

BOARD OF ADJUSTMENT MINUTES

JUNE 22, 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, June 22, 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

Vice Chairman James Howard called the meeting to order at 4:33 p.m.

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Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Brad Worster
Patrick Schrank
James Howard

MEMBERS ABSENT

Curtis McCarty

A quorum was present.

STAFF PRESENT

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

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Item No. 3, being:

APPROVAL OF MINUTES OF THE MAY 25, 2022 REGULAR MEETING

Brad Worster moved to approve the minutes of the May 25, 2022 Regular Meeting as presented. 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
NAYS	None
ABSENT	Curtis McCarty

The motion to approve the May 25, 2022 Board of Adjustment Regular Meeting Minutes as presented passed by a vote of 3-0.

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Vice Chairman Howard announced that 3 votes are required to approve any item; it is not a majority of those present.

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

Vice Chairman Howard announced that the applicant has requested postponement of this item to the July 27, 2022 meeting of the Board.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to postpone BOA-2122-7 to the July 27, 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,
NAYS	None
ABSENT	Curtis McCarty

The motion, to postpone BOA-2122-7 to July 27, 2022, passed by a vote of 3-0.

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Item No. 5, being:

BOA-2122-21 – JESSICA JOHNSON REQUESTS A VARIANCE TO 22:420.2(4)(A) OF 50' TO THE 100' REQUIRED FRONT SETBACK FROM THE CENTERLINE OF THE ROAD FOR PROPERTY LOCATED AT 5105 108TH AVENUE S.E.

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. Worster – It just says an accessory structure; do we know what it is?
Mr. Hubble – I believe it's a storage building.

PRESENTATION BY THE APPLICANT:

1. Jimmy Collins, 2104 W. Boyd Street – What Jessica Johnson is requesting is a 50' setback from centerline of 108th Avenue S.E. Currently, the setback is 100'. What the 100' boundary does to us – it throws this new 40'x60' building into a natural watershed, which we cannot encroach to that watershed. The 50' puts us just perfect. The way this property is located from 108th, you come down the driveway – it's about a 10' drop to the property. I just don't think it really imposes any issue at all.
2. Mr. Worster – Looking at the site plan that was presented, and it shows it as 35' setback, but I'm assuming that's from the edge of the road, so you're thinking it's really going to be 50' from the centerline of the road?
Mr. Collins – Yeah, from the centerline.
Mr. Worster – Then it appears that there's two other structures on the property, or at least large ones. One is kind of at an angle just north of this proposed structure.
Mr. Collins – That's a new garage that was built, I believe, in 2013 or 15, prior to her ownership.
Mr. Worster – From what I could tell, that appears to meet the 100' setback line.
Mr. Collins – It does.
Mr. Worster – You don't have a survey, or any elevation surveys?
Mr. Collins – If we're forced to encroach in that watershed, the way that this highway runs is kind of offset from where the buildings are.
Mr. Worster – So that's the water quality protection zone – the yellow dashed line there. I believe you can mitigate that by doing some engineering work, and I think that line is estimated and that you can then do survey work to define exactly where that is, in which case it may not be where it's shown on here. But you would have to have a surveyor come out. Todd McLellan would be the one that would have an answer to that.
Mr. Collins – During permitting, in talking to everybody, from Tammi on up to Greg, is that it's actually wider than what is shown here. The topography really goes kind of into a little valley there.

Mr. Worster – I believe that yellow dashed line is an approximation, but without a survey of actually knowing what's there I think the City just assumes that yellow line is correct. It still appears that there would be room to stick a 40'x60' building still behind the 100' mark. It's kind of hard to tell.

Mr. Collins – The actual building pad itself will be 60' is the actual width for the building site itself – the foundation and all the concrete and everything.

Mr. Worster – Did you also consider other locations on the site, like on the north side of the house. Is the setback for A-2 on the side yard 25'? We don't really have everything to scale, but is there some other locations on the site that aren't encroaching?

Mr. Collins – This entire location – outside of this location is very, very sloped. The other issue is we have power. OG&E actually in the last – I don't know how many year's it has been – it has been since these photos have been taken in Google – has set high line wires on this side of the street now. So now we have OEC on one side, OG&E on the other. We've talked to OEC. The only way OEC can bring power in, which we would need, to anywhere outside of this area, involves boring underneath the street, but they cannot cross under an OG&E line. So it really raises the difficulty in placement.

Mr. Worster – So I guess you couldn't run a separate panel or submeter off of the house and call it a new service to this new building.

Mr. Collins – We're actually going to go from the garage. That's exactly the plan.

