

MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
JULY 19, 2016 at 9:30 AM
CITY COUNCIL CHAMBERS

CALL TO ORDER: The meeting was called to order by Randy Horton at 9:30 a.m.

ROLL CALL: Was taken by Recording Secretary Bridget Cannon.

MEMBERS PRESENT: Chairman Randy Horton, Vice-Chairman Christopher Eveleth, Secretary Dan Jozwiak, Alternate John Horvath

MEMBERS ABSENT: Board Member Kent Telesz, Planning Commission Representative Thomas Taylor, and Alternate Matthew Grubb

OTHERS PRESENT: Ms. Susan Montenegro, Assistant City Manager and Director of Community Development; Tyler Leppanen, Assistant Community Development Director

AGENDA: IT WAS MOVED BY BOARD MEMBER EVELETH, AND SUPPORTED BY BOARD MEMBER JOZWIAK TO APPROVE THE AGENDA OF JULY 19, 2016 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

MINUTES: IT WAS MOVED BY BOARD MEMBER EVELETH, AND SUPPORTED BY BOARD MEMBER JOZWIAK TO APPROVE THE MINUTES OF JUNE 21, 2016 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

COMMUNICATIONS:

1. Staff memorandum
2. ZBA minutes from June 21, 2016
3. Variance Request – 202 S. State Street
4. Public Notice

COMMISSIONER/PUBLIC COMMENTS: Susan Montenegro received a phone call from Richard Perry, 1418 Henry Street, whom stated he did not have an issue with the variance request (see board packet for phone call notes).

PUBLIC HEARINGS:

1. VARIANCE – 202 S. STATE STREET

John & Becky Langtry, applicants, stated there was a fire in the rental structure in March, 2016. The house is scheduled for demolition, per the insurance company's request. The garage structures (single and double garage) were not damaged in the fire. The property owners currently use the garages to store lawn equipment, and maintenance equipment for the four rental units they own in the neighborhood. The current garages are concrete structures. The property owners would like to demolish the house only and leave the garages for storage purposes.

The board read an e-mail received from Teri Hoenshell, 209 State Street, against the variance request (see attached).

Barbara Sutphen – 309 State Street - Read a petition signed by neighboring residents, against the variance request (see attached).

Paul Sutphen – 309 State Street – Has lived in his house since he was five years old, and is concerned how demolition of the house only (not the garages) would affect property values in the area.

UPON MOTION OF MEMBER EVELETH, SECONDED BY MEMBER HORVATH, THE FOLLOWING FINDINGS, CONCLUSIONS, DECISION AND CONDITIONS WERE ADOPTED BY THE BOARD AS ITS DECISION ON THE VARIANCE REQUEST BELOW:

The Applicant has submitted a variance request from the following section(s) of the Zoning Ordinance: Section 38-52(5) – Principal uses permitted: Accessory buildings and uses, customarily incident to any of the above permitted uses and subject to the conditions of Section 38-379. Section 38-379(3) – Accessory Buildings: An accessory building shall not occupy more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any non-required rear yard, provided that in no instance shall the accessory building(s) exceed the ground floor area of the main building. The variance is requested for the purpose of allowing the Applicant to leave two (2) garages on the property following a fire that destroyed the main structure to use as storage for maintenance and lawn equipment for other rental properties.

Based upon the documentation and other information submitted to the Board, public comment received by the Board during its meeting, visits to the site by individual Board Members, and knowledge and experience of the Board Members with land use within the City, the Board adopts the following findings and decision with respect to the request for variance:

- A. This is a request for a use variance subject to Section 38-504(3) of the Zoning Ordinance. The applicant must show that a variance meets All of the factors expressed in Section 38-504(3) a. 1-9. in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) “Will not be contrary to the public interest or to the intent and purpose of this chapter.”

The Board finds that Section 38-504(3) a.1. has not been met.

Factor 2: (Section 38-504(3) a.2.) “Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required.”

The Board finds that Section 38-504(3) a.2. has not been met.

Factor 3: (Section 38-504(3) a.3.) “Is one that is unique and not shared with other property owners.”

The Board finds that Section 38-504(3) a.3. has not been met.

Factor 4: (Section 38-504(3) a.4.) “Will relate only to property that is under control of the applicant.”

The Board finds that Section 38-504(3) a.4. has not been met.

Factor 5: (Section 38-504(3) a.5.) “Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.”

The Board finds that Section 38-504(3) a.5. has not been met.

Factor 6: (Section 38-504(3) a.6.) “Was not created by action of the applicant (i.e., that it was not self-created.)

The Board finds that Section 38-504(3) a.6. has not been met.

Factor 7: (Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

The Board finds that Section 38-504(3) a.7. has not been met.

Factor 8: (Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

The Board finds that Section 38-504(3) a.8. has not been met.

Factor 9: (Section 38-504(3) a.9.) "Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

The Board finds that Section 38-504(3) a.9. has not been met.

THE ABOVE FINDINGS, CONCLUSIONS AND DECISION WERE ADOPTED BY ROLL CALL VOTE AS FOLLOWS:

**AYES: EVELETH, HORTON, HORVATH
NAYS: JOZWIAK**

MOTION BY EVELETH TO MOVE TO SUSPEND RULES OF ORDER TO MAKE AMENDMENT TO AGENDA TO VOTE ON ELECTION OF OFFICERS, SECONDED BY JOZWIAK.

AYES ALL. MOTION CARRIED.

MOTION BY EVELETH TO KEEP ALL OFFICERS THE SAME FOR THE NEXT FISCAL YEAR, SECONDED BY JOZWIAK.

AYES ALL. MOTION CARRIED.

COMMISSIONER/PUBLIC COMMENTS: NONE

ADJOURNMENT:

MOTION BY BOARD MEMBER EVELETH, SUPPORTED BY BOARD MEMBER HORVATH TO ADJOURN AT 10:02 A.M.

YEAS ALL. MOTION CARRIED.

I certify that the above findings, conclusions, and decision were approved by the City of Owosso Zoning Board of Appeals on July 19, 2016.

Dan Jozwiak, Secretary

b.a.c.

Approved 01-11-2017