

AGENDA
BOARD OF ADJUSTMENT
MARCH 21, 2024 AT 2:30 PM
COMMISSION CHAMBERS AT CITY HALL
16 WEST 9TH STREET
SHAWNEE, OKLAHOMA

Official action can only be taken on items which appear on the agenda. The public body may adopt, approve, ratify, deny, defer, recommend, amend, strike, or continue any agenda item. When more information is needed to act on an item, the public body may refer the matter to Staff or back to Committee or the recommending body. Under certain circumstances, items are deferred to a future date or stricken from the agenda entirely.

CALL TO ORDER

DECLARATION OF QUORUM

1. Consideration of approval of the Minutes from the January 18, 2024, regular meeting.
2. BOA02-24 Public hearing and consideration of a request for a variance for a reduction of the front yard setback by seven feet (7') for a carport on the property located at 38 Chickasaw Drive. (Deferred from 2.15.2024 meeting due to lack of quorum.)
3. BOA03-24 Public hearing and consideration of a request for a variance to allow an unoccupied, licensed RV to park on the paved driveway at 1601 N. Oklahoma Avenue.
4. BOA04-24 Public hearing and consideration of a request for a variance to allow an accessory structure in the front yard at 3917 N. Pottenger Avenue.
5. Community Development Department Updates
6. Board Comments
7. Adjournment

Respectfully submitted,

A handwritten signature in blue ink that reads "R. Clyne". The signature is written in a cursive, flowing style.

Rachel Clyne, Secretary

The City of Shawnee encourages participation from its citizens in public meetings. If participation is not possible due to a disability, notify the City Clerk, in writing, at least forty-eight hours prior to the scheduled meeting, and necessary accommodations will be made. (ADA 28 CFR 36)

SHAWNEE BOARD OF ADJUSTMENT

DATE: January 18, 2024

Regular meeting - *DRAFT Minutes*

The Board of Adjustment of the City of Shawnee, County of Pottawatomie, State of Oklahoma, met in person for a regular meeting on January 18, 2024, at 2:30 PM, according to notice duly posted as prescribed by law.

Chair Gordon called the meeting to order at 2:30 PM. Community Development Director Rian Harkins called roll and stated a quorum was present.

The following Commissioners were present:

Present: Austin, Dyer, Gordon, Kelly

Absent: Richardson

Item 1: Approval of Minutes – Regular meeting

Consideration of the minutes from the regular meeting of October 19, 2023. Chair Gordon asked for questions or corrections to the minutes.

Board Member Dyer made a motion to **Approve** the minutes as presented, which Board Member Kelly seconded. Motion **passed 4-0-0**.

Aye: Austin, Dyer, Gordon, Kelly

Nay: None

Abstain: None

Item 2: Review and Approval of the 2024 Board of Adjustment meetings calendar.

Board Member Austin made a motion to recommend the **APPROVAL** of the 2024 Board of Adjustment meetings calendar, which Chair Gordon seconded.

Motion **passed 4-0-0**.

Aye: Austin, Dyer, Gordon, Kelly

Nay: None

Abstain: None

Item 3. Case No. BOA01-24 Public hearing and consideration of a request for a variance for a reduction of the side yard setback for an accessory structure on the property located at 15504 Patterson Road.

Chair Gordon read Agenda Item 3 and asked for a staff report. City Planner, Rachel Clyne, reviewed the information on the staff report for BOA01-24 with the following information The subject property is located at 15504 Patterson Road. The property is zoned A-1 (Rural Agricultural District.) The applicants considered expanding the existing (23' x 24') accessory structure on the property. However, it is a non-conforming structure because it sits one foot (1') from the west property line. Following consultation with a building contractor, it was determined the construction of a new accessory structure would be significantly less complicated than an expansion. Due to the narrow width of the lot, the placement of the proposed accessory building would line up with the existing building on the east side. Building the proposed 18' x 24' accessory building requires a reduction of the side yard setback by five feet (5').

Planner Clyne reviewed **Oklahoma Statute 11 O.S. 44-107, Section 22-571 of the Shawnee Zoning Code** (Code), the 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.

