

BOARD OF ADJUSTMENT MINUTES

APRIL 27, 2022

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in City Council Chambers of the Norman Municipal Complex, 201 West Gray Street, at 4:30 p.m., on Wednesday, April 27, 2022. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at <https://www.normanok.gov/your-government/public-information/agendas-and-minutes> in excess of 24 hours prior to the beginning of the meeting.

Item No. 1, being:

CALL TO ORDER

Chairman Curtis McCarty called the meeting to order at 4:30 p.m.

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Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Brad Worster
Patrick Schrank
James Howard
Curtis McCarty

MEMBERS ABSENT

None

A quorum was present.

STAFF PRESENT

Logan Hubble, Planner I
Lora Hoggatt, Planning Services Manager
Anais Starr, Planner II
Kelvin Winter, Code Compliance Supervisor
Roné Tromble, Admin. Tech. IV
Elisabeth Muckala, Asst. City Attorney

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Item No. 3, being:

APPROVAL OF MINUTES OF THE MARCH 23, 2022 REGULAR MEETING

James Howard moved to approve the minutes of the March 23, 2022 Regular Meeting as presented. Brad Worster seconded the motion. There being no further discussion, a vote was taken with the following result:

YEAS	Brad Worster, Patrick Schrank, James Howard, Curtis McCarty
NAYS	None
ABSENT	None

The motion to approve the March 23, 2022 Board of Adjustment Regular Meeting Minutes as presented passed by a vote of 4-0.

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Item No. 4, being:

BOA-2122-7 – KEVIN EASLEY HAS FILED AN APPEAL OF THE DECISION OF THE HISTORIC DISTRICT COMMISSION ON THE GROUNDS THAT THE HISTORIC DISTRICT COMMISSION FAILED TO APPLY THE PROPER STANDARDS FOR PROPERTY LOCATED AT 549 S. LAHOMA AVENUE.

ITEMS SUBMITTED FOR THE RECORD:

1. Postponement Memo
2. Request for Postponement
3. Flow Chart of *Easley v. City of Norman, Case No. SD 119,536*

Chairman McCarty announced that the applicant has requested postponement of this item to the May 25, 2022 meeting of the Board.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to postpone BOA-2122-7 to the May 25, 2022 meeting. Patrick Schrank seconded the motion.

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

YEAS	Brad Worster, Patrick Schrank, James Howard, Curtis McCarty
NAYS	None
ABSENT	None

The motion, to postpone BOA-2122-7 to May 25, 2022, passed by a vote of 4-0.

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Item No. 5, being:

BOA-2122-15 – DANIEL SCHWARTZ REQUESTS A VARIANCE OF 188 SQUARE FEET OR 3% TO THE MAXIMUM BUILDING COVERAGE ALLOWED BY SECTION 22:421.1(3)(F) FOR AN ADDITION TO THE EXISTING STRUCTURE FOR PROPERTY LOCATED AT 514 W. EUFAULA STREET.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Application with Attachments

PRESENTATION BY STAFF:

1. Logan Hubble reviewed the staff report, a copy of which is filed with the minutes.
2. Mr. Howard asked if there are any similar situations where a project has been approved for 3% or more in that area.
Mr. Hubble responded that a lot of the houses around there are older than the zoning ordinance, so there are quite a few that are greater than 40% building coverage. He does not know how many may have been approved recently.
3. Mr. McCarty asked the total impervious surface.
Mr. Hubble responded that he did not remember the exact number, but it is below 65%.

PRESENTATION BY THE APPLICANT:

1. Mark Krittenbrink, Krittenbrink Architecture, 428 W. Eufaula – I was here a couple of months ago and I felt like I did a bad job communicating what it was we are trying to do. It was a tie vote and I was not approved. I was prepared to come back a month ago and show other houses in the neighborhood that are over 40%, and I have a map to show that. Then the day before that meeting, the homeowner to the east sent a letter of protest, so I asked to postpone my presentation so that the owner, Daniel Schwartz, could meet with that owner. He did a couple of times, and she sent an email rescinding her protest. Her issues were it's close to her property, it's tall, it's an historic house, is the addition going to blend with that? Daniel wants to be a good neighbor and he's moving in next door to this woman so he did meet with her and calm her fears so that she wrote that letter. However, we addressed some of her concerns. It's a 5' side yard setback; we have pulled that another foot so we're 6' off the property line – one more than required by the City, and that takes us down from 188 to 105 square feet over what's allowed. I don't know what that percentage is; I would imagine it's probably 2 – halfway there, I would imagine. I did want to address some of the other concerns so that everybody was aware.

