

NOTICE OF MEETING

ZONING BOARD OF ADJUSTMENT

TYPE OF MEETING

REGULAR MEETING	(X)	RESCHEDULED REGULAR MEETING	()
SPECIAL MEETING	()	CONTINUED OR RECONVENED MEETING	()

DATE:

TIME:

PLACE OF MEETING:

8.19.2021

2:30 P.M.

Commission Chambers

City Hall, 9th & Broadway

Shawnee, OK 74802-1448

To be completed by person filing notice:

NAME:

Rachel Clyne

TITLE:

City Planner

ADDRESS:

P. O. Box 1448

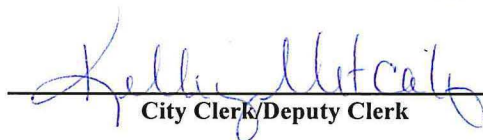
Shawnee, OK 74802-1448

PHONE:

(405) 878-1616

Filed in the office of the municipal clerk at 9:28 a.m. /p.m. on 08.16.2021

SIGNED:


City Clerk/Deputy Clerk

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### FOR CITY CLERK'S OFFICE USE ONLY

DATE NOTICE RELEASED TO NEWS MEDIA:

8-16-2021

PERSON FILING NOTICE:

/s/ Rachel Clyne

NOTICE VERIFIED BY:

Kelley Metcalf

# **AGENDA**

## **Zoning Board of Adjustment -- City of Shawnee, OK Regular Meeting**

Commission Chambers of City Hall, 16 W. 9<sup>th</sup> Street  
**August 19, 2021 at 2:30 P.M.**

- 1) Call to Order**
- 2) Roll Call**
- 3) Minutes**
  - a. Consideration of approval of the minutes from the regular meeting of the Zoning Board of Adjustment on **June 17, 2021**.
- 4) Public Hearings**
  - a. Public hearing and consideration of an application for a Variance at property located at 33808 Belcher Road. Request for a variance of 149' of street frontage from the minimum requirement of 330' for property zoned in A-1 (Rural Agricultural District).  
Case No. **ZBOA03-21**, Applicant: Daniel and Alison Cope
- 5) Unfinished Business**
  - a. **ZBOA07-20** – Variance request for 420 N. Kickapoo Street. Scheduled for follow-up on July 15, 2021 - No quorum. Staff recommends deferring item to a future meeting.
- 6) New Business**
- 7) Board Members' Comments**
- 8) Adjournment**

# ZONING BOARD OF ADJUSTMENT

DATE: June 17th, 2021

## DRAFT Minutes

The Zoning Board of Adjustment met at a regularly scheduled meeting on Thursday, June 17th, 2021 at 2:30 p.m. in the Commission Chambers at City Hall, Shawnee, Oklahoma, Pottawatomie County, pursuant to notice duly posted as prescribed by law.

### AGENDA ITEM NO. 1: Roll Call

Upon roll call the following Board members were present: Tim Burg, Holly Gordon, and Brandon Dyer. Board members Mark Cannon and Crystal Richardson were noted as absent. A quorum was declared present.

**AGENDA ITEM NO. 2:** Consideration of approval of the minutes from the regular meeting of the Zoning Board of Adjustment on January 21st, 2021.

Board member Burg made a motion to approve the minutes as presented, which was seconded by Board member Dyer. The motion passed 3-0-0.

AYE: Burg, Dyer, Gordon

NAY: None

ABSTAIN: None

**AGENDA ITEM NO. 3:** Case #ZBOA02-21– Public hearing and consideration of approval of a sign variance request to add a second freestanding sign of 35' and replace the existing 20' sign with a 35' sign for a 7.9-acre tract located at 4921 N. Automall Drive.

**Applicant:** Dalmarc Signs on behalf of Joe Cooper

Planning Director Rebecca Blaine presented the staff report. She stated the applicant was requesting three variance requests with the application. Director Blaine referenced the Zoning Code in **Sec. 3-190. – Other commercial and industrial zoning districts**, which states:

- 1) *One freestanding sign per location is permitted for a single business or a group of businesses which share common access and parking facilities, provided that an additional sign location shall be permitted for each 150 lineal feet of frontage.*

Director Blaine explained that the company's cul-de-sac has approximately 115' road frontage. She continued referencing the Zoning Code **Section 3-190.3**, which states, *the maximum {sign} height shall be 20 feet above grade level, except as provided in subsection (e)(1)b of this section*. Subsection **(d)** provides size standards for freestanding signs, which states:

- 1) *The display surface area shall be permitted on the basis of two square feet of sign for each one lineal foot of frontage, up to the following maximum size. For C-5, CP and C-3 districts, 400 square feet.*

Director Blaine explained that the business has 115' of road frontage at widest point of cul-de-sac, which equals a maximum of 230' square feet for signage. The current proposed signs are 124.9 sq. ft. and 158.58 sq. ft. for a total of 283.48 square feet. This exceeds the maximum size allowed by 53.48 square feet.

