

**City of Leawood
Board of Zoning Appeals Minutes
September 26, 2018 – 5:30 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211**

CALL TO ORDER/ROLL CALL:

Chairman Clawson: I'd like to call to order the August 22, 2018 Board of Zoning Appeals Meeting. Could I have roll call, please?

MEMBERS PRESENT: Munson, Dr. Peppes, Clawson, Hawk, Bussing, and Farrington

MEMBERS ABSENT: Dunn

STAFF PRESENT: Thompson, Knight

APPROVAL OF MINUTES: Approval of the minutes from the August 22, 2018 Board of Zoning Appeals meeting

A motion to approve the minutes from the Board of Zoning August 22, 2018 Board of Zoning Appeals meeting was made by Hawk; seconded by Dr. Peppes. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Chairman Clawson: We have a number of cases in New Business.

NEW BUSINESS:

Case 42-2018 Mark Olson/Owner - Request for a side yard setback in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 2020 W. 96th Street.

Wade Thompson made the following presentation:

Mr. Thompson: The applicants would like to remodel the home that includes an addition on the front. It would be 12' from the east property line. The home was originally constructed 10' from the property line in question.

Chairman Clawson: Are there questions for staff? Is the applicant here?

Applicant Presentation:

Mark Olson, 2020 W. 96th Street, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Olson: We're adding on to the home to match where the house joins the current house, which is 10', and our addition is 12' from the property line. We are asking for that variance.

Chairman Clawson: This actually falls under the requirements for an exception, which is better than requesting a variance. Are there any questions for the applicant? The existing house was 10'1"?"

Mr. Olson: Yes, it is just over 10', and we would like to match the addition up to where it currently sits. We're putting a kitchen on that side, and it would shrink the kitchen down and change the layout quite a bit to comply with the new ordinance. Obviously, if we tore the house down, we would comply with that, but since we are building on to the existing structure, we're asking for the exception.

Chairman Clawson: Is there anyone here who wishes to speak for or against this application?

A motion to approve Case 42-2018 Mark Olson/Owner - Request for a side yard setback in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 2020 W. 96th Street – was made by Bussing; seconded by Hawk. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Case 43-2018 Keith Mader/Applicant; Jeff Stocker/Owner - Request for an exception to the front setback in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 12604 Overbrook Rd.

Staff Report:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant would like to add a covered entryway to the front of the home. Because the adjacent home to the west is facing Cherokee Lane, the front yard average is skewed and raises the front yard average. The project as shown on the plan is 8'x8'. If constructed, it will be behind the 40' platted front build line and approximately 59' from the curb.

Mr. Munson: The only kicker is the adjacent property?

Mr. Thompson: Right.

Chairman Clawson: Are there any other questions for staff? Is the applicant here?

Applicant Presentation:

Jeff Stocker, 12604 Overbrook Road, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Stocker: We really are just looking to build a covered portico for the front of our home. We have a pretty unique situation. My home in Leawood South has the Leawood City storm drain running through the front yard. As such, all the houses on Overbrook have a variety of setbacks. The house next to us sticks out about 10'. That is what the exception is for.

Chairman Clawson: Are there questions for the applicant? Thank you. Is there anyone here who wishes to speak for or against this application? Do we have a motion?

A motion to approve Case 43-2018 Keith Mader/Applicant; Jeff Stocker/Owner - Request for an exception to the front setback in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 12604 Overbrook Rd. – was made by Munson; seconded by Farrington. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Case 44-2018 Nathaniel Jewell/Owner - Request for an exception to the maximum allowable square footage on a lot in accordance with the LDO, Section 16-2-5.3(F) 2 in an R-1 District for property commonly known as 9414 Meadow Ln.

Staff Report:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant would like to remodel the home, which would include a second story. This lot allows a home to be constructed that is 4,521 square feet. Per the plan, the new home will be 5,326 square feet, for an 18% overage.

Chairman Clawson: It is an exception because it is less than 20%.

