

AGENDA
BOARD OF ADJUSTMENT
MARCH 16, 2023 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 of the regular meeting of the Shawnee Board of Adjustment for December 15, 2022.
2. Public hearing and consideration of a request for a variance to the Zoning Code that requires sidewalks located at a property on the NW corner of the intersection of Garrett's Lake Rd. and N. Harrison Ave.
Case No. BOA1-23 | Applicant: DJD Realty, LLC
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: December 15, 2022

Regular meeting - *DRAFT Minutes*

The Shawnee Board of Adjustment met at a regularly scheduled meeting on Thursday, December 15, 2022, at 2:30 PM 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 Gordon called the December 15, 2022, meeting of the Shawnee Board of Adjustment to order at 2:30 PM.

AGENDA ITEM NO. 2: Roll Call

City Planner, Rachel Clyne, called roll

Present: Kelly, Austin, Gordon, Dyer, Richardson

Absent: --

A quorum was declared present.

AGENDA ITEM NO. 3: Consideration of Approval of the minutes from the regular meeting of the Board of Adjustment on July 21, 2022.

Board member Kelly made a motion to approve the minutes as presented to form, which was seconded by Board member Richardson.
The motion passed 5-0-0.

AYE: Kelly, Austin, Gordon, Dyer, Richardson

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 4: Case No. ZBOA02-22 Public hearing and consideration of a request for a variance of twenty-five feet (25') from the minimum front yard setback, allowing the construction of a carport at the property located at 1421 N. Philadelphia Avenue.

Chair Gordon read Agenda Item No. 4 and asked for a staff report. Planner Clyne reviewed the information on the staff report for BOA2-22 with the following information. The subject property, a ±9,000 sq. ft lot is located southeast of E. Independence Street and N. Philadelphia Avenue intersection at 1421 N. Philadelphia. The single-family home, built in 1950, initially had an attached garage. That garage was converted into a living space before current ownership.

In the R-1 zoning district, the front yard setback is 25'. Setbacks are meant to remain free of structures. The residence is situated approximately 25' from the front property line, so the variance request is for the placement of a carport in the front yard setback.

The subject property had a carport when the family purchased the property in the late 1990s. The owner removed that carport within the last two (2) years, intending to replace it with a carport more fitting the owner's needs. The previous carport was not flush with the house and only allowed for a single vehicle. The property owner is disabled with cardiothoracic issues and physical impediments that affect his balance. The carport's coverage, mainly in inclement weather, specifically rain and ice, would improve this property's safety standards and aid the homeowner's welfare.

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) Requiring the 25' front yard setback remain unobstructed for this property creates a hardship.
- 2) The house had an attached garage and met the 25' front yard setback when constructed. The home had a carport for over twenty-five years, and the applicant has significant physical limitations that necessitate the construction of a carport. A rear yard carport would be difficult, given the property's layout. A rear carport would also require a covered walkway from the backyard around the house to the front door.
- 3) Granting the variance would not cause substantial detriment to the public good, nor would it impair the intent and spirit of the Zoning Code and Comprehensive Plan.
- 4) Allowing a 25' carport in the front yard setback would be the minimum necessary to alleviate the hardship if granted.

Staff recommends **Approval** by the Zoning Board of Adjustment for **ZBOA01-22**, a **Variance** allowing a 25' carport to be located in the front yard setback of the property known as 1421 N. Philadelphia Avenue in Shawnee, Oklahoma, with the following conditions:

- Acknowledgment by the applicant that the Approval of a Variance 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 will be conducted.

The public hearing was opened. The applicant, Michael Beck was present and available for questions. With no other input, the public hearing was closed.

Board member Dyer made a motion to Approve the variance request for Case Number ZBOA02-22, which was seconded by Board member Kelly.

The motion passed 5-0-0.