Planner Clyne noted 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 were:

1. The application of the code to the subject property creates a hardship as the existing accessory structure is non-conforming and it cannot be increased in size.
2. The subject property is narrow in width ($\pm 80'$), which significantly limits the area to locate an accessory building. The existing accessory building is non-conforming. A variance to increase its size would require a variance.
3. Granting the variance would not cause substantial detriment to the public good or impair the intent and spirit of the Zoning Code and Comprehensive Plan.
4. Allowing an accessory structure to encroach on the side yard setback by five feet (5') would be the minimum necessary to alleviate the hardship if granted.

Staff recommended **Approval** by the Board of Adjustment for **BOA12-23**, a **Variance** to allow a reduction of five feet (5') in the side yard setback for the property located at 15504 Patterson Road with the following requirements acknowledged by the applicant.

- Acknowledgment by the applicant that this determination does not negate or circumvent the other requirements of development as stated in the City Codes, which include the Zoning Code and the adopted Building Codes.
- Acknowledgment by the applicant that additional permits may be required and standard inspections may be conducted.

Options:

- Approval of Case No. BOA01-24 allows a reduction of five feet (5') in side yard for the property located at 16216 Patterson Road for the construction of an accessory building.
- Denial of the application for BOA12-23, thus rendering the subject property unbuildable.
- Deferral of Case No. BOA01-24 with a request for additional and specific information to a certain date.

The public hearing was opened. The applicant was present and available for questions. After no others came forward to speak, the public hearing was closed.

Following discussion amongst the BOA and staff, Board Member Dyer made a motion to Approve Case No. BOA01-24 with the conditions presented by staff, which Board Member Austin seconded.

The motion passed **4-0-0**.

AYE: Austin, Dyer, Gordon, Kelly

NAY: None

ABSTAIN: None

Item 4: Community Development Department Updates

Community Development Director Rian Harkins advised that the Twin Lakes Master Plan was approved at the January City Commission meeting. Harkins updated the Board on the Unified Development Code, stating that staff was merging comments on a working draft for the consultant. The goal was to provide clarification for the public by indicating the difference between the current and updated versions. Changes to zoning districts, land uses, parking reduction (cut in half), Complete Streets approach, trails, and parks with a fee-in-lieu were some changes. The Infill Palette is 90 % complete, and a final draft was anticipated by the end of the month. The plans will be on the website with a waiver required to download. Director Harkins advised that the Love Your Block (LYB) program and neighborhood revitalization with Dunbar Heights will move forward. Staff and the City will be in a supporting role. Next, Harkins discussed the Homeless Program by announcing three (3) new Vista employees would be working on housing, case management, and employment. The Homeless Resource Center continues to run on volunteers and donations. He stated

that C3 and the Homeless Roundtable, starting tonight, would be running the warming station for nights only through the weekend. Lastly, Harkins stated that budget season was beginning. Staff will be working with other departments to budget for matching grant money.

Item 5: Board Members' Comments

Chair Gordon was excited about the Infill Palette and praised the forward-thinking involved in addressing the housing shortage.

Board Member Dyer commented about parking at the mall. With a reduction of parking, new development was possible. Board Member Austin asked if the Building Code was included in the Unified Development Code (UDC) and was advised that it was not.

Item 6: Adjournment

The meeting was adjourned by the power of the Chair at 2:50 PM.

Chair/Vice-Chair

Date

Secretary/City Planner

Date



Board of Adjustment Meeting – 2.15.2024 – City of Shawnee, Oklahoma

Staff Report | BOA02-24 | Front Yard Setback | 38 Chickasaw Dr.

To: Shawnee Board of Adjustment

From: Rachel Clyne, City Planner

Date: February 9, 2024

Subject: Staff Report -- Public hearing and consideration of a request for a variance for a reduction of the front yard setback by seven feet (7') for a carport on the property located at 38 Chickasaw Drive.
Case No.: **BOA02-24** | Applicant: Gary Briscoe

Discussion

The subject property is located at 38 Chickasaw Drive. The property is zoned R-1 (Single-Family Residential District.) The request is a variance to the Zoning Code, **Sec. 22-293. – Dimensional Standards.**, which discusses the density and dimensional standards such as minimum lot size, street frontage, and yard setbacks. **Table 22-293. Density and Dimensional Standards by Zone** indicate in R-1 zoning that the minimum side yard setback is twenty-five feet (25'). This variance request is to encroach the front yard setback by seven feet (7') to allow the construction of a 20' x 20' carport.