This is that neighborhood and this is their house. Everything in yellow within the surrounding neighborhood that's so obvious that it's over 40% and it was easy to go online and verify that it was. I think there are others up here that have had garages built on, but I don't think the map reflects that and I didn't want to creep around measuring everybody's property. As you can see, there's nine or ten properties that I can go online and verify that they are over 40% -- I think this one is 46-47. I did want to identify there are

lots of opportunities where this has already been granted in this neighborhood. One of the things that the neighbor to the east had said it's going to be so tall. Well, two things: it was a shed roof that was facing her property on the garage – we've changed it to a dormer so that it's not as imposing. I also went around in the neighborhood and, again, identifying their house which is right there. These are houses in the neighborhood with garage apartments or whatnot, all that exceed the height that we're proposing. So when you look at the things you have to prove, are we getting an unfair advantage? Are we being granted rights that others in the neighborhood aren't being granted? I think this proves that we're not. It's an older neighborhood and lots are subdivided, so I don't think we're asking for anything that isn't prevalent in the neighborhood, from a lot coverage standpoint, which is actually what we're here for. Since you had seen her previous email, I wanted to address the height issue as well. We've responded to that by changing the roof design and by pulling back by a foot, dropping our coverage – our request probably about 40-45%. We are under 60%. When I did impervious, I come up with 59%, so about 6% below – we just did this project on Deans Row for Ryan Broyles – so that's counting all the paving, the house, as full on, and then we have some decks that water runs through and we get 50% coverage for those. When I do all that, I come to 59% impervious lot, which is 6% below. We've gone to great lengths to match the style of the house. It is a beautiful home. It's historic – the stucco, the clay tile roofs and such. That's the construction that we're using for the new addition. It will match that exactly. One of the things Tammi said it's going to block the sun. Already our design as it goes back from the new addition, it goes back about 25' that it's only one story tall with a flat roof and then it pops up. So it's not really imposing on the sun. The only thing we're doing on the front is an arbor along the east side which, if you know this style of architecture, that's going to blend in really well. They wanted a front porch but we can't add a front porch to this house. It's just an arbor area. Right now there's a driveway going up there; we're going to cut that driveway off and do brick pavers with a fairly substantial wood arbor – probably be painted, maybe it'll be stained. I hope you see that we want to be good neighbors. We responded to the neighbor. We've changed our approach. We reduced our request. Hopefully I proved that these conditions exist in the neighborhood already. I'm happy to answer any questions.

2. Mr. Howard – I'm looking at sheet A100, architectural site plan. There are some shaded areas on that, with some dimensions that are a little bit blurry to me. I just want to make sure I understand that those areas are where you took the square footage out to reduce your footprint. Is that the correct assumption?

Mr. Krittenbrink – That was something that we were talking about changing. I think we did change that. Then we went back through after we met with her and took that square feet off the side. This is the neighbor to the east and we're taking a foot off that whole side.

3. Mr. McCarty – So currently your proposal was 42.7% or 2,982 sq. ft. Did you say since then it has been reduced another foot on the side?

Mr. Krittenbrink – It has been reduced by 105 sq. ft.

Mr. McCarty – So we're now talking about 83 sq. ft. over?

Mr. Krittenbrink – It was 188 and I took off 82, so 106.

