

**BOARD OF ADJUSTMENT MINUTES**

**DECEMBER 7, 2016**

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in Conference Room D of the Norman Municipal Building A, 201 West Gray, at 4:30 p.m., December 7, 2016. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at [www.normanok.gov/content/board-agendas](http://www.normanok.gov/content/board-agendas) at least 24 hours prior to the beginning of the meeting.

Item No. 1, being:

**CALL TO ORDER**

Chairman Andrew Seamans called the meeting to order at 4:35 p.m.

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Item No. 2, being:

**ROLL CALL**

MEMBERS PRESENT

Hank Ryan  
Nils Gransberg  
James Howard  
Andrew Seamans

MEMBERS ABSENT

Curtis McCarty

A quorum was present.

STAFF PRESENT

Susan Connors, Director, Planning & Community  
Development  
Wayne Stenis, Planner II  
Leah Messner, Asst. City Attorney  
Roné Tromble, Recording Secretary  
David Woods, Oil & Gas Inspector

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Item No. 3, being:

**APPROVAL OF MINUTES OF THE OCTOBER 26, 2016 REGULAR MEETING**

*Hank Ryan moved to approve the minutes of the October 26, 2016 Regular Meeting as presented. Nils Gransberg seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS

Hank Ryan, Nils Gransberg, Andrew Seamans

NAYS

None

ABSTAIN

James Howard

ABSENT

Curtis McCarty

Ms. Tromble announced that the motion to approve the October 26, 2016 Minutes as presented passed by a vote of 3-0-1.

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Item No. 4, being:

**BOA-1617-17 – HUGHES GAS SYSTEM, L.L.C. REQUESTS A VARIANCE FROM THE REQUIREMENT TO INSTALL FENCING AROUND THE WELL AND TANK BATTERY FOR THREE SITES LOCATED IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 8 NORTH, RANGE 2 WEST, AND ONE SITE LOCATED IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 8 NORTH, RANGE 2 WEST, GENERALLY ON THE EAST SIDE OF JENKINS AVENUE AND THE WEST SIDE OF JENKINS AVENUE AT THE INTERSECTION WITH BRATCHER-MINER ROAD (SOUTH OF HIGHWAY 9).**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Application with Attachments, Location Maps & Aerial Photos
3. Applicant's Request for Postponement

Chairman Seamans announced that the applicant has requested postponement of this item until the January 25, 2017 Board of Adjustment meeting.

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:**

*Hank Ryan moved that this item be postponed to the January 25, 2017 Board of Adjustment meeting. Nils Gransberg seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS	Hank Ryan, Nils Gransberg, James Howard, Andrew Seamans
NAYS	None
ABSENT	Curtis McCarty

Ms. Tromble announced that the motion, to postpone this item to the January 25, 2017 Board of Adjustment meeting, passed by a vote of 4-0.

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Item No. 5, being:

**BOA-1617-18 – BILLY JACK SHARBER OPERATING, L.L.C. REQUESTS A VARIANCE FROM THE REQUIREMENT TO INSTALL FENCING AROUND THE WELL AND TANK BATTERY FOR TWO SITES LOCATED IN THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 1 WEST, GENERALLY LOCATED SOUTH AND WEST OF THE INTERSECTION OF 84<sup>TH</sup> AVENUE N.E. AND ROBINSON STREET, AND ONE SITE LOCATED IN THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 8 NORTH, RANGE 1 EAST, GENERALLY LOCATED NORTH AND WEST OF THE INTERSECTION OF 156<sup>TH</sup> AVENUE S.E. AND IMHOFF ROAD.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Application with Attachments
3. Location Maps & Aerial Photos
4. Protest Map and 2 Protest Letters

**PRESENTATION BY STAFF:**

Ms. Connors reviewed the staff report, a copy of which is filed with the minutes. Staff does not support this request based on the oil and gas regulations approved by City Council.

