

Statement from the Applicant:

At one point in my business and technology career, I worked as the Program Manager for a large financial services company. My role was to resolve issues with customers who did not fit within our normal lending policies, many of whom were angry, frustrated and sometimes threatening action against the company. The “one size fits all” assembly line approach to lending does not work for a lot of people with special circumstances. In order to resolve problems I needed to fully understand our policies and create exception policies that would enable us to approve loans that were still financially sound and would benefit the company and the customers. Often it was a case of looking more closely at the customer’s information and other times I needed to get approval from our Legal and Operations Executives. When trends were identified, I wrote new exception policies that incorporated our findings, making it a smoother process for future customers. My experience in that role equates very well to this situation with City Code (one size fits all) and the Variance (exception) process.

My situation is unique. My property is unique. My lifestyle is unique. I don’t fit into the normal process in respect to the City Code: Zoning Ordinance Section 5.4.K.4. My property does not enable me to fit my mini motorhome behind my building line. The mini motorhome is my primary vehicle that I use multiple times per week, particularly as a professional photographer, so storing it offsite is not an option. Under ordinary circumstances, my mini motorhome would probably go unnoticed by Code Enforcement because I use it so much. At my previous residence in the San Francisco Bay Area, arguably one the most regulated areas in the country, I was able to park my mini motorhome in my driveway without any problem. Unfortunately, here in Broken Arrow, the neighbors next to me have engaged in a campaign of harassing, bullying and persecuting me to the point that I had to apply for a variance from the city in order to protect myself. To the best of my knowledge, the rest of my neighbors in my development support me in being able to park my mini motorhome in my driveway.

While I understand the city’s position in regard to Zoning Ordinances and their unwillingness to grant variances, there is a process in place for people who don’t fit the normal circumstances. Most importantly, when a circumstance warrants a variance, the Development Services Department should be writing a fair analysis of the situation, not one that is designed to direct the Board of Adjustment to vote against it without even considering all the circumstances, including the information that I provide.

At the previous hearing I was asked if I read the Covenants for my development before I bought my property. I did not. They were not provided to me and I did not think to seek them out. I worked with a local realtor from Keller Williams, the same company that sold my previous house for me. They were very competent in the sale of my home and for that reason, I chose to work with the local branch here in Broken Arrow. I relied on their expertise and local

knowledge to buy my house in Broken Arrow. The agent was aware that I had a mini motorhome but never mentioned anything about any possible problems. As an experienced project manager, I looked out for risks, such as whether the neighborhood would be a good fit for me. I chose a relaxed neighborhood without a Home Owners Association because I didn't want that kind of environment. There was nothing visible in the neighborhood that caused me to question whether I could park my mini motorhome in my driveway, as I did at my previous home. I am requesting this variance so that I can park my mini motorhome in my driveway.

Thank you,

Lois McCleary

The following is my response to the Development Services Department Analysis, dated 2-11-2019. For easy reference, the numbered conditions and Development Services Department statements preface each of my responses (in Blue text).

1. There are unique physical circumstances or conditions, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.

Analysis:

The home at 8202 S. Ash Avenue was built in 1987. Access to the property is from S. Ash Avenue, which is a low design speed, low traffic count cul-de-sac street. The lot associated with BOA 721 is 95 feet in width, which is consistent with most interior lots in the Country Club Estates Addition. Corner lots are typically 115 feet wide, and cul-de-sac lots vary in width. Applicant states that the property at 8202 Ash Avenue is one of the narrowest lots in the neighborhood. In reviewing the Country Club Estates plat, staff concluded there are 38 lots with 95 feet of lot frontage. The property is zoned R-2 which requires a front setback of 25 feet and side setbacks of five feet on one side and ten feet on the other. With 11 feet, 3 inches on the north side of the residence, the property exceeds the zoning requirement for side setbacks. Therefore, no unique physical circumstances or conditions were found to be peculiar to the affected property.

The statements in the above Analysis by the Development Services Department address the adherence of the home to the building code, not the size and shape of the lot in relation to the size and shape of the building, which is the point of the condition.

As stated in the Analysis submitted by the Development Services Department, my lot is among the narrowest lots in the neighborhood at 95 feet. The house that was originally built on this lot was a much smaller 2-story house that was destroyed in a fire. A completely new, much larger house was eventually built on the lot. Although the style of the house blends well with the houses in the neighborhood, it is completely unique. The new house was built to conform to the building code, but it did not allow for enough space on either side for parking the mini motorhome.

Therefore, the unique physical circumstances of the property **DO MEET THE REQUIREMENTS of Condition #1.**

2. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.

Analysis:

In examining an aerial photo and through a site visit, two homes were observed to have recreational vehicles that were parked along the side of the home. One of these homes is on a 95-foot-wide lot. The house on this particular property is smaller than the house at 8202 S. Ash Avenue; thus, the footprint allows for wider side yards. The other home is on a 115-foot-wide corner lot with a wider side yard. No unusual circumstances or conditions exist on this property or throughout the neighborhood in which the property is located.

The statements in the above Analysis by the Development Services Department contradict their own conclusion. The Development Services Department observed that the unusual condition of a larger home on a smaller lot does NOT exist throughout the neighborhood. Other homes on lots of this size are smaller.