In accordance with **Oklahoma Statute 11 O.S. 44-107, Section 22-571** of the Shawnee Zoning Code (Code), the 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) The application of the code to the subject property does not create an unnecessary hardship.
- 2) There are no conditions peculiar to the particular piece of property. The residence was constructed with a two-car garage. Staff suggested an accessory building to be located in the rear yard for storage of the items in the existing garage.
- 3) Granting the variance would negatively reflect on the intent and spirit of the Zoning Code and Comprehensive Plan.
- 4) If the variance is granted, it would be the minimum necessary to alleviate the perceived hardship.

Section 22-572 of the Code indicates that the *burden of truth* is on the applicant seeking a variance to explain what hardship exists and how 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.

Staff completed the required public hearing notifications for this application. All property owners within 300' from the perimeter of the subject property were mailed a public hearing notification letter. A public hearing notice was also published in The County Democrat weekly newspaper. Staff received six (6) phone calls regarding the application. No one voiced concern about the variance request for a carport.

Recommendation

Based upon the lack of hardship and nothing particular about the subject property, staff recommends **Denial** by the Board of Adjustment for **BOA02-24**, for a reduction of a reduction of the front yard setback by seven feet (7') for a carport on the property located at 38 Chickasaw Drive

If the Board of Adjustment votes for Approval of the application, staff requests the following requirements be included as Conditions of Approval.

- Acknowledgment by the applicant that this determination does not negate or circumvent the other requirements of development as stated in the City Codes, which include the Zoning Code and the adopted Building Codes.
- Acknowledgment by the applicant that additional permits may be required and standard inspections may be conducted.

Options:

- Approval of Case No. BOA02-24 allows a variance of seven feet (7') from the front yard setback with recommended Conditions.
- Denial of the application for BOA02-24, thus preventing the construction of the carport.
- Deferral of Case No. BOA02-24 with a request for additional and specific information to a certain date.

Publish January 19, 2024

NOTICE OF PUBLIC HEARING
Variance Request (BOA02-24)

It is hereby noticed that the City of Shawnee Board of Adjustment will hold a public hearing on February 15, 2024, at 2:30 p.m. in the Commission Chambers at City Hall, 16 W. 9th St, Shawnee, OK. The Board of Adjustment (BOA) will consider a variance request (**BOA02-24**) to allow a carport to encroach on the building setback by seven feet (7') for the property located at 38 Chickasaw Drive and described as:

Lot Thirty-Three (33), Block Eleven (11), LARKINS MEADOW ADDITION, SECTION IV, to the City of Shawnee, Pottawatomie County, Oklahoma, according to the recorded plat thereof.

The public hearing will be held at the above time and date. All residents and parties in interest shall have an opportunity to be heard regarding the request above.



COMMUNITY DEVELOPMENT DEPT.
16 W. 9th STREET
SHAWNEE, OK 74801



PHONE: (405) 878-1672

BOARD OF ADJUSTMENT

PROJECT NO. _____ **CASE NO.** _____

NAME OF PROPERTY OWNER: Rachelle Briscoe + James DUART

ADDRESS: 38 Chickasaw Dr.

CITY: Shawnee STATE: OK ZIP CODE: 74801

TELEPHONE: (405) 990 8890 EMAIL: rjbriscoe@yahoo.com

APPLICANT'S NAME: GARY BRISCOE

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

APPLICANT'S ADDRESS: 2 Brookridge

CITY: Shawnee STATE: OK ZIP CODE: 74804

TELEPHONE: (405) 255 8847 EMAIL: gjbbriscoe@yahoo.com

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

PROPERTY LOCATION (ADDRESS): 38 Chickasaw Dr.

LEGAL DESCRIPTION: Lot 33 Block 11 LARKENS Meadow Addition
Section IV City of Shawnee OK Pottawatomie County

(DIMENSIONS OF PROPERTY) AREA: 10164 sq ft WIDTH: 66 ft

LENGTH: 154 ft FRONTAGE: 66 ft

CURRENT ZONING: Residential CURRENT USE: Residential

VARIANCE REQUESTED: Seven Foot Past Front Build Line
To Install A CARPORT.

**COMPLETED APPLICATION AND ALL CORRESPONDING DOCUMENTS
MUST BE RECEIVED 30 DAYS PRIOR TO MEETING TO MAKE THE
AGENDA.**

Gary J. Briscoe
APPLICANT'S SIGNATURE

(OFFICE USE ONLY)

Received this ____ day of, ____ 20__.

