

MINUTES
BOARD OF ADJUSTMENT
7:00 P.M. THURSDAY, OCTOBER 5, 2017
COUNCIL CHAMBERS, JENKS CITY HALL, 211 NORTH ELM STREET
JENKS, OK 74037

The Jenks Board of Adjustment was called to order at 7:00 p.m. on October 5, 2017, at Jenks City Hall by Chair Shari Keathley. Roll call was taken by City Clerk Josh McCorkle as follows:

Members Present

Steve Murtha
Larry Hengst
Paul Greek
Gina Wilson
Chair Shari Keathley

Members Absent

Staff Present

Erik Enyart
Josh McCorkle

Chair Shari Keathley requested a review of the minutes from July 6, 2017, Board of Adjustment meeting and asked if there were any corrections or omissions. Chair Shari Keathley said Page 2, second sentence from the top, the word at the end of the sentence that says “find” should be “fine”. On the next page, top line, it should say “in the rear yard”. Chair Shari Keathley took a vote of members to approve the minutes of July 6, 2017, with the corrections as stated.

Steve Murtha	Yes
Larry Hengst	Yes
Paul Greek	Yes
Gina Wilson	Yes
Chair Shari Keathley	Yes

Motion carried.

BOARD CASES

Move to Item 2.

1. JBOA-394 (3582) Request by Melissa Long for an approval of a Variance from the front yard setback in the RS-2 Residential Single-Family District with PUD 73 on property described as:

Lot 5, Block 1, Elwood Park, an Addition to the City of Jenks, Tulsa County, State of Oklahoma, according to the recorded plat # 6482 thereof.

General location: 1901 West 117th Court South.

Chair Shari Keathley asked Erik Enyart to give the Staff report. Erik Enyart presented the Staff report to the Board and stated Staff believes this meets the tests and standards for granting variance under the Jenks Zoning Code and State Statutes. Staff recommends approval. Steve Murtha said I've been on the Board about 20 years and this is not the first case like this that has been brought to us. Maybe half of the cases that I've ruled on have been cases where the builder has been careless or not careful and built across and encroached into one of the areas where he's not supposed to. Of course we always get caught afterwards like this when they're trying to sell it. That's what we're here for, but it's very frustrating to case after case after case like this when it could have been handled better at the time the house was built. Paul Greek said at the time it was built it should have been caught. Larry Hengst said the mortgage company has to look at it then, too. Steve Murtha made a motion to approve JBOA-394. Seconded by Larry Hengst. A vote of members was taken as follows:

Steve Murtha	Yes
Larry Hengst	Yes
Paul Greek	Yes
Gina Wilson	Yes
Chair Shari Keathley	Yes

Motion carried.

2. JBOA-395 (673) Request by Mary-Ann Murias for an approval of a Variance from Jenks Zoning Code Sections 240.2.f and 430.1 Table 3 and any other Zoning Code or Planned Unit Development Number 14 (PUD 14) provision restricting the placement of an approximately 96 square-foot detached accessory building in the south side yard of property in the RS-2 Residential Single-Family District with PUD 14 described as:

Lot 29, Block 3, Wakefield Village, an Addition to the City of Jenks, Tulsa County, State of Oklahoma, according to the Recorded Plat # 5503 thereof.

General Location: 12430 South Cedar Avenue.

Chair Shari Keathley asked Erik Enyart to give the Staff report. Erik Enyart noted that Staff recommends a continuance to November 2 to give the applicant and HOA time to discuss and