4. Mr. Howard – I'm looking at the letter that is dated March 2nd. It's saying the original coverage was 260 sq. ft., then it says the current coverage is now 188 sq. ft.
Mr. Krittenbrink – That's what you would have been presented a month ago. But since then, after he met with the neighbor, that's when we went ahead – we had made some changes to the plan between the first time and the second time to cut out square feet. Since then, we cut that one foot off of the side.
Mr. Howard – So what's the new?
Mr. McCarty – 106. He took 82 sq. ft. off the side and reduced from a 5' setback to a 6'.
Mr. Howard – So the coverage is now 106 for the record.
Mr. Krittenbrink – Yes, that is correct.
Mr. Howard – So now we're probably within, like you said, the 2.5 range being over.
Mr. McCarty – And less than 60% total.
5. Mr. Schrank – I have a question for staff. How is the lot coverage determined?
Mr. Hubble – It is all of anything paved or covered by building divided by the total lot square footage.
Mr. Schrank – So it's footprint, not area.
Mr. Hubble – Correct.
Mr. Schrank – It's not the total square footage of the house.
Mr. Hubble – No. It's just the footprint of the house.
Mr. Krittenbrink – It's the footprint. Right now our existing house is 892 sq. ft. Then we add, with the garage – because it's building coverage; it's not livable square feet. We add around 2,000, so that puts us right around 2,905, which is 106 sq. ft. over.
6. Mr. Howard – Were there any other letters of dissent once this one was rescinded.
Mr. Hubble – No, I don't believe so. That's the only one.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

1. Mr. Worster – If I did the math correctly, it comes out to 1.514% at 106 feet.
2. Mr. Schrank – I would note that the sheet with the square footages of the lot coverage takes into account the full area of the house, so actually these are 37%, 33%, 33%, 42%, and then the final one is 42%. I would note that's a non-conforming R-1 lot. So only one of the ones on the list actually is above for a conventional R-1 lot. If we do take into account the full footprint of the building, as they've done with these, it's actually 78%, which is obviously incorrect, but of note quite substantially higher than all of these.
Mr. McCarty – I'm not following you, either.
Mr. Schrank – 420 W. Eufaula, the footprint is actually 3,273, which puts it at 37%. 4,029 is the livable square footage of the entire house.
Mr. Krittenbrink – We went to the county to get the footprints.

Mr. McCarty – 420 W. Eufaula is 4,029. Square footage of the lot is 8,750. You're saying 4,029 is not the actual just footprint of the house?

Mr. Schrank – Correct.

Mr. McCarty – And where are you getting that from?

Mr. Schrank – County.

Mr. McCarty – You looked at it? And the County shows that it's a two-story?

Mr. Howard – Yes, it does.

Mr. Schrank – I sold that house. It's two-story. I can guarantee you.

Mr. McCarty – And what's the first floor of the house?

Mr. Worster – Looking at this it says 1,924 for the first floor, but then there's a garage of 875.

Mr. Schrank – You also include the covered porches, plus 250, plus 224. So it would be 1,924 plus the covered porch, as I understand it – both covered porches and the garage.

Mr. McCarty – And what was the total you came up with?

Mr. Schrank – 3,273.

Mr. McCarty – It's 4,029 total with the concrete.

Mr. Schrank – That's the livable inside square footage – total finished area per County.

Mr. McCarty – Okay. Before us we have a proposal that now is 106 sq. ft. over for a total of 2,905, versus what was proposed to us as 188 sq. ft. in the writing.

Mr. Worster moved to approve BOA-2122-15 for an additional 106 sq. ft. of building coverage, which equates to approximately 41.5% total building coverage. Mr. McCarty seconded the motion.

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

YEAS	Brad Worster, James Howard, Curtis McCarty
NAYS	Patrick Schrank
ABSENT	None

The motion, to approve BOA-2122-15 with an additional 106 sq. ft. of building coverage, or 41.5% total building coverage, passed by a vote of 3-1.

Mr. McCarty noted that there is a 10-day appeal period before the decision is final.

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Item No. 6, being:

BOA-2122-16 – GENERATIONS CHURCH OF THE NAZARENE REQUESTS A VARIANCE OF 9' TO THE 25' REQUIRED SETBACK FOR BOYD STREET AND A VARIANCE OF 10' TO THE 25' REQUIRED SETBACK FOR WYLIE STREET FOR A DIGITAL SIGN UNDER SECTION 18:506(A)(2) FOR PROPERTY LOCATED AT 1433 W. BOYD STREET.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Application with Attachments

PRESENTATION BY STAFF:

1. Kelvin Winter reviewed the staff report, a copy of which is filed with the minutes.

PRESENTATION BY THE APPLICANT:

1. Dustin Sells, Pastor of Generations Church, 2121 Henderson Court – We have an existing sign now and it's dated. For general purposes of the functioning of a church, we'd like to be able to better present ourselves to the community and be able to be more available to make our services to the community known to our neighbors. This is a good way to update our property, as well as just conduct our regular business as a congregation.

