

ZONING BOARD OF ADJUSTMENT

DATE: November 18, 2021

Regular Meeting

The Zoning Board of Adjustment met at a regularly scheduled meeting on Thursday, November 18, 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 Call to Order

Chair Holly Gordon called the November 18, 2021 meeting of the Shawnee Zoning Board of Adjustment to order at 2:30 PM.

AGENDA ITEM NO. 2: Roll Call

Upon roll call, the following Board members were present Holly Gordon, Brandon Dyer, and Crystal Richardson

Board member Mark Cannon was noted as absent.

A quorum was declared present.

AGENDA ITEM NO. 3: Consideration of approval of the minutes from the regular meeting of the Zoning Board of Adjustment on August 19, 2021.

Board member Dyer made a motion to approve the minutes as presented to form, which was seconded by Board member Richardson.

The motion passed 3-0-0.

AYE: Dyer, Gordon, Richardson

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 4: Public hearing and consideration of an application for a Variance at the property located at 2130 W. Benedict Street. Request for a variance from the 175' minimum distance between driveways requirement for property zoned in A-1 (Rural Agricultural District). Case No. ZBOA04-21, Applicant: Freddie White

Chair Gordon read Agenda Item No. 3 and asked for a staff report.

City Planner Rachel Clyne described the request for the variance and worked her way through the staff report. The subject property is located at 2130 W. Benedict Street and is zoned A-1 (Rural Agricultural District). On the 20-acre property, the applicant has recently constructed a single-family residential structure and an accessory building. Before these improvements were made by the applicant, the land was undeveloped but for three (3) accessory structures that were considerably set back (north) from the road (West Benedict Street) and two (2) driveways. Both driveways were paved but have aged and are in disrepair. During the building permitting and inspections process, the applicant was advised by the building inspections staff that only one (1) driveway would be allowed. It is staff's understanding was that the driveway to the west would not be utilized or resurfaced.

The new house and new accessory building were constructed on both sides (east and west) of the east existing driveway. The building inspections staff noticed that concrete was being poured in front (south) of the accessory structure. The building inspections staff advised the applicant not to pour any closer

to the street (Benedict) because driveways must be separated in distance by specific number of feet. It is staff's understanding that despite the warning of violation, the paving would be extended to the road (Benedict) and become a driveway. The Building Inspector, Kevin Moore, advised that such action was "*at your own risk*" because it was not in compliance with the Zoning Code. When queried about future consequences, Mr. Moore advised that a variance may be possible but was not guaranteed.

The applicant approached Planning staff to discuss a variance for a reduction in the requirement of the 75' separation between driveways for his property located at 2130 W. Benedict Street. Upon receipt of the application and supporting documents, a notice of a public hearing was published in the newspaper, and notices of a public hearing were mailed to property owners within 300' of the subject property.

Discussion

The Shawnee Zoning Code includes the City's Subdivision Regulations. From those regulations, in **Section 40.2.1 Streets – General Requirements, Table 3 -- Minimum Separation of Driveways**, the distance required between driveways is based upon the type of street. The three (3) street types are Major Arterial, Minor Arterial, and Collector. The coordinating distances are 175', 150', and 75'. According to the 2040 Comprehensive Plan, **FIGURE 4.1: Potential Connectivity Plan - City Core**, West Benedict Street is identified as a *Collector*, which requires a minimum of 75' separation between driveways.

The distance between the west driveway and the accessory building (new) driveway is negligible. As a goodwill gesture, staff agreed to remove the west driveway from the calculations. The "new" driveway serving the accessory building is approximately 30' with a five-foot (5') radius on each side, which equals approximately 40' in width. The distance from the eastern edge of the "new" driveway to the western edge of the existing "house" driveway is approximately fifteen-feet (15').

With the minimum separation requirement of 75', this request is for a variance approximately 60' of separation.