Director Blaine advised that the airport obstruction evaluation came back clear. She further explained that the City of Shawnee's existing sign code was from 1990. With the overhaul of the Zoning Code and Subdivision Regulations, a new sign code was quickly approaching. Blaine advised that the City intends to increase the regulations on signs by shrinking permissible heights, quantities, and DSAs (display surface areas) on new signage.

Director Blaine stated the variance application lacked necessary hardship to grant the additional sign requested, as well as, lacked a hardship to grant the variance requests to allow an additional fifteen-feet in height per sign for two (2) thirty-five feet (35') signs instead the maximum allowable height of twenty-feet (20').

Based upon the findings staff recommended the **denial** of variance application **ZBOA02-21**.

Property owner Joe Cooper addressed the Board. Mr. Cooper passed out a five (5) page document with additional renderings of existing and possible signs. He stated he did not agree with the sign regulations of the Zoning Code and asked the Board members grant the requested variances. The Board members asked questions and offered solutions to best accomplish the request while maintaining the spirit of the code. A concern that an approval would establish precedent, which could lead to future requests for the same variances. The Board members asked for further information about the provided document.

Mr. Cooper conferred with the applicant, a representative of Dalmarc Signs, about the options and suggestions made by the Board. It was determined that the proposed signs on the variance application and the signs on the provided document did not align with the original request. Mr. Cooper asked for additional time to review the possible signs from Dalmarc, the corporation's requirements, and the Board's proffered solutions.

Board member Burg made a motion to defer the application to a future meeting with the Board to wait for communication from the applicant, which was seconded by Board member Dyer.  
The motion passed 3-0-0.

AYE: Burg, Dyer, Gordon

NAY: None

ABSTAIN: None

**AGENDA ITEM NO. 4:**

**New Business**

Director Blaine had no comments

**AGENDA ITEM NO. 5:**

**Board Members' Comments**

Board members Burg and Dyer had no comments.

Chair Gordon thanked her fellow Board members as they continued to serve the community.

**AGENDA ITEM NO. 6**

**Adjournment**

The meeting was adjourned at 3:22 p.m.

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Chair/Vice-Chair

/s/ Rachel Clyne  
City Planner



**Zoning Board of Adjustment – 08.19.2021 – City of Shawnee, Oklahoma**

**Staff Report – ZBOA03-21– Variance for Reduction in Street Frontage – 33808 Belcher Rd.**

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**To:** Shawnee Zoning Board of Adjustment

**From:** Rachel Clyne, City Planner

**Date:** August 5, 2021

**Subject: ZBOA03-21** – Request for a **Variance** of a 149' reduction of required street frontage at 33808 Belcher Road, Shawnee, Oklahoma

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It is requested that the following information be given formal consideration by the Zoning Board of Adjustment at its regular meeting of August 19, 2021.

Background

The subject property is located at 33808 Belcher Road is zoned A-1 (Rural Agricultural District) and is vacant land. On August 4, 2021, the property owners, Daniel and Alison Cope requested a Lot Split of 5-acres from the approximately 13-acres tract belonging to the Cope Family Trust. At the August 4, 2021 meeting of the Shawnee Planning Commission, that Lot Split request received Conditional Approval based upon the decision (approval) made by the Zoning Board of Adjustment at this meeting.

Discussion

The applicant/owners approached staff to discuss a Lot Split from the family trust owned twelve-acres located on Belcher Road. The intent is to build a new single-family residence in the location of Mr. Cope's childhood home. His parents, George and Erona Cope, live nearby in a single-family residence at 33806 Belcher Road. To accommodate the minimum 5-acre parcel size for A-1 (Rural Agricultural District), the applicants had to adjust the originally proposed Lot Split land.

Section 22-262 of the Shawnee Zoning Code (Code) requires tracts in A-1 zoning districts to be a minimum of 5-acres and have 330' of street frontage. The proposed Lot Split would provide 330' for the parent tract (± 8.7-acres). The new tract would have approximately 181' street frontage, which is 149' less than the requirement of the Zoning Code. The request is for a variance of 149' of street frontage for a 5-acre parcel located in A-1 zoning district.

