
ORDINANCE NO. O-2021-31

ITEM NO. 6

STAFF REPORT

ITEM: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 22 (ZONING ORDINANCE), SECTION 429.3(10)(a) DIRECTING HISTORIC DISTRICT APPEALS TO THE BOARD OF ADJUSTMENT; AMENDING ARTICLE XIII ADMINISTRATION, SECTIONS 441(3)(a) AND 441(6) TO INCLUDE HISTORIC DISTRICT COMMISSION; AND PROVIDING FOR THE SEVERABILITY THEREOF.

BACKGROUND: In March 2012 Kevin Easley filed an action in Cleveland County District Court appealing the decision of the City of Norman Historic District Commission. Mr. Easley replaced three windows in a house located in the Chautauqua Historic District without obtaining a Certificate of Appropriateness. His post-installation application for a certificate of appropriateness was denied by the Historic District Commission and by City Council on appeal. The plaintiff judicially challenged these decisions on a number of grounds, including but not limited to an argument that he was entitled to review by the City's Board of Adjustment. The Court of Civil Appeals agreed with this argument and reversed and remanded the case to the District Court with instructions to grant the parties a reasonable time period to make application to the City's Board of Adjustment.

Following the Court of Civil Appeals opinion, City Staff reviewed the appeals process in the Historic District ordinance. Section 429.3(10)(a) of Chapter 22 Zoning Code currently states as follows:

- (a) Any person aggrieved by a decision of the Historic District Commission, excluding postponements as defined in Section 8(b)(1-4), shall have such right of appeal to the City Council within ten (10) days from the decision of the Historic District Commission. Any appeal of a decision of the Historic District Commission shall be initiated by filing a "Notice of Appeal" in the Office of the City Clerk. Such "Notice of Appeal" shall be docketed for placement on the City Council Agenda within thirty (30) days of filing.

The proposed amendment is as follows:

- (a) Any person aggrieved by a decision of the Historic District Commission, excluding postponements as defined in Section 8(b)(1-4), shall have such right of appeal to the Board of Adjustment City Council within ten (10) days from the decision of the Historic District Commission. ~~Any appeal of a decision of the Historic District~~

~~Commission shall be initiated by filing a "Notice of Appeal" in the Office of the City Clerk. Such "Notice of Appeal" shall be docketed for placement on the City Council Agenda within thirty (30) days of filing.~~

Sections 441(3)(a) and 441(6) of Chapter 22 Zoning of the Code will also be amended to include the Historic District Commission.

3. Powers. The Board of Adjustment shall have the following powers:

- (a) Upon proper application, to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official, as well as the Historic District Commission, in the enforcement of this ordinance or any other ordinance adopted pursuant thereto.

6. Procedure for Appeal of the Decision of an Administrative Official or Historic District Commission to the Board of Adjustment.

Appeals may be taken to the Board of Adjustment by any person aggrieved or by any officer or bureau of the governing body of said city affected by any decision of an administrative official, as well as the Historic District Commission, concerning interpretation or administration of this ordinance. Such appeals shall be taken within reasonable time, not to exceed thirty (30) days, by filing with an administrative official and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. In addition, such person shall deposit with the Planning Department a fee of one hundred fifty dollars (\$150.00) to cover the cost and expense of appeal to the Board of Adjustment.

STAFF RECOMMENDATION: Staff proposes the amendment will allow applicants denied a Certificate of Appropriateness from the Historic District Commission to appeal directly to the Board of Adjustment as opined in the Court of Civil Appeals opinion in *Easley*.