

BOARD OF ADJUSTMENT MINUTES

MAY 25, 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, May 25, 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 4:32 p.m.

* * *

Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Brad Worster
James Howard
Curtis McCarty

MEMBERS ABSENT

Patrick Schrank

A quorum was present.

STAFF PRESENT

Logan Hubble, Planner I
Anais Starr, Planner II
Roné Tromble, Admin. Tech. IV
Elisabeth Muckala, Asst. City Attorney

* * *

Item No. 3, being:

APPROVAL OF MINUTES OF THE APRIL 27, 2022 REGULAR MEETING

James Howard moved to approve the minutes of the April 27, 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, James Howard, Curtis McCarty
NAYS	None
ABSENT	Patrick Schrank

The motion to approve the April 27, 2022 Board of Adjustment Regular Meeting Minutes as presented passed by a vote of 3-0.

* * *

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 June 22, 2022 meeting of the Board.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to postpone BOA-2122-7 to the June 22, 2022 meeting. James Howard seconded the motion.

Mr. Howard – Is this going to be in perpetuity?

Ms. Muckala – This is kind of coming in the format of a joint request, because it's an awkward situation. We have a past case and appeal, and then this separate item that has come separately on a different track. Mr. Knighton walked through the different weird things that could happen in the Court if there's an action on this item. Technically, the City has responded to this in District Court stating that there's no grounds for this particular kind of claim. At the same time, if this were to be heard and decided a certain way, it could give rise to a second appeal on a second track. So it becomes a very messy situation. Right now both parties have requested a postponement, hoping that there's going to be a decision by the Oklahoma Supreme Court on whether or not they will accept the certiorari petition. If they do not accept that petition, then we know it's done and we can proceed. We should hear something like that soon. If they accept certiorari, that means they're going to hear it and decide it, and that could take a while. I expect at that time we'll hear again from Mr. Knighton on his recommendations. But at this time we still do recommend postponing on the hope that we will hear about the certiorari petition soon.

Mr. McCarty – If we voted it down, they would have to reapply. Correct?

Ms. Muckala – If they wanted to ask for the same relief, they could do that. But voting it down would mean that we're going to hear it on the merits, and if it did not pass, or if it did pass, either way that could give rise to an appeal.

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

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

The motion, to postpone BOA-2122-7 to June 22, 2022, passed by a vote of 3-0.

* * *

Item No. 5, being:

BOA-2122-18 – AMY AND JIM YOST REQUEST A VARIANCE TO 22:421.1(3)(B)(1) OF FIVE FEET FOR THE WEST SIDE YARD SETBACK AND 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. Location Map
2. Staff Report
3. Request for Variance
4. Application with Attachments
5. Residential Carport Ordinance

PRESENTATION BY STAFF:

1. Logan Hubble reviewed the staff report, a copy of which is filed with the minutes. He also noted the "Special Exception Info Summary", prepared by Legal counsel and circulated prior to the meeting.

Mr. Howard – I'm seeing a concrete drive that is anticipated to be paved up to the property line on the west side. The sketch of the carport shows post locations and it shows eaves on each side; the eaves go beyond the post locations, and there was another sketch that showed post locations that were right on the property line, which leads me to believe that the eaves would be over the property line.

Mr. Hubble – These sketches are from when the applicant applied last month, and then we realized that they were going to have to come back and also get a variance to the side yard setback in addition to the carport special exception. We hadn't really talked to the applicant that much about it at that time. Since then we had discussed with them that nothing will be able to go over the property line. In addition, these are going to have to have gutters on that side so that there's not water going onto the neighbor's yard. So nothing will be able to be over the property line. I think we have made that clear.

Mr. McCarty – Permanent structure – carport, posts – could not be inside of the 5' setback.

Mr. Hubble – They can be within the 5' setback if they get the variance that they're requesting.

PRESENTATION BY THE APPLICANT:

1. Amy Yost, 545 State Road 248, Kamas, Utah – The property that we're talking about is 219 West Ridge Road in Norman. We have applied to be able to put a carport, and all of the carports along the existing street are metal carports with a flat metal roof. However, with the Board of Adjustment changes in 2020, that's no longer allowed. I don't know if there's a way to ask for an exception with that or not, because it does make it a little bit more difficult to put a pitched roof on to build a carport to meet the guidelines now, where everything on the street is currently a metal roof. In the code, it does state that it needs to be in compliance – under 4(d), "Carports shall use similar construction materials as the principal dwelling structure they serve and shall have

compatible architectural style." Well, this is going to be totally different than everybody else in the neighborhood. All of the homes in this neighborhood are very small; they were built in the 60s. They're brick. They all have shingle roofs. In order for the shingles to actually be warranted by the shingle manufacturers, you have to have a certain pitch, so it eliminates us from being able to just do a slanted roof – we have to do a pitched roof, which means now we have to have trusses and it's going to be different than everybody else in the neighborhood because of the new code that was put into place in 2020. It just seems a little odd, now we're going to be the oddball in there if this gets approved and you guys grant the special variance. I don't know if there's a possibility of trying to even get an exception to that so that we're in line with the rest of the neighborhood. It would make it a little easier; it would be less weight for the structure not having to have a pitched roof and have trusses if we could go with a metal roof. It's tough. The property line – as you look in the pictures, the driveway right there is right against the property line.