In accord with Oklahoma Statute 11 O.S. 44-107, Section 22-571 of the Shawnee Zoning Code (Code), the Zoning Board of Adjustment (Board) may approve variances only after determining that certain conditions exist.

- 1) The application of the code to the particular piece of property would create an unnecessary hardship;
- 2) Such conditions are peculiar to the particular piece of property involved;
- 3) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the code or the comprehensive plan; and
- 4) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

Note that *financial hardship* to the applicant is not a consideration in determining a variance request.

Relating to the four conditions for granting a variance, staff's comments are:

- 1) Requiring 330' street frontage on this property creates a hardship.
- 2) There are approximately seven (7) tracts of land located adjacent to and east of the subject property that do not meet the 330' street frontage minimum. The street frontages range from 60' to 175' with most measuring approximately 90' frontage. The proposed tract would have 181' of street frontage.
- 3) Granting the variance would not cause substantial detriment to the public good, nor would impair the intent and spirit of the Zoning Code and Comprehensive Plan.
- 4) To satisfy the A-1 zoning district requirements, the applicants requested a larger tract (± 5-acres) with the Lot Split Application.

Section 22-572 of the Code indicates that *burden of truth* is on applicant(s) seeking a variance. This is that a hardship exists and that granting the variance is necessary to relieve the hardship. In granting a variance, the Board may make appropriate conditions or safeguards and may require a bond or other guarantee necessary to enforce compliance with the conditions and safeguards.

### Recommendation

Staff recommends **Approval** by the Zoning Board of Adjustment for **ZBOA03-21** a **Variance** of 149' of required street frontage to the property known as 33808 Belcher Road in Shawnee, Oklahoma with the following conditions:

- Acknowledgement by the applicant(s) that the approval of a Variance does not in any way negate or circumvent the other requirements of development as stated in the City Codes, which includes the Zoning Code and the adopted Building Codes.
- Acknowledgement by the applicant(s) that additional permits are required prior to construction, standard inspections will be conducted, and no habitation on the property until the City issues a Certificate of Occupancy.

33808 Belcher Rd, Shawnee, OK, 74801, USA

W Independence St



Belcher Rd

PLANNING DEPARTMENT  
222 N. BROADWAY  
SHAWNEE, OK 74801



PHONE: (405) 878-1616  
FAX: (405) 878-1587

RECEIVED  
JUN 29 2021  
PLANNING / CODE

**ZONING BOARD OF ADJUSTMENT**  
**PROJECT NO. 20210564 CASE NO. \_\_\_\_\_**

NAME OF PROPERTY OWNER: Daniel and Alison Cope  
ADDRESS: 33808 Belcher Rd.  
CITY: Shawnee STATE: OK ZIP CODE: 74801  
TELEPHONE: (405) 613 9063

APPLICANT'S NAME: Daniel and Alison Cope

APPLICANT'S RELATIONSHIP TO OWNER (S): [CHECK ONE] **SAME** ☒ **AGENT** ☐

APPLICANT'S ADDRESS: 43210 Hardy Rd.  
CITY: Shawnee STATE: OK ZIP CODE: 74801  
TELEPHONE: (405) 613 9063

(PLEASE COMPLETE FOR THE **PROPERTY** THAT THE VARIANCE IS REQUESTED FOR.)

PROPERTY LOCATION (ADDRESS): 33808 Belcher Rd.

LEGAL DESCRIPTION: Lot 6 and West 75' of Lot 5 of Block I of Stegall Addition, Shawnee OK

(DIMENSIONS OF PROPERTY) AREA: \_\_\_\_\_ WIDTH: \_\_\_\_\_

LENGTH: \_\_\_\_\_ FRONTAGE: 181

CURRENT ZONING: A1 CURRENT USE: Vacant

VARIANCE REQUESTED: 149' of frontage

**APPLICATION, OWNERSHIP LISTING AND PAYMENT  
MUST BE RECEIVED 30 DAYS PRIOR TO MEETING**

[Signature]  
**APPLICANT'S SIGNATURE**

\*\*\*\*\*

(OFFICE USE ONLY)

Filed in the office of the Planning Department, 222 N. Broadway, this \_\_\_\_ day of, \_\_\_\_\_ 20\_\_\_\_.

