

**City of Leawood
Board of Zoning Appeals Minutes
January 26, 2021 – 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 January 26, 2022 Board of Zoning Appeals Meeting. Could I have roll call, please?

MEMBERS PRESENT: Munson, Dunn, Clawson, Hawk, Bussing, Farrington

MEMBERS ABSENT: Dr. Peppes

STAFF PRESENT: Thompson, Tomasic

APPROVAL OF MINUTES: Approval of the minutes from the October 27, 2021 Board of Zoning Appeals meeting and approval of the minutes from the December 15, 2021 Board of Zoning Appeals meeting.

Chairman Clawson: I understand that we have some changes with regards to the minutes from the October 27, 2021 meeting. Wade, do you want to indicate what those changes are?

Mr. Thompson: There were several. I will have to get with the transcriptionist and she'll make those changes.

A motion to approve the minutes, with corrections, from the October 27, 2021 Board of Zoning Appeals meeting was made by Bussing; seconded by Hawk. Motion carried with a unanimous roll-call vote of 5-0. For: Munson, Dunn, Hawk, Farrington, Bussing.

A motion to approve the minutes from the December 15, 2021 Board of Zoning Appeals meeting was made by Hawk; seconded by Bussing. Motion carried with a unanimous roll-call vote of 5-0. For: Munson, Dunn, Hawk, Farrington, Bussing.

OLD BUSINESS:

Case 56-2021 Greg Highbarger; Cocherl Family LLC/Owner-Request for a Variance to the Architecture/Construction Standards prohibiting the use of plastic columns in accordance with the LDO, Section 16-2-10.3(B) 2 in a BP- District for property commonly known as 14212 Overbrook Road.

Chairman Clawson: There was one case for Old Business that was apparently continued. That is case 56-2021. We will move on to New Business.

NEW BUSINESS:

Case 01-2022 Andrew & Judith Towner/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 9015 Ensley Lane.

Staff Presentation: Wade Thompson made the following presentation:

Mr. Thompson: The applicants would like to replace the existing 4-foot tall chain link fence that encloses the rear yard with a 6-foot tall privacy fence. This property sits on an odd corner where three streets come together.

Chairman Clawson: Are the applicants here? Are there any questions for staff about this case?

Applicant Presentation: Andrew and Judith Towner, 9015 Ensley Lane appeared before the Board of Zoning Appeals and made the following comments:

Mr. Towner: We have some neighbors who have a swing set pretty close to our property line and we want to put a hot tub and Japanese meditation garden setup in our backyard eventually, so we just want a bit of privacy. I have some pictures of what you'd currently see from inside and outside of our home if you'd like to see them. *Picture displayed on screen.*

Mrs. Towner: That's our chain link fence and it's probably less than a foot from where their playset and swings are placed in the ground in their yard.

Chairman Clawson: That's your backyard?

Mr. Towner: Correct. I'm going to show you the view from our bedroom window, which will also show you where we want to put our hot tub. *Picture displayed on screen.* You can see that it would be odd to put a hot tub there with that setup.

Chairman Clawson: Wade, could you show the plan view of this? *Plan view displayed on screen.* Your plan would be to put a 6-foot privacy fence in the area indicated in black here?

Mrs. Towner: We would replace the current chain link fence enclosing our backyard.

Chairman Clawson: Does the chain link fence enclose your backyard now?

Mrs. Towner: Yes.

Chairman Clawson: Are there any questions for the applicant?

Mr. Bussing: Mr. and Mrs. Towner, that's a handsome swing set back there, are you sure that you want to block the view of that?

Mr. Towner: We really like our neighbors a lot. It's just that I want a bit of privacy for when I use the hot tub. I plan on using it for therapy, so whether it's 4:30 in the afternoon or 10 o'clock at night, I don't want people seeing me.

Chairman Clawson: Letters have been sent out to everyone and there haven't been any comments?

Mr. Thompson: Yes, Sir.

Chairman Clawson: Is there anyone here that wishes to speak for or against the application?

Mr. Thompson: No, Sir.

A motion to approve Case 01-2022 Andrew & Judith Towner/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 9015 Ensley Lane, was made by Bussing; seconded by Farrington. Motion carried with a unanimous vote of 5-0. For: Munson, Dunn, Hawk, Bussing, Farrington.