Mr. Thompson: Yes, sir.

Chairman Clawson: Questions for staff?

Mr. Munson: That particular neighborhood has a number of older homes. Is that correct?

Mr. Thompson: Yes, sir.

Mr. Munson: How does this match size and appearance of those homes?

Mr. Thompson: The current home matches 90% of them. There are only two other two-story homes on the whole block of nearly 17 homes.

Chairman Clawson: Are there other questions for staff? Is the applicant here?

Mr. Bussing: I'm unclear on the math. They want to build a home with 5,320 square feet total, which is 18% over the allowable amount of 4,521. I don't understand the staff comment of 2,398 and 805. Where does that come in?

Mr. Thompson: The new addition would add 2,398 square feet. When we subtract what is allowed from what the new home is going to be, the difference is 805 square feet. They are allowed to construct 4,521 square feet.

Mr. Bussing: But they are going to construct 5,326 square feet.

Mr. Thompson: Yes, and the difference is 805 square feet.

Applicant Presentation:

Nate Jewell, 9414 Meadow Lane, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Jewell: We wanted to add a second level to our home and get some bedrooms up there. We've had a couple extra kids. We really love the neighborhood and want to stay for that reason. There have been a lot of newer homes with a second level that have been added into that area over the past few years. I didn't want to tear down the entire house and start from scratch. I wanted to see if I could add a second level to the home. It's very feasible to do that, but there are a couple exceptions that have to apply before we can do that. This does go over the maximum square footage but stays under the 20% for the exception.

Mr. Hawk: Could you have reduced the size of your intended expansion?

Mr. Jewell: Not for the number of bedrooms. For the entertainment room, it would make it less usable. With the width of the original home on the lot, I wanted the second story to match it more aesthetically. I didn't want one of those homes that has a big first floor with a little box on top. I felt like this would look better if it was all one consistent piece between the first and second levels. That's why I didn't want to reduce it too much.

Chairman Clawson: The existing foundations will be maintained.

Mr. Jewell: Correct.

Mr. Munson: What does it look like now, and what will it look like after it's done if you get permission?

Mr. Jewell: We have photos of the home now (*placed on screen*). It is a ranch with a partly-finished basement down below, but there is currently no second level. On the front elevation, there will be no change to the first floor on the north and south sides. We are expanding the garage, so there will be some extension toward the front. That does not affect our encroachment on the side at all. The second level is really what is new. It will just go up from the existing building.

Chairman Clawson: The square footage is calculated based on the lot?

Mr. Thompson: Yes, sir.

Dr. Peppes: I'd like to make a couple comments. This is a block away from my home, and I walk the street every day. Meadow Lane north of 95th Street does have two-story homes that are teardowns and rebuilds. They're beautiful. There are also two houses that have second stories that back onto the back yards that don't show the second story because the front side is without dormers. Dormers are a big concept on that block. I think his plans are going to match it very nicely. As soon as you cross 95th Street on Meadow Lane, you've got three teardown/rebuilds with two stories right away. On Meadow Lane south of 95th Street, there are about 8-10 two-story houses there. What is happening in this area is people are staying there and either tearing down and rebuilding or putting on a second floor because the lot sizes are a really nice size for a family to have a back yard. I think this ties into the neighborhood beautifully. His lot, in particular, has some great trees on it and stuff that aren't going to be touched. To be honest, you're not going to see that second story very much except during the wintertime. It's a great plan.

Mr. Jewell: We've got approval from the HOA.

Dr. Peppes: I'm not looking in your windows or anything; I'm just walking by.

Chairman Clawson: Other questions for the applicant? Thank you. Is there anyone here who wishes to speak for or against this application? Is there a motion?

A motion to approve Case 44-2018 Nathaniel Jewell/Owner - Request for an exception to the maximum allowable square footage on a lot in accordance with the LDO, Section 16-2-5.3(F) 2 in an R-1 District for property commonly known as 9414 Meadow Ln. – was made by Dr. Peppes; seconded by Farrington. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Case 45-2018 Nathaniel Jewell/Owner - Request for an exception to the side yard setback (south) in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 9414 Meadow Ln.