**PRESENTATION BY THE APPLICANT:**

Les Cogburn, representing the applicant – As far as the Gray #2 goes, I think we're going to have to fence that one with the homeowner. But as for the Gray A-2, there's no homes. It's just, as you can see, mostly forest all around it. So that's mainly the well I want to propose for the variance. And as far as the Hodam, I didn't know if there's a way to maybe minimize the requirements as far as the 6' chain link with barbs on top. I didn't know if we could maybe reduce that to some other type of – either just barbed wire or just something not quite as expensive for that well.

Ms. Connors – The regulations of the ordinance require a 6' high chain link fence with three strands of barbed wire, and the variance is whether or not that should be required. I don't think that the Board could vary to a different type of fence.

Mr. Seamans – Are you trying to separate each site now? Is that what you're asking us to do?

Mr. Cogburn -- Mainly I want to focus on the Gray A-2. The Gray #2 we're definitely going to have to fence that one. But I'd like to propose just focus on the Gray A-2. There's just one lease road down to the well. There's no pumping jack; it's just a wellhead. It's an injection well. There is a road to Robinson Street to the north.

Mr. Gransberg – So what equipment and tanks or what do you have out there?

Mr. Cogburn -- There is an open-top container for salt water.

Mr. Gransberg – And you said it's an injection well.

Mr. Cogburn -- Yes, sir.

Mr. Gransberg – This is an active injection well?

Mr. Cogburn -- Not very active.

Mr. Gransberg – And as far as the Gray #2, do you have any fencing out there, or gates or anything else on that lease road?

Mr. Cogburn -- I don't think so.

Mr. Woods – There is.

Mr. Cogburn -- I'm really not sure.

Mr. Woods – There is a locked gate at the entrance going into the Gray #2 well. There's a locked gate at that entrance. At that Gray A-2 there is a locked gate at the entrance of it, also with a fence line – right-of-way line of Robinson Street.

Mr. Gransberg – But there's no gate or fencing around the actual Gray A-2 well site itself?

Mr. Woods – Correct. Only safety guards that are on the pumping unit.

Mr. Gransberg – So as far as the Gray #2 well site, you're going to agree to comply with the City ordinance on Gray #2?

Mr. Cogburn -- Yes, sir.

**AUDIENCE PARTICIPATION:**

None

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:**

*Hank Ryan moved to grant the variance as requested on the Gray A-2 to expire on December 31, 2019. Nils Gransberg seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS	Hank Ryan, Nils Gransberg, James Howard, Andrew Seamans
NAYS	None
ABSENT	Curtis McCarty

Ms. Tromble announced that the motion, to grant the variance for the Gray A-2 fencing until December 31, 2019, passed by a vote of 4-0.

*Hank Ryan moved to grant the variance as requested for the Gray #2. Nils Gransberg seconded the motion.*

YEAS	None
NAYS	Hank Ryan, Nils Gransberg, James Howard, Andrew Seamans
ABSENT	Curtis McCarty

Ms. Tromble announced that the motion, to grant the variance for the Gray #2, failed by a vote of 0-4.

Mr. Seamans noted that, by the motion failing, the applicant is required to fence the Gray #2 as required by the ordinance.

Ms. Connors – The Hodam 1-5 is at 156<sup>th</sup> Avenue. The variance is only that this well is within 600' of the centerline of a public roadway, and no business or structures are within 600'.

Mr. Gransberg – What equipment is on this site?

Mr. Woods – There's a pumping unit that has the standard guards around the pumping unit. There is a tank battery that sits just to the north of the well that, at one point, had a barbed wire fence around the battery. It was in need of repair. It does have a locked gate. The property owner, from what I was told, has recently inherited the property. It used to be one single double gate, and they have reconfigured the oil companies' gates. There were two gates there that were combined. There are two different oil companies that are in this gate; the other company is to the north of this well.

Ms. Messner – I do believe the ordinance allows the Board to vary the requirements as to what type of fencing could be installed on the well site, if that's something you wanted to consider.