Mr. McCarty – I have a question for you. Looking at the pictures that you presented of other carports in the area, do you feel like those posts are encroaching all the way to the property line?

Ms. Yost – The thing that it looks like is they're right on the – every house is very similar along that street. A lot of them do have single garages, but they have a double wide driveway. As far as whether those driveways are up against the property lines, such as this property, I don't know that. I have no idea. All I know is they do cover the width of the driveway in a lot of those other carports. In order for us to be able to even just put it so that you could park two cars under there, it has to be the full width of that driveway. So we're kind of limited on what we can and can't do.

Mr. McCarty – Have you thought about shifting your carport toward the east, and pouring concrete there instead of encroaching all the way over?

Ms. Yost – We could, but then we'd have to add more concrete. We'd have to pour another slab of concrete to be able to do that.

Mr. McCarty – Question for staff. We're really just addressing the 5' encroachment, not the type of construction – that's all going to be done through the permitting process?

Ms. Muckala – Not necessarily. What we have here are two separate requests: we have the variance, and that's to the side yard – that's a discretionary standard. She's asking to soften those standards. Special exception has very specific ways in which it can be done. The way in which a special exception is defined means it has to be done this way if it's going to be done at all. No, you really don't have the discretion to vary those factors at all.

Mr. McCarty – We need to address both of those items with this one item.

Ms. Muckala – Yes. They are going to be separate items; two separate standards.

Ms. Yost – To answer your question, yes. If we were to move it farther to the east, we would have to pour cement that goes all the way up to underneath where the sidewalk goes to the front door of the house. But the problem is, too, to be able to do that the driveway access to the road would also have to be widened out, and I don't know what the process to be able to get a request for that would be, either.

Mr. Howard – The one thing that I'd like to ask is, provided that the carport is built to the requirements, the thing that I'm concerned about is that there's no encroachment over the property line by eaves or other structural parts of the carport. Where you're located outside of that is probably not a major issue to me in that we're simply focused on the variance for the 5' side yard.

Ms. Yost – And would have rain gutters on that west side so that it would ...

Mr. Howard – I want to make sure that everything on that carport does not cross over the property line and I want to make sure that we are of an understanding. Not to give you any advice, but I'll throw a little bit out there – you're probably going to have to pour some footings anyway structurally, which is going to cause them to cut some slab.

Ms. Yost – Right. Yes, we would have to cut the cement out and drill down to be able to put the posts in and cement them in. It's going to be a major task.

Mr. Howard – To Mr. McCarty's point, if it were to shift over a little bit toward the sidewalk side, or toward your entryway to your house, you wouldn't necessarily have to pour an additional concrete slab back, you would just need to shift it over enough to be able to drill to place your foundations to support the columns. But, again, I'm not giving any advice there; I'm just noting that.

2. Mike – I am her son. I live currently at West Ridge Road. I just graduated from OU so I'm here in Oklahoma; did grow up in Utah, but have been an OU fan my whole life. It's just been hard to go through this process. I understand there's a lot to do; there's a lot of necessary things that go through the municipality, through the City. I guess this is more just an ethos type of statement. My wife and I have had two cars totaled now – well, one car has been totaled twice; both cars were totaled twice, but one of them is irreparable. I've got a thing here that I have to get notarized to go buy another car. I'm not really in the financial situation to do this. We had tried to pursue this avenue last year with a contract company – they're like, we'll handle all the paperwork for you, and stuff like that. Then they came back to us and say we can't do anything and then they just never talked to us again, so then we started to look into it for ourselves. But had we been able to have this carport last year, my wife and I wouldn't be in this financial situation. I get it. I'm not the only one. We're not the only ones in this entire City of Norman, obviously. We had those two hail cores come in April and October. But I do appreciate you taking the time for – have my mom fly out here and taking the time to listen. Hopefully, we can work together to get this solved in a way that would be best for the neighborhood, but also best for our home, too. Of course, we don't want to encroach on the other neighbors. I feel like that's where – if we could – and, again, we don't quite know the process, but to be able to not have that pitched roof, but have a slanted roof made out of that metal – if you have that slanted roof it would be a lot easier to not have eaves go over onto the west side, because then it could just be a straight line down with, again, gutters on the other side just in case. But, again, thank you. I just wanted to put in my two cents.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. Worster – If the carport is built right up on the front of the house, which it appears to be, and it's all the way over on the property line, is there going to be a fire code issue with the house at 223? Because those roofs will then be – looking at the aerial image – closer than 5' apart – the roofs themselves.

