

# BOARD OF ADJUSTMENT MINUTES

**JULY 26, 2017**

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., on Wednesday, July 26, 2017. 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 4:34 p.m.

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Item No. 2, being:

**ROLL CALL**

MEMBERS PRESENT

Brad Worster  
James Howard  
Andrew Seamans

MEMBERS ABSENT

Curtis McCarty

A quorum was present.

STAFF PRESENT

Susan Connors, Director, Planning & Community  
Development  
Wayne Stenis, Planner II  
Roné Tromble, Recording Secretary  
Rick Knighton, Asst. City Attorney

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Item No. 3, being:

**APPROVAL OF MINUTES OF THE JUNE 28, 2017 REGULAR MEETING**

*Brad Worster moved to approve the minutes of the June 28, 2017 Regular Meeting as presented.  
James Howard seconded the motion.*

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

YEAS

Brad Worster, James Howard, Andrew Seamans

NAYS

None

ABSENT

Curtis McCarty

Ms. Tromble announced that the motion to approve the June 28, 2017 Minutes as presented passed by a vote of 3-0.

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Item No. 4, being:

**BOA-1718-1 – SCOTT AND JULIE FOSTER REQUEST A VARIANCE TO THE MAXIMUM WALL HEIGHT FOR AN ACCESSORY BUILDING FOR PROPERTY LOCATED AT 2701 MEADOWBROOK DRIVE.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Location Map
3. Application with Attachments
4. Building Permit 17-986
5. Photo
6. Inspector's Notes

This item was withdrawn by the applicant on July 25, 2017.

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Item No. 5, being:

**BOA-1718-2 – CHRIS AND CANDACE DRAGG REQUEST A VARIANCE TO THE MAXIMUM BUILDING COVERAGE OF 40% FOR PROPERTY LOCATED AT 3817 DANFIELD LANE.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Location Map
3. Application with Attachments
4. Site Plan
5. Plat Map
6. Building Coverage Survey Map
7. Letter

**PRESENTATION BY STAFF:**

Mr. Stenis reviewed the staff report, a copy of which is filed with the minutes. Staff does not support the request because it does not meet any of the criteria required to grant a variance. No protest letters were received; a petition in support of the variance was received with 22 signatures, five of which were verified as property owners within the 300' notification area.

Ms. Connors added that this is considered livable area but it is outside and is not enclosed, heated/cooled living space. It is a covered patio.

Mr. Seamans asked about the total impervious area. Ms. Connors explained that the reason the outdoor area is considered part of the building is because the roof is attached to the main structure.

**PRESENTATION BY THE APPLICANT:**

Sean Rieger, representing the applicants – I think this is really about context. It's very often that I'm sitting in front of you asking for you to let us go bigger in a neighborhood – to go with a bigger building, or off into a setback to make it a bigger project. What I want you to think about today is that, in the context of where we're looking at, we're actually going to be smaller than everything around us. We'll have a smaller house than everything around us and a smaller lot than everything around us. So when you think about it, actually this is, I think, a result of a small lot in an area that has bigger lots and much bigger houses. So in the context of what we're talking about, I appreciate the concern that this is over 40% and therefore a bright line rule should just be applied, but in the context of where we're talking, that actually makes this neighborhood look at this house as a significantly smaller house than what is already there, and so that's why I think you see significant support signatures coming from the neighborhood, simply because, as we all know in real estate, it's about comps and it's about comparables around you and square footage comparables, and when you have a house that is much smaller going into a neighborhood of much bigger houses, that's of great concern in real estate. In fact, it's one of the number one things we fight in zoning. I was in another community earlier this week where the City Manager there was saying are these houses going to be smaller than the ones around them? They didn't want that because they say we're going to face a fight from the neighbors around you, and we were talking a fairly small difference, but he was concerned it would be smaller. So what we're trying to do here today is, yes, go over the building percentage square footage, but we're still not even going to be up to the smallest house in the neighborhood. We're still going to be very small. So what I want to take you through is this Powerpoint presentation.

You see on this first sheet here the context is we are R-1 zoning. We are applicable to the 40% building square footage. But you can see the size of the homes around us in the dark mustard color there. They are enormous and they're built almost lot to lot. You can see actually on the right side of this page is a 22,000 square foot house that is built within three feet of the lot, and it's built within three feet, I believe, probably because they considered this an accessory building which was the garage and the indoor basketball court. It's built to three feet of this property line – extremely tight. This is not a neighborhood that is clearly particularly concerned about 3% over coverage or not. They built extremely tight within the neighborhood.

