CITY OF BROKEN ARROW
MINUTES OF
BOARD OF ADJUSTMENT
REGULAR MEETING
December 10, 2012, 5:00 p.m.

1. The Board of Adjustment Agenda for this meeting was posted at 9:35 a.m. November 30, 2012, on the City Hall Bulletin Board, 220 South First Street, Broken Arrow. The Broken Arrow Board of Adjustment met in a regular meeting in the City Council Chambers at City Hall on Monday, December 10, 2012, at 5:00 p.m.

2. Present: Archer Honea, Chairperson
Ralph Crotchett, Vice Chairperson
Dick Baze, Member
Stanley Evetts, Member

Absent: Randall Cherry, Member

Staff Present: Lesli Myers, Asst City Attorney
Farhad K. Daroga, City Planner
Brent Murphy, Asst City Planner
Karissa Fischer, Project Coordinator
Joyce Snider, Administrative Asst
Marcae’ Hilton, Planning Intern

3. The Board considered the minutes of the regular Board of Adjustment meeting held September 10, 2012.

Motion by Stan Evetts to approve the minutes of the meeting held September 10, 2012, as presented. The motion was seconded by Ralph Crotchett.

Yes: Evetts, Crotchett, Honea
Abstain: Dick Baze
No: None

Motion approved

Archer Honea asked if the Board wished to consider Item No. 6 at this time. He outlined several concerns that he wished to discuss in relation to agenda item No. 6 regarding the various options available in discussing and approving requests. He said this item arose primarily because he requested it and that the Board needs remedies in addition to those they have presently. Dick Baze said if they needed additional information, they needed it now. Discussion followed. The Board elected to follow the agenda as listed.

4. The Board considered BOA 703, a request for a variance to reduce the side yard building setback line on the north side of the property from 20 feet to 17 feet on property located one-eighth mile south of Houston Street (81st Street), east of Elm Place (161st Street) at 811 South Elm Place. Brent Murphy presented the background, saying BOA 703 involves AutoZone. He said the applicant is requesting that the building setback line along the north property line be reduced from 50 feet to 17 feet.
Mr. Murphy said this AutoZone parcel is presently zoned CH (Commercial Heavy) and the abutting property to the north, which is owned by Broken Arrow Public Schools, is zoned R-2. Buildings in the CH district are required to setback 50 feet from residentially zoned property. He said there is no setback requirement if the zoning on the abutting property were to be changed to CH. The setback requirement for property zoned CH from any other nonresidential use is 30 feet.

Mr. Murphy indicated that in July, 1992, the Board of Adjustment approved BOA 436, a request for a variance to reduce the building line setback along the north property line from 50 feet to 20 feet, for the AutoZone retail parts store. When construction of the structure was completed, the applicant has informed Staff that the northeast corner of the building ended up being 18.71 feet from the north property line and they have supplied a site plan that shows the location of the existing building constructed on the site and in the northeast corner is being shown as 18.71 feet. AutoZone is proposing an addition to the east of that building, which is not parallel to the property line, to the northeast. To keep the north wall in alignment with the existing structure, they are requesting a variance to reduce the side yard setback along the north property line from 50 feet to 17 feet.

Mr. Murphy explained that, as a result, there are two variance requests associated with BOA 703. One is for the existing building, which sets back less than the 20 feet, as stipulated by the Board of Adjustment in 1992, (BOA 436). In addition, applicant is requesting that the building setback line be reduced to 17 feet to accommodate future additions. He said Staff recommends that a variance be approved to reduce the building line setback from 50 feet to 18 feet to accommodate the existing building and the proposed expansion. To help offset the impacts of this encroachment, Staff recommends that minimum five trees with associated irrigation be installed in the landscape edge adjacent to Elm Place in accordance with the Zoning Ordinance. He said the applicant said that the map shows incorrectly the property line, which is about five feet from the edge of the parking space. He said Staff recommends that the approval of the request be for a minimum of 18 feet for side yard.

Archer Honea asked about the reduction to 17 feet shown in the proposal and that Staff is talking about a reduction to 18 feet. Brent Murphy explained that the applicant’s drawing shows 18 feet and the request is for 17 feet. Discussion followed and Stan Evetts said the north property is zoned R-2, but is being marketed as CH asked if there is a reason the zoning has not been changed. Brent Murphy said that is up to the school. Discussion followed. Ralph Crotchett asked if there is going to be enough room for parking and landscaping on the west side of the lot. Brent Murphy said there are 70 foot right-of-way and enough room in which to plant five trees.