*Hank Ryan moved to grant the variance as requested on the Hodam 1-5 to expire on December 31, 2019. James Howard seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS	Hank Ryan, Nils Gransberg, James Howard, Andrew Seamans
NAYS	None
ABSENT	Curtis McCarty

Ms. Tromble announced that the motion, to grant the variance for the Hodam 1-5 fencing until December 31, 2019, passed by a vote of 4-0.

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Item No. 6, being:

**BOA-1617-19 – PHELDON OIL PRODUCTION, INC. REQUESTS A VARIANCE FROM THE REQUIREMENT TO INSTALL FENCING AROUND THE WELL AND TANK BATTERY FOR ONE SITE LOCATED IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 9 NORTH, RANGE 1 EAST, GENERALLY LOCATED ON THE WEST SIDE OF 180<sup>TH</sup> AVENUE S.E. APPROXIMATELY ONE MILE SOUTH OF ALAMEDA STREET.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Application with Attachments
3. Location Map & Aerial Photo

**PRESENTATION BY STAFF:**

Ms. Connors reviewed the staff report, a copy of which is filed with the minutes. There were no protests filed on this request. Staff does not support this request based on the oil and gas regulations approved by City Council.

**PRESENTATION BY THE APPLICANT:**

Phyllis Stark, Vice President of Pheldon Oil – This is an active well. We have all the requirements from the Corporation Commission. It is fenced with pipe fencing. The only thing out there is cows and coyotes and a few deer and turkey. It's clear out at 180<sup>th</sup> and the unlucky thing about it – there's a huge well site just across the road and they're closer to the road than we are and they don't have to have anything. The land owner, when we showed him what you all wanted, he said, "I don't want anything on my property. It's just as I want it." So you kind of leave us between a rock and a hard place. I can ask him again, but I think he's combative and raised cane with David. When all this information went out, it cost me \$400 to get here and talk to you all, with all the requirements we had to do. The neighborhood like to went crazy calling us. Anyway, the landowner is really kind of hot-tempered and we have to really work to get along with him. Anyway, if you all can grant the variance, we would really appreciate it. I don't think he'll ever agree to anything else.

**AUDIENCE PARTICIPATION:**

None

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:**

Mr. Ryan – I feel like this is like the previous ones.

Mr. Gransberg – I think this sounds exactly like the previous ones.

*Nils Gransberg moved to grant the variance as requested on the Goodin #34-1, to expire on December 31, 2019. Hank Ryan seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS	Hank Ryan, Nils Gransberg, James Howard, Andrew Seamans
NAYS	None
ABSENT	Curtis McCarty

Ms. Tromble announced that the motion, to grant the variance for the Goodin #34-1 fencing until December 31, 2019, passed by a vote of 4-0.

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Item No. 7, being:

**BOA-1617-20 – MINDY WILSON REQUESTS A VARIANCE OF 23' TO THE 25' SIDE YARD (SOUTH) SETBACK FOR AN EXISTING STRUCTURE ON PROPERTY ZONED A-2, RURAL AGRICULTURAL DISTRICT, AND LOCATED AT 5301 24<sup>TH</sup> AVENUE N.E.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Application with Attachments
3. Location Maps & Aerial Photos

**PRESENTATION BY STAFF:**

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. There were two protests filed on this request.

Mr. Ryan – It looks to me like we've got dueling surveys here. This one shows that the building is across the property line; the other one is the one that's being used that puts the variance states, "This is not a boundary survey. No corners were set." Whereas the other – the protestor's survey – indicates the firm did find the survey corners. They did set the corners. I'm kind of at a little bit of loss.

Mr. Gransberg – I had a similar question on that, because I observed kind of the same thing looking at that. My question is whether we have – what's the actual variance going to be as far as the setback?

Mr. Stenis – I was going by the more recent survey of 2012 versus the – I did not have this survey of 2006.

