

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**7:00 P.M., THURSDAY, DECEMBER 3, 2015**  
**COUNCIL CHAMBERS, JENKS CITY HALL, 211 NORTH ELM STREET**  
**JENKS, OKLAHOMA 74037**

Members Present

Steve Murtha

Larry Hengst

Paul Greek

Shari Keathley

Members Absent

Gina Wilson

Staff Present

Robert Bell

The Jenks Board of Adjustment was called to order at 7:04 p.m. on Thursday, December 3, 2015, at Jenks City Hall by Chairman Shari Keathley, and following a roll call a quorum was declared present.

Chairman Shari Keathley requested a review of the minutes from June 4, 2015, Board of Adjustment meeting and asked if there were any corrections or omissions. There were no comments of corrections to the minutes of June 4, 2015. Chairman Shari Keathley declared the minutes approved as written.

**BOARD CASES**

1. JBOA-383 (0573) Request by Shannon Rials for an approval of a Variance to Section 430 of the Jenks Zoning Code allowing an encroachment over the building lines associated with the south and east property boundaries on property described as:

Lot 1, Block 2, "Sunrise Ridge" a subdivision of the City of Jenks, Tulsa County, Oklahoma.

General Location: 12636 South 13th Place.

Robert Bell addressed the Board and stated the subject property is designated low intensity by the Jenks Comprehensive Plan and is zoned RS-1. The variance requested is to allow an encroachment of the new proposed single family dwelling into the building line of South 14<sup>th</sup> Avenue by 7.5 feet and from South 13<sup>th</sup> Place by 12 feet. This property happens to be bordered by 2 road systems. Robert Bell showed where the encroachments are located. The subject property is located within the boundaries of the Sunrise Ridge subdivision. To the west is an AG zoned parcel utilized for rural residential. The remaining boundaries of the tract would be

considered within the boundaries of the Sunrise Ridge subdivision. Sunrise Ridge specifies each lot shall maintain a 35 foot building line from all roads. The subject property is a rectangular tract at 136.26 feet wide and a depth of 287.37 feet. The property abuts South 14<sup>th</sup> Avenue and South 13<sup>th</sup> Place. It is 287 feet of frontage on South 13<sup>th</sup> Place and 136 on South 14<sup>th</sup> Avenue. The subject property has an extreme elevation change and the building site proposed would likely be the only site that is conducive to the development. The house is located at an angle facing the intersection of the 2 roadways. An elevation map of the property shows that the property line at the intersection of the roadways is approximately 768 of elevation. The house pad would be established in an area that will likely be at an elevation of 750 feet. The elevation map shows an extreme 30 foot drop in elevation at the rear of the house pad site. South 13<sup>th</sup> Place is recognized as a very steep roadway that connects the Sunrise Ridge subdivision with the Southern Lakes Estates development. The property is located at the crest of terrain of the roadway connecting the 2 subdivisions. The variance requested must be considered in accordance with the variance standards listed in Chapter 13 of the Zoning Code. The Board of Adjustment is allowed to approve variance only after determining from the evidence and arguments presented that an extraordinary or exceptional condition or circumstance which is peculiar to the land, structure, or building involved and is not self-created so exists and that little enforcements of the term would result in an unnecessary hardship. The applicant has provided a site plan showing the location of the structure and where it encroaches into the required building line setbacks. The terrain associated with the property would be considered an extraordinary or exceptional condition related to the land. With the structure being positioned at an angle to the intersection only a small area of the structure encroaches into the setbacks at the front corners of the building. The variance would be considered as the minimal necessary to provide relief of these elevation changes. Sunrise Ridge is an older subdivision and was developed with a 35 foot setback requirement. Development trends within other like developments have generally reduced the building lines to 25 feet. The subject property is a stranded tract of land that only abuts to other residential properties to the south, which is close to 200 feet to the south. The requested variance does not create any impact upon the adjacent properties and has no effect on the welfare of the neighborhood. Staff is supportive and notes that an extraordinary or exceptional condition related to the elevation changes of the property exist, and that the literal enforcement of the terms of the Code would result in unnecessary hardship. Staff recommends that the variance request be approved as submitted. Chairman Shari Keathley asked Shannon Rials to approach the podium and tell the Board about his application. Scott Carter of PMC Homes addressed the Board on Mr. Rials behalf and stated it is our hope to gain approval on this. We've had several engineers and an architect go out and try to figure out how to maneuver any type of floorplan. Essentially, this lot needs some type of help, and this was the minimum we thought we could present for approval. Mr. Bell has been very exact in his findings. Chairman Shari Keathley asked if anyone else was present who wished to speak in favor of the proposal before the Board. No one came forward. Chairman Shari Keathley asked if there was anyone present who would like to speak in opposition to the proposal. No one came forward, and Chairman Shari Keathley closed the floor.

