

AGENDA
BOARD OF ADJUSTMENT
MAY 16, 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. *(Deferred from 4.18.2024 -- no quorum)* **The applicant has withdrawn the request. No action is required.**
3. BOA06-24 | Public hearing and consideration of a request for a variance of seven (7) feet from the rear yard setback to place an accessory structure at 2300 Crooked Oak Drive.
4. Community Development Department Updates
5. Board Comments
6. Adjournment

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Rian Harkins", is written over a faint, light-colored circular stamp.

Rian Harkins, Community Development

Director

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 Adyelotte 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

PLANNING DEPARTMENT
222 N. BROADWAY
SHAWNEE, OK 74801



PHONE: (405) 878-1672

(Rachel)
RIAN HARKINS
405-878-1665
5/20/2024

ZONING BOARD OF ADJUSTMENT

PROJECT NO. _____ CASE NO. BOA06-24

NAME OF PROPERTY OWNER: Otheal + Jella Colmore

ADDRESS: 2300 Crooked Oak Ct.

CITY: Shawnee STATE: OK ZIP CODE: 74804

TELEPHONE: (405) 566-7067 EMAIL: _____

APPLICANT'S NAME: Otheal + Jella Colmore

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

APPLICANT'S ADDRESS: Otheal + Jella 2300 Crooked Oak Ct.

CITY: Shawnee STATE: OK ZIP CODE: 74804

TELEPHONE: (405) 566-7067 EMAIL: OtheZEL2@yahoo.com

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

PROPERTY LOCATION (ADDRESS): 2300 Crooked Oak Ct.

LEGAL DESCRIPTION: The Timbers, Block 1, Lot 33

(DIMENSIONS OF PROPERTY) AREA: ± 8,370 sq ft WIDTH: 57'

LENGTH: 105' FRONTAGE: 57'

CURRENT ZONING: R-3 CURRENT USE: residential

VARIANCE REQUESTED: 7 ft. from rear yard set back for accessory buildings

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

Jella L. Colmore
APPLICANT'S SIGNATURE

(OFFICE USE ONLY)

Filed in the office of the Planning Department, 222 N. Broadway, this 29 day of, Apr. 2024.

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

RECEIPT NO: _____

ZONING BOARD OF ADJUSTMENT SECRETARY

ZBOA DECISION: _____

Received
Comm Dev
4/29/24
RC

Athea & Zella Elmore
2300 Crooked Oaks Dr
Shawnee Ok

The present zoning code would definitely
cause a hardship?

Our back lot is very narrow and long.
The south east corner of our lot has
about a 3 ft drop.

If we had to put the building 10 ft
from the property line, it would almost be
on our back patio.

The ground in our back yard also
slopes to the middle of the yard,

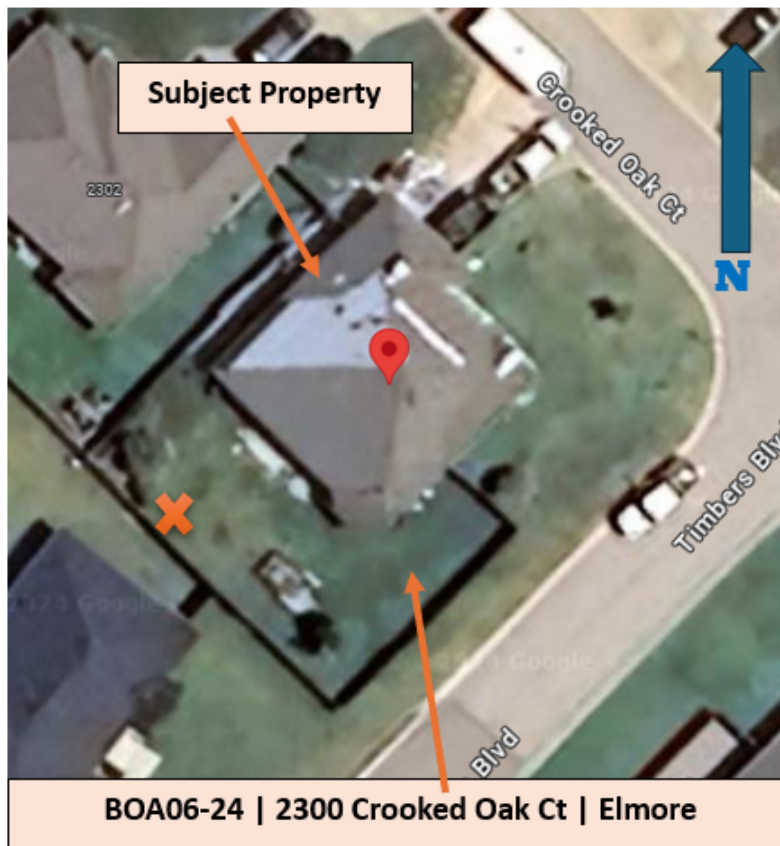
If Variance is granted the building
would be viewed less by neighbors or
from the street.

NOTICE OF PUBLIC HEARING
Variance Request (BOA06-24)

It is hereby noticed that the City of Shawnee Board of Adjustment will hold a public hearing on May 16, 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 (**BOA06-24**) to allow a seven-foot (7') variance to the rear yard setback to allow an accessory structure at 2300 Crooked Oak Court described as:

Lot Thirty-three (33), Block One (1), THE TIMBERS 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 – 5.16.2024 – City of Shawnee, Oklahoma

Staff Report | BOA06-24 | Storm Shelter in Front Yard | 2300 Crooked Oak Ct.

To: Shawnee Board of Adjustment

From: Rachel Clyne, City Planner

Date: May 10, 2024

Subject: Staff Report -- Public hearing and consideration of a request for a seven-foot (7') variance to the rear yard setback for an accessory structure at the property located at 2300 Crooked Oak Court.
Case No.: **BOA06-24** | Applicant: Kimberly & Mike Gerard

Discussion

The subject property is located at 2300 Crooked Oak Court 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 must be located in the rear yard with a ten-foot (10') setback from the rear and side yards. This variance request is to place an accessory structure in the rear yard three feet (3') from the rear property line.

The rear yard of the subject property slopes toward the house. The variance to move the accessory structure closer to the rear property line is to allow the structure to be on the flattest area of the rear yard. The three feet (3') is clearance to allow a lawn mower between the structure and the property's fence.

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 because the rear yard slopes toward the house.
- 2) The subject property has a shallow rear yard and placement of an accessory structure with the required ten-foot (10') setbacks would place the structure almost to the back patio.

- 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 seven-foot (7') variance to the rear yard setback for an accessory structure 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.

Recommendation

Staff recommends **Approval** by the Board of Adjustment for **BOA06-24**, a **Variance** of seven-foot (7') variance to the rear yard setback for an accessory structure of the property located at 2300 Crooked Oak Court 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. BOA06-24 allows a seven-foot (7') variance to the rear yard setback for an accessory structure with the listed conditions.
- Denial of the application for BOA06-24, thus preventing the installation of a storm shelter.
- Deferral of Case No. BOA06-24 with a request for additional and specific information to a certain date.