So if you go to the aerial, you can see the building context again. There are a number of lots that are vacant here, so part of the problem of getting support signatures from vacant lots is you can't find them or they're not local. But you can see the two houses around us – and I believe we do actually have a support signature from the corner lot – I don't think it got picked up by Rick over in GIS, but I think we have that signature. But you can see the one next to us is virtually built out over the entire lot except for the front yard square footage – I'm talking about the brown roof project to the right of us. You can see on the left, it is virtually built out except for the back. So we are talking about a context here where there are significantly built out properties and buildings in the neighborhood. Context again on the third page – you can see the perspective view. Again, completely built out. You can see the two lots next to us are virtually built out to the edges – certainly on impervious and significantly on building as well. Then on the third page, the fighter in perspective. You see where it says "3 foot setback" – that's along the edge that goes almost the entire length. So the context of what we're talking about is significant in that we are a neighborhood that is already built out pretty significantly on pervious ground.

When you go to the next page, this is just the site plan page, and it shows you the raw number. The lot area is 9,299 square feet and the pad area is 3,982. The pad area, as Susan said, includes the covered back porch and the covered front porch. So I think it's a little bit deceiving when you think about the building coverage – staff is allocating a number of exterior patios into that square footage. I looked pretty hard into the building code and looked in all the code of ordinance, the zoning code – I couldn't find a definition of building coverage. So I don't know if we have one that's ever been adopted by the City Council or what it is, but I could not find it defined to include exterior porches. Now, I'm not questioning that you've done that on other permits. I don't doubt that you have. But I don't see it defined. So I think it's an ambiguous question as to whether it should include the exterior porches when you're calculating that area.

On the next page you see the floor plan, and you can see the areas that it shows. You see the roof plan if you want to reference those. I know you're all very skilled at looking at plans so I thought I would include those so you can see exactly what is being proposed. But you see the areas broken down up here on the upper right, where it says "Areas" and "Masonry" and that means the enclosed areas by masonry – so it's the entire exterior envelope of the building. You can see, if you do the math here, you take it down it's the rear covered and the front covered is what takes us over the building square footage. The actual enclosed occupiable square footage – or habitable as they call it, plus the garage – does not take us over the building coverage. You see some elevations – we just share these to show you that this is a pretty typical house, although seriously small actually when you compare it to the neighborhood – 22,000 square feet next door. This is actually on the small side, believe it or not.

So building coverage – when you get to the page that says "Building Coverage". Again, there's the table of square footages. If you took the ground floor enclosed outer wall space, without the front porch and back porch, it is 3,654 square feet. That is 39.3% of the lot coverage – below the 40%. Again, I think it's arguable – I don't see a definition anywhere that says you're

supposed to include the back porch and the front porch on the coverage. It is the 328 square feet of exterior covered porches that take us over the building square footage of 40%. Staff has suggested if they took the back porch off – cover – we would be okay. By the same token, if we just built a pergola over the back porch, I believe that would be allowed, too. So it probably would be better, frankly, for the neighborhood and for the value of the house and area to, instead of have some kind of a pergola structure, let the roof come over that back porch as part of the house structure itself. It almost seems like not much of a difference to put a pergola over that back porch versus let the roof come over that back porch.

This is what I hope you will look at very closely, where it says "Smallest House; Smallest Lot". These are numbers from Cleveland County Assessor, so I assume they're correct. The proposed house of Chris and Candace is 4,864 square feet total – that's the total enclosed upstairs and downstairs – and the lot is 9,299 square feet. First, if you just look down both of those columns, you can see 4,864 square feet is the smallest by far, really. There's a couple of 5,000, but then you get into 5,500, 5,800, 6,200, 7,200, and 21,800 square feet, which is right next door. So this will still be the smallest house in the neighborhood, which, again, is a high concern for anybody in real estate when you see the smaller houses. I know it's about context here. These are large houses. We don't question that. It is. But in the context of where we're talking about, this is going to be the smallest house and that's why you don't see these chairs behind me filled up with protestors. So probably, instead, you see them in support signatures – that's the last page of this. If you look down the second column, 9,299 square foot lot – again, this is the smallest lot in the neighborhood. You get into 10,800, 10,400, 11,300. Now the two that I boxed with the red box – you see those are the closest we get to our square footage of a lot and those lots are 9,583 square feet, but the houses are much bigger on those lots. And so the percentage you see on the right of this table – 62 and 65% -- that's the percentage of total square footage of the house – upstairs, downstairs, everything in the house – to the lot. When you think about that, we're down at the bottom range of all of that – 52%. There's only two smaller – or three – but we're right in the middle of all that. We're not drastically taking this house over the neighborhood.