2. Mr. Worster – The existing sign is kind of at a 45°-angle, and you're going to turn it so that the faces are east and west?

Rev. Sells – Correct.

Mr. Worster – But it is no closer to the street than the corner of the brick foundation area there?

Rev. Sells – That is my understanding. Yes.

Mr. Worster – That's what it looks like in the picture.

Rev. Sells – Right. Because of the angle at which it lays, the distance is not the hypotenuse of the square root.

3. Mr. Schrank – And it's not in the sight triangle or anything to block view of traffic?

Rev. Sells – No, sir.

4. Mr. Worster – Total height of the sign looked like it was 7'6", maybe, with a little crown on the top?

Rev. Sells – Correct. Six and a half foot is what I have on my drawing.

Mr. McCarty – That's to the bottom of the cap, I think. There's a little pitch on it.

Mr. Worster – And that's counting from grade. The current sign is up in a little planter or something that's maybe 8 or 12" tall. So you're saying 7'6" from level ground. Are you removing the brick?

Rev. Sells – We're removing the whole thing. We'll replace the entirety of it, because it will be at the wrong angle. Aesthetically it wouldn't work.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

1. Mr. Worster – I went by there today, and I'm quite familiar with the property, actually. The existing sign is wider and taller. It's probably 8.5' from grade. I think for keeping the visibility it would probably work better as the sign they proposed and take up less space and be less of a distraction as far as line of sight goes. I think I'm for this one.

James Howard moved to approve BOA-2122-16 as requested. Patrick Schrank seconded the motion.

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

YEAS	Brad Worster, Patrick Schrank, James Howard, Curtis McCarty
NAYS	None
ABSENT	None

The motion, to approve BOA-2122-16 as requested, passed by a vote of 4-0.

Mr. McCarty noted that there is a 10-day appeal period before the decision is final.

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Item No. 7, being:

BOA-2122-17 – JIM AND SHANNON LYNCH REQUEST A SPECIAL EXCEPTION UNDER 22:441(7)(G) TO 22:431.10 TO ALLOW CONSTRUCTION OF A CARPORT FOR PROPERTY LOCATED AT 1403 GARFIELD AVENUE.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Application with Attachments

PRESENTATION BY STAFF:

1. Logan Hubble reviewed the staff report, a copy of which is filed with the minutes.

PRESENTATION BY THE APPLICANT:

1. Dale Robinette, 1700 Camelot Drive – It's just going to be a wood structural frame, open gables, painted, and roughly 16x22', composition roof on it to match the house.
2. Mr. Howard – I will note on the plan it's 18x20'.
Mr. Robinette – Okay. It's been a while since I turned it in. We took out a 1-car drive and put a brand new 2-car driveway in. In order for them to keep their cars from being hailed on, that's what they're liking to get. They live in Broken Arrow.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

1. Mr. Worster – We had a protest letter on this, and I actually spoke with the neighbor there. She's definitely opposed to it, and it's on her side – the driveway is right next to it. I always have a hard time when the person most affected by something is pretty adamantly against it. I don't want to sound like I'm giving anybody advice, one of our previous applicants had taken a postponement and visited with the neighbor and got a letter of support from someone who had previously protested.
2. Mr. Howard – Can we get some clarification from staff on a question? Just to make sure I understand what our responsibility is on this particular issue is that we have to grant a special exception as long as they follow the rules or the regulations for a special exception, and this application meets all of those requirements. Is that correct.
Mr. Hubble – Yes. It's within the setbacks, including the 7' carport setback from the front property line. It is going to be constructed out of wood. I believe it's going to have a shingled roof. Those are the biggest things. They're not going to be going over coverage or anything. Everything regarding the carport ordinance itself is being met.
Mr. Howard – What I understand is that we basically have to rule based upon materials and the coverage. Those are the areas that we have authority to rule on.
Mr. Hubble – The size of the carport, which the maximum size is 440, so it's under that – it's at 360, I believe, as presented. You're essentially ruling on whether or not the special exception will be granted for a carport.
Mr. McCarty – And it's more than 7' away; it's 9'.

