

**MINUTES OF THE  
BOARD OF ADJUSTMENT MEETING  
April 12, 2022  
5:30 P.M.**

The Board of Adjustment of the City of Moore, Oklahoma held a meeting on April 12, 2022 at 5:30 p.m. in the Council Chambers, Moore City Hall, 301 North Broadway, Moore, Oklahoma.

**Agenda Item No. 1, being:** ROLL CALL

After noting a quorum present Chairman Sherrard requested that roll be called. The following members reported present:

Gary Lunow      Shelia Haworth      Janie Milum      Hermes Arevalo      Ralph Sherrard

**Absent:** None

**Staff:** Elizabeth Weitman, Director Community Development, Sarah Copeland, Assistant City Planner. Nora Kerbo, Administrative Assistant

**Agenda Item No. 2 being:** REPORTS

- a) Board of Adjustment Members – None
- b) Community Development Department - None

**Agenda Item No. 3 being:** MINUTES

- a) Approval of the **Minutes of the Special Board of Adjustment Meeting held October 26, 2021.**

Chairman Sherrard requested a motion.

**Motion:** Shelia Haworth motioned for approval of the **Minutes of the October 26, 2021 Special Board of Adjustment Meeting**, as written. Hermes Arevalo seconded the motion. Roll was called.

**Ayes:** Lunow, Haworth, Milum, Arevalo, Sherrard

**Nays:**

**Abstained:**

**Absent:**

**Agenda Item No. 4 being: NEW BUSINESS**

a) Appeal No. BOA 239

**REQUEST:** VARIANCE TO PART 12, CHAPTER 3, ARTICLE C, SECTION 12-386 OF THE MOORE CITY CODE REGULATING ACCESSORY BUILDINGS TO ALLOW CONSTRUCTION OF AN 840 SF STORAGE BUILDING LOCATE ON A RESIDENTIAL LOT UNDER THREE-QUARTERS (3/4) ACRE IN SIZE

**PROPOSED USE:** STORAGE BUILDING

**APPLICANT:** ROGER SMITH

**ADDRESS:** 108 N. WYNDEMERE LAKES DRIVE, MOORE, OK 73160

**LEGAL DESCRIPTION:**

**Lot One (1), in Block One (1), of the ESTATES OF WYNDEMERE SEC. 3, to Moore, Cleveland County, Oklahoma, according to the recorded plat thereof.**

**Property Address: 108 N. Wyndemere Lakes Drive, Moore, OK 73160**

The applicant applied for a building permit for a 840 sq. ft. metal accessory building at 108 N. Wyndemere Estates Dr. in the Wyndemere Estates Addition, Section 3. The applicant's lot is 0.7 acres and has no other existing accessory buildings on the property. Because the property is under ¾ acre and the building is over 600 sq. ft. in area City Staff denied the application due to non-compliance with City Code.

The area of the lot falls short of ¾ acres, but is larger than a typical residential lot of 6,000 sq. ft. The application of the City Code itself does not create a hardship, as there is no unusual circumstance that prohibits the applicant the general enjoyment and utilization of the property.

This lot is within the platted Estates of Wyndemere Addition, a subdivision with larger lots and a rural character. This Addition already has many accessory structures exceeding the 600 sf. Ft. maximum requirement and have been deemed to compliment the housing stock in the addition.

The intent of the ordinance is to limit the number and size of accessory structures in typical residential neighborhoods to ensure adequate open space and aesthetic harmony with surrounding residential homes and to maintain the residential character of the neighborhood. The *Envision Moore 2040* plan designates the subject site as Open Space Residential, preserving open space and the rural character of the general area. Due to the existing number and character of existing non-conforming accessory structures within the addition, and, there is not anticipated to be any detriment to the public good or the intent of the ordinance or comprehensive plan if the variance is granted.

It is unclear whether this is the minimum necessary solution to alleviate any perceived hardships.

The intent of the updated Accessory Buildings Ordinance is to help ensure accessory structures match or compliment the residential architectural design of the surrounding homes and feel of the overall neighborhood. Based on the 1) rural character of the addition; and 2) the number of existing non-conforming accessory structures within the addition, staff believes that approval of this variance will not compromise the intent of the Ordinance, Comprehensive Plan, or the overall integrity of the Estates of Wyndemere neighborhood. Staff recommends approval of this application.

Chairman Sherrard asked if any of the board members would like to address this item. After no response, Chairman Sherrard asked if the applicant was present.