Mr. Gransberg – I guess, for my understanding, if we do have a setback that goes over the property line, would it be a setback?

Ms. Messner – Have an encroachment, essentially.

Mr. Stenis – One possibility might be to ask the applicant to verify with a pin survey.

Ms. Messner – I think that's certainly an option you all have. Say that you don't feel like you have adequate information to decide now, what you think you need – the information you're lacking is a current pin survey.

**PRESENTATION BY THE APPLICANT:**

Mindy Wilson, 5301 24<sup>th</sup> Avenue N.E. – I've owned the property for five years now. My mortgage inspection certificate, which is what this is, along with the closing disclosures, title insurance – the seller signed off on not knowing about any encroachments, which I included in the paperwork – any setbacks. I had three different surveys from what's been filed on the City, what was provided to me by my neighbor to the south, my mortgage inspection certificate. So nothing showing especially an encroachment. That's why I spent the money to apply for a variance, rather than going the other direction. It looks like this new one was revised a week and a half ago, and I had not seen that yet. It sounds like the only solution – I've offered to trade property from the side to the back. The variance was originally offered to me by the neighbor, and was later taken off the table. I've agreed to not rebuild it if anything were to happen. It's included

in my mortgage, my insurance. There's really not another space for it. It looks like I would have to file a claim against my title insurance and see where that led me as far as paying for a pin survey and about whether they would pay to move it. That's really all I have. I guess it's been there for ten years or something, and it's just now ...

Mr. Howard – What led to the discovery?

Ms. Wilson – I believe the landowner to my south is wanting to include it in her trust in her will, so she's just wanting to make sure it's all squared away.

**AUDIENCE PARTICIPATION:**

Myrna Fletcher, 5201 24<sup>th</sup> Avenue N.E. – I sold the land to her predecessor after my husband died, and he built that at a time when my health issues were – I wasn't paying a lot of attention, to be very honest. I had the land surveyed because I wanted to sell the back 10 behind her place. At that time, it was discovered that that building hung over on the land. I offered at one point an easement and it was ignored – turned down. It's off the table now. As far as I'm concerned, I just want that off of my land.

Ms. Messner – That's a little bit of a private civil discussion between the two of you, as opposed to the variance they're granting today. I think you could definitely talk to a private attorney about whether or not an easement would be adequate for you to resolve the issue.

Ms. Wilson – I did check with the title company and they said that wouldn't apply to this situation.

Mr. Seamans – So then you found out that the building was, by your survey, over the boundary line.

Ms. Fletcher – Yeah.

Mr. Seamans – How many surveys do we have? A total of two, three.

Ms. Wilson – Four. Actually, I have five.

Mr. Seamans – Are we clear on where the property line is? Multiple surveys have different answers – or different locations.

Mr. Ryan – Does the applicant have a survey where the corners were set? It says on it, "This is not a boundary survey. No corners were set." Whereas the protestor did find the pins. There's a pin survey and there's not a mortgage – so I would say the problem you've got is this is between you and your lender. This is a survey done, finding the pins specifically for the legal boundaries of the property. This is more of what are we going to loan on? This is what does this lady own?

Ms. Wilson – Right. But the 2015 pin survey that she supplied me did not show any encroachments.

Ms. Fletcher – It didn't show it at all.

Mr. Ryan – The current one does.



Ms. Wilson – And that was a week and half ago and I may not have even gone this route if I'd seen that originally.

Ms. Fletcher – I apologize. I've had to literally drag it out of the surveyor.

Mr. Stenis – Does the Board think another pin survey would be of benefit?

Ms. Wilson – Can I apply for a variance for the 7' that this is showing, minus the 25 setback, instead of the other amount?

Mr. Seamans – Well, if it's not on your property, we can't do anything as the Board of Adjustment. We can't step over the property line. So it's a tough situation. It's almost like we have to find out where that property line is compared to that building, and have that surveyed and have that signed and sealed by a surveyor.