In accord with Oklahoma Statute **11 O.S. 44-107, Section 22-571** of the Shawnee Zoning Code, the Zoning Board of Adjustment (ZBOA) 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.

Relating to the four (4) conditions for granting a variance, staff's comments were:

- 1) Requiring 75' distance between driveways on this property creates a hardship. Staff defines unnecessary hardship as: circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable considering the purposes of the Zoning Code.
- 2) Along West Benedict Street from Leo Avenue to the North Canadian River there is one property that has two driveways for a single parcel. A gated parcel of approximately 25-acres located

west of the subject property has a semi-circle drive outside of the gate. The remaining properties have one driveway per parcel.

The distances between driveways vary from hundreds of feet to 30'. Some driveways are side by side, which serve two closely placed residences. The land toward Leo Avenue is typically parcels between 1.5 – 2-acres of land. The smaller tracts of land seemingly have driveways closer to another. Many of the properties along that section of W. Benedict St have single-family homes and one or more accessory buildings. The larger parcels are toward the west, and they range in size from 4 – 6 acres to 25-acre parcels

- 3) Granting the variance would not cause substantial detriment to the public good; however, there is a safety concern should the property be developed, sold, or rezoned in the future. Staff currently does not anticipate a traffic problem with two vehicles leaving from each driveway at the same time without awareness of each other. The purposes and intent of the code or the comprehensive plan would be impaired if the variance is granted. The City adopted the Zoning Code and Comprehensive Plan to establish, maintain, and enforce regulations to protect the health, safety, and welfare of the community.
- 4) If the variance were approved, it would be the “easiest” way to alleviate an unnecessary hardship. Staff finds this hardship to be self-created, so the granting of a variance is not an option.

Planner Clyne reminded the Board members that according to **Section 22-572** of the Zoning Code indicates that burden of truth is on applicant(s) seeking a variance.

Planner Clyne gave her recommendation for **Denial** to the Zoning Board of Adjustment for **ZBOA04-21** a **Variance** of 60' of required 75' distance between driveways at property located at 2130 W. Benedict Street in Shawnee, Oklahoma with the following conditions:

Chair Gordon asked the Board members if there were any questions for staff. Seeing none, she opened the public hearing for ZBOA04-21.

The applicant Freddie White was present and available for questions. Cecil Cole and Rob Morris both directed comments to the Board.

Following substantial discussion amongst Board members, staff, and the applicant, it was suggested that the item be deferred to a future meeting so the Shawnee Building Inspector, Kevin Moore, could attend and participate in the review of ZBOA04-21.

Board member Richardson made a motion to **Defer ZBOA04-21** until a Special Meeting to be called for November 23, 2021, at 3:30 p.m., which was seconded by Board member Dyer.

Following any discussion, the motion passed 3-0-0.

AYE: Dyer, Gordon, Richardson

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 5

Review and Approval of the 2022 Calendar of ZBOA Meeting Dates

Board member Richardson made a motion to Approve the 2022 Calendar of ZBOA Meeting Dates as presented, which was seconded by Board member Dyer.

Following any discussion, the motion passed 3-0-0.

AYE: Dyer, Gordon, Richardson
NAY: None
ABSTAIN: None

AGENDA ITEM NO. 6:

City Planner Report

None

AGENDA ITEM NO. 7:

Board Members' Comments

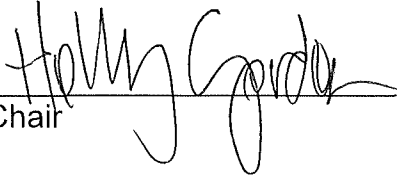
Chair Gordon expressed she enjoyed serving on the board and commented the ZBOA has been able to help make changes. Board member Dryer stated he appreciated the Board working together.

AGENDA ITEM NO. 8:

Adjournment

The meeting was adjourned by the power of the Chair at 3:34 PM.

Chair/Vice-Chair



/s/ Rachel Clyne
City Planner