3. Mr. Howard – Are there other properties in the area where their structures are closer to the road than the 100' setback from centerline that you're aware of?

Mr. Collins – There is just approximately a half mile up the road, there is a fairly new home and buildings that were built, probably as recent as maybe 5 years ago. But outside of that, it's a pretty sparsely populated area.

Mr. Howard – That's assuming that they're zoned the same way as this particular.

Mr. Collins – It should be, I would assume.

Mr. Howard – What's the drop off, roughly, from the western edge back to the eastern portion?

Mr. Collins – From the top of the driveway – actually, the curb of the street, if there was a curb, it's a little over 10' to the 25' into the property. I do have a photo that kind of shows the garage – the garage roof is about level with the street.

Mr. Howard – So what makes this particular location ideal?

Mr. Collins – It's fairly level, and the placement of the electrical.

Mr. Howard – So this is being based upon a shorter length of electrical run?

Mr. Collins – Yes. An actual doable electrical run.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. Worster – I think we got a lot more information from the applicant there than we had in our packet, so that clarifies some things for me. I think there's some other alternatives versus just going straight to a variance and I don't know how well those were explored. I think a survey would have been helpful. The only thing we have to go on is the City's GIS

system that has approximations on elevations and location of the water quality protection zone. I've had some experience with surveying the water quality protection zone before and that can be moved backwards; sometimes it's ridiculously expensive, but I don't know that the applicant has investigated that option without having survey or engineer work done.

Patrick Schrank moved to approve a variance of 50' to the 100' required front setback from the centerline of the road for BOA-2122-21 as requested. Brad Worster seconded the motion.

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

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

The motion, to approve variance BOA-2122-21 as requested, failed by a vote of 1-2.

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

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Item No. 6, being:

BOA-2122-22 – WAYNE & DIANE PENSE REQUEST A VARIANCE TO 22:420.2(4)(A) OF 23' TO THE 100' REQUIRED FRONT SETBACK FROM THE CENTERLINE OF THE ROAD FOR PROPERTY LOCATED AT 7225 EAST LINDSEY STREET.

ITEMS SUBMITTED FOR THE RECORD:

1. Staff Report
2. Location Map
3. Application with Attachments
4. Copy of Offsite Construction Permit

PRESENTATION BY STAFF:

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

PRESENTATION BY THE APPLICANT:

1. Wayne Pense, 7225 E. Lindsey Street – This might sound like a saga, and I'm sorry. Over a year ago, I came in to see what I needed to do to get my building permits and site permits and all this in order to put in a 30'x40' garage. I got the off-site permit and at the time I also had to submit a site permit to get the off-site permit approved. At that point in time it was never ever laid out to me that I had to be 100' from the center of the road. My opinion is if this is what's known going on, people should be aware of this. There should be a packet or something that people should see that has, okay, you've got to be 100' off the road. But what I did is I did have Miles Cotton come out and I had everything staked out and I said this is where I would like to put the new tinhorn and the approach, and this is where I would like to have the building, and he said it all looks good to me. So therefore, I went ahead, not knowing that Miles was only an off-site inspector – paid \$3,500 for site work to be done in order to elevate an area because, if you've been over to 72nd and Lindsey, you know 72nd is at the top of the hill and then it goes downhill and it goes back uphill and then goes down to 80th. Well, at that point in time, that was the money that we had exhausted, because you do things as you have the money to do them. So we thought this year we'll get the concrete poured and get the tinhorn closed in and all that stuff. Whenever I came in with the request for the paving plan, come to find out I had to be 100' off the center of the road. So a year later, after I've had this done, I'm finding out then that I have to move the building backwards. So I went out and I measured the road, and it's only 20' wide, not 33' wide, and I was actually sitting at 60' from the edge of the road, which would have been 70' from the center of the road. So I moved everything as far back as I could to still be on the area that the site work man did for me, and I could gain 7' that way, so actually I am 77' – I'm sorry, 67' from the edge of the road and 77' from the center of the road, because it's not a super wide road out there – Lindsey isn't. It's just a 20' asphalt road. Therefore, that's why I'm requesting a variance for one, is in order to be able to maintain my building on the site that I thought, according to what I had been told at the time, was a good spot for the building. The second thing is the house sits up on the hill, if you see my site plan there, and so it runs downhill down into the pasture area where I'm putting the building, and I did have to have the ground work done and everything so it shovels the water off to the side of the building and diverts it away from the building. So I do

have a lot of watershed that comes down the hill before it gets back up to the hill, probably around 76th or 75th in that neighborhood over there. Those are the big things. It was just not very clear right from the beginning exactly where I was supposed to put this. And going off of what I assumed was a knowledgeable source as far as the City inspector being out there telling me it looked good to him, I was going to assume that it was good. I guess that's the short saga. I think I've got two or three other reasons on my little form that I filled out, but that's the long and short of it, I think, pretty much. I can't remember all the reasons I put on there; it's been a month.

