

AGENDA
BOARD OF ADJUSTMENT
APRIL 18, 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 March 21, 2024, regular meeting.
2. BOA05-24 | Public hearing and consideration of a request for a variance to allow a storm shelter in the side yard of a corner lot at the property located at 1231 N. Beard Avenue.
3. Community Development Department Updates
4. Board Comments
5. Adjournment

Respectfully submitted,



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: March 21, 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 March 21, 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, Gordon, Kelly

Absent: Dyer, Richardson

Item 1: Approval of Minutes – Regular meeting

Consideration of the minutes from the regular meeting of January 18, 2024. Chair Gordon asked for questions or corrections to the minutes.

Board Member Austin made a motion to **Approve** the minutes as presented, which Board Member Kelly seconded. Motion **passed 3-0-0**.

Aye: Austin, Gordon, Kelly

Nay: None

Abstain: None

Item 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.)

Chair Gordon read Agenda Item 2 and asked for a staff report. City Planner, Rachel Clyne, reviewed the information on the staff report for BOA02-24 with the following information. The subject property is located at 38 Chickasaw Drive and 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.

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 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.

Based upon the lack of hardship and nothing particular about the subject property, staff recommended **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.

The public hearing was opened. The applicant, Gary Briscoe, was present and available for questions. Board Member Austin asked the applicant if the garage doors worked, and the applicant replied they did function. Austin then asked if the garage had carpet, and the applicant replied there was no carpet but there was air conditioning. Board Member Kelly asked the applicant if a thirteen-foot (13') carport was possible. The applicant was unsure. Chair Gordon asked if a shed could be constructed to store the items in the garage, and the applicant replied that the homeowners wanted to use the garage as a living space. He stated that a partial conversion had been started but not finished (in the garage.) Austin commented that a thirteen-foot carport would provide some protection. After no others came forward to speak, the public hearing was closed.

Following a discussion amongst the BOA about a shorter carport, Board Member Austin made a motion to Deny Case No. BOA02-24, which Board Member Kelly seconded.

The motion passed **3-0-0**.

AYE: Austin, Gordon, Kelly

NAY: None

ABSTAIN: None

Item 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.

Chair Gordon read Agenda Item 3 and asked for a staff report. City Planner Clyne reviewed the information on the staff report for BOA03-24 with the following information. The subject property is located at 1601 N. Oklahoma Avenue and 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.

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.

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 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.

Staff recommended **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.

The public hearing was opened. The applicant, Sue Warden, 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 Austin made a motion to Approve Case No. BOA03-24 with the conditions presented by staff, which Board Member Kelly seconded.

The motion passed **3-0-0**.

AYE: Austin, Gordon, Kelly

NAY: None

ABSTAIN: None

Item 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.

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 3917 N. Pottenger Avenue and 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.

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.

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 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.

Staff recommended **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.

The public hearing was opened. The applicant, Chad Hamm, 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 Kelly made a motion to Approve Case No. BOA04-24 with the conditions presented by staff, which Board Member Austin seconded.

The motion passed **3-0-0**.

AYE: Austin, Gordon, Kelly

NAY: None

ABSTAIN: None

Item 4: Community Development Department Updates

Community Development Director Rian Harkins updated the Board on the Unified Development Code (UDC), stating that staff had returned the initial draft to the consultant and had received another working copy for review, which was underway. The plan was to present the completed draft to the City Commission, take public comments, and then begin the adoption process. The Infill Palette will be live and available on the City's website on April 1, 2024. The five (5) designs will be free, and a waiver must be attached to the building permit application. Next, Harkins reviewed the Key Initiatives for the previous year. Of the eight (8) Pillars for 2023, four (4) were handled by the Community Development Department. They included the Twin Lakes Master Plan, the Infill Palette, the Continuum of Care for the unhoused population, and the Unified Development Code. Harkins advised that three (3) new Vista employees would be working on housing, case management, and employment in participation with the Homeless Program.

Item 5: Board Members' Comments

Chair Gordon was excited about the Infill Palette.

Board Member Kelly thanked staff and stated on April 26th the Adyeltte Baptist Church would be hosting an effort for the healthcare needs of rural Oklahomans.

Board Member Austin asked about the frequency of Code overhauls. Director Harkins advised that many communities do a refresh every 5 – 10 years. The last complete overhaul in Shawnee was in the 1990s with an update in 2014.

Item 6: Adjournment

The meeting was adjourned by the power of the Chair at 3:16 PM.

Chair/Vice-Chair

Date

Secretary/City Planner

Date



Board of Adjustment Meeting – 4.18.2024 – City of Shawnee, Oklahoma

Staff Report | BOA05-24 | Storm Shelter in Front Yard | 1231 N. Beard Avenue

To: Shawnee Board of Adjustment

From: Rachel Clyne, City Planner

Date: April 15, 2024

Subject: Staff Report -- Public hearing and consideration of a request for a variance to allow a storm shelter in the side yard of a corner lot at the property located at 1231 N. Beard Avenue.
Case No.: **BOA05-24** | Applicant: Kimberly & Mike Gerard

Discussion

The subject property is located at 1231 N. Beard Avenue and 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 a storm shelter in the side yard of the subject property.