Staff Report:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant is planning a remodel of the home, which includes a second story. The home was originally constructed 11.5' from the north property line. The plan shows the addition will maintain the existing encroachment. A request for 3.5' is needed for the current design.

Chairman Clawson: Are there any questions?

Ms. Farrington: The report we're looking at says it is the north side, but you stated south. I wanted to clarify.

Chairman Clawson: The minutes say, "south." The Staff Report says, "north."

Mr. Thompson: This will be the north side.

Chairman Clawson: This is the north side we will talk about first. Are you adding anything on the north?

Mr. Jewell: On the north side is the garage. The garage is grandfathered in because it's from 1958. That is not changing. It is still going to be a two-car garage; we just wanted to get more length. We're extending it toward the front street, so we're maintaining the distance that we currently have on the garage south wall to the side property line. We're not getting any closer. We're just extending that same line that's been there since 1958 and just moving it closer to the front street to get a longer two-car garage.

Chairman Clawson: Are there questions for the applicant? Thank you. Is there anyone here who wishes to speak for or against this application? Do we have a motion?

A motion to approve Case 45-2018 Nathaniel Jewell/Owner - Request for an exception to the side yard setback (south) in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 9414 Meadow Ln. – was made by Farrington; seconded by Hawk. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Case 46-2018 Nathaniel Jewell/Owner - Request for an exception to the side yard setback (north) in accordance with the LDO, Section 16-2-5.3 (D) in an R-1 District for property commonly known as 9414 Meadow Ln.

Staff Report:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant is planning a remodel of the home that was originally constructed 14' from the south property line. The project includes a second story that will be in line with the existing southern vertical wall. The addition will extend west, keeping the existing 1' encroachment.

Chairman Clawson: Are there questions for staff?

Applicant Presentation:

Nathaniel Jewell, 9414 Meadow Lane, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Jewell: This will be the south side of the house. This is going to be in line with the preexisting southern wall, which is within 15'. We're building it right on top of the

existing wall. We have designed in some bump-ins and bump-outs for windows so it's not a single wall on that side, but it needs to be in line for structural reasons. That is why we are asking for a setback exception.

Chairman Clawson: Questions for the applicant? Thank you. Is there anyone in the audience who wishes to speak for or against this application? Is there a motion?

A motion to approve Case 46-2018 Nathaniel Jewell/Owner - Request for an exception to the side yard setback (north) in accordance with the LDO, Section 16-2-5.3 (D) in an R-1 District for property commonly known as 9414 Meadow Ln. – was made by Dr. Peppes; seconded by Bussing. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

Case 47-2018 Andrew Shermerhorn & John Barry/Owners - Request for a fence height exception in accordance with the LDO, Section 16-4-9.4 in an R-1 District for property commonly known as 2033 W. 95th Street.

Staff Report:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant would like to replace an existing 4' wooden fence with a new fence that will have two sections to include 6' tall fences. The 6' sections are on the front of the home as well as portions on the east and west sides as shown on the provided map.

Chairman Clawson: Are there any questions for staff?

Dr. Peppes: The rest of the fence is 4' wood?

Mr. Thompson: Yes, sir.

Chairman Clawson: Other questions for staff? Is the applicant here?