FILING FEE: \$90.00 CK 86.00  
RECEIPT NO: 492

ZBOA DECISION: \_\_\_\_\_

\_\_\_\_\_  
ZONING BOARD OF ADJUSTMENT SECRETARY



# SMITH BROTHERS

## ABSTRACT

118 N. Broadway Avenue

Shawnee, OK 74801

Phone: (405)273-9820 Fax: (405)273-9813

State of Oklahoma  
County of Pottawatomie

} SS

## SPECIAL CERTIFICATE

IN RE: The West 75 feet of Lot Five (5) and all of Lots Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), and Twelve (12), Block One (1), STEGALL'S ADDITION, to the City of Shawnee, Pottawatomie County, Oklahoma, according to the recorded plat thereof.

The undersigned a duly bonded and qualified abstract company within and for Pottawatomie County, Oklahoma, hereby certifies that the current year's tax rolls in the office of the Pottawatomie County Treasurer shows the names and addresses of the owners of the property abutting and within 300 feet in any direction of the before described real estate as follows, to-wit:

### NAME AND ADDRESS

### LEGAL DESCRIPTION

Gerald D Deatherage and Shirley Deatherage  
33702 Belcher Rd  
Shawnee, OK 74801

BEG N88\*W1649.08' SE/C N88\*W333.58' N641.81'  
N88\*E333.64' S664.47' POB

Darrin L Walker and Amy L Walker  
PO Box 45549  
Oklahoma City, OK 73145

NW SE & E/2 SW SE & NW SW SE LESS 5 ACRES

Amy L Walker and Darrin Walker  
PO Box 45549  
Oklahoma City, OK 73145

SE/4 SE/4 LESS A TRACT TO STATE 2012-2276

Iris Sego  
21249 Crestview Ln  
Tecumseh, OK 74873

STEGALL BLK 1 N 1AC ALG N LINE OF DAM RD DES  
AS BEG 32'W NE/C LOT 1 S411.52' W105.85'  
N411.52' E105.85' POB

Jose E. Saenz  
33904 Belcher Rd  
Shawnee, OK 74801

STEGALL'S ADDITION BEGINNING 268'W NE/C NE/4  
S1017.83' N75\*40'W92.5' N996.5' E90' POB AKA THE  
EAST 25' OF LOT 4 & THE WEST 65' OF LOT 3  
BLOCK 1

Paula Gale VanWagner  
PO Box 333  
Shawnee, OK 74802

I-2SU BEG 33'S & 33'W NE/C NE W100' S100' E100'  
N100' POB. LESS .05 DEPT TRANS 2012-1035

Marsha J Sims and Tanya M Peltier, et al.  
32412 Homer Ln  
Shawnee, OK 74801

STEGALL BLK 1 LOT 1 & LOT 2 & THE EAST 5' LOT 3  
LESS TRACTS & EASEMENT & LESS A TRACT TO  
DELORES PELTIER DESCRIBED IN 2008-10307 &  
LESS .12AC TO STATE 2012-3057

Lara Hobbs  
33902 Belcher Rd  
Shawnee, OK 74804

STEGALL BLK 1 BEG 996.05'S & 358'W NE/C 14-10-2  
N996.05' W100' S972.09' LESS N 1AC BEING PT OF  
BLK 1 STEGALL TH S411.52' TH W105.85; TH  
N411.52' TH E105.95' TO POB ALL BEING PART OF  
BLK 1 STEGALL ADD

City of Shawnee  
PO Box 1448  
Shawnee, OK 74802

STEGALL ALL BLK 2

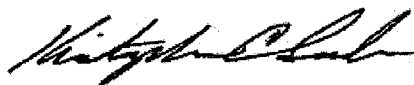
IN WITNESS WHEREOF, We have hereunto set our hand and seal at office in the City of Shawnee, Oklahoma,  
this 14th day of June, 2021 at 07:00 AM.

**ATTEST:**

**Smith Brothers Abstract & Title Co., LLC**



David Thrailkill,  
Abstractor License No.: 3211



President  
Abstractor License No.: 1725

CITY OF SHAWNEE  
PUBLIC HEARING NOTICE  
CASE #ZBOA03-21

File  
Copy

Notice is hereby given that the City of Shawnee, Oklahoma, will conduct a public hearing on a proposed Variance for reduction in street frontage for property located within the City of Shawnee.