The property sits on the SE corner of N. Beard Avenue and W. Severn Street. On corner lots in R-1 zoning the side yard setback is 15' when adjacent to a public street. There is a fence along the northern property line. The proposed storm shelter will be located inside the fence but will encroach on the 15' setback by approximately five to eight feet (5'- 8').

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 located at an intersection, which requires one of the yards facing a street to be a front and the other yard as a side. Placement of the storm shelter in the rear yard is not possible due to its size and

the location of a swimming pool. The south side yard is too narrow for the placement of a storm shelter. The other side (north) has the larger side yard requirement.

- 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 storm shelter in the north side yard, inside the fence, 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 regarding this application. No one voiced concerns about the variance request.

Recommendation

Staff recommends **Approval** by the Board of Adjustment for **BOA05-24**, a **Variance** to allow a storm shelter in the north side yard of the property located at 1231 N. Beard 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. BOA05-24 allows a storm shelter to be placed in the north side yard with the listed conditions.
- Denial of the application for BOA05-24, thus preventing the installation of a storm shelter.
- Deferral of Case No. BOA05-24 with a request for additional and specific information to a certain date.
- Approval of Case No. BOA05-24 allows a storm shelter to be placed in the north side yard with conditions determined by the Board of Adjustment.

PLANNING DEPARTMENT
222 N. BROADWAY
SHAWNEE, OK 74801



PHONE: (405) 878-1672

Rachel. Cyne

Shawnee
OK
-CPJ

ZONING BOARD OF ADJUSTMENT
PROJECT NO. _____ CASE NO. BOA05-24

NAME OF PROPERTY OWNER: Kimberly Gerard (KNIGHT)

ADDRESS: 1231 N. Beard ave.

CITY: Shawnee STATE: OK ZIP CODE: 74801

TELEPHONE: (405) 788 5645 EMAIL: _____

APPLICANT'S NAME: Kimberly Gerard A/o Mike Gerard

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

APPLICANT'S ADDRESS: 1231 N. Beard ave

CITY: Shawnee STATE: OK ZIP CODE: 74801

TELEPHONE: (405) 788-5645 EMAIL: Kimgerard2587@gmail.com

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

PROPERTY LOCATION (ADDRESS): 1231 N. Beard ave Shawnee OK 74801

LEGAL DESCRIPTION: ^{need} Lots one, two, and three, Block 1,
W.J. Riggs Addition

(DIMENSIONS OF PROPERTY) AREA: 7125 ft² WIDTH: 75'

LENGTH: 95' FRONTAGE: Beard Ave.

CURRENT ZONING: Residential CURRENT USE: Residential

VARIANCE REQUESTED: Locate A storm shelter in side yard
corner lot
behind fence

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

Kim Knight-Gerard
APPLICANT'S SIGNATURE

(OFFICE USE ONLY)

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

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

RECEIPT NO: _____

ZONING BOARD OF ADJUSTMENT SECRETARY

ZBOA DECISION: _____

Mike and Kimberly Gerard
1231 N. Beard Ave.
Shawnee, Ok 74801

The current code pertaining to storm shelters requires the shelter to be in the "back" yard. Due to the size and the shape of our corner lot, our "back" yard on the East side of our property is too narrow to fit a storm shelter between the property line and the East facing wall of our house. There is a utility pole and steel support cable in the North East corner of the lot that prevents the shelter installers from accessing the property along the East property line in order to be able to actually place the shelter in the "back" yard on the East side of the house. Water, sewer, HVAC unit, and utility lines also run along the East property line and would further inhibit the ability to install a storm shelter. Installation of a shelter, if possible would also inhibit our access to our detached garage and loft. The East Side of the yard essentially amounts to an alley way.

The yard on the North side of the property is effectively the "back" yard of the house as the back door of the house is in the North facing wall of the house and the North yard is surrounded by an existing 6 foot privacy fence. The only conceivable location for a storm shelter, given the size and shape of the lot, and the orientation of the house on the lot, would be in the North facing side yard. The storm shelter would be installed behind the existing privacy fence, hidden from view of neighbors and passers by.

To the best of my understanding, there would be little, if any detriment to the public caused by the installation of a storm shelter in what effectively amounts to the practical "back" yard on the north side of the house as far away from the centerline of the road as possible (roughly 51 feet from the centerline of the road on Severn street) and shielded from public view by the existing privacy fence. The spirit of the ordinances would remain intact based on the shelter being hidden from view by the existing privacy fence from the main road, Beard Ave. As well as from the side road on Severn street.

Thank you for your consideration.

Mike Gerard
Kim Knight - Gerard
Mike and Kimberly Gerard
1231 N. Beard Ave.
Shawnee, Ok 74801

AMENDED - NOTICE OF PUBLIC HEARING
Variance Request (BOA05-24)

It is hereby noticed that the City of Shawnee Board of Adjustment will hold a public hearing on April 18, 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 (**BOA05-24**) to allow an accessory structure (storm shelter) in the front yard (side yard of corner lot) at 1231 N Beard Avenue described as:

Lots One (1), Two (2), and Three (3), Block One (1), W. J. RIGG'S 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.