FILING FEE: \$90 + SIGN FEE: \$50
RECEIPT NO: _____

BOA DECISION: _____

BOARD OF ADJUSTMENT SECRETARY

Variance request for 38 Chickasaw Dr., Shawnee, Okla. 74801

- 1) Yes, applying the code, which requires a front build line of twenty-five feet (25'), creates an unnecessary hardship by preventing the construction of a necessary carport.
- 2) The carport would protect my daughter and her baby from the weather events. Specifically, rain, snow, and ice events could cause falls with possible broken bones. My daughter has been a diabetic since she was six years old, and she does not heal as quickly as others. A twenty-foot (20') carport could alleviate this concern.
- 3) No, the variance would not be a traffic sightline issue or encroachment on the utility right-of-way if granted. It would not be a detriment to the public good.
- 4) If granted, a variance not exceeding seven feet (7') beyond the front build line would remove the hardship.

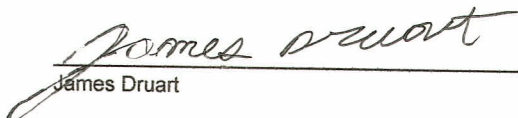
January 1, 2024

To Whom It May Concern,

We, Rachelle Briscoe and James Druart, give our permission to allow Gary Briscoe to represent us in matters concerning a variance at 38 Chickasaw Drive.

Respectfully,

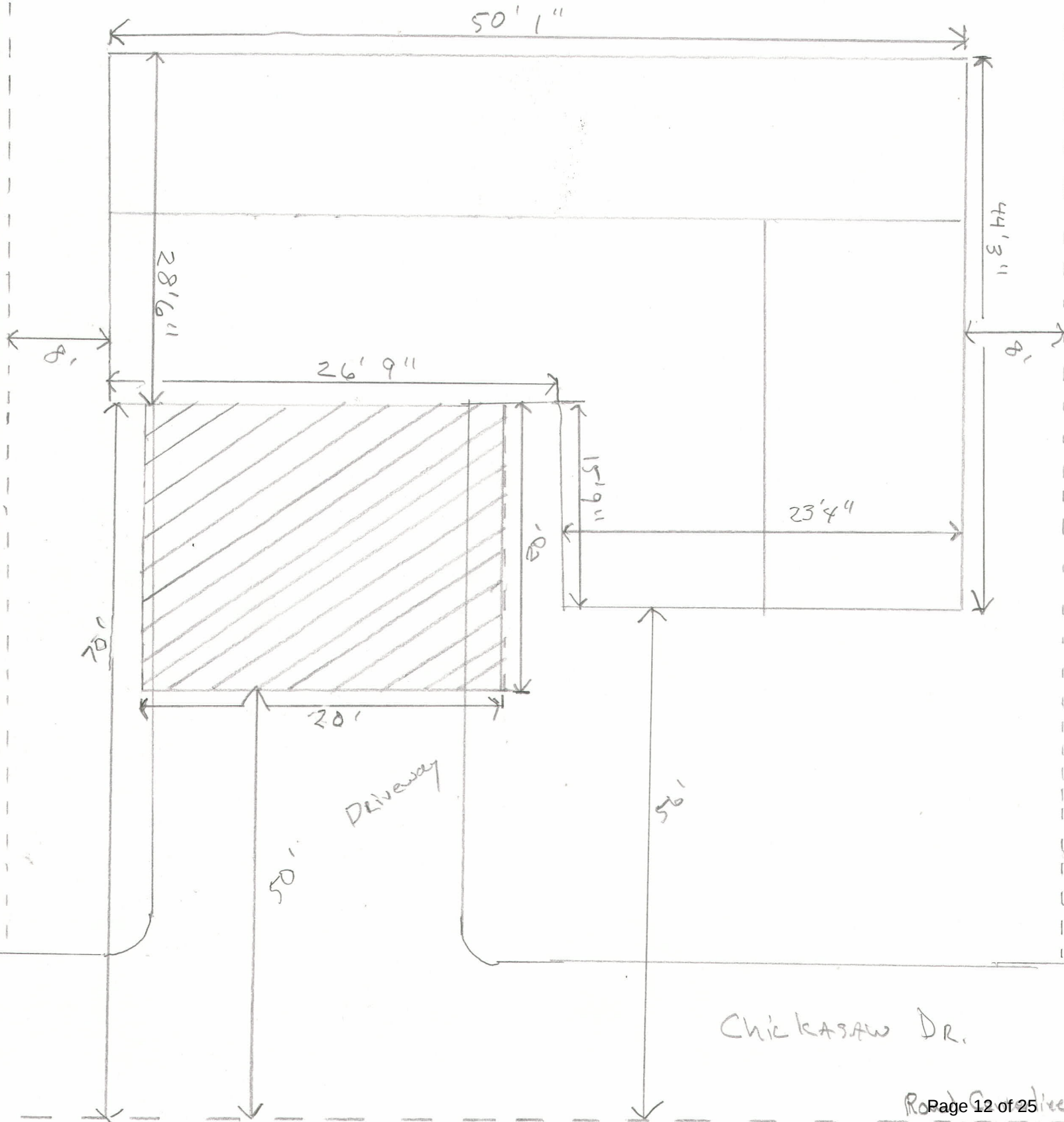
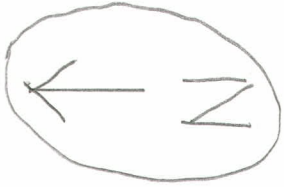