Roger Smith, 108 N. Wyndemere Lakes Drive, introduced himself as the applicant and offered to answer any questions. Chairman Sherrard asked if the building will be visible from the street. Mr. Smith answered, the house will block almost all of the building. A portion will be visible if you are looking for it. Chairman Sherrard asked the applicant if he had hired a contractor to erect the building. Mr. Smith answered the materials were ordered through Quality Buildings a carport company on the east coast. They have a local company here that will handle the install.

Mr. Lunow asked for clarification on the height. Mr. Smith answered, 12' foot walls and approximately 14.5' at the peak. Chairman Sherrard asked if there were any other questions for Mr. Smith. Hearing none, Chairman Sherrard asked if there were any members of the audience who wished to address this item.

Mr. Daniel Berkowitz, 100 N. Wyndemere Lakes Drive, introduced himself as representing the Home Owners Association. Mr. Berkowitz confirmed that the proposed storage building is compliant with all of the HOA setback requirements as well as HOA covenants. Mr. Berkowitz went on to say, the HOA approves of the storage building as they prefer all RVs to be stored inside. After no response, a motion was requested.

**Motion:** Shelia Haworth motioned to approve the requested variance Appeal No. BOA239. Hermes Arevalo seconded the motion. Roll was called.

**Ayes:** Lunow, Haworth, Milum, Arevalo, Sherrard

**Nays:**

**Abstained:**

**Absent:**

b) Appeal No. BOA 240

**REQUEST:** VARIANCE TO PART 12, CHAPTER 2, ARTICLE B, SECTION 12-324 OF THE MOORE CITY CODE REGULATING AREA AND HEIGHT REGULATIONS IN THE C-3 GENERAL COMMERCIAL ZONING DISTRICT TO ALLOW CONSTRUCTION OF A COMMERCIAL BUILDING ADDITION ENCROACHING INTO THE REQUIRED 25' SIDE YARD SETBACK

**PROPOSED USE:** CONSTRUCTION OF A COMMERCIAL BUILDING ADDITION

**APPLICANT:** CASEY'S GENERAL STORES/AHMAD JAFFAL

**ADDRESS:** 101 NE 27<sup>TH</sup> STREET, MOORE, OK 73160

**LEGAL DESCRIPTION:**

A tract of land lying in the west half of the southwest quarter of Section 2, Township 10 North, Range 3 West of the Indian Meridian, City of Moore, Cleveland County, Oklahoma, and being more particularly described as follows:

Commencing at the southwest corner of said southwest quarter;

Thence North 00°36'35" West, along the west line of said southwest quarter, a distance of 33.00 feet;  
Thence North 89°53'54" East, parallel with the south line of said southwest quarter, a distance of 91.49 feet to a point on the former east right-of-way line of Interstate Highway and the point of beginning;

Thence North 00°42'00" West, along said east right-of-way, a distance of 167.00 feet;

Thence North 89°53'54" East, parallel with the south line of said southwest quarter, a distance of 175.00 feet;

Thence South 00°42'00" East a distance of 167.00 feet;

Thence South 89°53'54" West, parallel with and 33 feet north of the south line of said southwest quarter, a distance of 175.00 feet to the point of beginning.

Previously described of record as follows:

Part of the West Half of the Southwest Quarter of Section 2, Township 10 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, more particularly described as follows:

Beginning at a point 33 feet north and 90.1 feet east of the Southwest Corner of said Southwest Quarter, said point being on the east right of way line of Interstate Highway #35;

THENCE North 0°42' East on the east right of way line of said Highway a distance of 167 feet;

THENCE South 88°46' East and parallel with the south line of said Southwest Quarter a distance of 175 feet;

THENCE South 0°42' West and parallel with the east right of way line of said Interstate Highway #35 a distance of 167 feet to a point 33 feet north of the south line of said Southwest Quarter;

THENCE North 88°46' West and parallel with the south line of said Southwest Quarter a distance of 175 feet to the point of beginning.

**Property Address: 101 NE 27<sup>th</sup> Street, Moore, OK 73160**

The property at 101 NE 27<sup>th</sup> St. was recently sold to Casey's in a buy-out of area Circle-K properties. The new owner is in the process of upgrading all locations within the City of Moore to include kitchen areas. The subject site is a very small convenience store, and more square footage is required to install the kitchen. The applicant desires to construct an addition of 832 sf to the building that would allow them to install the kitchen and move the cold storage to the area of the new addition. The proposed addition would encroach on the required south side building setback by approximately 10'6" and necessitate the relocation of 5 parking spots on the lot.