2. Mr. Worster – So the work you've done now is the approach tinfoil and the dirt work for where you thought the building pad was going to be and grading going around it so all the water is going where it needs to go.

Mr. Pense – Yes. There's not been any concrete poured yet whatsoever. The tinfoil still needs to be cemented in on the ends and the driveway approach up to the building, which right now I'm looking at a 67' driveway. That's a long driveway to get to the building. But, yes. That part has been done. And then as it comes down the hill into the pasture, they had to grade huge amounts of dirt and compact it all so it's been settled and compacted there for over a year now. As he came down the hill he scooped the dirt off and made it so that it went around the back side of the building and it wouldn't creep back uphill to a pad that he created. Yes.

Mr. Worster – Then it looks like you modified, maybe, your plan from the original – from a 30' drive that then looks like it maybe went out to 45' and now you're just showing it as 25' wide.

Mr. Pense – No, it's going to be a 20' driveway, 67' long to the front of the building from the edge of the street – or 77' long from the center of the road to the edge of the building. So I'm just requesting a variance of 23'. What's on my block? One, two, three houses once you get past east of 72nd.

4. Mr. Howard – I am a little bit confused on this plan versus this plan. So this plan shows the ...

Mr. Pense – That's old. That's more appropriate. Yes. Because 30'x40' is there and the 77' driveway up to the center of the road.

Mr. Howard – Can you explain the 30'x40' concrete pad that's behind.

Mr. Pense – That's the building itself.

Mr. Howard – So 30'x40' shop and then 30'x40' concrete pad.

Mr. Pense – 30'x40' shop and then 20' wide 77' long driveway, or 67' driveway, if you measure from the street or from the center of the street.

Mr. Howard – Sorry. I was just having some difficulty understanding the drawing.

Mr. Pense – Revisions, revisions.

5. Mr. Worster – Now I think I'm more confused.

Mr. Howard – So ignore that. That's the shop.

Mr. Pense – Let's see if I've got something a little more plain for you.

Mr. Schrank – This is the accurate one?

Mr. Pense – Yes, sir. That's the one that they're looking at. This is showing it a little bigger. At one time, I had grandiose plans with concrete not being as expensive. I was

going to widen the driveway out and have this RV cover and all this stuff, but, again, the price of concrete. What I still did was I kept the 30'x40' shop and then just a 20' drive with 77' to the center of the road.

Mr. Howard – That's it?

Mr. Pense – Yes.

Mr. Worster – Okay. Thank you.

Mr. Pense – I'm just trying to save thousands of dollars in more site work. I'm going to play the disabled Vet card deal on you, fixed income, that sort of stuff. My wife is out on rheumatoid arthritis, as far as that goes. We're trying to get this show. As our family members have died, we've got their old cars. We've got her father's old car, and my father's old Belaire, and my brother's old Mustang, and I'm trying to get them out of the weather and just preserve the stuff so it can be handed down, and this was how we had thought about doing it. Like I said, if they'd said right off the bat, no, you've got to be 100' off the street, I'd have had the site work done 100' back off the street, and now come to find out I was 23' short.

6. Mr. Howard – Are you aware of any other structures in the area that are within that 100' from the centerline?

Mr. Pense – My neighbor, Speed Butler, he's at the corner of 72nd and Lindsey, and I know he has a shop that faces the east in behind his house and I believe he got a variance to put his in closer to the street because I'm saying he's about 75' from the center of the street with his shop. The rest of the structures over there are older structures. The housing addition over there – it's not really an addition; everybody has got acreages. In fact, we had to stretch way out to find enough people for the mailout for the variance. But that's the only building that I know. Now there's another one, I'm saying, that's down off of 72nd and Franklin, I want to say, that's suspiciously close to me, but I can't say it's within variance or not. I couldn't tell you. I would hate to point it out and go they're too close and they are not, you know. We're just trying to do it right, and if we had known up front it would have been wonderful. I would have had 20' more of dirt piled in behind the thing.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Mr. Worster – I did look and see that the original off-site construction permit does say approach for a metal building. I don't know if all these drawings were attached to it or not. I can see how it ended up this way. You don't know you're not talking to the person that knows everything. I've been there myself before, and more often than I'd probably like to admit. So I guess I can see how somebody could have pointed a finger to the building permit desk or somewhere else and that might have avoided the whole thing. But I don't necessarily see that the City did anything wrong considering the information that was provided. The original permit was for site work and that's what was approved. They could have maybe seen forward, but that's asking a lot. I don't necessarily see where the – other than the cost of dirt work – and I'm also trying to think 20 years from now when someone else looks back at this and says why is that building

closer to the street – would they be able to look at that and determine, oh, there were situations with the site made them do that closer to the street, or would someone else, then, want to build their building closer to the street because this one was. As much as I feel for the applicant on that one, I don't know that it's a reason for a variance.