Applicant Presentation:

Andrew Shermerhorn, 2033 W. 95th, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Shermerhorn: The remainder of the fence would be 4' but chain link. What happened in my neighborhood is each of us has really large lots, as you can see. There is some aspect in the rear of the yard where it's really nice to see everyone else's large plots. It's almost like a park setting. Closer to the house, a lot of my neighbors have built 4' wood fences and even some privacy fences. That is what we are requesting. We would like to build a privacy fence where we have an existing 4' fence that needs replacement. There are a couple reasons. Primarily, the fence needs to be replaced. We have two dogs. They make a habit of finding the pickets that are broken. On at least one occasion, they have gotten out. We need to repair the fence. The second reason is we intend to install a

pool in the future. We understand that we wouldn't even have to seek an exception, but since we want to build a fence sooner rather than later, we thought we would seek the exception now. We have spoken to both of our neighbors, one of whom had every intention of coming today. She is an attorney, and she is still in court. She wrote a letter that I can provide to staff, voicing her support. My other neighbor on the west side is Dianna. She also expressed her support. We intend to use Tom Burge. He's been to the house and has given us a quote. I think it will match what people see around the neighborhood. It shouldn't stick out.

Chairman Clawson: Were you planning a typical wood fence?

Mr. Shermerhorn: Yes, just a typical wood fence. I haven't picked out pickets, but it's not going to be anything out of the ordinary.

Chairman Clawson: Do you have existing chain link fence around there now?

Mr. Shermerhorn: Yes, and I'm going to replace the existing chain link fence because prior to my moving to the home, trees were allowed to grow up into the fence, and now they're enormous. The fence is actually through a lot of these trees, and the trees have really mangled the fence. Even where I don't install a new wooden fence, at least along the sides, I will install a new chain link. Then in the rear, my neighbor and I have maintained a really nice hedge that has grown over a fence, so we don't want to get rid of that. In the rear of the yard, the fence will stay the same.

Dr. Peppes: And it's not visible.

Mr. Shermerhorn: That's correct. It looks like a 12' green hedge fence.

Chairman Clawson: The chain link that you're going to replace will be 4' or 6'?

Mr. Shermerhorn: It will be 4'.

Ms. Farrington: Can you put the plan up? (*plan is placed on screen*) Are there sections of the chain link that will be 6' privacy fence, or are some sections chain link?

Mr. Shermerhorn: What you see in yellow, I tried to highlight where the 6' privacy fence would be built. I intended for the lines to be even, so the picture doesn't precisely show where the fence will stop on either side. Both of my neighbors have a shed, and I essentially just wanted to go back far enough so that their sheds were on the other side of the 6' fence as opposed to on the other side of the chain link fence. I don't know if this is helpful, but I have pictures of the existing fence.

Chairman Clawson: Is it a legal, nonconforming shed?

Mr. Thompson: It depends on how long they've been there. They're not permitted in Leawood, but if they've been there a while, they're grandfathered in.

Mr. Shermerhorn: I'm fairly confident they've been there a very long time. Dianna Petty has lived there, I think, for a couple decades. The shed on the other side looks fairly old.

Chairman Clawson: Other questions for the applicant? Thank you. Is there anyone here who wishes to speak for or against this application?

Steven C. Johnston, 2032 W. 96th Street, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Johnston: Our property adjoins the back of the subject property, and I just have a comment. My neighbor drew reference to a hedge. We've both maintained this. It's been there for many, many years. We've been there for going on 30 years. I would object to changing the rear fence line because it's literally a greenbelt. It's beautiful, and we both maintain it. I think everything else they're talking about doing is a great improvement.

Chairman Clawson: Thank you. Is there anyone else who wishes to speak for or against this application? Do we have a motion?

A motion to approve Case 47-2018 Andrew Shermerhorn & John Barry/Owners - Request for a fence height exception in accordance with the LDO, Section 16-4-9.4 in an R-1 District for property commonly known as 2033 W. 95th Street – was made by Munson; seconded by Dr. Peppes. Motion carried with a unanimous vote of 5-0. For: Munson, Dr. Peppes, Hawk, Bussing, and Farrington.

A motion to recess into Executive Session to discuss litigation subject to attorney-client privilege for up to 15 minutes; the opening meeting will resume here after that private session at 6:20 – was made by Farrington; seconded by Hawk.

Mr. Thompson: The BZA reconvened into regular meeting session at 6:17.

Chairman Clawson: We have completed our cases tonight.

MEETING ADJOURNED.