

ONEKAMA TOWNSHIP
ZONING BOARD OF APPEALS
SPECIAL MEETING AND PUBLIC HEARING
WEDNESDAY, JULY 12, 2017, 2 P.M.
ONEKAMA TOWNSHIP HALL

The hearing was called to order by Chairman Tom Gerhardt.

The Pledge of Allegiance was said.

Roll call: Chairman Tom Gerhardt, Vice Chairman Dennis Beebe, Secretary Jim Trout. Also present: Zoning Administrator Kris Philpot, Recording Secretary Mary Lou Millard, Matt McCambridge, president and Mark Lillie, project manager of Nugent Builders, on behalf of Daniel and Tracy Byrne. Also in the audience was Joann Hilliard, alternate to the Zoning Board of Appeals.

MINUTES: Motion by Trout, second by Beebe to approve minutes of the June 7, 2017 Special Meeting and Public Hearing as presented. M/C.

PURPOSE OF THE HEARING: Gerhardt explained the purpose of the hearing is to receive input on a variance request filed by Nugent Builders Inc. on behalf of Daniel and Tracy Byrne, Case No. 2017-02, Parcel No. 51-11-090-007-00. The Appeal, if granted, would permit construction of a new house and deck within the bluff side setback area, which is not allowed under Section 3903 (F) of the Onekama Township Zoning Ordinance of 1991 as amended.

PRESENTATION BY ZONING ADMINISTRATOR: Philpot explained the variance is needed because of the difference in footage setbacks from the bluff line by the DEQ and the Township Zoning Ordinance. The setback required by the DEQ is 45 feet; the setback in the zoning ordinance is 60 feet.

The application, filed by Nugent Builders for Daniel & Tracy Byrne, is essentially complete and the proper fee has been received. In accordance with the requirements of the Ordinance, the petitioner and the adjoining property owners have been duly notified by first class mail and the notice for this hearing is posted.

STATEMENT OF REQUEST:

The appeal, if granted, would permit construction of a new house and deck within the bluff side setback area, which is not allowed under Section 3903 (F) of the Onekama Township Zoning Ordinance of 1991 as amended.

HISTORY:

The property is a vacant property located on an unpaved road, on (address pending) Ivanhoe Dr. The property was foreclosed on in 2012 and Daniel & Tracy Byrne acquired title to the property in April of 2013.

FINDINGS OF FACT:

1. The subject parcel is located in Special and Unique Residential.
2. The majority of the subject parcel appears to be located within the Flood Plain Zone "C" designation.
3. MDEQ, Soil Erosion and Health Department permits are required and have been issued to the property owner. Copies have been included in the Board packets.

CONFORMANCE TO STANDARDS:

The following statements are based on the standards imposed on the ZBA when reviewing an appeal for a variance in accordance with Section 9603 of the Ordinance.

1. Do special conditions exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or building in the same district?
2. Will literal interpretation of Sections 3903 (F) of the ordinance as related to a bluff line setback deprive the owner of rights commonly enjoyed by other properties in the same district?
3. Are the special circumstances and conditions the result of actions by the applicant and considered self-created?
4. Will granting the variance alter the essential character of the area?
5. Does conforming to the zoning requirements create a practical hardship?

ADDITIONAL COMMENTS:

The applicant intends to present additional information during the public hearing.

Respectfully submitted

Kris Philpot, Zoning Administrator

Copies To: ZBA members, J. Trout (P.C. Chairman)

A question from a member of the audience and neighbor of the Byrnes: Did the DEQ look at the sand dune and wetlands areas? The answer is yes.

PRESENTATION BY PETITIONER: Project Developer Mark Lilly said the owners bought the land, and the site seemed O.K. He proceeded with the drawings, all based on the 45 foot DEQ setback. Pushing the house back 15 feet is a problem. Stick with the DEQ setback.

Philpot: The deck is at grade level. There are no railings, it won't block the view. The neighbors feel positioning of the house won't be a problem or obstruct the view.

Lilly: We staked the building corners.

Beebe: Does the carport cross the road?

Lilly: It is designed with not manipulating the grade and we will keep as many trees as possible. There is a tree replacement/vegetation plan in place.

The short stakes are the carport near the road; the ones near the house are painted orange and are for the house.

Philpot: I didn't find markings for the bluffline; I don't believe surveyors mark the bluffline. It's on the survey.

Trout: I'm sure the DEQ will check this, and they make the determination on where the bluffline is.

PUBLIC COMMENT IN SUPPORT: Neighbor John Strong: I have no opposition.

Neighbor Ray Cava: I just came to listen.

Neighbor Ann **Heppenstal**: My interest is in the variances. We need local control and I'm glad you are working on this.

Trout: The biggest reason we are here is the topography. We have topography issues in this township.

There were no comments in opposition.

There was no correspondence in support or opposition.

ADJOURN: Motion by Trout, second by Beebe to adjourn the hearing at 2:35 p.m. Motion carried

The Special Meeting was called to order at 2:35 p.m. by Chairman Gerhardt.

Trout: I don't have any objection to what the DEQ did; it looked like a good job of shoe-horning it in without obstructing the neighbors.

Beebe: It looks like the lots are kind of shoe-horned. I don't see a problem.

CONFORMANCE TO STANDARDS:

1. Do special conditions exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district? Answer: Yes.
2. Will literal interpretation of Section 3903 (F) of the ordinance as related to a bluff line setback deprive the owner of rights commonly enjoyed by other properties in the same district? Answer: Yes. (Note: Philpot corrected the section number from 4202 (C) to 3903 (F) and corrected front yard setback to bluff line setback).
3. Are the special circumstances and conditions the result of actions by the applicant and considered self-created? Answer: No.

4. Will granting the variance alter the essential character of the area? Answer: No.
5. Does conforming to the zoning requirements create a practical hardship? Answer: Yes.

Motion by Trout, second by Beebe to approve the variance request based on answers to Conformance of Standards. Motion carried.

PUBLIC COMMENT: None.

ADJOURN: 2:45 p.m.

Submitted by

Mary Lou Millard,

Recording Secretary

Tom Gerhardt, Chairman

Jim Trout, Secretary