Mr. Schrank – Kind of a tough one. I assume that the setback is really there for future growth – that if the street is widened that structures aren't too close to the street. At the end of the day, the applicant has to live with it. So that's where I'm a little bit conflicted.

Brad Worster moved to approve the variance of 23' to the 100' required setback from the centerline of the road for BOA-2122-22 as presented. Patrick Schrank seconded the motion.

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

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

The motion, to approve variance BOA-2122-22 as presented, failed by a vote of 1-2.

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

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Item No. 7, being:

BOA-2122-24 – JOHN ANTONIO REQUESTS A VARIANCE TO 22:421.1(3)(C) OF 1'10" TO THE 20' REQUIRED REAR YARD SETBACK AT THE NORTHEAST CORNER OF THE LOT FOR A GARAGE ADDITION TO ACCOMMODATE A HANDICAP VAN FOR PROPERTY LOCATED AT 515 EVERGREEN 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. Howard – In the past, we've made special considerations for ADA issues. Would this fall within that realm?
Ms. Muckala – I think you're referring to some previous applications that had previously requested ADA accommodations separate of BOA variances. This was brought as a variance; it wasn't presented as an accommodation request. So I'm not aware of a similar situation we've had where we've granted an ADA accommodation such as this.
3. Mr. Worster – It looks like we're adding a lot of concrete to the site. It does still stay under the 60% lot coverage?
Mr. Hubble – Yes. I believe there was a mistake with the site plan that was submitted. All that's shown as new concrete I believe it's existing right now. And, yes, it will stay under. It's shown on here in the utility easement, which is where it is currently. We've explained to them that if they remove what is in the utility easement, they will not be able to put it back there. I just wanted to make that clear.

PRESENTATION BY THE APPLICANT:

1. Rick McKinney, McKinney Partnership Architects, representing the applicants – To clarify in the request for the variance, it says that we wanted the garage to encroach 1'10". The garage is going to encroach about the size of this notebook. It's 1'10" triangle – it's just a corner of the garage that barely sticks over. But I think the more important thing is the reason for this garage is the Antonios are desiring to build an additional garage that accommodates their handicap van. Robin is here today; she is a quadriplegic. The van – they're somewhat oversized and then they have a ramp that folds out that allows the wheelchair to go, and if you look at the plan we have designed a special garage door on that side of the garage where the ramp can fold out and she can access the van. Plus, if you look also on the plans, the modifications to the existing garage – we're going to take half of that and make a mud room, but more importantly an accessible storm shelter that she will be able to access easily. That leaves half of a garage, which is kind of a convoluted layout, but he's got a Mustang so it will stick in what's left of the garage, but then they'll have a two-car garage they can use day in and day out. So this truly is a necessity for her handicap condition. The driveway, if I could share something – I don't know what kind of pictures you've got – shows the utility

easement and the 20' building setback. The driveway projects a couple of feet into that easement. I have advised them that that's an existing condition and that if the utility needs – whether or not it's an existing condition, it's still a private improvement, and if they needed that easement that the owner would be required to cut and remove that driveway and replace it at their expense. So our request is to allow the 1'10" corner of this garage to project slightly into the 20' setback.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Patrick Schrank moved to approve the variance of 1'10" to the 20' required rear yard setback at the northeast corner for BOA-2122-24 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
NAYS	None
ABSENT	Curtis McCarty

The motion, to approve variance BOA-2122-24 as presented, passed by a vote of 3-0.

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

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Item No. 8, being:

MISCELLANEOUS COMMENTS OF THE BOARD OF ADJUSTMENT AND STAFF

None

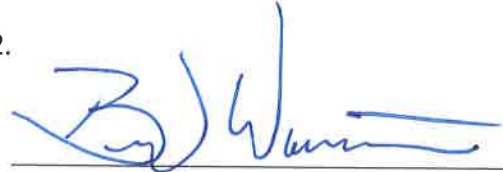
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Item No. 9, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 5:14 p.m.

PASSED and ADOPTED this 27th day of July, 2022.

A handwritten signature in blue ink, appearing to be "B. J. Williams", written over a horizontal line.

Board of Adjustment