

## BOARD OF ADJUSTMENT MINUTES

JUNE 24, 2015

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in Conference Room D of the Norman Municipal Building A, 201-A West Gray, at 4:30 p.m., June 24, 2015. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at [www.normanok.gov/content/board-agendas](http://www.normanok.gov/content/board-agendas) at least 24 hours prior to the beginning of the meeting.

Item No. 1, being:

### CALL TO ORDER

Chairman Andrew Seamans called the meeting to order at 4:30 p.m.

\* \* \*

Item No. 2, being:

### ROLL CALL

MEMBERS PRESENT

Hank Ryan  
Curtis McCarty  
Brant Alexander  
Andrew Seamans

MEMBERS ABSENT

Kristen Dikeman

A quorum was present.

STAFF PRESENT

Susan Connors, Director, Planning & Community  
Development  
Wayne Stenis, Planner II  
Leah Messner, Assistant City Attorney  
Roné Tromble, Recording Secretary

\* \* \*

Item No. 3, being:

### APPROVAL OF MINUTES OF THE MAY 27, 2015 REGULAR MEETING

*Hank Ryan moved to approve the minutes of the May 27, 2015 Regular Meeting as presented.  
Curtis McCarty seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS

Hank Ryan, Curtis McCarty, Brant Alexander,  
Andrew Seamans

NAYS

None

ABSENT

Kristen Dikeman

Ms. Tromble announced that the motion to approve the May 27, 2015 Minutes as presented passed by a vote of 4-0.

\* \* \*

Item No. 4, being:

**BOA-1415-27 – JOHN AND JONI STICE REQUEST A VARIANCE OF APPROXIMATELY 5' TO THE 15' SIDE YARD (PONCA AVENUE) SETBACK FOR AN EXISTING HOUSE LOCATED AT 540 TULSA STREET.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report with Attachments
2. Location Map
3. Application and Statement of Justification with Exhibits

**PRESENTATION BY STAFF:**

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. Staff supports the request for a variance of approximately 5' to the side yard setback required by Chapter 22, Section 421.1.3 (b)(2) for the existing structure as shown on the 2015 survey provided by the applicant. No protests were received on this item.

Mr. Ryan commented that the applicant cited two properties on Tulsa Street as apparently non-conforming. He asked whether they are properties that have been granted or denied a variance, or whether they need to come before the Board in the future.

Ms. Connors responded that 644 Tulsa was granted a variance in 1999 to the front yard setback; 626 Tulsa was identified as the reason that variance should be granted. There was previously a provision in the R-1 zoning district regarding having 25% of the lots on one side of the street meeting a certain setback, and that setback was 40'. The variance was granted based on 626 Tulsa already being closer than 40', so 644 and 626 are both legally conforming.

**PRESENTATION BY THE APPLICANT:**

Sean Rieger, 136 Thompson Drive, representing the applicant – I would pass around some more photos; they're the same photos you have in your packet, but they're larger so you can look at them a little better. This case reminds me a lot of one that we had before you I think it was a couple of years ago; it was Emelyn Street. I'm not sure if any of you were here. Mr. Ryan was probably here. It was a very similar case and it was on Emelyn; I should have copied it and brought it, but it was one where it was a similar case in that a property owner bought it. Dr. Crook and his wife bought the property on Emelyn, and a corner lot, and they found through title work that the garage was encroaching over the building setback, went ahead and closed just like this situation. An old house – 1930s. We came before the Board and the Board granted unanimous approval of that setback. So we do believe it's in harmony with the neighborhood. We are not aware of anybody that has cited that extension of the house that you see on the front part of this photo – it's this end of the left side of the house that we're talking about. About five feet of it that extends over to the east. I emailed the buyer. I also emailed the prior owner to ask does anybody know when that was put on? We don't know. So I don't have any idea when that extension was put onto the house. Obviously, it's an issue we would like to clear up. I think what also I'd like you to notice is if you just look at the aerials and as you scan through, we're not in any way really out of character with the neighborhood. I think oftentimes that's really the focus of the Board of Adjustment is are we in harmony and character with what's around there. Can we meet that? I think if you look at this aerial of the second to last page, it shows a viewpoint looking from the house behind it looking toward this extension. The extension we're talking about is right there on the end. This is an aerial photo that was simply taken off the internet. They look in line; they are not in line. So understand the one on the north does pop out a little farther east, but this house to the south has significant large improvements all around it.