The subject site is a very small lot developed with existing gas pumps and convenience store. Due to this site's tight footprint, the options for expansion are very limited. In addition there is a floodplain, drainage structure and public sewer line located on the west side that limits development opportunity. Enforcing the ordinance as written would effectively prohibit any meaningful expansion of the building.

The subject site is limited by the small size of the property, existing drainage structures and public sewer line and a FEMA floodplain to the west of the building. These conditions are unique to the site and prohibit significant expansion to the west. With existing parking and gas pumps located to the east of the current building and a storage building and dumpster location to the north of the current building, the only viable opportunity for expansion is to the south of the building.

The intent of the ordinance is to provide separation between commercial land uses to both preserve open space and meet long-established fire protection standards. With the subject site, the side yard is abutting a public arterial roadway, therefore there will never be another structure next to this lot which relieves the concerns over open space and public safety. If the variance is approved, 4 parking spaces would be eliminated, leaving 13 parking spaces on site (including parking at the pumps). City Code requires a total of 18 parking spaces, leaving a deficit of five parking spaces. To make up these 5 spaces, additional parking spaces could be added by expanding the front parking bay to the south and by designating employee parking to the north of the existing building in front of the storage building and dumpster.

The comprehensive plan places an emphasis on encouraging both retail growth and reinvestment in existing commercial centers (pg. 62-67). This application meets both of those goals. The expanded square footage would allow for increased food and beverage retail opportunities as well as providing a welcomed remodeling of an existing business along the I-35 Corridor.

The applicant desires to install a kitchen at this location to comply with the Casey's standard convenience store model, allowing this location to compete with the approved travel stops across I-35. The building plans request an addition of 832 sf for a small addition that meets building code. Staff believes that this is the minimum variance request necessary for such an addition.

The intent of the building code and zoning regulations are to help ensure the general continuity in the aesthetics, character, and preserve the public health, safety, and general welfare. The need for adequate open space and separation between uses is important for public health and safety. The south side yard setback is adjacent to a developed arterial roadway with no potential for future building construction; however, if approved this addition will be noticeably closer to NE 27<sup>th</sup> Street than any surrounding development.

Recognizing the need for increased viability as a convenience store in light of the planned travel center developments on the west side of the interstate, staff recommends approval of this application contingent upon the following:

1. Addition of 5 parking spaces to bring the site into compliance with the City of Moore Parking Regulations.
2. Addition of complimentary landscaping along the southern and western walls of the addition to 'soften' the visual impact. A minimum of 5 trees and 10 shrubs shall be provided, with final species selection and placement to be approved by the City of Moore.

Chairman Sherrard asked Ms. Weitman to expand on the idea of expanding the front parking bay to the south, to recapture the parking spaces lost.

Ms. Weitman answered, currently the parking spaces run the length of the existing business across the front. When the building is extended, they will also gain enough space to continue south with 3 additional parking spaces. Additionally, to the north there is enough space to add 2 additional spaces. Those will be located in front of the dumpsters and it is recommended those 2 spaces be designated as employee parking.

Chairman Sherrard and Mr. Lunow both agreed it will be tight. The store is busier at certain times of the day and at those times, parking may be very tight.

Shelia Haworth asked Ms. Weitman if the City has ever approved such a large encroachment onto a side-yard setback. Ms. Weitman answered, she could not recall an instance of approval of an encroachment this large. It is significant. Ms. Weitman stated to be clear you will notice this. It is possible to dress it up, however will be noticeable.

Mr. Sherrard asked if the City would be setting a precedent that would result in an increase to similar applications. Ms. Weitman, answered, in her opinion, this outcome will not necessarily result in similar applications. There are several peculiarities unique to this lot.

Chairman Sherrard asked if the applicant was present. After no response, Chairman Sherrard asked if there were any members of the audience who wished to address this item. Hearing none, a motion was requested.

**Motion:** Shelia Haworth motioned to recommend approval of Appeal No. BOA 240. Janie Milum seconded the motion. Roll was called.

**Ayes:** Lunow, Haworth, Milum, Arevalo, Sherrard

**Nays:**

**Abstained:**

**Absent:**

**Agenda Item No. 5, being:** CITIZENS TO BE HEARD - None

**Agenda Item No. 6, being:** ADJOURNMENT

Chairman Sherrard requested a motion to adjourn at 6:06 p.m.

**Motion:** Shelia Haworth motioned for adjournment. Gary Lunow seconded the motion. Roll was called.

**Ayes:** Lunow, Haworth, Milum, Arevalo, Sherrard

**Nays:**

**Abstained:**

**Absent:**

RECORDED & TRANSCRIBED BY: \_\_\_\_\_  
Nora Kerbo, Recording Secretary