Rachelle Briscoe


James Druart



Proposed Build
20' x 20'

38 Chickasaw Dr.



Visual reference for the placement of the carport. The carport will come out to the front of the car.



Other Houses in the neighborhood



4 Apache



4 Mojave Dr.



5 Arapaho



14 Cheyenne Dr.



19 Osage Dr.



23 Mojave Dr.



25 Mojave Dr.



39 Dakota Dr.



Board of Adjustment Meeting – 3.21.2024 – City of Shawnee, Oklahoma

Staff Report | BOA03-24 | Unoccupied RV on Paved Driveway | 1601 N. Oklahoma Ave.

To: Shawnee Board of Adjustment

From: Rachel Clyne, City Planner

Date: March 15, 2024

Subject: Staff Report -- Public hearing and consideration of a request for a variance to allow an unoccupied, licensed RV (travel trailer) on the paved driveway on the property located at 1601 N. Oklahoma Ave. Case No.: **BOA03-24** | Applicant: Sue Warden

Discussion

The subject property is located at 1601 N. Oklahoma Avenue. The property is zoned R-1 (Single-Family Residential District.)

Within the **Section 18-1. Definitions** of the City's Code of Ordinances include the following definition:

Freestanding mobile/ manufactured home or travel trailer/ recreational vehicle means any mobile/ manufactured home or travel trailer/ recreational vehicle not located in a mobile/ manufactured home park or travel trailer/ recreational vehicle park, respectively, licensed by the city or in an approved mobile/ manufactured home subdivision.

The request is a variance to the Shawnee Code of Ordinances, **Sec. 18-3. (a) - Freestanding mobile/ manufactured home.** “(a).... Such mobile/ manufactured home or travel trailer/ recreational vehicle may be stored on a hard surface but shall not be stored in any required front yard...” This variance request is to allow an unoccupied, licensed travel trailer on the paved driveway of the subject property.

In accordance with **Oklahoma Statute 11 OS 44-107, Section 22-571** of the Shawnee Zoning Code (Code), the 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) The application of the code to the subject property creates an unnecessary hardship.
- 2) There is no access to the rear yard at this particular piece of property, and the side yards are too narrow to accommodate a travel trailer and fence. The residence has a two-car carport, but the height of the travel trailer

exceeds the carport's opening. The travel trailer is unoccupied and licensed, and the parking area is well-maintained. The travel trailer placement does not encroach into the right-of-way.

- 3) Granting the variance would not cause substantial detriment to the public good or impair the purposes and intent of the code or the comprehensive plan.
- 4) If the variance is granted, it would be the minimum necessary to alleviate the perceived hardship.

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

Staff completed the required public hearing notifications for this application. All property owners within 300' from the perimeter of the subject property were mailed a public hearing notification letter. A public hearing notice was published in The County Democrat weekly newspaper.

Staff received three (3) phone calls regarding the application. No one voiced concern about the variance requesting the travel trailer remain parked on the driveway of the subject property.