possibly come to resolution. Erik Enyart then presented the Staff report to the Board and stated this has an accessory building that was built into a side yard, which is in violation of the Zoning Code. The City brought that to the attention of the owner. They made application, and it has since been brought to our attention that there are Restrictive Covenants in effect that may require that they get after the fact approval for that building. I discussed with the owner, Mary Ann Murias. She referred me to her daughter, Julie Patuto. I informed Julie of the need to contact the HOA to make sure they have an understanding of what would be required to get that approved, because we did not want to put the Board of Adjustment or the City in between the owner and the HOA and set it up for potential approval that would be in violation of the covenants in effect and the rules of the HOA. Ms. Patuto and I discussed that, and she did confirm that she would be willing to reach out to the HOA. We recommend that this be continued to the November 2 regular meeting to allow them a chance to discuss that and determine a possible way forward. Larry Hengst said it's been many years, but on a PUD when we first came up with that, I thought the City still had a lot of control over that. Erik Enyart replied yes. In this case they would need a variance from the underlying zoning of RS-2 and also the PUD for this neighborhood. The variance was advertised to do both things. When it's brought back before you next month, it will be properly before you for both elements. I also want to point out that what we have before us is the public regulation of the zoning. The rules and regulations of the HOA are private and they're not something the City has standing to interpret or enforce, but since we are aware of them we have advised the owner to look to their neighborhood for a way to satisfy the private restrictions that may be in effect. Regardless of the outcome of that conversation, the Board of Adjustment still can rule on the application. Steve Murtha said I received an email from the HOA. There was one signature on it, and frankly I would like to have an idea of how many people that represents. Is it's one person's opinion, or is it the opinion of the Association? Chair Shari Keathley said he wrote it on behalf of the Wakefield Village HOA as their President. Paul Greek said I make a motion that we continue this to November 2. Gina Wilson seconded. Robin Gilmore, Secretary of the Wakefield Village HOA, addressed the Board and stated the homeowner did not submit an application for the extension of the fence or the outbuilding. It came to our attention after the fact. Therefore, once we started receiving notification that the building was erected and the fence was extended we started getting complaints. When you received that letter from the President it is on behalf of the Wakefield Village HOA and the Architectural Committee. And if submitted by the homeowner for an extension or a change in our covenants, it will more than likely be denied. Gina Wilson asked don't you have a process they should go through to get that denial? Robin Gilmore answered more than likely, but we don't have it set up in our bylaws. Erik Enyart asked have you spoken with the owner of the property? Robin Gilmore answered not directly. Erik Enyart said the Board has the authority to take action on the application, but it is Staff's recommendation that we continue this to allow you to at least have dialogue. My expectation is that there ought to be some process for them to initiate a request for approval to you. Regardless of the outcome, the Board can take action on this application. Robin Gilmore replied I understand if that is the way you want to go, but I understand that there is liability both ways if

someone has an accident and gets hurt on that corner. I left the neighborhood in that direction and took pictures. If I stop before the stop sign, with that fence extension you cannot see around the corner. So I had to pull out into traffic. Erik Enyart said I would also point out that I'm aware that there were complaints on the fence, but the fence was deemed by the City to not be in violation of the Zoning Code. Several people from the audience started talking. Chair Shari Keathley stated we have questions about this and you have concerns. I'm going to accept the motion and the second to continue this to November 2 so that more ducks can get in their rows, because we have not had an opportunity to study on it. Normally we all go out and look at properties before we rule on them. We're going to take a look at it so we know what it looks like, what the drive looks like through the area, see the problems. And to give the applicant time to see if they're going to make changes, move it. Robin Gilmore said the fence company should have checked with the City of Jenks and checked the covenants, so the homeowner could go back to their fence company. The homeowner moved the fence out to build the shed. Chair Shari Keathley said at this point we want to look at it. We'll all go out and take a look at the property. The Board works within the constraints of Jenks Code and can grant variances or special exceptions. We don't want to go into a situation where we're crosswise with the HOA, but your covenant does not drive the City. I now have a motion and a second, Ms. Gilmore, and we're going to vote. Tom Fulton addressed the Board and said I live in The Crossing and have to go past that shed to my property every day. It doesn't affect just one homeowner. It affects that entire area. Chair Shari Keathley said we're not making a ruling on anything tonight. We're going to look at it per our Codes, see if it looks like it's a problem, discuss with Staff, and we will have this on our agenda for November 2. Hopefully the homeowner and the HOA can reach some kind of agreement, but at this time the only thing we're going to do on this case is vote on whether or not to postpone the case until November 2. I have a motion and a second to table JBOA-395 until the November 2 meeting. A vote of members was taken as follows:

Steve Murtha	Yes
Larry Hengst	Yes
Paul Greek	Yes
Gina Wilson	Yes
Chair Shari Keathley	Yes

Motion carried.

Move back to Item 1.

Adjournment. The Jenks Board of Adjustment adjourned at 7:38 p.m.