Mr. Ryan – I believe that, if they have dueling surveys, we're not going to be able to resolve the question. It's a civil matter.

Ms. Messner – I think you certainly have the option to ask for an additional survey and to postpone it until you get that. Or you have the option to rely on this most recent survey that shows the encroachment and take action accordingly. Or any other option you might come up with. But I do think that at the point that there's a discrepancy or dispute about where the building is actually located and whether it's over the property line or not, certainly becomes a quiet title action over in District Court and is not appropriate for the Board of Adjustment.

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:**

Mr. Ryan – I don't think we can grant that variance.

Mr. Gransberg – I don't think there's any way we could grant a variance. Honestly, I think that the exact location of the building needs to be identified as to where it sits on the property.

Mr. Ryan – If it turns out that it's on that piece of property and comes back to us, at that time.

Mr. Howard – I'll be honest with you, in my line of work, I see dueling surveys all the time. So I think we need clear information before we can make a decision.

*Hank Ryan moved to grant the variance as requested. Nils Gransberg seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS	None
NAYS	Hank Ryan, Nils Gransberg, James Howard, Andrew Seamans
ABSENT	Curtis McCarty

Ms. Tromble announced that the motion, to grant the variance as requested, failed by a vote of 0-4.

Mr. Seamans noted there is a ten-day appeal period before the Board's decision is final.

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Item No. 8, being:

**BOA-1617-21 – JIMMY COCKRUM AND BILLIE HUNTER REQUEST A VARIANCE OF 9.1' TO THE 20' REAR YARD SETBACK FOR AN ADDITION TO AN EXISTING HOUSE ON PROPERTY ZONED R-1, SINGLE FAMILY DWELLING DISTRICT, AND LOCATED AT 2900 HIGHLAND RIDGE DRIVE.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Application with Attachments
3. Location Maps & Aerial Photos

**PRESENTATION BY STAFF:**

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. There were no protests filed on this request.

Mr. Ryan – Do we know what the percentage of coverage will be after the addition?

Mr. Stenis – I know it's well within the 40% of building and 65% of the lot. I don't know the exact numbers.

**PRESENTATION BY THE APPLICANT:**

Jimmy Cockrum, 2900 Highland Ridge Drive – When you have the other picture, it really states what's going on with the property. When they built that house, and the way the property was shaped, the picture doesn't really say it, but when you look at the size of it, the back yard is everything that's on the bottom half, and that's all the side yard. And I don't know why they didn't twist it. I feel sorry for my neighbor to the other side, because he's a builder and he didn't realize that he only has 3 feet next to his house, up on the top, and so this was no way getting close to his property at all. The room size is 16 by 16, and it's going to attach to the adjacent roof – the roof will match.

Mr. Ryan – And you're requesting a variance for this specific plan that you're showing.

Mr. Cockrum – That is correct.

**AUDIENCE PARTICIPATION:**

None

**DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:**

*Nils Gransberg moved to grant the variance of 9.1' to the 20' rear yard setback for the addition on the existing house as presented. Hank Ryan seconded the motion.*

There being no further discussion, a vote was taken with the following result:

YEAS	Hank Ryan, Nils Gransberg, James Howard, Andrew Seamans
NAYS	None
ABSENT	Curtis McCarty

Ms. Tromble announced that the motion, to grant the variance, passed by a vote of 4-0.

Mr. Seamans noted that there is a ten-day appeal period before the Board's decision is final.

Mr. Stenis added that they can submit a building permit application, but it can't be signed until the ten days has passed.

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Item No. 9, being:

**MISCELLANEOUS COMMENTS**

None


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Item No. 10, being:

**ADJOURNMENT**

There being no further business and no objection, the meeting adjourned at 5:25 p.m.

PASSED and ADOPTED this 25<sup>th</sup> day of January, 2017.

  
Secretary, Board of Adjustment