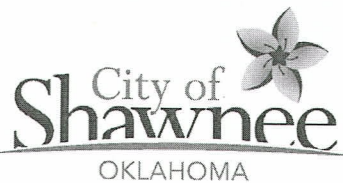
Recommendation

Staff recommends **Approval** by the Board of Adjustment for **BOA03-24** to allow an unoccupied, licensed travel trailer on the paved driveway of the property located at 1601 N. Oklahoma Avenue.

Options:

- Approval of Case No. BOA03-24 allowing an unoccupied, licensed travel trailer on the paved driveway of the subject property
- Denial of the application for BOA03-24, thus preventing the construction of the accessory structure.
- Deferral of Case No. BOA03-24 with a request for additional and specific information to a certain date.
- Approval of Case No. BOA03-24 allows an unoccupied, licensed travel trailer on the paved driveway of the property and is subject to conditions assigned by the Board of Adjustment.

COMMUNITY DEVELOPMENT DEPT.
16 W. 9th STREET
SHAWNEE, OK 74801



PHONE: (405) 878-1672

BOARD OF ADJUSTMENT

PROJECT NO. _____ **CASE NO.** _____

NAME OF PROPERTY OWNER: Sue Warden

ADDRESS: 1601 W OKLAHOMA

CITY: Shawnee STATE: OKLA ZIP CODE: 74804

TELEPHONE: (405) 9966725 EMAIL: Sue.Warden@shawneeok.com

APPLICANT'S NAME: Sue Warden

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

APPLICANT'S ADDRESS: Same

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE: () _____ EMAIL: _____

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

PROPERTY LOCATION (ADDRESS): 1601 W OKLA Shawnee OKla

LEGAL DESCRIPTION: Lot 4 Wind (G) Block 3, Townsend Country Addition 74804

(DIMENSIONS OF PROPERTY) AREA: _____ WIDTH: _____

LENGTH: 70' x 125' FRONTAGE: 75'

CURRENT ZONING: R1 CURRENT USE: _____

VARIANCE REQUESTED: To Locate TRAVEL TRAILER ON DRIVEWAY ON HARD SURFACE

COMPLETED APPLICATION AND ALL CORRESPONDING DOCUMENTS
MUST BE RECEIVED 30 DAYS PRIOR TO MEETING TO MAKE THE
AGENDA.

Sue Warden
APPLICANT'S SIGNATURE

(OFFICE USE ONLY)

Received this ____ day of, ____ 20 ____.

FILING FEE: \$90 + SIGN FEE: \$50

RECEIPT NO: _____

BOA DECISION: _____

BOARD OF ADJUSTMENT SECRETARY

Sue W Borden

1601 W Oklahoma

St Lawrence Okla 74804

PREPARED BY

DATE

PAGE
NO.

PROJECT ACTION NOTES

PROJECT PLANNING NOTES

Variance

- 1 Yes the size of the lot and location of the house make placing the travel trailer in the rear impossible
- 2- Yes our property does not have access to the rear yard
3. No it would not cause substantial detriment the travel trailer is unoccupied, legally licensed, and parked on the paved driveway.
- 4 Yes, a Variance would alleviate the hardships

