the wrong place; it is a GIS problem. Mr. Ryan said it looks like everybody built in the wrong place, so maybe we need to step back and figure out how to correct the big problem, rather than piece-mealing it. Mr. Stenis reiterated that it is a mapping issue at the County, not a property line issue. Mr. Ryan commented that this one has a significant deviation. Mr. Stenis said he visited the site and took field measurements, and used the joint in the concrete driveway, which staff members and surveyors have indicated is the most accurate point of reference. He added that the aerial photo that was included in the packet is more accurate. Mr. Ryan asked if there are any problems with lot coverage; Mr. Stenis indicated there are not. The applicant had obtained a permit to pave additional area in the front and side yards and at that time the coverage was calculated.

Ms. Dikeman asked what the process would be if the Board were to approve this with the condition recommended by staff that the owner must apply for a building permit. Is the extreme still that it would be torn down? Mr. Stenis responded that granting the variance would allow the structure to remain enclosed and encroach, but since it was built without a permit there may be some things about it that do not meet building code, e.g., structural issues and electrical issues. Mr. McCarty added that the City will likely require some engineering inspection of the property.

PRESENTATION BY THE APPLICANT:

Jean Edwards, the applicant, said the issues have been covered. For safety reasons, she would like to keep her enclosed garage. It has been there for several years without anyone saying anything about it. No neighbors have complained.

Mr. McCarty asked if Ms. Edwards received a survey when she purchased the property. She said she did not.

AUDIENCE PARTICIPATION:

Larry Harding, a friend of the applicant who helped her compile her application, has looked at

all the work that was done. The quality of the work, in his opinion, appears to be good and he doesn't believe there is a problem with it. He understands that there should be inspections of the electrical and plumbing. As far as any problems related to being able to see or blocking views or being too close to the street, he doesn't believe there is a problem. The neighbors are all evidently okay with it. What the Board is saying sounds reasonable. They met with Mr. Stenis at the property and looked at some of the structure. Mr. Harding doesn't believe there is a problem with what the carpenter did; there may be a problem with the foundation. He doesn't see a big problem with the work that has been done and it has been there for some time.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. Ryan said he finds this application to be an extremely tough one. On the question of whether the non-conformance came from the actions of the applicant, it sort of did and it sort of didn't; Ms. Edwards hired a contractor and probably thought it was being done right. If it had come to the Board before it was built, would the Board have been receptive to the variance or would they have made suggestions to modify it to get it in conformance? The applicant does have the safety issues, but those are more personal than running with the land.

Mr. Ryan raised the possibility of considering a variance that is non-transferrable, i.e., the variance would terminate upon the applicant's termination in interests in the property. Usually when a variance is granted it runs with the property until such time as something on the property is changed. There are some exceptions for handicapped people and there is a special exception for medical issues that terminates.

Mr. McCarty said his concerns are a little different. Carports typically are not constructed in a manner that they can take on additional weight and structure around the outside. Is it even safe the way it is constructed? The contractor obviously didn't get a permit, so that brings into question his ability to perform good construction. Electrical work is a potential fire hazard; if it wasn't inspected we have a further unsafe condition. We don't know what type of foundation it has. He asked about getting a survey or something to confirm whether the GIS is off that much. Ms. Connors indicated that they can see if City staff can confirm the right-of-way line.

Mr. Ryan asked if the applicant can obtain a building inspection prior to the next meeting. Mr. McCarty felt that might be premature because, if the Board denied the variance, they would be wasting money.

Hank Ryan moved to continue this item to the March 25, 2015 meeting to allow staff to provide additional information. Brant Alexander seconded the motion.

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

YEAS	Hank Ryan, Curtis McCarty, Brant Alexander, Kristen Dikeman
NAYS	None
ABSENT	Andrew Seamans

Ms. Tromble announced that the motion to continue this Variance to the March 25, 2015 meeting passed by a vote of 4-0.

* * *

Item No. 5, being:

BOA-1415-20 – MARK KRITTENBRINK REQUESTS A VARIANCE TO ALLOW A NEW DRIVEWAY WITHIN THE FRONT YARD OF PROPERTY LOCATED AT 432 CHAUTAUQUA AVENUE WITHIN THE CORE AREA.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Application and Statement of Justification

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. McCarty noted that staff had requested postponement of this item.

Hank Ryan moved to postpone this application to the March 25, 2015 meeting. Brant Alexander seconded the motion.

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

YEAS	Hank Ryan, Curtis McCarty, Brant Alexander, Kristen Dikeman
NAYS	None
ABSENT	Andrew Seamans

Ms. Tromble announced that the motion to postpone this application to the March meeting passed by a vote of 4-0.

* * *

Item No. 6, being:

MISCELLANEOUS DISCUSSION

1. Mr. Ryan again read his apology for his tone at the October 22, 2014 Board meeting, and asked that it be included verbatim in the minutes:

"In my questioning of the applicant's representative, at the Board of Adjustment meeting on October 22, 2014, my tone was harsh and, at times, combative. My tone was inappropriate for a member of this Board and not conducive to the effective accomplishment of the aims and purposes of this Board. I apologize to the Applicant, the Applicant's Representative, City staff members, the other members of this Board of Adjustment, the City Council, and the citizens of Norman for my tone. I make no apologies for the substance of my statements and questions. I believe my statements and questions were appropriate and necessary. I believe that I can, and that I will, fairly review and rule on any and all applications that come before this Board in the future regardless of the identity of the applicant or their attorney or agent."

2. Mr. Ryan said it has come to his attention that the Board of Adjustment is the body that hears any appeal from a Floodplain Permit Committee decision. He is concerned that the ordinance requires that at least two members of the Board of Adjustment have to have completed the basic floodplain training. If those two members were absent from a meeting, a decision could be made by the Board of Adjustment with no members trained in floodplains being present. He suggested that provision may need to be reviewed.

3. Ms. Connors provided information on the requirement for floodplain training, and training sessions that are coming up during the next few months. Tom Sherman was the last Board member who was certified. The next class in Norman is April 16, with one also in May and one in June. She asked if anyone would be interested in taking the training.

Mr. Ryan suggested that the ordinance language be amended to require that at least two members who have received the training would have to be present and voting on a floodplain appeal. Ms. Connors stated that a committee of the City Council is currently looking at amendments to the Floodplain Ordinance, and that can be brought to their attention. We still need to see if we can get at least two members trained and qualified.

Mr. McCarty said he believes that he took the training several years ago. Ms. Connors asked that he see if he can find his certificate. She said she has taken the course, as has everyone on the Floodplain Permit Committee. It is a full-day course. If any Board members are interested, they can email her. Ms. Dikeman said she would be happy to attend the course, but needs to look at her calendar. Ms. Connors added that the class is free, so the entire Board can attend. There is no test.

4. Ms. Connors indicated that Mr. Seamans wants to hold a study session about what the Board would like to see included with applications. Since he is not present, that discussion can wait until the next meeting.

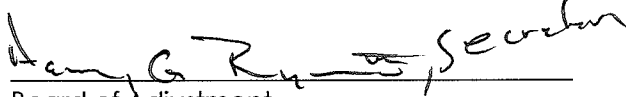
5. Mr. McCarty welcomed the two new Board members, Brant Alexander and Kristen Dikeman.

Item No. 7, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 5:08 p.m.

PASSED and ADOPTED this 25th day of March, 2015.



Board of Adjustment