One other sheet I wanted to show you. Where it says "3% is a small request" – if this were a PUD – it is not – but if this were a PUD neighborhood, there's actually a provision in the PUD code to just give relevance as to how small of request this is – there's a provision in the PUD code that says if it were a PUD neighborhood then administratively they could – "Applications for any building permit within an approved, recorded Final Plat of a Planned Unit Development which are at variance with the standards and conditions set forth in the ... PUD may be approved by the Planning Director within the following guidelines: ... Does not increase total building coverage by more than five percent." We're well within what would be considered an administrative request of staff.

If you look at the tradeoff, and this is where I hope you will also focus, the sheet that says "Tradeoff" between lot impervious and building impervious. I appreciate staff recognizing that the actual total impervious area is only going to be 53%. That is well within the 65% total allowable impervious. And then the R-1 building coverage – we're 39% if you just considered the enclosed square footage, and we're 43% if you include the building coverage. So in the context of this neighborhood, we are in keeping with the harmony and scale and context of everything around us. Just as a – make sure you're clear, we're not affecting utilities. We're not affecting utilities or drainage; we have no issues there. And, finally, the broad support. You can see it -- on the far left is what staff produced. In the middle is what Mr. Dragg produced, and we believe we have a couple more colored that staff didn't show, but we certainly have many in this neighborhood. So when the neighborhood is canvassed and asked about this proposal, they're in broad support of the proposal.

And so, with that, I yield back to the Board and I simply hope, again, that you would consider this in the context of what we're talking about. The context is that this application is actually trying to build up to the neighborhood – not even reaching it – but we're trying to get up into that context of square footage. And normally I'm here asking you to look past the fact that we're over with the context of that square footage. So I thank you very much. We're happy to answer any questions you have. Clients are here.

Mr. Worster – Talked about the impervious coverage being 53%. As I look at the pictures, it looks like a lot of houses that all have pools. It looks like there's space back here for a pool. Is that coming in the future, as far as impervious coverage goes?

Chris Dragg – I can't answer.

Mr. Rieger – Is the actual pool considered impervious?

Ms. Connors – It's not building coverage, but it is impervious.

Candace Dragg – No plans at this time.

Mr. Worster – Curious if that ratio is going to move dramatically after you go put a pool in. Now it went from 53 to 60.

Mr. Stenis – Well, that would also be considered during the permit for the pool.

Mr. Worster – You would review it again at that point in time.

Mr. Stenis – Yes, we would.

**AUDIENCE PARTICIPATION:**

None

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

*Brad Worster moved to grant the Variance as requested. James Howard seconded the motion.*

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

YEAS	Brad Worster, James Howard, Andrew Seamans
NAYS	None
ABSENT	Curtis McCarty,

Ms. Tromble announced that the motion, to grant the variance as requested, passed by a vote of 3-0.

Mr. Seamans noted that there is a 10-day appeal period.

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Item No. 6, being:

**MISCELLANEOUS COMMENTS**

Mr. Howard – I'm seeing a pattern where there's a dichotomy with regard to the size of a building to the impervious area. I was curious as to the history behind the building size or coverage as compared to impervious surface.

Mr. Stenis – Those numbers – the 40% and 65% -- have been in the zoning code since 1954.

Ms. Connors – We do actually have a definition of building area, and it does include covered open spaces at ground level, which is why we included it. If there should be a reason why we change that, then we would need to look at an amendment to the zoning ordinance.

Mr. Howard – It would be interesting if there may be a better way to assess these in terms of a sliding scale or ratio. To me, it seems like the more critical issue is the actual impervious area, because that has the biggest impact on the City's storm sewer system.

Ms. Connors – I'd be happy to work with you if you wanted to have some study sessions to talk about this and work through some language and then, of course, get the Legal Department involved. We'd want to make sure that we've thought through the whole process. Before we got too far into it, I'd contact the City Manager to see if he'd support that moving forward. But I think if a board brought something forward, City Council might want to look at it.

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Item No. 7, being:

**ADJOURNMENT**

There being no further business and no objection, the meeting adjourned at 4:59 p.m.

PASSED and ADOPTED this 23<sup>rd</sup> day of August, 2017.

  
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Secretary, Board of Adjustment  
Chair