

BOARD OF ADJUSTMENT MINUTES

AUGUST 24, 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, August 24, 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 4:31 p.m.

Mr. McCarty introduced new Board member Micky Webb and welcomed him.

* * *

Item No. 2, being:

ROLL CALL

MEMBERS PRESENT

Brad Worster
Micky Webb
James Howard
Curtis McCarty

MEMBERS ABSENT

None

A quorum was present.

STAFF PRESENT

Lora Hoggatt, Planning Services Manager
Logan Hubble, Planner I
Roné Tromble, Admin. Tech. IV
Beth Muckala, Asst. City Attorney

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Item No. 3, being:

APPROVAL OF MINUTES OF THE JULY 27, 2022 REGULAR MEETING

Brad Worster moved to approve the minutes of the July 22, 2022 Regular Meeting corrected to show the vote on Page 13 as Brad Worster, James Howard and Curtis McCarty voting Nay. James Howard seconded the motion. There being no further discussion, a vote was taken with the following result:

YEAS	Brad Worster, Micky Webb, James Howard, Curtis McCarty
NAYS	None
ABSENT	None

The motion to approve the July 27, 2022 Board of Adjustment Regular Meeting Minutes as corrected passed by a vote of 4-0.

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Item No. 4, being:

BOA-2223-3 – WAYNE & DIANE PENSE REQUEST A VARIANCE TO 22:420.2(4)(A) OF 20' 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. Statements of Support (6)

PRESENTATION BY STAFF:

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

PRESENTATION BY THE APPLICANT:

1. Diane Pense, 7225 E. Lindsey Street – As you know, my husband was here in June of this year and you previously denied the variance. At that time, we were told that it was an easy process and the people in the Planning and Development office did not see why it would not be granted. Because of this, I prepared a rather large packet of information for you. I believe that I needed to address as many of the four reasons for a variance that apply in this instance. First, the issue of this not being our fault. In the packet I outlined with supporting documentation from the first contact with the Planning and Development office to now. At the meeting with Julia Yoon, you will note that the site plan with measurements was given to her. According to Greg Clark, the manager in the Planning and Development office, the initial thing needed is a site plan. This was given to Ms. Yoon and subsequently to Jack in off-site permits. She looked at the documents submitted and sent my husband to obtain an off-site permit. At that time, he also had the construction permit form completed. There was no mention of setback distances, etc. In fact, we did not receive any papers regarding what is okay and not okay in our zone until Mr. Logan Hubble gave this to me in July of 2022. The initial question my husband had when he had phone and in-person contact with Ms. Yoon last year was I want to build a shop on my land; what do I need to do? So no one reviewed the plan to tell us the setback was too short, and no one gave us information of requirements to build. This is the office that handles that; this is where people come for guidance and support in building in Norman. That's per the City website. Thus with our permit we had Davis Bulldozing prepare the site and paid him over \$3,600 to complete site work and paid for tin horns, only to find out that the site is not acceptable. Now if this were our fault we would not have had the first application for this meeting – the fee waived by the Planning and Development office. Do you all have any questions on the first section with all the papers I gave you? Or do you want to do those when I get done?

The second reason for a variance is the land itself. As noted in your packet, we have 6.3 acres, not the 10 acres which is usually seen in Ag-2 zoning. The property is not accessible from the east due to a pond and creek on the east side, and we do not own the land leading up to the road at this portion of the property. The remainder of the acreages come down to a valley which floods every spring. The south side of the

property is elevated, so essentially the water ends up in the middle and more north, and you can see in the papers that I gave you it's like a 5' elevation that we had to have just to prevent water intrusion and obtain a level pad where we are. I've noticed in previous meetings that Mr. Worster has mentioned surveys and engineers. While it may be feasible in a few instances, this would fall under the setting of undue hardship on the property which is unnecessary to carry out the spirit of the ordinance. Moving the site northwards would obstruct the view from the porch and bay window as our home faces the pond and not the street. Putting a road in from south to north – in other words, on Lindsey Street – would mean elevating it with dirt hauled in and building some means for diversion of water. Then we risk washout of the road with heavy rains. In addition, the entire pad, which is already done, would have to be moved to the north end of the property. Flooding has occurred up to the white barn, and I gave you a picture of that so you can see where it sits. And, thus, the site there would have to be elevated as well.