Case 02-2022 Matt Ens/Owner-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 3609 W. 85th Street.

Staff Presentation: Wade Thompson made the following presentation:

Mr. Thompson: The applicant would like to replace an existing 4-foot tall wooden fence with a 6-foot tall privacy fence. This property sits on the corner of 85th Street and Mission. A variance for the placement of the fence was granted in December of 1982.

Chairman Clawson: Are there any questions for staff about this case?

Mr. Munson: Is the picture on page one of our packets of the existing fence?

Mr. Thompson: That's the fence they want to construct. That is what it would look like.

Chairman Clawson: The original variance allowed the fence to be placed where it currently is. We are just talking about height.

Mr. Thompson: Correct.

Mr. Hawk: Is that still within the tree line? It looks like it's pretty much obscured.

Mr. Thompson: The trees would hide a taller fence. They hide the 4-foot fence pretty well.

Applicant Presentation: Matt Ensz and Katy Ensz, 3609 W. 85th Street, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Ensz: We put together a quick presentation. This picture shows the existing fence. The real driver behind this is that we have a fairly large dog that gets very excited any time a jogger or another dog comes by on Mission, which is obviously a high traffic area. Due to that, we have a lot of wear and tear on the fence and are needing to replace it quickly. I would like to go through the reasons why we would prefer a 6-foot fence over a 4-foot fence. The fence would just be on the Mission side and would go all the way to our house since there would be a gate there as well. That is the area with the most traffic. Another thing is that all of the houses around us on Mission have 6-foot fences. We've got neighbors to the south of us that have been gracious enough to support us today and would also endorse this exception.

Mrs. Ensz: Actually, all of the houses in Leawood Lancet that sit on Mission have those 6-foot fences so it would be consistent with what everyone else has as well.

Mr. Ensz: I want to highlight that the two houses to the east of us sent in letters supporting the request as well. Here is a recent picture of some damage that our dog did to the fence. We're hoping that a 6-foot fence won't get him as excited to jump up. Being right off of Mission with all of its traffic, having a bit more privacy would prevent crime if we had anything going on outside.

Mrs. Ensz: We have a screened in porch back there with a large flat screen TV. It would be nice to be able to have a bit of privacy to not let people walking by see that.

Chairman Clawson: Are there questions for the applicants? Are there people out there that want to speak for your case?

Mrs. Ensz: Yes sir.

Mr. Thompson: Mr. Chairman, the memos that you have at your station were also emails that were received within the last two days in support of the request. Also, the house that is directly behind theirs received approval from the Board of Zoning Appeals (BZA) back in 1982 for the placement of their fence, which is in the same spot the applicants' fence would be.

John Larson, 8628 Reinhardt Lane, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Larson: I am the neighbor directly to the south. Like them, my side yard faces Mission Road. The homeowner prior to us had an exception for a 6-foot fence and we've maintained it. Speaking on behalf of the neighborhood, all of our neighbors are very

supportive of this request. They appreciate both our fences and plantings to give them some visual buffering from Mission Road. What the Enszs are requesting is consistent with what exists in the area and we wholeheartedly support it.

A motion to approve Case 02-2022 Matt Ensz/Owner-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 3609 W. 85th Street was made by Munson; seconded by Hawk. Motion carried with a unanimous vote of 5-0. For: Munson, Dunn, Hawk, Bussing, Farrington.

Case 03-2022 William & Elizabeth Thomas/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 8420 High Drive.

Staff Presentation: Wade Thompson made the following presentation:

Mr. Thompson: The applicants would like to construct a 6-foot privacy fence along the rear property line. The fence is to replace the natural screen of trees that were recently removed due to new construction.

Chairman Clawson: Are there questions for staff about this case?

Applicant Presentation: William and Elizabeth Thomas, 8420 High Drive, appeared before the Board of Zoning Appeals and made the following comments:

Mrs. Thomas: I am a little nervous after seeing the presentation by the Ensz family, as we do not have a Power Point. We would like to construct the 6-foot privacy fence to replace the screen that was provided by trees, but also because we have three young daughters, ages 2, 6, and 8. What previously kept them from Lee Boulevard was the solid shrubs that were there, but those have been removed. What's most important to me is preventing them from having direct access to Lee Boulevard. I can show you a picture. They play in our backyard and you can see where the swingset is. *Picture displayed on screen.* You can see that it appears wooded, but now there is no barrier. A 4-foot fence would do nothing to stop my children. We would also appreciate the privacy that it would afford to our playset directly from Lee Boulevard. It would hook into existing fences from our neighbors. We've spoken to all of our neighbors and one has written in full support and another has emailed. They are in full support and excited because it also helps their view of the home that was just built behind us. They understand our concerns with our girls as well. We have covered that base and are happy to answer any questions that you might have.