Of the two other homes with recreational vehicles parked on property, only the smaller footprint of the homes allow for side yards wide enough for parking on the side.

The subject property consists of the narrowest lot size and contains a unique house that is the largest in the neighborhood, having replaced a much smaller house that was destroyed in a fire.

Therefore, the unusual circumstances or conditions do not exist throughout the neighborhood and **DO MEET THE REQUIREMENTS of Condition #2.**

3. Such physical circumstances or conditions were not created by the applicant.

Analysis:

The home has existed on the property since 1987, and the applicant purchased the property in June 2017. The setback requirements for the location of this lot within the subdivision includes a 35-foot front building line and 5-foot side setbacks. Placement of the house on the lot meets all setback requirements. According to the lot survey (attached), the north side yard is 11 feet 3 inches. Applicant states that the side yard is too narrow to park her recreational vehicle on either side of the house particularly because the overhang of the house extends into the side yard. The applicant's desire to park a recreational vehicle on the lot is a circumstance created by the applicant. Therefore, this condition is not met.

The statements in the above Analysis by the Development Services Department assert that the reason for requesting a variance is the justification for denying it.

No reasonable person in the applicant's situation of buying this property from a knowledgeable local realtor and observing the relaxed condition of the neighborhood would expect to have a problem complying with the code pertaining to parking a mini motorhome in the driveway. In fact, the variance would not have been necessary, because the mini motorhome is so

frequently in use, if it were not for the persistent and unreasonable reporting by a neighbor for more than a year and a half. The applicant is seeking relief from this campaign of harassment that the Broken Arrow Police are unable to resolve and requesting help from the City in the form of a variance.

Therefore, the physical circumstances or conditions were not created by the applicant and **DO MEET THE REQUIREMENTS of Condition #3.**

4. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Ordinance.

Analysis:

No physical circumstances or conditions have been identified that would preclude the property from being reasonably developed in conformity with the provisions of this Ordinance. The property is developed with one single-family house and meets all setbacks in conformity with the Zoning Ordinance. The request to allow a recreational vehicle to be parked in front of the front building line exceeds what is permitted by this Ordinance.

The statements in the above Analysis by the Development Services Department fail to address the actual condition as it relates to the variance request.

The property is completely and correctly developed according to the building code. However, because there is insufficient space on the side of the house to park the mini motorhome alongside, a variance is needed. The applicant cannot reasonably be expected to remove a section of the house or garage to make room for the mini motorhome that is barely larger than a van or a pickup truck. Variances have been granted by the Board of Adjustment to builders who build structures too close together by mistake. This variance request, which is basically a parking permit, is a very minor accommodation compared to permanent structures that have been incorrectly spaced too close together.

Therefore, because of the physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this ordinance and **DOES MEET THE REQUIREMENTS of Condition #4.**

5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.

Analysis:

While the City does not enforce covenants, Item Number (1) of the Deed of Dedication and Covenants states that "No lot shall be used except for residential purposes." Further, Item Number (9) states that "Trucks with tonnage in excess of ¾ ton shall not be permitted to park on the streets, driveways." Approval of a variance to allow a recreational vehicle to be parked in front of the building line on this property may alter the character of the neighborhood.

The statements in the above Analysis by the Development Services Department are not correct arguments for the condition. Since the City does not enforce covenants, they should not be using them as a means to deny a variance. Furthermore, the lot is only used for residential purposes. The mini motorhome is not a truck and cannot be evaluated as a truck.

Parking the mini motorhome in the driveway does not substantially or permanently impact the neighborhood. This is much less impactful and a completely different situation from a building code variance that would be permanent and such variances have been approved by the Board of Adjustment in other cases.

Furthermore, the remediation of planting trees, shrubs and flowers to screen the mini motorhome from view minimizes any visual impact.

In addition, the neighbor whose complaints necessitated this request for variance is in violation of covenants as he runs a business out of his garages. In fact, the basis for his complaint stems partially from the fact that the mini motorhome may block his house from view on one side and prevent customers from finding his business. At the February 11 hearing, although he said, "I usually spend my days figuring out how to meet code, not getting past it", he also stated that he bought his house so he could "build a shop...cover it up and have a nice tackle store". This type of complaint should be thrown out on the basis that he is demanding this variance be denied so he can continue violating the covenants. The City may not enforce the covenants, but they should not aid a citizen in violating them.

Therefore, the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property and **DOES MEET THE REQUIREMENTS of Condition #5.**

6. The variance, if granted, would be the minimum variance that will afford relief and is the least modification possible of the provisions of this Ordinance that are in question.

Analysis:

Granting a variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence is the minimum variance required.

The variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence would be limited by the following:

1. The variance is for this property only.
2. The mini motorhome must be of the same size as the existing Leprechaun 210QB model, or smaller.

3. Impact to neighborhood aesthetics is minimized with a landscaped screen of trees, shrubs and flowers.
4. The mini motorhome must be used as the primary vehicle by the homeowner, as measured by annual mileage.
5. Motorhome functionality is required for the safety and security of the homeowner and their property when in use.
6. The variance is non-transferable when the property is sold.

Therefore, the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this ordinance that are in question and **DOES MEET THE REQUIREMENTS of Condition #6.**