And the last two reasons for granting a variance seem to be very similar. There are numerous houses, shops, carports, etc. in the Ag-2 area that do not meet the 100' setback line. Many of these are after annexation and the ordinances were enacted. While previously Mr. Worster was concerned about 20 years from now someone would wonder why the shop was closer than 100'. I could say the same about the buildings that are already less than 100'. Mr. Shrank is not here, but Mr. Shrank made mention of the setback possibly being there for future growth in case the street was widened. However, the other zones which are in the district have shorter setback lines. Residential Estate has a setback line of 50' and Ag-1 is 25'. So the need for distance for street widening would not be correct. So, in essence, we are not asking for something which isn't in the area, nor getting a privilege someone else wouldn't. In fact, we are the ones being denied. If you need locations of those other properties, I have those as well.

2. Mr. McCarty – So the long and short is you weren't aware there's a 100' setback. Right?

Ms. Pense – No one told us.

Mr. McCarty – Built the pad and so now you can't be permitted because you're less than 100'.

Wayne Pense – Yes. When I first came in, I spoke to Julia Yoon. First, I called her on the phone and then I came in and spoke to her personally, and I had my site plan and I had my dimensions and I had everything, and I said this is what I want to do. At that time she looked at those papers and she says, well, let me get you over to off-site, that way you can start your ground work. So I went over there, got my permit from Jack – I don't remember Jack's last name. And that's where it went. So we followed through.

Ms. Pense – And there was nothing until you go to do your construction and it says you can't do this. We were never given any information of that from the very beginning.

3. Mr. McCarty – What's different on this application from the previous application?

Ms. Pense – We shifted a little bit to the north. Really, I wanted you to understand the layout of the land, the problems that we have with moving it further in or even to the other side, and it's not even feasible to go east because we don't own the way to get to that side of the property – there's a pond and a creek that stays wet.

Mr. McCarty – How far did you move it from previously?

Ms. Pense – About 3'. If I move it in more – so from my porch, because, obviously, the house faces the pond – if I move it in more – I think we showed you a picture in there – the view directly from the front of the house. In addition to that, if I tried to scoot it over from there – every bit that we move over north puts us more in the flooded area.

Mr. Pense – Plus, the building was flopped. Instead of being 30' wide facing Lindsey, I shifted it which is really to my disadvantage as far as what I want to do with it, but I made it to where it was 40' facing Lindsey.

Ms. Pense – With what's already been constructed, scooting it back a lot more than that takes us off of that 5' elevated thing that's already been built.

Mr. Pense – And then we drove around through town and the area and we find barns that are 45' from the center of the road. We find buildings that are 60-something feet from the center of the road. We find a brand new house being built that's 80' from the center of the road at 68th and Rock Creek Road. This is a big brand new two-story house; what's going on here?

4. Mr. Howard – So there has been a revision to this particular site plan that you're providing today. Is that correct?

Ms. Pense – He shifted the building – rotated it. There's really not a whole lot of room to come off of what's already there without obstructing the view from the house and going into that area that floods.

Mr. Pense – Start falling off the back of the pad.

Mr. Howard – But by turning it 90° you increased the distance from the centerline of the road to the building. Correct?

Ms. Pense – A little bit that we could.

Mr. Howard – And you do have evidence of other buildings nearby that are closer.

Ms. Pense – Absolutely.

Mr. Howard – That was one of the questions I had asked.

Ms. Pense – And I have the addresses if you need them.

Mr. Howard – That would be beneficial. Absolutely.

5. Mr. Webb – Was that the biggest reason it was denied before?

Mr. Howard – There were various reasons, but that was one of the questions that was asked.

Mr. Webb – In my review of it, it seems like there's a lot of gray area on several of the things. I think we should be able to figure out a way to be able ascertain these things, given the circumstances that these people have been through. I think we ought to give them that consideration. That's my opinion.

6. Mr. Worster – If you have some of those addresses, I'd be happy to look at those. I'm trying to do this from my phone on Google Earth here and that's a little challenging. But I made it down a couple miles – well, maybe not a couple miles – I have no idea how far – several blocks at least and I'm not seeing anything closer than 100' on Lindsey.

Ms. Pense – Lindsey goes from 72nd to 84th – and that's the area where the turnpike is going to go through when it turns. Right on that road there's only our house and I think a house up on the top of the hill and then it goes into Residential Estates. On the right

side, there's one other house. So we're looking at the district and Ag-2.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

1. Mr. Howard – There's the mention of flooding in this area. Do we have anything on any of our maps?

Mr. Hubble – No, there's nothing official. No floodplain or anything there.

Mr. Howard – Do you have photographs of that, too?

Mr. Pense – Yes, I do.

2. Mr. Webb – When was this annexed?

Mr. Hubble – I don't have that date.

Mr. Webb – I mean was it a long time ago?

Mr. Hubble – Yeah.

Mr. Webb – So it's been in the City for many years.

Mr. Hubble – I'd say at least 60 years. I don't know the exact.