Steve Murtha said I think this is a pretty cut and dried example of why we have the ability to give variances like this, because that lot would be almost impossible to build on and build anything of any size the way it's laid out and with the topography. Steve Murtha made a motion to approve JBOA-383 as requested. Seconded by Paul Greek.

A roll call vote was as follows:

Steve Murtha	Yes
Larry Hengst	Yes
Paul Greek	Yes
Shari Keathley	Yes

Motion carried.

2. JBOA-384 (0673) Request by PMC Corporation for an approval of a Variance to Section 430 of the Jenks Zoning Code and Planned Unit Development 24 allowing an encroachment of up to 9 feet in the rear yard of property described as:

Lot 22, Block 2, "Wakefield Park" a subdivision of the City of Jenks, Tulsa County, Oklahoma.

General Location: 12513 South 3rd Court.

Robert Bell addressed the Board and stated the subject property is designated low intensity by the Jenks Comprehensive Plan and the property is zoned RS-2. The variance requested is to allow an encroachment of the new proposed single family dwelling into a specified area within the rear yard requirement for a distance up to 9 feet. The subject property is located within the boundaries of the Wakefield Park subdivision and is surrounded by residential properties of that development. Wakefield Park PUD 24 specifies that each lot shall maintain a 20 foot rear property building line. The subject property is a rectangle shaped tract with public road frontages on the north and west boundaries. The front building line of the property would be considered the north line fronting East 125<sup>th</sup> Court. South 3<sup>rd</sup> Court would be considered an exterior side lot line. The applicant has provided a site plan showing the location of the structure and where it encroaches into the required rear building line setback. The parcel likely has not developed due to the setback requirements related to the roadways, and the dwelling size requirements of the development. The minimum square foot of heated floor space in Wakefield Park is 1,800 square feet. The proposed dwelling is 2,097 square feet. The plan submitted honors the required setbacks along both roadways, but it encroaches the rear yard setback 9 feet at the southwest corner of the structure and less than 2 feet for a portion of the southeast corner, thus leaving 11.18 feet from the structure to the rear property line. No encroachment into any existing utility

easement is being requested. The variance is considered a minimal request to provide relief to the shape of the lot and the impact of the public road system setbacks. The requested variance does not create any impact upon adjacent properties and since the front and exterior side setbacks are being maintained the variance has no effect on the welfare of the neighborhood. Staff is supportive of the application and notes that the extraordinary condition related to the lot configuration and the road systems does exist and that the literal enforcement of the terms of the Code would result in unnecessary hardship. Staff recommends that the variance be approved as submitted. Chairman Shari Keathley asked Scott Carter to come forward. Scott Carter addressed the Board and stated essentially it's one of the last lots in the neighborhood. It's very difficult to build on. We have zero properties in our inventory that would accommodate it unless it was a saltbox style. Chairman Shari Keathley asked is there anyone else present tonight who would like to speak in favor of the proposal before the Board. No one came forward. Chairman Shari Keathley asked is there anyone who would like to speak in opposition of the proposal. Creed Cardon of 12515 South 3<sup>rd</sup> Court in Jenks addressed the Board and stated according to the map looking up and down I'm the one on the bottom side, kind of south. I'm Lot 21. This is the last vacant lot inside Wakefield Park. Unfortunately it's built pretty awkwardly and it is difficult to build on that tract. I can see why they need the variance. Several of my concerns are one, we're kind of close as neighbors there anyway. Their back yard would be practically in my driveway. I have 3 kids and the way that lot is built is on a pretty big hill, so they usually have to do quite a bit of excavation. From a safety perspective I don't want that that close to my house where my kids can easily just fall into there without some type of fence guaranty that's going to block them from wandering over there. As far as actually using the lot I think out of convenience they want the variance, but I do think it's possible to build another type of structure that would fit on the lot. The house is smaller than my house and would definitely bring down the value of my house. Carolyn Owens of 316 East 125<sup>th</sup> Court in Jenks addressed the Board and stated I'm on the other side of him to the east. Our biggest concern is that we already have 6 or 8 railroad ties there and we have a huge drainage issue. We've already had French drains put in. Depending on how they take the dirt we're afraid it's going to put more water over onto our property. It's going to be right on our property line and right now there's only 3 to 4 foot between that line. It's really going to be tight. The other concern is our property value because of the size. Chairman Shari Keathley asked Scott Carter to come forward and address the concerns. Scott Carter said I understand the concerns and we have looked at that. During construction there will be full silt fencing. For any drainage that needs to be addressed after construction we would certainly put in tight lines and French drains to the street so the drainage would not be a problem at all. We're not looking to go towards Mrs. Owens' on Lot 23. We are above the minimum requirements for what the covenants allow for construction. This will not be a cheap home. This will be an upscale single story home. Larry Hengst asked Robert Bell the City will require property drainage, won't they? Robert Bell replied yes. They're not allowed to put something on the property that would force the water onto adjacent lots. What they're proposing with French drains or downspouts and run them to the front yard to release to the road are all mechanisms