James Howard moved to approve BOA-2122-17 as presented. Curtis McCarty seconded the motion.

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

YEAS	James Howard, Curtis McCarty
NAYS	Brad Worster, Patrick Schrank
ABSENT	None

The motion, to approve BOA-2122-17 as requested, failed by a vote of 2-2.

Mr. McCarty noted that there is a 10-day appeal period before the decision is final.

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Item No. 8, being:

BOA-2122-18 – AMY AND JIM YOST REQUEST A SPECIAL EXCEPTION UNDER 22:441(7)(G) TO 22:431.10 TO ALLOW CONSTRUCTION OF A CARPORT FOR PROPERTY LOCATED AT 219 W. RIDGE ROAD.

ITEMS SUBMITTED FOR THE RECORD:

1. Postponement Memo
2. Request for Postponement
3. Location Map

Mr. McCarty noted that the applicant has requested postponement of this item to the May 25, 2022 meeting.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to postpone BOA-2122-18 to the May 25, 2022 meeting as requested. Patrick Schrank seconded the motion.

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

YEAS	Brad Worster, Patrick Schrank, James Howard, Curtis McCarty
NAYS	None
ABSENT	None

The motion, to postpone BOA-2122-18 to the May 25, 2022 meeting, passed by a vote of 4-0.

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Item No. 9, being:

BOA-2122-19 – JOE AND JANA LYTLE REQUEST A VARIANCE UNDER 22:431.9(1)(B) TO ALLOW A FENCE 10' IN HEIGHT FOR PROPERTY LOCATED AT 5550 NW PIONEER CIRCLE.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Application with Attachments

PRESENTATION BY STAFF:

1. Logan Hubble reviewed the staff report, a copy of which is filed with the minutes.
2. Mr. McCarty – I've been on here a few years. I've never seen a request for a 10' fence. In the past, have we done these much?
Mr. Hubble – I haven't been here long, either. I don't think they're particularly common.
Ms. Hoggatt – We haven't seen a lot of them. You can either get letters from all of your neighbors saying they're okay with it, or you can come to Board of Adjustment. I have seen a few that have done the letter option.
Mr. McCarty – So, by ordinance, it's 8' max, right, without special permission? So they can get permission by asking all the neighbors – just next-door neighbors?
Ms. Hoggatt – The abutting neighbors.
Mr. Worster – I think we did one where the slope of the yard went off dramatically in the back, and they just wanted to continue it straight.

PRESENTATION BY THE APPLICANT:

1. Joe Lytle, 5550 NW Pioneer Circle – Thank you for your time and consideration. I apologize. I didn't know there was a height restriction. The contractor had already put the fence up. There are two panels, one to the west and one to the north. He actually put the west one up that backs up to the neighbors a little bit high – it's 10'; it doesn't need to be. We can come down on it some, but it will be above the 8' allowed. We are just after line-of-sight privacy and we feel we would have it if they hadn't changed the lay of the land behind us. We don't have anything against the folks behind us; we feel we've been robbed of some privacy. Let me stress, if we chose to live out off Tecumseh or somewhere where there's a natural slope, we wouldn't even be here. But our land over there is flat. We believe the situation is man-made. We moved there in 2014 to enjoy the space and privacy an acre can provide. When they began construction on the addition behind us, the elevation was level as far as you could see in any direction with a well-defined berm and a north/south drainage ditch between us and the property to the west. I have elevation pictures from the original elevation from 2007 and pictures looking southwest. As they began to create their retention ponds and roads in the addition, they piled the red dirt up from digging up on the lots and raised the elevation behind us significantly. The GoogleEarth picture I have here also shows that. I can't believe the City allowed them to do that, knowing the drainage issues our addition naturally has, and they pushed the water toward us. These were all cotton fields at the beginning at one time, so extremely flat and very poor drainage and the red dirt is well

