



CITY OF NORMAN, OK BOARD OF ADJUSTMENT MEETING

Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Wednesday, December 06, 2023 at 4:30 PM

MINUTES

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in City Council Chambers of the Norman Municipal Complex, 201 West Gray Street, at 4:30 p.m., on Wednesday, December 6, 2023. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at [Agendas/Minutes | City of Norman Oklahoma Meetings \(municodem meetings.com\)](#) in excess of 24 hours prior to the beginning of the meeting.

Chair Curtis McCarty called the meeting to order at 4:30 p.m.

ROLL CALL

Members: Brad Worster, Micky Webb, Curtis McCarty, Ben Bigelow, James Howard

PRESENT

Brad Worster
Ben Bigelow
Curtis McCarty

ABSENT

Micky Webb
James Howard

A quorum was present.

STAFF PRESENT

Melissa Navarro, Planner II
Ken Danner, Subdivision Development Manager
Roné Tromble, Admin. Tech. IV
Beth Muckala, Assistant City Attorney

MINUTES

1. Consideration of Approval, Rejection, Amendment, and/or Postponement of the Minutes of the October 25, 2023 Board of Adjustment Meeting.

Motion made by Bigelow, Seconded by Worster to approve the minutes of the October 25, 2023 Board of Adjustment meeting as presented.

Voting Yea: Worster, Bigelow, McCarty

The motion to adopt the October 25, 2023 Minutes as presented was adopted by a vote of 3-0.

ACTION ITEMS

2. Consideration of Approval, Rejection, Amendment, and/or Postponement of BOA-2324-8: Kevin P. Shay and Zion T. Shay appeal an Administrative Decision regarding an administrative official's interpretation of 36-512(d)(4), the minimum 250' frontage requirement; and 36-512(d)(6)(a), the 10-acre lot area requirement in the A-2, Rural Agricultural District, for a tract of land located south of 16900 E. Tecumseh Road and east of 3501 168th Avenue N.E.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Application with Exhibits A-E

PRESENTATION BY STAFF:

Melissa Navarro reviewed the staff report, a copy of which is filed with the minutes.

Mr. Bigelow asked if the tract immediately to the east of the subject tract predates the ordinance change. Ms. Navarro responded that it does.

Mr. McCarty asked if the Board can do anything about the subdivision regulations. Ms. Navarro said they can only address the zoning ordinance issues. Mr. McCarty asked what they would have to do to address the subdivision regulations, and if this has ever happened before. Mr. Danner reported that there have been several tracts that have been subdivided without benefit of City approval, and they have been denied permits. He does not know of any that have been able to obtain permits since the illegal subdivision.

PRESENTATION BY THE APPLICANT:

Shawn Fulkerson, representing the applicants, explained the applicants are a young couple who bought a property that had a residence on it. There was septic and a water well on the site. There was a road connecting it to 168th Avenue. It had been there for some time, but he wasn't sure it had been since 1973. His clients have invested all of their money in this to build a residence. This property will never be built as a commercial property. The only legitimate use is for a residence. They would ask for approval of a variance to allow them to proceed to try to make some use of this property. There have been no objections from any of the surrounding owners. Most of the residences in the area are legal non-conforming uses, or have been there a substantially long time.

Mr. McCarty noted that septic systems are recorded at DEQ when they are put in. He asked if there is any record of this septic. Mr. Fulkerson did not know.

Mr. Bigelow asked if there is evidence the septic and well belong to the subject lot, and not the adjacent lot that it was separated from. Mr. Fulkerson explained there are two septs and two wells, so each of the premises had separate.

Mr. Worster noted there is a warranty deed from 2010, and then a quit claim deed. Mr. Fulkerson said it a true hardship: there is no warranty deed; there are no affirmations of title. They relied on the fact that there was an existing structure there. They were going to put a manufactured home on it or build a house.

Mr. McCarty asked if they got a permit to remove the previous structure. Mr. Fulkerson did not know.

Mr. Bigelow commented that that Quit Claim Deed indicates that the sale was a family transaction. Mr. Fulkerson responded that the family has been unable to return the money.

Mr. Fulkerson acknowledged this is a difficult case. The overwhelming factor is this property will never be used for anything but a residential home. The area around it is not being developed commercially.

Ms. Muckala commented that this was titled and noticed as an appeal from an administrative decision. A variance is a very different review and standard from an appeal of an administrative decision. A variance is looking at the terminology and actually bending those rules based on hardship. Review of an administrative decision is a review of the language as it is – an interpretation of it as it is, and a determination of whether staff correctly interpreted that language.

Mr. Fulkerson said the application was asking for a variance from the existing code.

Mr. Fulkerson asked to withdraw the application, so he can amend the application and bring it back to include both items, a variance and an appeal of an administrative decision.

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MISCELLANEOUS COMMENTS

Mr. Bigelow asked for clarification of whether appeals create any sort of precedent. Ms. Muckala said she was not aware of other appeals or variances on similar properties. Staff has been made aware of similar illegal subdivisions. When it comes to interpreting the zoning ordinance, it could set a precedent. A variance is a very individualized inquiry; we don't want to be looking at precedents in that case. If it is a decision we are making over and over, that means we need a code amendment rather than a variance because it is not unique.

Mr. McCarty commented he believes Mr. Danner was saying there seem to be more cases of illegal subdivisions which are violating the subdivision regulations.

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 4:52 p.m.



Secretary, Board of Adjustment