The property requesting a variance is described as follows:

The West 75 feet of Lot Five (5) and all of Lots Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), and Twelve (12), Block One (1), STEGALL'S ADDITION, to the City of Shawnee, Pottawatomie County, Oklahoma, according the recorded plat thereof.

|                                |                                          |
|--------------------------------|------------------------------------------|
| General Location Known As:     | <u>33808 Belcher Road</u>                |
| Current Zoning Classification: | <u>A-1 (Rural Agricultural District)</u> |
| Proposed Use of Property       | <u>Single-Family Residence</u>           |
| Applicant:                     | <u>Daniel and Alison Cope</u>            |

The public hearing will be held in the City Commission Chambers in City Hall, 16 W. 9<sup>th</sup> St. Shawnee, Oklahoma, as follows:

August 19, 2021    AT 2:30 P.M.:    CITY OF SHAWNEE ZONING BOARD OF ADJUSTMENT

At this time any interested citizen of Shawnee, Oklahoma will have the opportunity to appear and be heard regarding the rezone request. The Board reserves the right to limit discussion and debate on the proposed variance in the public hearing, in which event those persons appearing in support or opposition of the proposed variance will be allotted equal time. Any formal protest must be filed in writing with the Planning Office during normal working hours a minimum of three (3) days prior to the hearing. If there are any questions about the proposal, or you need additional information prior to the public hearing, please contact the Planning Department at 405-878-1616. A copy of the application is available for public inspection during normal working hours in the Planning Office/Annex Building located at 222 N. Broadway.

Witness my hand this 27<sup>th</sup> day of July 2021.

/s/ Rachel Clyne  
Rachel Clyne, City Planner



**Zoning Board of Adjustment – 07.15.2021 – City of Shawnee, Oklahoma**

**Staff Report – ZBOA07-20 – Continuation of Variance request – 420 N. Kickapoo Ave.**

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**To:** Shawnee Zoning Board of Adjustment

**From:** Rachel Clyne, City Planner

**Date:** July 14, 2021

**Subject:** **ZBOA07-20** – Continuation of Variance request for 420 N. Kickapoo Ave. as ordered during the October 15, 2020 ZBOA regular meeting.

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It is requested that the following information be given formal consideration by the Zoning Board of Adjustment at its regular meeting of July 15, 2021.

**Background**

The subject property is located at 420 N. Kickapoo Avenue and operates as a Medical Marijuana (MMJ) dispensary. On October 15, 2020, an application for a variance to continue the business at property zoned C-1 (Neighborhood Commercial District) instead of C-3 (Highway Commercial District) as required by ordinance.

**Discussion**

The Staff report from the October 2020 meeting and the unsigned minutes from that ZBOA regular meeting are included for reference. A motion to allow for conditional approval was approved and reads as follows:

*“A motion to approve of variance as requested to allow Roots Dispensary to operate in a C-1 zoning classification at 420 North Kickapoo with the following restrictions. Time restriction is on the variance- at this time it is granted at least until July 15<sup>th</sup>, 2021. It will then be reviewed, and it is expected at that time a PUD application will be completed and on file with the City. Roots Dispensary and its representatives continue to work with staff. Installation of a privacy fence at daycare across the street as coordinated by the Planning Department. Finding all four factors are required for the variance be granted and the burden of proof is set forth in the Code of Ordinances have been found.”*

The applicant and/or his representatives have been in contact with the Planning Department. Staff received Design Statements for a PUD which were marked up by staff and returned to Anthony McDermid of TAP (Architecture) on May 19, 2021. The revised Design Statements were received from

McDermid on June 14, 2021. However, staff does not have a completed PUD application, which would include the finalized PUD design statement and drawings.

Recommendation

Staff recommends that the Zoning Board of Adjustment defer the required PUD application associated with Case **ZBOA07-20** to a future date. Staff must have the completed PUD application with required documents and drawings, and the application and sign fees a minimum of 30-days prior to the ZBOA meeting date.

Board members to determine on which scheduled ZBOA meeting date the PUD application will be heard. Those meeting dates established for 2021 are as follows:

**MEETING DATES**

|                    |       |                                       |       |                    |
|--------------------|-------|---------------------------------------|-------|--------------------|
| August 19, 2021    | ----- | <i>Application submittal due date</i> | ----- | July 19, 2021      |
| September 16, 2021 | ----- | <i>Application submittal due date</i> | ----- | August 16, 2021    |
| October 21, 2021   | ----- | <i>Application submittal due date</i> | ----- | September 21, 2021 |
| November 18, 2021  | ----- | <i>Application submittal due date</i> | ----- | October 18, 2021   |
| December 16, 2021  | ----- | <i>Application submittal due date</i> | ----- | November 16, 2021  |