AYE: Kelly, Austin, Gordon, Dyer, Richardson

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 6: Community Development Department Updates

Community Development Director, Rian Harkins, updated the Board on the Unified Development Code, which was currently working on the Engineering Design Criteria. Director Harkins provided information on the grant-funded Love Your Block (LYB) program, which focuses on neighborhood revitalization. The LYB focuses on the Dunbar Heights neighborhood. Next Harkins discussed CDBG funds, which will be distributed to owner-occupied households for rehab and demolition. Lastly, he advised that a grant application had been submitted to ODOT for assistance with the Santa Fe Depot.

AGENDA ITEM NO. 7: Board Members' Comments

Board members were excited about the activities in the community and thanked staff for their work.

AGENDA ITEM NO. 8: Adjournment

The meeting was adjourned by the power of the Chair at 2:52 PM.

Chair/Vice-Chair

/s/ Rachel Clyne

City Planner



Board of Adjustment Meeting – 12.15.2022 – City of Shawnee, Oklahoma

Staff Report | BOA01-23 | Variance for Sidewalks | NW of Garrett's Lake Rd & N. Harrison Ave.

To: Shawnee Board of Adjustment

From: Rachel Clyne, City Planner

Date: March 9, 2023

Subject: Staff Report - Public hearing and consideration of a request for a variance to the Zoning Code that requires sidewalks located at a property on the NW corner of the intersection of Garrett's Lake Rd. and N. Harrison Ave.
Case No.: **BOA01-23** | Applicant: DJD Realty, Inc.

Discussion

The subject property is approximately 1.7168 acres and is located northwest of the intersection of Garrett's Lake Road and North Harrison Avenue. The property is zoned C-3 (Automotive Commercial District). The request is a variance to the Zoning Code and its Subdivision Regulations, Section 40.2.8. Sidewalks.

The applicant has applied for a building permit for a commercial structure. According to Section 40.28.8 of the Shawnee Subdivision Regulations, "Any street classified as a collector street or arterial street shall be provided with pedestrian sidewalks on each side of right-of-way (1) foot from the right-of-way line by the developer." The request asks for a variance to the requirement of building sidewalks along Garrett's Lake Road and N. Harrison Avenue.

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 placement of sidewalks on the subject property creates a hardship.
- 2) The house had an attached garage and met the 25' front yard setback when constructed. The home had a carport for over twenty-five years, and the applicant has significant physical limitations that necessitate the construction of a carport. A rear yard carport would be difficult, given the property's layout. A rear carport would also require a covered walkway from the backyard around the house to the front door.
- 3) Granting the variance would not cause substantial detriment to the public good, nor would it impair the intent and spirit of the Zoning Code and Comprehensive Plan.
- 4) Waiving the requirement of placing sidewalks along the south and east sides of the property 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 also published in The County Democrat weekly newspaper.

Recommendation

Staff recommends **Approval** by the Board of Adjustment for **BOA01-23**, a **Variance** allowing waiving the requirement for sidewalk construction of the property northwest of the intersection of Garrett's Lake Road and N. Harrison Avenue in Shawnee, Oklahoma, with the following conditions:

- Acknowledgment by the applicant that the Approval of a Variance 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 will be conducted.

Options:

- Approval of Case No. BOA01-23 to waive the requirement for the placement of sidewalks with the conditions presented by staff.
- Denial of the application for BOA01-23, thus requiring the placement of sidewalks.
- Deferral of Case No. BOA01-23 with a request for additional and specific information to a certain date.
- Approval of Case No. BOA01-23 to waive the requirement for the placement of sidewalks with the conditions presented by staff plus additional conditions.