below the surface. As you can see, the floor patio height of the houses behind us are significantly above our yard elevation with a very defined dropoff to the fenceline. Our mistake in all this was believing what we heard and not pressing the issues. As the dirt work continued and we began to ask questions, we were led to believe there would be a wall down the east side between our neighborhoods, and that would have taken care of the privacy. We were told many times by the City that the developer would be required to build some type of drainage flume to direct the water runoff to the south and keep it from draining our way. Neither of this happened, so not only does the neighborhood push water over on us, our new neighbors and us can look at each other from our kitchens and livingrooms, even with their new 6' fence in place. I have another picture of my neighbor Rick Barksdale's place, and you can see the height of this lot – his 6' fence relates to his home and how it relates to the height of the home behind. Their fence is on the property line at the top of the berm between us, but the contractors trenched and buried utilities in that north/south run in the middle of the ditch, and that raised the level of the ditch significantly and all the pad and final dirt work had cut the height of the berm down significantly prior to the fences going up. If they left the berm height there and put the fence on it, it probably wouldn't have been a problem, either. The bottom line is that if the developer hadn't raised the pad levels so much we would have naturally had line of sight privacy with the 6' fence that they have installed. The developer pretty much built a hill for their house to sit on, and that has created privacy and drainage issues for us. If this height is permitted I believe the ruling should stand for all the homeowners on our street. For each of to spend the money to be here and do the leg work like I have today is excessive for the situation that we believe was caused by the developer. Thank you.

2. Mr. Howard – I'm looking at these pictures, and it looks like it's only partially fenced at that height.

Mr. Lytle – Yeah. I just put 2 panels in just so privacy from my back patio so I don't have to look at them and they don't have to look at me.

Mr. Howard – But I'm still seeing one of the windows on the house from behind. Right?

Mr. Lytle – Yes. I just put a 40' panel up the back and a 40' panel on the side.

Mr. Howard – That neighbor, though, is still looking into your yard?

Mr. Lytle – That's the bedroom and their window is not open that much. We're just trying to keep the main living areas. It's not the full width. It's just kitchen and livingrooms.

3. Mr. McCarty – There's an existing 6' fence and then you bought an 8' high panel and put it 2' off the ground, basically?

Mr. Lytle – Yes. I had a contractor do that, and he didn't bother to tell me there was a height restriction, either. I think he would have known.

4. Mr. Howard – If the neighbors take their fence down, then what happens in that scenario for you?

Mr. Lytle – Why would they take their fence down?

Mr. Howard – Why wouldn't they?

Mr. Lytle – I don't know. I don't even have a fence. These are just privacy panels. I'm not trying to fence anything in. I'm just trying to create privacy.

Mr. Howard – What I'm asking is would it be your intent to complete the fence at the 10' height?

Mr. Lytle – No. I back up to three properties and the neighbor behind me on the left, I left it at 8', because their house is lower. The one directly behind me is higher than all of them on the street. I can bring the panel down on the back one, but it will still be over the 8' max.

Mr. McCarty – I think the concern is you left the 6' fence there and then put an 8' fence 2' off the ground, so now you have this big gap underneath it, and if they were to take down their fence, then how is that area going to be dealt with, I think was what he was getting at.

Mr. Lytle – As far as mowing and stuff?

Mr. Howard – Actually, it probably would be easier to maintain.

Mr. Lytle – I'll mow it; it's no big deal. I'll take care of it.

Mr. Howard – I just want to make sure that it's being well thought out all the way through, and that, if we're going to approve something like this – I'm not saying I am – but if we did, that we understand what the parameters are.

5. Mr. Schrank – Is the neighbor okay with how it is now?

Mr. Lytle – Evidently not.

AUDIENCE PARTICIPATION:

1. Don Satterlee, 5509 Frontier Trail, Windstone Addition – I don't have any problem with Joe. I came and talked to him when we were moving in. We moved in in August of 2021 and I told him I was going to build a fence. I have some pictures here, too, on my side. We put a fence up because we have dogs and we want to be good neighbors. I paid for the whole fence – didn't ask him for any money on it. It was 6' because that's all I could afford at that time after getting into the house and all the fees. We are higher, and I will say that do understand the draining problem, because I have the drainage problem, too. I've got a big lake in my back yard every time it rains. I put the pretty side out toward him just to help out. This is what it looks like from my side. This is a friend of mine who is about 6' tall. Like you said, it's a barrier – it's not a fence. It's 8' on my other neighbor's side. Line of sight – it's ugly for us now, because we don't get that morning pitch in there, but we're not out there – we don't care what our neighbors do. We have a hot tub; I don't care if they're looking at us. We're not out there to try and be nosy or anything like that. We put a fence up because we have dogs and we don't want them bothering anybody. But it does take away from our view on that east side in the morning.