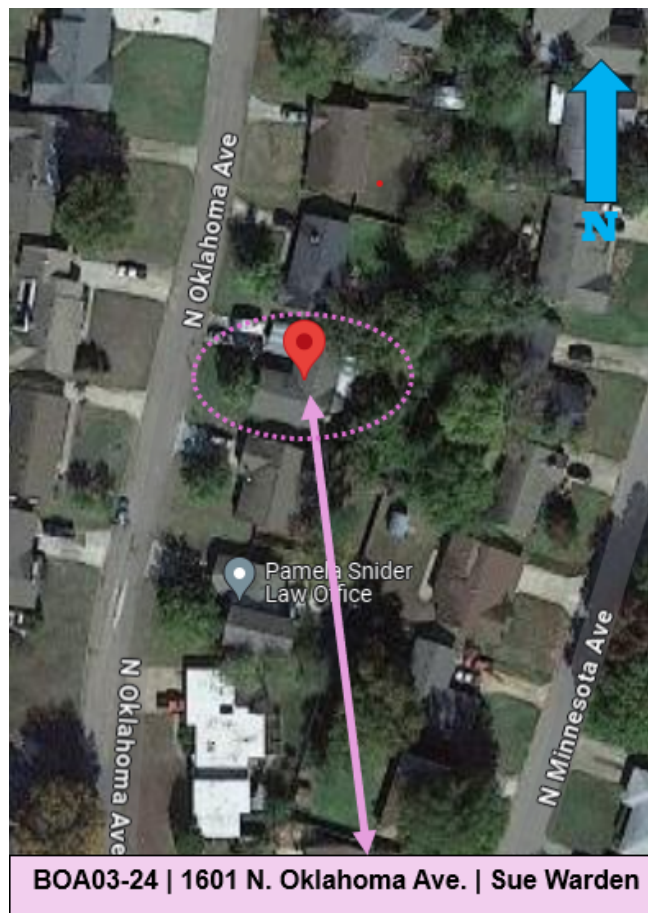
Publish March 8, 2024

NOTICE OF PUBLIC HEARING
Variance Request (BOA03-24)

It is hereby noticed that the City of Shawnee Board of Adjustment will hold a public hearing on March 21, 2024, at 2:30 p.m. in the Commission Chambers at City Hall, 16 W. 9th St, Shawnee, OK. The Board of Adjustment (BOA) will consider a variance request (**BOA03-24**) to allow an unoccupied, tagged RV to park on the paved driveway at 1601 N. Oklahoma Avenue described as:

Lot Nine (9), Block Three (3) TOWN & COUNTRY ADDITION, to the City of Shawnee, Pottawatomie County, Oklahoma, according to the recorded plat thereof.

The public hearing will be held at the above time and date. All residents and parties in interest shall have an opportunity to be heard regarding the request above.





Board of Adjustment Meeting – 3.21.2024 – City of Shawnee, Oklahoma

Staff Report | BOA04-24 | Storm Shelter in Front Yard | 3917 N. Pottenger Avenue

To: Shawnee Board of Adjustment

From: Rachel Clyne, City Planner

Date: March 15, 2024

Subject: Staff Report -- Public hearing and consideration of a request for a variance to allow a storm shelter in the front yard of the property located at 3917 N. Pottenger Avenue.
Case No.: **BOA04-24** | Applicant: Charles Hamm III

Discussion

The subject property is located at 3917 N. Pottenger Avenue. The property is zoned R-1 (Single-Family Residential District.) The request is a variance to the Zoning Code, **Sec. 22-293**. – Dimensional Standards., which discusses the density and dimensional standards such as minimum lot size, street frontage, and yard setbacks. **Table 22-293. Density and Dimensional Standards by Zone** indicate in R-1 zoning that accessory structures, such as storm shelters, must be located in the rear yard. This variance request is to place an accessory structure ("flat top" storm shelter) in the front yard of the subject property.

In accordance with **Oklahoma Statute 11 O.S. 44-107, Section 22-571** of the Shawnee Zoning Code (Code), the 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) The application of the code to the subject property creates a hardship since the storm shelter cannot be located in the rear yard or on either side of the subject property.
- 2) The subject property is somewhat similar to the surrounding properties. The storm shelter company's machinery could not navigate the yard. Placement of the storm shelter in a side yard was considered but not possible. One side yard is too narrow for placement of a storm shelter, and the other side yard is steeply uneven due to stormwater flow.
- 3) Granting the variance would not cause substantial detriment to the public good or impair the intent and spirit of the Zoning Code and Comprehensive Plan.

- 4) Allowing a "flat top" storm shelter in the front yard would be the minimum necessary to alleviate the hardship if granted.

Section 22-572 of the Code indicates that the *burden of truth* is on the applicant seeking a variance to explain what hardship exists and how 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.

Staff completed the required public hearing notifications for this application. All property owners within 300' from the perimeter of the subject property were mailed a public hearing notification letter. A public hearing notice was published in The County Democrat weekly newspaper.

Staff received two (2) phone calls and one (1) email regarding this application. No one voiced concerns about the variance request.

Recommendation

Staff recommends **Approval** by the Board of Adjustment for **BOA04-24**, a **Variance** to allow a storm shelter in the front yard of the property located at 3917 N. Pottenger Avenue with the following conditions:

- Acknowledgment by the applicant that this determination does not negate or circumvent the other requirements of development as stated in the City Codes, which include the Zoning Code and the adopted Building Codes.
- Acknowledgment by the applicant that additional permits may be required and standard inspections may be conducted.