Mr. McCarty – I believe the building code states if it's less than 3' from the property line it would have to be fire rated materials, and that's why I wanted to clarify that.

Ms. Muckala – Of course, anything you grant here would not waive a building code requirement, so that would have to be something they would tackle. I think you got onto this, Mr. Howard, at one point. Even if they're granted the variance, that will not give them permission from this Board to encroach aurally onto anyone else's property. Those are still things that would be viewed through the administrative process before its final.

Mr. McCarty – So pretty much the building permit would handle those things, as well as nothing can encroach beyond the eave of the property into someone else's property.

Ms. Muckala – Those are the types of things that they should be submitting information and we would be able to verify that they're not going to happen. As a legal matter, you simply don't have the authority to say yes to those things, so even if it slipped through that process, that wouldn't be you saying it; it's just hopefully we would catch it, obviously.

Mr. McCarty – Just to make sure I'm understanding, we could grant them the right to do a metal carport like the neighbors have, instead of having to do it out of wood? Or no?

Ms. Muckala – No. Unfortunately, no. Because the carports are done as a special exception, it has to be done just as it said. You can limit it further in time or number – those types of things, if you think that, as requested, it would be too burdensome. But there's no lessening of the factors.

Mr. Howard – I do think, historically, we have granted similar variances for carports adjacent to the property line. As Curtis mentioned, we were told that that would be handled administratively through the permit process – they would verify that materials would meet code requirements.

Mr. Worster – I don't recall any specific instances. I know we did some that were closer to property lines, but it was usually because there wasn't room to go the other way. It was a smaller lot or a smaller width, but I don't remember specifically. From the variance standpoint, it sounds like we're trying to build a carport over an existing driveway and they need a variance to be able to do that, but then the driveway would be the reason for the variance, which would be due to the owners paving the driveway where it was paved. So the need for the variance would have been caused by the owners. I don't know that it meets the standards for the variance on the side yard setback. I sure understand the need for a carport, by all means. I got two vehicles totaled as well. It's very unpleasant to go through that process, and I'm sure this process

isn't a bunch of fun. I think, looking at the pictures – and I apologize – I was not able to drive by this beforehand, but from aerial images I think visually the carport would look better lined up with the gable of the front of the house, which would not require a variance into the 5' from the side. I'm assuming we can vote on the variance and the special exception separately?

Ms. Muckala – Yes. I don't understand anything in the application that would tie them together. What would probably need to be done, because there has been a site plan submitted, is if you wanted to approve one without the other, and if you were talking about the special exception without the variance, you would want to specify that the site plan would have to be amended to reflect the 5' side yard setback, and that's something that they could turn in after the fact, but you would need to specify that, since the materials do have that site plan in the application right now. So what you would maybe want to do – a motion is not on the floor yet. If you make a motion, you might choose to make a motion on just one, and then handle the other one separately.

Brad Worster moved to approve the 5' side yard setback variance for BOA-2122-18 as requested.

Mr. Howard – I would make a recommendation that we start with the special exception. Mr. Worster withdrew his motion.

James Howard moved to approve the special exception for BOA-2122-18 as requested. Brad Worster seconded the motion.

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

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

The motion, to approve the special exception for BOA-2122-18 as requested, passed by a vote of 3-0.

James Howard moved to approve a variance of 5' to the west side setback for BOA-2122-18 as requested. Brad Worster seconded the motion.

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

YEAS	James Howard, Curtis McCarty
NAYS	Brad Worster
ABSENT	Patrick Schrank

The motion, to approve the 5' west side yard setback for BOA-2122-18 as requested, failed by a vote of 2-1.

Mr. McCarty indicated that the applicant will need to update their site plan, and noted that there is a 10-day appeal period before the decision is final.