2. Mr. Howard – Since your property is the one that appears to be raised higher than the neighbor behind you, could you estimate roughly what the variation in height is – or the difference in height is from his property to your property height where your house is built? 1 foot, 2 foot, 3 foot?

Mr. Satterlee – I couldn't tell you. It kind of dips down and then he's got a berm like he explained. I get the drainage runoff – that's a problem I've got with the

developer, too. We had a tree there, too, and it's actually on my property but he'd taken some time to decorate it and trim it up and he asked don't cut down that tree – it's kind of nice so I left it up. The neighbor to the south of me – because I talked to all the neighbors before I put the fence up and they didn't want a fence – they weren't going to pay for it, but I still put one up. Same thing on the north – they didn't have a need for a fence and they hadn't moved in yet so they weren't really interested. So we just did that because we've got dogs and didn't want the neighbors being bothered by our dogs. But we don't have wild parties and we don't have anything. I'm pleased that I can at least in the morning look out there and you've got a nice trim yard in the back and you don't have anything ugly back there.

3. Mr. McCarty – Did you ever have any discussions with him about possibly putting up an 8' high fence versus 6'?

Mr. Satterlee – No.

4. Mr. Lytle – If the builder hadn't raised the level of the land up, he would be this anyway with a 6' fence. He would be sitting lower, so his 6' fence would be as high as what I'm proposing my 9' fence would be, realistically.

Mr. Howard – So when you were watching this development being built, were you able to ascertain what the difference in elevation was between their pads and your finished grade in your yard?

Mr. Lytle – It's about 5'. We were lied to by everybody about the development when they built it on the flood runoff, but that's a whole different argument.

5. Rick Barksdale, 5552 NW Pioneer Circle – I can literally sit on my sofa in the livingroom and watch meals being cooked at the house behind me with a 6' fence. They've got a covenant in their neighborhood that they cannot go over 6', even though the City allows taller fences. Nothing can ever be done on their side of the fence. The only way we're going to get any privacy – they're not going to lower those houses back down to 1105', like they were naturally, and we need some kind of privacy fence. Our property is like 1105-1106; theirs was 1105. We had a terrace. They came in and built those pads up 3'. That's what we're fighting now.

6. Ron Satterlee – I had that covenant memorized before I moved in. You can have a 6 or 8' fence. It's got to be the 6" cedar. Whatever you decide to do, you have to put a cap on it. But on the side and the back, like what we're talking, you're able to put a black chain link if you wanted to. We chose not to because we wanted to be uniform. But that is an option out there. Individuals that face the pond are required to do wrought iron. But you're allowed to do it up to an 8'.

Mr. McCarty – Privacy, as long as it's cedar, 1x6 pickets.

Mr. Satterlee – Yeah. It's got to be cedar. It's got to be stained toward the front. We're pretty restricted on that.

Mr. McCarty – Street facing has to be cap and rail.

Mr. Satterlee – Yes, correct.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