Chairman Clawson: Are there any questions for the applicant?

Mr. Munson: Are the pictures of fences in your packet the existing fences of your neighbors?

Mrs. Thomas: No. That is an example of the new fence that would be built.

Mr. Munson: Thank you.

Mrs. Thomas: We hope that it will blend in nicely. There are trees on both sides. I honestly don't know if you'll see the fence from either side.

Chairman Clawson: So your side fences are in place already?

Mrs. Thomas: We have fences on both sides coming through and then we have shrubs. We don't have fences all the way around the property because, quite honestly, there isn't concern for us going this direction. It's the girls going that direction that is of concern.

Chairman Clawson: Are there any questions? Is there anyone here that wishes to speak for or against this?

Mrs. Thomas: Not that I'm aware of. He emailed because they were unable to make it tonight.

A motion to approve Case 03-2022 William & Elizabeth Thomas/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 8420 High Drive was made by Farrington; seconded by Bussing. Motion carried with a unanimous vote of 5-0. For: Munson, Dunn, Hawk, Bussing, Farrington.

Case 04-2022 Tess & Tyler Polshak/Owners-Request for an exception to the front build line in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 9200 Belinder Road.

Staff Presentation: Wade Thompson made the following presentation:

Mr. Thompson: The applicants would like to construct a covered entryway on the front of the home. A small portion, 28 square feet, will extend 5 feet 7 inches into the required setback and will be 49 feet 9 inches from the property line. *Aerial view of house shown on screen.*

Chairman Clawson: Are there any questions for staff about this case?

Mr. Dunn: What does this picture show us, Wade?

Mr. Thompson: That small red piece will be the only portion sticking out.

Mr. Dunn: Thank you.

Applicant Presentation: Tess and Tyler Polshak, 9200 Belinder Road, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Polshak: I hate to break your chain of fences tonight, but we have a slightly different request. *Plan drawing shown on screen.* The front portion of our house faces this right here, and that black triangle that you see right there is essentially the only portion that could be added to the entire lot because we are on a corner lot. The setbacks and easements are how it was constructed. That tiny “X” right there is where we want to create a gable roof extension. We’ve been working with Reese Construction to create plans and provide those to the City. Currently there is no overhang when you walk into the house so if it’s raining, you are going to get rained on. Our goal is to create a gable roof extension and then relay the concrete for the front of the house to give a bit of a grander appeal. This matches some of what we’ve seen in the neighborhood and surrounding homes. It’s an older neighborhood and a lot of the homes have been redone. We love the character of our home but we would like to make a few modifications. We bought the house in June and it’s a bit of a fixer-upper and we just want to maintain the integrity of it. *New picture displayed on screen.* This is a picture of what the gable roof will look like. It will overhang to the side. It will have pillars that drop down and a support cross beam that will all be wrapped in cedar, which will be consistent with our plans to update the fascia and soffit. The roof material will be black metal, which will be less than ten percent of the total square roof percentage. We’ve already replaced the roof, which is black as well, so the color scheme would be consistent.

Chairman Clawson: Are there any questions for the Polshaks?

A motion to approve Case 04-2022 Tess & Tyler Polshak/Owners-Request for an exception to the front build line in accordance with the LDO, Section 16-2-5.3(D) in an R-1 District for property commonly known as 9200 Belinder Road, was made by Hawk; seconded by Dunn. Motion carried with a unanimous vote of 5-0. For: Munson, Dunn, Hawk, Bussing, Farrington.

Chairman Clawson: There were two other cases on the agenda, Case 05 and 06, but they have apparently been withdrawn.

Mr. Thompson: That’s correct. After some digging, we were able to find out that they were granted variances back in the 70’s. They’ve only been in the home for 4 years, so they had been unaware. We were able to get rid of those.

Chairman Clawson: Okay, great.

MEETING ADJOURNED.