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, the applicant, outlined the right-of-way and property line issues, clarified that their records show the street-right-of-way as 50 feet from the section line and there is an additional 20 feet that was dedicated previously for the total of 70 feet of right-of-way. He said they are willing to plant the five trees in the five-foot strip. He said the reason for asking for 17 feet is because of a previous construction error that happened on this property and talked about the regular occurrence of such errors. He said they are trying to mitigate any problem that might arise from that type of error because drawing on paper is not the same as constructing a building. Discussion followed regarding the possibility of the building being constructed over the 18.1 reduction to the building setback line.

There were no protestants present.
4. continued

Stan Evetts asked if they built over the property line would they be able to grant a variance. Farhad Daroga talked about the error made and the variance granted in 1992, saying the school chain link fence may not have been in the right location and that may have caused the building to be placed incorrectly. He pointed the alternatives open to the client and said that, given that the building has been in place for 20 years, the best thing to do would be to approve the existing building. He said no one knew about the mistake until recently. Discussion followed regarding the accuracy of the property line and self-created hardship. Archer Honea talked about the City inspectors’ part in checking the accuracy of property lines before construction and that is historically one reason the City has granted such variances. Further discussion followed.

Lesli Myers pointed out that only an applicant can appeal the decision of the Board of Adjustment, the City cannot appeal and that was discussed.

Archer Honea asked who wrote the staff report on this variance request. Farhad Daroga said Brent drafts the item and he makes any changes necessary. Mr. Honea asked if any other staff member made adjustment to this report. Farhad said not for this report. Mr. Honea said he intends to ask that question on each item they consider. Ralph Crotchett asked if the extension has already been completed and was informed that it had not. Discussion followed.

Motion by Dick Baze to approve BOA 703 as recommended by Staff with the stipulation of landscaping in accordance with the Zoning Ordinance. The motion was seconded by Stan Evetts.

Yes: Evetts, Baze, Honea
No: Crotchett

Motion approved

5. The Board considered the Board of Adjustment 2013 meeting schedule.

Motion by Ralph Crotchett to approve the Board of Adjustment 2013 meeting schedule as presented.

The motion was seconded by Dick Baze.

Yes: Evetts, Baze, Crotchett, Honea
No: None

Motion approved

6. Discussion was held regarding Board of Adjustment powers and approval process and Staff recommendations. Archer Honea said it had come to his attention recently that some agenda items prepared by Staff may be changed by other Staff members not present at their meetings. He said as a result, they may not always have received complete information. Ralph Crotchett asked whether Mr. Honea thought it was being summarized or altered and Mr. Honea said he would leave it up to Staff to explain that. Lesli Myers said she thought it happened more often with the Planning Commission that it does with the Board of Adjustment. Mr. Honea suggested that if other Staff members make material adjustments to Staff reports, that they be present at the Board’s meetings. Discussion followed and Mr. Honea said he feels somewhat vulnerable without that input. Stan Evetts and Ralph Crotchett said they thought that was reasonable. Mr. Daroga said he did not think it has happened as often on Board Staff.

Farhad Daroga said Staff will try to do more to bring those types of cases to the attention of the Board. He said it is a good point and positive that it has been brought to Staff’s attention. He talked about the possibility of have a workshop sometime in 2013 for local area Board of Adjustment members. The Board Members indicated they thought it a good idea.
6. continued
   Archer Honea talked about the alternative actions available to the Board. Discussion followed and Mr. Honea said he is most interested in ensuring that the Board members are aware of their options and the reasons for using them and examples that applied to each were discussed.

   Farhad Daroga said land use controls are for land, not for individuals, so when cases are approved, there is a distinction between what remains with the land and what remains with the individual. It is difficult to distinguish and when a person requests a variance, it is human nature to consider the person regarding their request. However, if the position is taken that how it affects the land, which is permanent, it provides a different perspective.

   Archer Honea said he would like Randy Cherry to have a recording of this meeting for information.

   At Lesli Myer’s request, Jim Beach, Wallace Engineering, provided feedback in regard to this conversation. He said the Board has a certain amount of flexibility within the statutes and the test they have to meet to grant a variance is clear cut. Discussion followed regarding the types of cases heard, the various perceptions of hardship involved and the impact of Board actions.

   No action was taken.

7. REMARKS, INQUIRIES AND COMMENTS BY BOARD MEMBERS AND STAFF (NO ACTION)

   Mr. Daroga introduced Marcae’ Hilton, part time Planner. He also introduced Karissa Fischer, a staff member transferred from the One-Stop to the Planning Division of Development Services.

8. ADJOURNMENT

   Motion at 6:20 p.m. by Ralph Crotchett to adjourn. The motion was seconded by Dick Baze.
   Yes: Evetts, Baze, Crotchett, Honea
   No: None
   Motion approved.