1. Mr. Worster – I've got a question for somebody – I don't know who. There's a fence on the west side and a section that's on the north side of the lot. Mr. Barksdale, are you on the north side of his lot? So that section is between your property. It's visually blocking behind it, but you all are the neighbors and that's the fence line. I'm just trying to get my orientation correct. Thank you. I guess I'll discuss. It looks like a really tall fence. I drove by it earlier today and it's up there. It does seem more like a visual screen than a fence, seeing that there's 2' underneath it. That was your objective. I think it would look better if it was a fence and not just a big panel sticking up there. I understand the elevation changes in the lots, but there's lots of hilly neighborhoods in Norman that have big elevation changes. I guess that's my only thoughts.
2. Mr. Schrank – I agree. I worry about someone coming in Brookhaven and asking for a 10' fence. I think it would be difficult.
3. Mr. Howard – I live in one of those houses where the pad was raised 5' due to a drainage issue through Brookhaven. The neighbors all have 6 and they transition to 8' – but that is the limit. I do have unfair advantage in viewing into their yards, but I choose not to – just being a good neighbor, I guess. But that's an entire, more restricted lot, whereas the lots that we're seeing from one neighborhood to another have changed that angle of view significantly, and it negatively impacts both neighbors. You have the applicant that has a very large lot with the house set very far back from the back lot line, which increases the angle of view – their cone of view – which, again, creates that scenario where you're going to see more of their house than you probably want to, and you're probably worried that they're going to see more of you than you want to. On the flip side, their lots are much smaller. Their houses are much closer to the fence line and, therefore, their cone of vision is greatly decreased and that 10' impacts their ability to have good daylighting in their yard, which is a negative impact. So how we weigh those negative impacts on both parties. I'm not trying to right all wrongs – I'm just pointing out what's going on there. I'm in no way defending the developer. There's nothing that we can really do about that – just understand the situation we have now and trying to make sure we're taking into account the right things in this consideration. This is a difficult one. It's not been our run-of-the-mill fencing issue. We've had some in the past where there have been some variations, but they've been fairly equal in their distance from the lot lines, because they had similar lot sizes on each side, so it was easier to make that decision. There were very, very small, short variations.
4. Mr. McCarty – Fences are tough. I see disputes amongst neighbors all the time that you think would be real simple to work out together and try and be friendly to each other – sometimes people just don't like to do that. I don't know all the interaction that's happened, but they're tough sometimes. Preferably, it would be best if the fence was taken down and they were one fence, and not two fences staggered and different heights and the looks of, because I wouldn't want to look at it, personally, in my back yard, even with your pretty side toward you – just how it looks. It's a big sail and I think potentially could be dangerous in a high wind event. But, at the end of the day, it's what you did to try and protect your property. We understand developments and

elevation changes and farm land turns into residential housing or commercial or whatever over the years, unfortunately. We can't control all that. With that said, I usually like to see people try and work these out amongst neighbors to come up with a solution that everyone is happy with.

Brad Worster moved to approve BOA-2122-19 as requested. Patrick Schrank seconded the motion.

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

YEAS	None
NAYS	Brad Worster, Patrick Schrank, James Howard, Curtis McCarty
ABSENT	None

The motion, to approve BOA-2122-19 as requested, failed by a vote of 0-4.

Mr. McCarty noted that there is a 10-day appeal period before the decision is final.

* * *

Item No. 10, being:

MISCELLANEOUS COMMENTS OF THE BOARD OF ADJUSTMENT AND STAFF

1. Ms. Muckala – Just following up on Mr. Howard's question on special exceptions. I did that handy summary on the factors for variances. Would you like something similar for special exceptions?

Mr. McCarty – Sure. If you have time to do it.

Ms. Muckala – I'll just find an intern.

2. Mr. Howard – I also want to keep hammering on the building coverage versus the impervious area coverage on lots. I still feel like that's incongruent in terms of what we're trying to achieve in the developments. I'd like to get that resolved, if that can be elevated to the Planning Commission or City Council, whoever is responsible for that ordinance to study.

Mr. Schrank – I believe they took it up in a meeting a month ago or so.

Ms. Hoggatt – I probably don't have as many details as I should. I do know that it went to a Council committee last month – Oversight, I think. If you want, at the next meeting we can have an update on that. It was very preliminary, just Jane talking to the Council committee about what they want. We can work on an update for you.

Mr. Howard – Thank you. I appreciate that.

Mr. Schrank – I will say the consensus was to move to 65%, it sounded like, for everything.

3. Mr. Lytle – So I have to lower my panels down to 8'. Correct?

Mr. McCarty – As presented, it was not approved. That's correct.

Mr. Lytle – Okay. So what are our options for line of sight privacy?

Mr. Worster – Trees.

Mr. Lytle – Big trees. It's going to do the same thing. Is something like this – an arbor with a trellis acceptable?

Mr. Howard – It's probably beyond what we can talk about right now. But I would recommend talking to the City about that, and maybe even the neighbor. And maybe you can present another application.

Mr. Lytle – I need about another foot on the back is all I need, if I lower it to 8.

Mr. McCarty – There's an existing 6'. You can go up to 8' legally without an additional permit or request.

Mr. Lytle – Is there a permit height on trees?

Mr. McCarty – Not that I'm aware of.


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Item No. 11, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 5:33 p.m.

PASSED and ADOPTED this 25th day of May, 2022.



Board of Adjustment