



City of Broken Arrow

Request for Action

File #: 16-1058, **Version:** 1

**Broken Arrow Board of Adjustment
09-12-2016**

To: Chairman and Board Members
From: Development Services Department
Title:

Public hearing, consideration, and possible action regarding BOA 718, Stone Horse of Broken Arrow, Lot 2, Block 7, 0.36 acres, RS-3, request to reduce the front building setback line from 25 feet to 20 feet and reduce the south side yard from 5 feet to 2 feet, located one-quarter mile north of Jasper Street, one-quarter mile east of Olive Avenue at 7504 S. Laurel Avenue

Background:

Applicant: Sean Bowen
Owner: Simmons Homes
Developer: Simmons Homes
Surveyor: James Edward Harden, Harden & Associates
Location: One-quarter mile north of Jasper Street, one-quarter mile east of Olive Avenue at 7504 S. Laurel Avenue
Size of Tract 0.36 acres
Number of Lots: 1
Present Zoning: RS-3
Comp Plan: Level 2

BOA 718 involves a request for a variance to reduce the front building setback line from 25 feet to 20 feet and reduce the south side yard from 5 feet to 2 feet. The home is located on Lot 2, Block 7 in the Stone Horse of Broken Arrow addition, one-quarter mile north of Jasper Street, one-quarter mile west of Olive Avenue. The property is zoned RS-3, which requires a front yard setback of 25 feet and a side yard setback of 5 feet.

Construction of a new two-story home was recently completed on the pie-shaped lot. A survey of the property that was sealed by the surveyor on July 5, 2016, revealed that the middle part of the structure encroached 4.4 feet into the front building setback line. In addition, the south side of the structure encroached 2.3 feet into the side yard setback. The initial site plan submitted by the applicant for a building permit showed the building to meet all the setback requirements.

According to information provided by the applicant, Simmons Homes contracted to have a footing installed on the property on February 9, 2016. The footing was laid out and installed incorrectly resulting in the home being built over the building lines. The incorrect layout was missed by the building contractor, the superintendent for the construction, and by the City inspector. Applicant states that the contractor they used had come directly

from digging a footing in the Spring Creek addition, which is part of a Planned Unit Development (PUD) that has a 20 - foot front building line setback instead of 25 feet. It is their understanding that this may have contributed to the footings being laid out incorrectly. In addition, there is a significant change in topography from the front of the lot to the rear of the lot impeding the line of sight on the property for locating property lines. Also, the pie-shaped lot is on a radius which makes the layout more difficult.

For a variance to be granted, there are six conditions that must be found by the Board of Adjustment. Staff explained these six conditions to the applicant during a predevelopment held on July 12, 2016. Staff requested that the applicant provide information to the Board showing how they met the six conditions for the Board to grant a variance. Information provided by the applicant with their application is included in this report.

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 property is an irregular pie-shaped lot, with a curvilinear front lot line. The topography on the property slopes significantly from the front to the rear. Because of these conditions, the footings laid out by the contractor were incorrect and caused the structure to be built over the building setback lines.

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

Analysis:

Stone Horse of Broken Arrow is a new subdivision. The plat for the property was recorded in Tulsa County on October 7, 2015. This is the first and only structure in the addition that has been constructed over the building setback line. Therefore, the unusual circumstance does not exist throughout the neighborhood.

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

Analysis:

The incorrect layout of the footings was caused by the applicant. However, conditions that caused the incorrect layout, the curvature of the front of the lot and the topographic slope of the property, were not caused by the applicant.

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

Analysis:

Construction of the two-story house has been completed. According to the survey provided by the applicant, the center of the house encroaches 4.4 feet into the 25-foot front building line setback. The southeast corner of the house encroaches 2.3 feet into the 5-foot side building setback line. New homes have already been constructed and sold on the adjacent lots. It is not possible to reconfigure the house or the lot and come into conformance with the Zoning Ordinance. Without a variance to the setback line, the house will have to be completely demolished and rebuilt to come into compliance with the Zoning Ordinance. Because of the existing conditions, the property cannot be reasonably redeveloped in accordance with the provisions of this Ordinance.

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:

Houses have already been built on the adjacent property to the north and to the east. The north and south corners of the house meet the 25-foot front yard setback requirement. The variance, if granted, will not alter the essential character of the neighborhood and will not substantially or permanently impair the appropriate use or development of the adjacent property.

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 reduce the building setback line for the existing structure along the front and along the south side will allow the structure to remain in the current placement on the lot and is the minimum variance required.

Attachments:

Case map
Aerial Photo
Survey of 7504 S. Laurel Avenue by Harden & Associates
House Location Exhibit
Site plan submitted for building permit
Letter submitted by applicant
Photographs submitted by applicant
Stone Horse of Broken Arrow plat

Recommendation:

While every effort is made to avoid incorrect building locations, mistakes unfortunately occur. From January 1, 2001, to July 31, 2016, 9,253 single family building permits have been issued by the City of Broken Arrow. During this same time period, eight applications have been submitted to the Board of Adjustment for a variance request because the footings for structure were incorrectly staked, and some of these were off by only a few inches. This is a mistake ratio of less than 0.09 percent.

By State law and by the City of Broken Arrow Zoning Ordinance, for a variance to be granted, all six conditions listed above must be met. In Staff's opinion, the request for a variance to reduce the building setback line at 7504 S. Laurel Avenue for the existing structure meets the six conditions for the Board to grant a variance. Therefore, Staff recommends that BOA 718 be approved subject to the following conditions:

1. The variance shall be for the existing structure only. Any future additions onto the property shall be in compliance with the Zoning Ordinance.
2. To try and keep future building setback encroachments from occurring in the future with this builder, from now until December 31, 2017, Simmons Homes shall submit to the City of Broken Arrow a written statement signed and sealed by a licensed surveyor stating that the footings have been marked and meet all the setback requirements of the Zoning Ordinance. Such statement shall be submitted prior to any requests for a footing inspection.
3. The side yard privacy fence along the south boundary shall be located at least 5 feet away from the residential structure. To help ensure that the fence is properly located, the fence shall be installed by the builder along the south property line prior to receiving a final occupancy permit.

Reviewed By: Farhad Daroga

Approved By: Michael W. Skates

FKD: BDM