PLANNING DEPARTMENT
222 N. BROADWAY
SHAWNEE, OK 74801



PHONE: (405) 878-1672

rec'd
2/10/23

ZONING BOARD OF ADJUSTMENT

PROJECT NO. _____ CASE NO. BOA01-23

NAME OF PROPERTY OWNER: Ross Antone Kozel

ADDRESS: 7110 N. Harrison

CITY: Shawnee STATE: OK ZIP CODE: 74804

TELEPHONE: (405) 401-1993 EMAIL: +Kozel@pkequipment.com

APPLICANT'S NAME: DJD Realty, LLC JUSTIN DILL

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

APPLICANT'S ADDRESS: P.O. Box 964

CITY: EI Reno STATE: OK ZIP CODE: 73036

TELEPHONE: (405) 262-6925 EMAIL: Sabrina@dandillcompanies.com

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

PROPERTY LOCATION (ADDRESS): NW Corner Garretts Lake Road
& Hwy 18

LEGAL DESCRIPTION: See legal attached

(DIMENSIONS OF PROPERTY) AREA: 1.71 acres WIDTH: 272'

LENGTH: 275' FRONTAGE: 272'

CURRENT ZONING: C-3 CURRENT USE: Vacant house

VARIANCE REQUESTED: See attached

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


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: _____

ZBOA DECISION: _____

ZONING BOARD OF ADJUSTMENT SECRETARY

DJD REALTY, LLC

P. O. Box 964

El Reno, OK 73036

Phone (405) 262-6925

Fax (405) 262-6936

2-10-2023

RE: New Dollar General Store, NW Corner of Garrett's Lake Road and Hwy 18

We are requesting a variance to the city code requiring sidewalks on the property frontage for both Garrett's Lake Road and Hwy 18 for technical feasibility reasons.

- 1) The existing ground on our site slopes directly from the edge of payment to the existing storm ditch on both roads. If we install a 6' sidewalk per code we would have to raise the grade along the roads 7-8' wide from the edge of pavement. The edge of the dirt if raised would be the approximate center of the existing storm ditch. There is not enough room to move the storm ditch 7-8' West and still maintain appropriate slopes. On Garrett's Lake Road if we raise the grade for the sidewalk we would totally eliminate the existing storm ditch.
- 2) The conditions are unique to this site. The property to the North on Hwy 18 and the property to the East on Garrett's Lake Road do not have these extreme grade conditions.
- 3) This will not cause substantial detriment to the public good as there are no other sidewalks close to this site which would tie into it.
- 4) The elimination of the sidewalk requirement is the minimum.

BOARD-23

Publish February 24, 2023
NOTICE OF PUBLIC HEARING
Variance Request (BOA01-23)

It is hereby noticed that the City of Shawnee Board of Adjustment will hold a public hearing on March 16, 2023, 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 (**BOA01-23**) to waive the requirement for sidewalks for a 1.7168-acre parcel located NW of the intersection of Garrett's Lake Road and N. Harrison Avenue and described as:

A tract of land being a portion of the Southeast Quarter (SE/4) of Section NINETEEN (19), Township ELEVEN (11), Range FOUR (4) of the Indian Meridian, Pottawatomie County, Oklahoma, more particularly described as follows:

COMMENCING at the Southeast corner of the Southeast Quarter of Section 19; THENCE South $89^{\circ}25'31''$ West, along the South line of said Section 19, a distance of 78.00 feet to the POINT OF BEGINNING; THENCE continuing South $89^{\circ}25'31''$ West, South line of said Section 19, a distance of 272.00 feet; THENCE North $00^{\circ}40'04''$ West a distance of 275.00 feet; THENCE North $89^{\circ}25'31''$ East a distance of 271.86 feet to the West right of way line of said Harrison Street (State Highway 18); THENCE South $00^{\circ}41'48''$ East, along said right of way line, a distance of 275.00 feet to the POINT OF BEGINNING; Said tract of land contains an area of 74,782 square feet or 1.716 acres, more or less. The bearing of South $89^{\circ}25'31''$ West as shown on the South line of the Southeast Quarter of Section 19 was used as the basis of bearing for this survey. The bearings shown hereon are based upon State Plane North Zone, which was used as the basis of bearing for this survey.

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.