* * *

Item No. 6, being:

BOA-2122-20 – MARTIN RODRIGUEZ REQUESTS A SPECIAL EXCEPTION UNDER 22:441(7)(G) TO 22:431.10 TO ALLOW CONSTRUCTION OF A CARPORT FOR PROPERTY LOCATED AT 204 S. COCKREL AVENUE.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. Application with Attachments
4. Residential Carport Ordinance

PRESENTATION BY STAFF:

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

PRESENTATION BY THE APPLICANT:

1. Gary Keen, 2104 SW 70th in Oklahoma City – I'm a civil engineer; I'm assisting the owner in rebuilding this old house that is rather dilapidated. We have a very comprehensive plan to go in and remodel it, and nearly all of the structure will be replaced. He requested a carport because it currently does not have a carport or a garage. It's located partially in the floodplain. We have been before the Floodplain Committee and have a permit from them to improve this building, and along with that we're going to have to elevate the foundation approximately 10" to meet the City and the FEMA requirements due to the floodway and the floodplain. This carport was actually on the south end, which is slightly higher than the floodplain so it will not impact the floodplain, and they are aware that we have requested this carport and they are in agreement with that. For a while, the owner was switching back and forth from whether he wanted a carport or whether he wanted to seek putting a garage in. This lot is unusually shallow – it's only 66' deep. This carport, or the garage, either one, would meet the back yard setback, although the structure is too close to the rear yard – it's existing – it's 23' and I think the code requires 20. Side yard setback here is 5'; we're showing the carport to be 6' off. I like to give the contractors a little bit of wiggle room when we can; I don't like to have to tear things out because they were off a few inches. It's possible this guy might ask me to come back later and reapply and ask for a garage, which would require a variance for the front yard setback. I don't know. But for now we're seeking the approval for the carport.

Mr. Howard – Just to clarify, today we're only discussing the carport. Correct?

Mr. Keen – Today we're only requesting discussing the carport. Yes. That's what the application was for; it's what the notices were for.

Mr. Worster – Just looking at the picture – I don't know if this was a current picture.

Mr. Keen – This is an historic picture that came from the County website. The history on this is there's been multiple owners that set out to make improvements to this building, and they failed to get any city permits, and they started work, and the City found out what they were doing and stopped work. At one point, the City was sending the previous owner letters threatening to have it demolished if they didn't get permits and

get some work and clean it up. But right now it looks quite a bit different. The structure is still all there, but they had opened up the walls and the City required it to be secured, so they put zipboard – that green siding-like material – on the building and it's on there kind of patchwork – a piece here and piece there and it looks pretty shabby. I know there have been some vagrants that have been in it, because they're leaving things behind. If we get this house rebuilt and get it all done, it's going to be a nice improvement to the community and it's going to also remove the problem that City staff is having to deal with. What happened is when the previous owner found out how much trouble he was in, he sold this house to the current owner without telling him all of the problems he had encountered. He told him that it was rebuildable and that he could get a permit to do it, and that has turned out to be true. We have a building permit; we just have it without a carport. I took on quite a chore here.

Mr. McCarty – I think he had a specific question, that in the picture it shows like an outbuilding or something. I think that's what he was asking. Is that existing?

Mr. Keen – There's a little building at the southwest corner. It's a metal building – it's something like you would buy, maybe, at Home Depot to put a lawn mower in.

Mr. McCarty – This looks like an attached.

Mr. Keen – That's attached to the building; that's part of the building. The original house was built, I think, in 1948, and that's been there a very long time. It's part of the structure, but it was built on after the original structure. It's on there kind of like a lean-to. It's got a lean-to type roof.

Mr. McCarty – Is it staying, or is it going away when the carport is built?

Mr. Keen – We're going to tear that off and rebuild on the same footprint, so that area will become part of the building, and we're going to take it all the way up to roof. It's going to be two stories tall.

Mr. Worster – My concern was the carport was going to be next to that shed roof.

Mr. Keen – That's right. The carport is going to be up against that.

Mr. Worster – But that's going two stories?

Mr. Keen – That's going to be two stories.

Mr. Worster – So it won't be sitting next to the structure that is currently shown in this picture. The little shed.

Mr. Keen – Well, it will be in that location, but that wall on what you're calling the shed will go all the way up to the new roof.

Mr. Worster – Okay. I was trying to picture a carport next to that. But if you're not doing that. That was my only question.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to approve the special exception for a carport for BOA-2122-20 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, Curtis McCarty
NAYS	None
ABSENT	Patrick Schrank

The motion, to approve the special exception for a carport for BOA-2122-20 as presented, passed by a vote of 3-0.

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

* * *

Item No. 7, being:

MISCELLANEOUS COMMENTS OF THE BOARD OF ADJUSTMENT AND STAFF

None

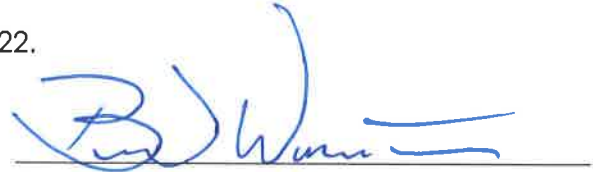
* * *

Item No. 8, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 5:10 p.m.

PASSED and ADOPTED this 22nd day of June, 2022.



Board of Adjustment