Options:

- Approval of Case No. BOA04-24 allows a "flat top" storm shelter to be placed in the front yard with the listed conditions.
- Denial of the application for BOA04-24, thus preventing the installation of a storm shelter.
- Deferral of Case No. BOA04-24 with a request for additional and specific information to a certain date.
- Approval of Case No. BOA04-24 allows a storm shelter to be placed in the front yard with conditions determined by the Board of Adjustment.

COMMUNITY DEVELOPMENT DEPT.
16 W. 9th STREET
SHAWNEE, OK 74801



PHONE: (405) 878-1672

Received
Comm Dev
2/20/2024
RC

BOARD OF ADJUSTMENT
PROJECT NO. _____ CASE NO. _____

BOA 04-24

NAME OF PROPERTY OWNER: Charles Hamm III

ADDRESS: 3917 N. Pottenger Ave.

CITY: Shawnee STATE: OK ZIP CODE: 74804

TELEPHONE: (405) 208-1899 EMAIL: chadhamm45@yahoo.com

APPLICANT'S NAME: Charles Hamm III

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

APPLICANT'S ADDRESS: 3917 N. Pottenger Ave.

CITY: Shawnee STATE: OK ZIP CODE: 74804

TELEPHONE: (405) 208-1899 EMAIL: chadhamm45@yahoo.com

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

PROPERTY LOCATION (ADDRESS): 3917 N. Pottenger Ave.

LEGAL DESCRIPTION: Attached separate sheet of paper

(DIMENSIONS OF PROPERTY) AREA: 8125 WIDTH: 65'

LENGTH: 125' FRONTAGE: 65'

CURRENT ZONING: R-1 CURRENT USE: residential

VARIANCE REQUESTED: locate an accessory structure in the front yard

COMPLETED APPLICATION AND ALL CORRESPONDING DOCUMENTS
MUST BE RECEIVED 30 DAYS PRIOR TO MEETING TO MAKE THE
AGENDA.

Charles Hamm
APPLICANT'S SIGNATURE

(OFFICE USE ONLY)

Received this ___ day of, ___ 20__.

FILING FEE: \$ 90 + SIGN FEE: \$50
RECEIPT NO: _____

BOA DECISION: _____

BOARD OF ADJUSTMENT SECRETARY

My name is Charles Hamm III
and my address is:
3917 N. Pottenger Ave.
Shawnee, OK. 74804.

I am providing a written description in why I am needing a variance request. This past April a tornado came right in my neighborhood and destroyed homes near me and did substantial damage to my property. We are wanting to put in a flat top storm shelter. We wanted to put it in our back yard but with the fence line and our neighbor's property, it is not accessible. We cannot put one on the side of our house because it floods and the other side is too narrow and disrupts my other neighbor's side. We cannot put one in my garage because of limited space and the size of our vehicles will not let us access the shelter if it were in the garage. This only leaves our front yard. We wanted to put it past the 25 foot building line closer to our house, which is approximately 15 feet past the building

line in which I was told was acceptable. Our neighbor across the street has one in the same location as where we want to put ours. I have been speaking to Rachel Clyne with the City planner's office about this and she spoke with her supervisor and he stated that would be an acceptable guideline for the variance request. If this variance is granted, this would alleviate the hardship of not being able to put the shelter in other locations. If granted, this would not cause substantial detriment to the public good or impair the purposes and intent of the code or the Comprehensive plan. We are planning on a flat top storm shelter so that it's not an eyesore to the community.

Publish March 8, 2024

NOTICE OF PUBLIC HEARING
Variance Request (BOA04-24)

It is hereby noticed that the City of Shawnee Board of Adjustment will hold a public hearing on March 21, 2024, at 2:30 p.m. in the Commission Chambers at City Hall, 16 W. 9th St, Shawnee, OK. The Board of Adjustment (BOA) will consider a variance request (**BOA04-24**) to allow an accessory structure in the front yard at 3917 N. Pottenger Avenue described as:

Lot Ten (10), Block Four (4) AMENDED PLAT OF COLLEGE VIEW ADDITION, to the City of Shawnee, Pottawatomie County, Oklahoma, according to the recorded plat thereof.

The public hearing will be held at the above time and date. All residents and parties in interest shall have an opportunity to be heard regarding the request above.