3. Mr. Howard – Is it okay if we see the pictures, too?

Mr. McCarty – Yeah.

Ms. Muckala – Just a matter of procedure. To the extent that the applicant is presenting that information to establish the uniqueness, I would ask that we get copies of that for the record so we can put it in the application file.

Micky Webb moved to approve BOA-2223-3 as presented. James Howard seconded the motion.

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

YEAS	Brad Worster, Micky Webb, James Howard, Curtis McCarty
NAYS	None
ABSENT	None

The motion, to approve BOA-2223-3 as presented, passed by a vote of 4-0.

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

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Item No. 5, being:

BOA-2223-4 – BILL PYEATT REQUESTS A VARIANCE TO 22:421.1(3)(C) OF APPROXIMATELY 2'11", TAPERING DOWN TO 1'11" AT THE NORTH END, TO THE 20' REAR YARD SETBACK AT THE NORTHWEST PORTION OF THE EXISTING HOUSE AND AN ADDITION, AND A VARIANCE TO 22:421.1(3)(B) OF APPROXIMATELY 9.5" TO THE 5' SIDE YARD SETBACK AT THE SOUTHEAST CORNER OF THE HOUSE FOR PROPERTY LOCATED AT 1918 PIN OAK 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.

PRESENTATION BY THE APPLICANT:

1. Mark Krittenbrink, 428 W. Eufaula, representing the applicants – The southeast corner we didn't know. Roné picked up on that when we were going through this second application; she pulled it to our attention so we put it in there and I'd like to thank Roné because she said if they ever sell this property you'll want to have that all wrapped up. So we also added the part of the bathroom area that extends over that's already in non-compliance. So thank you for that suggestion. So that little tip at the southeast corner we didn't know about. We actually didn't know about the other overage until we went through the process. So, Micky, a little bit of background – I was here a month ago and we had proposed – Sharon and Bill Pyeatt live in this house; they bought it as is and have made cosmetic changes. Sharon is increasingly immobile and most likely will need assistance moving around at some point in time, so we're going through and making the two areas of their house which are difficult for her – the master bedroom/bathroom and the kitchen – to make them more spacious where she can get around. As you will remember, we added on to an already non-compliant situation which we didn't know about until we got too far into it, and it was turned down. At that time, I asked if we were to just extend that rear yard line that's encroaching, if we don't go any farther than that and just extend that line, would that be something that the Board could live with, and I got the impression that it was. So that's what we've done. As has been stated, we start out here at 2'11" over; we go down to 2'6" and we pick that up and keep that same line going and then we end up about 1'11" off. What we've done, we've just wrapped it around, still not violating the bedroom windows. We feel like this still accomplishes what the owner would like and yet, hopefully, complies with something that the Committee can get behind. Every adjacent neighbor around the cul-de-sac and behind have sent an email voicing they have no objection or their support for this. I'd be happy to answer any questions.

2. Mr. Webb – So basically you're asking us to approve this based on your non-conformity to start with. That's the justification, is because it's non-conforming now.

Mr. Krittenbrink – It's non-conforming now and that's where the rear of the house is, so we were just extending that over as opposed to encroaching any more. The owner

bought it like this. They didn't know it was non-conforming.

Mr. Webb – Well, I'm sorry they didn't know. But it's still a lot to ask for us.

3. Mr. Worster – You're saying it's tapering – so the house isn't square to the rear property line? You're continuing the back of the house straight across, so that's why we're getting the taper.

Mr. Krittenbrink – It's kind of a trapezoid lot.

4. Mr. McCarty – I can't read all of your coverages, but I assume that the coverage ratio is fine.

Mr. Krittenbrink – It's way under. It's a big lot.

AUDIENCE PARTICIPATION:

None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Brad Worster moved to approve the variance to the rear yard setback and the side yard setback at the southeast corner for BOA-2223-4 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	Micky Webb
ABSENT	None

The motion, to approve variance BOA-2223-4 as presented, passed by a vote of 3-1.

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

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Item No. 6, being:

MISCELLANEOUS COMMENTS OF THE BOARD OF ADJUSTMENT AND STAFF

Mr. Webb said he looks forward to working with everybody.

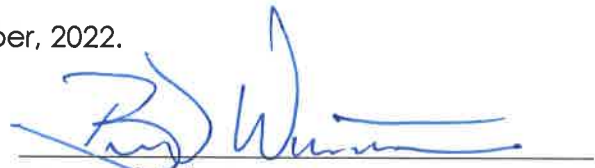
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Item No. 7, being:

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 4:58 p.m.

PASSED and ADOPTED this 28th day of September, 2022.



Board of Adjustment