



**Variance Board Regular Meeting
City Council Chambers, 2660 Civic Center Drive
Minutes – Wednesday, April 3, 2024 – 5:30 p.m.**

1. Call to Order

Chair Schaffhausen called to order the regular meeting of the Variance Board meeting at approximately 5:30 p.m. and reviewed the role and purpose of the Variance Board.

2. Roll Call & Introductions

At the request of Chair Schaffhausen, City Planner Thomas Paschke called the Roll.

Members Present: Chair Schaffhausen, Vice Chair Bjorum; and Member Aspnes.

Members Absent: None.

Staff Present: City Planner Thomas Paschke, Community Development Director Janice Gundlach and Senior Planner Bryan Lloyd.

3. Approval of Agenda

MOTION

Member Bjorum moved, seconded by Member Aspnes to approve the agenda as presented.

Ayes: 3

Nays: 0

Motion carried.

4. Review of Minutes: March 6, 2024

MOTION

Member Aspnes moved, seconded by Member Bjorum to approve the March 6, 2024 meeting minutes as presented.

Ayes: 3

Nays: 0

Motion carried.

5. Public Hearing

Chair Schaffhausen reviewed protocol for Public Hearings and public comment and opened the Public Hearing at approximately 5:34 p.m.

- a. Request to Allow a Recently Built Shed of Nonconforming Area and Side-Yard Setback to Remain on a Residential Property.**

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Senior Planner Lloyd reviewed the variance request for this property, as detailed in the staff report dated April 3, 2024.

Member Aspnes indicated she looked at all the photos and read the materials from the homeowners and from the City and there is a 12x12 foot pretty substantial slab under there right now but there is no evidence about what the original building was.

Mr. Lloyd indicated that is correct and is assumed by the building inspector that at one time there was a 12x12 shed on the slab.

Member Aspnes asked if the City knew when the 12x12 shed disappeared and the 10x10 shed was put up by the previous owner.

Mr. Lloyd indicated the City is not aware of the timing for the different buildings.

Member Aspnes asked what if the pad were 20x20 feet and it would have been permissible at the time, and the new applicants want to put up a 12x12 and use the rest of the pad for something else. She wondered if the original size of the slab is not factored into what is currently being allowed.

Mr. Lloyd indicated mostly that is right. It appears that the slab has always been there, since seventy-five years ago when the original shed would have been built and that is impervious coverage, which he alluded to before, might contribute to as much or more total impervious surface on the site than would be allowed and it may well be legal non-conformity as it is in terms of its area. It certainly is, with respect to a side yard setback, especially if it is used for storing things or to put a building on. There is a couple of reasons why it also is legally non-conforming, but the nature of legal non-conformity is there are State and local protections for them to allow them to remain and be maintained and even to be replaced. Otherwise, whatever is done with them over time, used as a patio or a place to put a building, those things would have to conform to the Zoning standards in place at the time.

Member Aspnes indicated the grandfathering, the concept or ordinance that is allowing the shed to be rebuilt where it is, within that five-foot setback, the last time a shed was there it was 10x10 feet so within that setback, regardless of what the slab indicates, all that can be built is a 10x10 building.

Mr. Lloyd indicated that is correct.

Chair Schaffhausen explained having recently just built a shed and knowing that she had to apply for a permit, was the process, were the owners building something else or how was this skipped. Did somebody just not recognize that this was a requirement.

Mr. Lloyd thought it was the latter, there was not another project on the property that he is aware of and there are somethings that do not require permits, patios or fences

that are four feet tall or shorter. He thought it was a matter of not knowing that a permit was required, particularly when it is replacing a structure that is there.

Member Aspnes asked if the owner was building the shed or was a professional building the shed.

Mr. Lloyd believed there was a builder putting the shed up.

Chair Schaffhausen invited the applicant to come to the table to answer questions.

Mr. Daniel Oren and Mrs. Cammy Oren, applicant addressed the Commission regarding the proposed building requested.

Mrs. Oren explained she did not think there was a need for a permit because they were replacing the shed that was previously on the slab. She indicated Mr. Lloyd encouraged her to apply for a variance. She did ask someone if it would work if they moved the shed so there would be a five-foot variance and was told they could not do that because then they would be outside of the allowed coverage.

Mr. Oren explained there is a five-foot setback, and they are not going any closer to the neighbors. He explained they are also not increasing impervious surface.

The Commission thanked the applicants for their comments.

Member Bjorum asked given the thickness of the slab, the argument is that it is more of a three-dimensional structure than the typical four- or six-inch slab would be and does that allow for any leeway.

Mr. Lloyd explained it is considered a structure but only in a sort of technical sense. There is not anything salient about that distinction. It is a way of differentiating something that is along the ground and deep into the ground, in this case, but nevertheless something along the ground that does not have a mass above the ground. Even a one-inch-thick layer of cement is a three-dimensional thing but the two-dimensional reference that he made was simply illustrative and does not have any importance for this discussion.

Member Aspnes asked if when this was grandfathered was it done as a 10x10 structure.

Mr. Lloyd indicated it was and there is not necessarily a moment that he would say it was grandfathered.

Chair Schaffhausen asked from the perception of the homeowner, if someone had not called and the City had not seen this, it would have been built and what would the ramifications have been once built.

Mr. Lloyd explained one part of the answer is without somebody bringing the City pictures of what had been on site before compared to what is there, the City would not necessarily know anything more about what size of a building had been on that very large slab. It would be clear that it was not the original building that was there, but staff would not know what the new shed was replacing. The other part of the answer is the only thing the City can do is enforce the requirements.

Chair Schaffhausen asked if the City polices after the fact.

Mr. Lloyd explained the enforcement of zoning and building regulations happens at the time the building permit is pulled or when somebody calls, and staff is made aware of something. Staff certainly would do their due diligence to ensure that either what happened was done properly or try to seek some resolution if it were not.

Chair Schaffhausen closed the public hearing at 5:37 p.m.

Member Bjorum indicated this is a struggle for him but felt the Commission is bound by the Zoning requirements as shown and the fact that there are several components to this that are non-conforming. He felt the analysis is correct and the shed should really be a 10x10 structure.

Member Aspnes agreed and thought it was very tough, tough to read and tricky and she thanked staff for the explanations. She indicated she was disappointed that someone who is a builder would not be familiar with the fact that even sheds require permits from the City. Although it is half built, the structure should not be there.

MOTION

Member Aspnes moved, seconded by Member Bjorum, denying the requested variances to the minimum side yard setback and the maximum total storage building area at 3150 W Owasso Boulevard, based on the content of this RVBA, public input, and Variance Board deliberation.

Ayes: 3

Nays: 0

Motion carried.

6. Adjourn

MOTION

Member Aspnes, seconded by Member Bjorum, to adjourn the meeting at 6:13 p.m.

Ayes: 3

Nays: 0

Motion carried.