

**MINUTES**  
**REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS**  
**CITY OF OWOSSO**  
**AUGUST 20, 2013 at 9:30 AM**  
**CITY COUNCIL CHAMBERS**

The meeting was called to order by Chairman Randy Horton at 9:32 a.m.

Roll call was taken by Recording Secretary Marty Stinson.

**MEMBERS PRESENT:** Chairperson Randy Horton, Vice-Chairperson Christopher Eveleth, Secretary Daniel Jozwiak, Board Members Kent Telesz, and William Wascher.

**MEMBERS ABSENT:** None.

**OTHERS PRESENT:** Adam Zettel, Assistant City Manager and Director of Community Development; Charles Rau, Building Official; Mr. Robert Rowland, owner of 1409 Whitehaven Ct.

**AGENDA: IT WAS MOVED BY SECRETARY JOZWIAK AND SUPPORTED BY BOARD MEMBER TELESZ TO APPROVE THE AGENDA AS PRESENTED.**

**YEAS: ALL. MOTION CARRIED.**

**MINUTES: IT WAS MOVED BY SECRETARY JOZWIAK AND SUPPORTED BY BOARD MEMBER WASCHER TO APPROVE THE MINUTES OF THE MEETING OF JUNE 18, 2013.**

**YEAS: ALL. MOTION CARRIED.**

**COMMUNICATIONS:**

1. Staff memorandum
2. ZBA minutes from June 18, 2013
3. Variance request materials – 1409 Whitehaven Ct.
4. Variance request plans – attached
5. Affidavit of notice
6. Public comments received by staff

**COMMISSIONER/PUBLIC COMMENTS:** None.

**PUBLIC HEARINGS: VARIANCE REQUEST – 1409 Whitehaven Ct. # 2013-02**

Mr. Adam Zettel, Assistant City Manager and Director of Community Development, referred comments to the applicant as there was no public in attendance for the public hearing portion for the variance request.

Mr. Robert Rowland of 1409 Whitehaven Court, is requesting an additional 20 inches on top of a six foot fence along a 36 foot section of fence on his south property line next to his deck and neighbor's fence at 1405 Whitehaven Court. He distributed documents to board and staff members with pictures of various views of and from his home into his neighbors' yards. The original builder set the house with eight feet between the house and his neighbor's property line. He has an illegally built deck (long time ago) on that side going almost to the property line with little privacy; a safety issue with the current railing; and a neighbor's dog that barks even when he is in his living room.

Mr. Zettel noted that the layout of the house is not unique. There are many other houses built this way on their lots. The porch was built to the property line which probably wouldn't be allowed today. These were obvious choices made by the previous owner and were there when it was purchased by the current owner. This is not a hardship. Mr. Zettel recommends denial of this request.

There are various requirements for a variance which don't fit here. There should not be a deck built all the way to the property line which was built without a permit.

*Approved September 17, 2013*

Mr. Telez and Mr. Eveleth indicated that they believed there were unique feature to this property and the layout. They also indicated that the hardships were created by the previous owners and were likely unknown to Mr. Rowland, in terms of their impact, upon purchase.

Secretary Jozwiak asked if Mr. Rowland was going to take down the railing and put up the fence. Mr. Rowland replied yes. Mr. Jozwiak asked how are you going to maintain the weeds and grass between fences. Mr. Rowland replied that it will be open at the ground so he can maintain it there.

Mr. Rowland indicated that he would also like to build a fence in the front yard, where the current fence is, to a height of 7 feet. The board concluded that this was not part of the variance as applied for and published, so they could not review this part of the case. Mr. Zettel indicated that the ordinance adopted the night before by the city council would permit a front yard fence of six feet in height in that location. Mr. Rowland has a much larger front yard.

**MOTION BY BOARD MEMBER TELESZ, SUPPORTED BY BOARD MEMBER EVELETH, WHEREAS, THE OWOSSO ZONING BOARD OF APPEALS, AFTER REVIEWING THE CASE FOR 1409 WHITEHAVEN COURT, PARCEL NUMBER 050-193-000-001-00 HEREBY MAKES THE FOLLOWING FINDINGS:**

1. THE ADJACENT NEIGHBOR SUPPORTS WITH PRIVACY HEIGHT REQUEST OF MR. ROWLAND
2. THE PRIVACY HARDSHIP WAS UNKNOWN TO THE PURCHASER AS IT RELATES TO THE ORIENTATION OF THE HOUSE SUCH THAT THE REAR YARD SETBACK IS ONLY EIGHT FEET THAT THE DECK IS LEVEL WITH THE HOME EGRESS
3. WHERE THERE ARE EXCEPTIONAL OR EXTRAORDINARY CIRCUMSTANCES OR PHYSICAL CONDITIONS SUCH AS NARROWNESS, SHALLOWNESS, SHAPE, OR TOPOGRAPHY OR THE PROPERTY INVOLVED, OR TO THE INTENDED USE OF THE PROPERTY, THAT DO NOT GENERALLY APPLY TO OTHER PROPERTY OR USES IN THE SAME ZONING DISTRICT.
4. THE PETITIONER MEETS ALL GENERAL CRITERIA.

**BASED UPON THOSE FINDINGS, THE OWOSSO ZBA HEREBY APPROVES THE PETITION TO PERMIT THE FENCE VARIANCE WITH THE HEIGHT OF 92" AS ILLUSTRATED IN THE ATTACHED PETITION, CONDITIONED ON THE FOLLOWING:**

1. THAT THE FENCE BE CONSTRUCTED OF COMPOSITE OR VINYL MATERIAL.

**ROLL CALL VOTE: AYES ALL. MOTION CARRIED.**

**COMMISSIONER/PUBLIC COMMENTS:** None

**ADJOURNMENT:**

**MOTION BY BOARD MEMBER TELESZ, SUPPORTED BY BOARD MEMBER WASCHER TO ADJOURN AT 10:43 A.M.**

**YEAS: ALL. MOTION CARRIED.**

\_\_\_\_\_  
Dan Jozwiak, Secretary

m.m.s

*Approved September 17, 2013*