So I think we're in harmony with that and in keeping with what is around that neighborhood. Then on the last page I show you also those two properties that Ms. Connors was just talking about and their location and proximity to this house. We believe this is in keeping with the neighborhood. This is merely to clear up a title issue. The house has stood for a long time with a beautiful neighborhood and a beautiful corner, and we would simply request your approval today for this setback variance. I'm happy to answer any questions that you have.

**AUDIENCE PARTICIPATION:**

None

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:**

Mr. Ryan commented that he thinks the Board needs to reconcile this with 504 Rosedale. He thinks the record needs to cite the differences. The Board denied a request for a variance that had several things in common with this – no existing building permit. We can't prove that there was a building permit on the current application. In each instance, there's a structure over the building line. In each instance, we had some confusion because there was a 60' right-of-way on the street. And 504 Rosedale there were no complaints and no protests. I felt like staff was pretty strong on denying that request. So I think we need to figure out how this one differs from that one, other than just the neighborhood that it's in. I think one thing we differentiate is the length of time that it existed.

Mr. McCarty said he thinks this is completely different than the garage conversion. The front yard setback and the encroachment into the front City right-of-way is a little different than a side yard. Obviously, those people had a carport converted into a garage – hired someone to do it recently. The person they hired wasn't qualified, didn't get a building permit, didn't get electrical, didn't get engineering or anything like that. I can't tell from the picture, but I would say this hardly looks like an add-on. Do we know if this was even done when the house was built?

Mr. Ryan commented that we're pretty certain it was an add-on because of the map that shows it butting up to the lot line.

Mr. Stenis reported that he was at the property this afternoon. The owner was showing the brick joint. The brick joint was approximately where it showed on the Sanborn map. So from that joint over seemed to be all one addition.

Mr. Ryan pointed out that there were substantial improvements in 2013. Was there a building permit in 2013 for the improvements? The realtor listing said \$53,000 in plumbing and electrical upgrades in 2013. That would suggest that we have had recent inspections.

Mr. Stenis commented that he believes there was a plumbing and maybe an HVAC permit.

Mr. Ryan noted that the other case had no inspections.

Mr. Rieger commented that, to distinguish the two, 504 Rosedale is not a corner lot. This is a corner lot and the Emelyn case, very similar, was a corner lot. So you have two corner lots; one was approved. This one, not a corner lot, was not approved. This one we're proposing today is a corner lot. One other thing distinguishing, and staff's report talks about how this neighborhood was platted way back, much farther than the Rosedale Street neighborhood. I believe that was

a 1950s neighborhood or 60s. Melrose Street, right in front of it, was the late 50s or early 60s. The right-of-way and annexation that is talked about in staff report, I don't believe, would be applicable on the Rosedale address. So that distinguishes the two as well.

Mr. McCarty noted that this property is not in the current sight triangle of 33' from the corner. It's not blocking any traffic. This isn't the only one that's out there. These are going to come up occasionally. Unless we can prove that someone with gross negligence did something without getting a permit, trying to skirt the law or the ordinances, what do you do in these situations? We need to let people be able to clear their title. They didn't do it; someone previously did it; can't find out who did it. That's what the Board is for, is to be able to step up and help the citizens correct issues they have. He asked how long the prior owner lived in the house.

Mr. Rieger believes the prior owner lived there since 2003. The 1997 photo shows the addition was there then.

Mr. Stenis reported that in visiting with the new owner earlier in the day, the new owner actually paid cash for the property and is clearing this up for a future sale, but he did have the survey and he withheld a certain amount of money contingent on this being approved.

*Hank Ryan moved to approve the Variance to allow the existing structure as built, but no future changes or modifications to the footprint or elevation of the existing east part of the structure which encroaches into the setback. Curtis McCarty seconded the motion.*

Mr. Ryan clarified that his intent is that the area that encroaches into the setback cannot be built up to two stories.

There being no further discussion, a vote was taken with the following result:

YEAS	Hank Ryan, Curtis McCarty, Brant Alexander, Andrew Seamans
NAYS	None
ABSENT	Kristen Dikeman

Ms. Tromble announced that the motion to approve the Variance passed by a vote of 4-0.

Mr. Seamans noted that there is a 10-day appeal period before the decision is final.

\* \* \*

Item No. 5, being:

**MISCELLANEOUS COMMENTS**

None

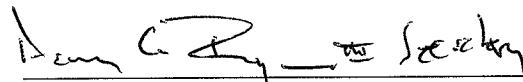
\* \* \*

Item No. 6, being:

**ADJOURNMENT**

There being no further business and no objection, the meeting adjourned at 4:50 p.m.

PASSED and ADOPTED this 26 day of August, 2015.

  
\_\_\_\_\_  
Board of Adjustment