we've seen in the past to make that happen. Recognize that this is a side lot line to Mrs. Owens. Just the same as this is a side lot line on the other side. The setbacks in this subdivision are 5 and 5, so they would be allowed to build up to 5 feet from the property line. Those are tight setbacks. It's not like there are 2 rear yards backing up to each other. This being a side yard it's a benefit that this house is 20 feet back and this one will be 11 feet if the variance is approved. Robert Bell showed the parameters on the overhead and explained where the house and driveway will be situated on the parcel. The design of how all of this was laid out was taken into consideration. Chairman Shari Keathley said the foundation of the house will set at a lower level than exists now. Scott Carter said that's correct. Essentially it's a natural lot now that needs grading. Robert Bell said the Board could consider something here. Does Mr. Cardon's lot have a fence on that side? Creed Cardon explained where the fence ends. Robert Bell said by covenant on Wakefield Park a fence can't be put past the building line, so if this property would have a fence and continue that fence and stop at the building line. Being that this is an exterior side you might be able to go 7.5 feet away from the road and put a fence. To have a fence coming down between those 2 properties and having it located 7.5 feet past the building line is something the Board could require if they so desire. Paul Greek asked do you have a buyer for this house? Scott Carter said possibly. This is all in speculation, so our first attempt is to do this. Paul Greek asked being that all of the houses in the area are larger than this, why aren't you making it 2-story? Scott Carter replied our current inventory that we have with the shape of the lot we have nothing that fits within the covenant guidelines and to do a 3-car garage. With the shape of the lot it's almost impossible. Another problem is a 2-car garage is non-sellable in that neighborhood in order to be able to compete with new construction in other neighborhoods. The reason it's the last lot is because of the challenge. Larry Hengst asked are you going to wait until you sell it to build? Scott Carter replied no. As soon as we have approval from you we will begin construction. Larry Hengst asked so it could sit there for a month or so? Scott Carter said hopefully not, but that is a possibility. Chairman Shari Keathley closed the floor. Larry Hengst asked Creek Cardon are you afraid your kids will fall down the slope or climb up? Creek Cardon replied fall down. When you see it on paper I can see how logical this all seems, but when you're right there it's very tight in there. In order for them to build there they're going to be excavating a lot of land. It's a pretty big dropoff. Steve Murtha said I'm probably the only one in here that remembers when streets ran north/south and east/west and everything was a rectangle and we never had any of this. At some point in time I think these developers started smoking funny cigarettes and started building these things with all of these crooked roads. When you do that you generate these kinds of problems. I can understand why the builder would be interested in building on this lot. It almost has streets on 3 sides. If you look at the setback required from the street that forces the house back into a very small area. It also makes the house be smaller than the other houses around. The alternative would be to go to a multiple story and there would most likely be someone who would object to a multiple story house sitting on that lot 5 or 6 feet above their house. It's a catch 22. Any way you go there's going to be some problems. It all goes back to the way the property was developed. Paul Greek said a 2-story house wouldn't be higher than the neighbor's. It would

be lower. Steve Murtha said if there's a 5 foot dropoff it seems to me that a 2-story house would be looking into the neighbor's back yard. That's not really material to this discussion. Robert Bell said the issue is to squeeze it down you squeeze it to a square because that's the only thing that would fit, then you put a second story on it looks like a big box in the middle of the neighborhood. I think that's more detrimental to the neighborhood than having some design to the house and having it 9 feet over the building line. Larry Hengst made a motion to approve JBOA-384. There was discussion about adding an addendum to put a fence in the back yard that goes to the building line. Paul Greek said should we approve it I think we should have a requirement for a French drain and for the downspouts to drain to the street. Chairman Shari Keathley said so we're talking about adding 2 requirements. The builder has to address all of the drainage going to the street. Robert Bell said we're approving an encroachment into an area that wouldn't be allowed to have the house. We could make a finding that the encroachment can create a higher problem related to the drainage. The builder has stood up and said he's planning on putting French drains on this property, so we'll make it a requirement. Chairman Shari Keathley asked is that okay for both? The motion now stands that JBOA-384 be approved with 2 conditions that the builder be required to address drainage to the street and that a fence be erected. Steve Murtha seconded the motion.

A roll call vote was as follows:

Steve Murtha	Yes
Larry Hengst	Yes
Paul Greek	Yes
Shari Keathley	Yes

Motion carried.

Adjournment. A motion was made to adjourn. Meeting adjourned at 7:52 p.m.