

**City of Leawood
Board of Zoning Appeals Minutes
May 25, 2022 – 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 May 25, 2022 Board of Zoning Appeals Meeting. Could I have roll call, please?

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

MEMBERS ABSENT: Dunn, Bussing

STAFF PRESENT: Thompson, Knight

APPROVAL OF MINUTES:

Approval of the minutes from the April 27, 2022 Board of Zoning Appeals meeting.

A motion to approve the minutes from the April 27, 2022 Board of Zoning Appeals meeting was made by Hawk; seconded by Farrington. Motion carried with a unanimous roll-call vote of 4-0. For: Munson, Dr. Peppes, Hawk, Farrington.

Chairman Clawson: We originally had three cases on the agenda, but the last case has been withdrawn. That is Case 30-2022. So we have just two cases of New Business this month.

NEW BUSINESS:

Case 28-2022 Rex & Connie Stover/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 9725 Lee Boulevard.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: The applicants would like to match a new 6-foot-tall fence that stretches halfway across their rear yard. The neighbors to the east have installed a new pool and a 6-foot fence. The exception only applies to the 93 feet on the rear property line as shown on the plan.

Chairman Clawson: Are there any questions for staff? Is the applicant here? You may come to the lectern and present your case.

Mr. Munson: *Refers to aerial view photo on the screen.* Is the red line what we're talking about tonight?

Mr. Thompson: That is correct. The black line is the new fence that the neighbor installed.

Applicant Presentation:

Rex Stover, 9725 Lee Boulevard, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Stover: As stated previously, the neighbor directly behind and south installed a 6-foot fence around their property because they put in a pool. It's a wood, picture board, cedar frame and we would just like to continue that the rest of the way across the back of our property.

Chairman Clawson: Same design?

Mr. Stover: Yes. Exactly the same design.

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

Gloria Klug, 9721 Lee Boulevard, appeared before the Board of Zoning Appeals and made the following comments:

Ms. Klug: The fence is lovely. For the neighbor who installed it, it was great because it covered a multitude of sins in his yard. For Connie and Rex to attach would be lovely. I live just north of Connie and Rex and they take excellent care of their property and have been an absolute bonus to the neighborhood. I would love to see this go forward. My ground is right next door and there is a little bit of space that belongs to the other neighbor, and we may continue the fence if they want to. But since my property is at least 2 to 3 feet higher, we wouldn't build a 6-foot fence.

Chairman Clawson: Thank you. Are there any other questions or comments?

Dennis Hogenkamp, Lee Boulevard, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Hogenkamp: I just have a question for the owners. Would the fence be 6-feet tall the entire length of the yard or will it stagger down?

Mr. Stover: We were thinking of continuing it exactly as it is, all the way to the end of our property. If staggering would be more pleasing to our neighbors, that would be acceptable to us also.

Ms. Farrington: Mr. Chairman, could you put a picture of the fence up? *Photo of fence displayed on screen.* The neighbor's new fence, on the right, is staggered. The new fence proposed here would be going where that chain link fence is currently. There is a stagger to the new fence, so would the proposed fence be staggered as well?

Mr. Thompson: Correct. It would probably depend on the elevation change. I don't know how flat his back yard is, moving to the north. I would say that's why that neighbor had to stagger his; to make up for the elevation change.

Chairman Clawson: In general, you intend to continue that design on a nominal 6-foot fence across your property?

Mr. Stover: Yes.

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

A motion to approve Case 28-2022 Rex & Connie Stover/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 9725 Lee Boulevard– was made by Dr. Peppes; seconded by Hawk. Motion carried with a unanimous vote of 4-0. For: Munson, Dr. Peppes, Hawk, and Farrington.

Case 29-2022 Bill Beck/Owner-Request for a Variance to the rear build line for the placement of a fence on a through lot in accordance with the LDO, Section 16-4-9.3(D) in an R-1 District for property commonly known as 12605 Alhambra Street.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant needs to replace the existing 28-year-old fence. The Leawood Development Ordinance (LDO) requires a 35-foot buildline on through lots. A variance for 19 feet is needed to place the fence in its current location.

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

Dr. Peppes: Wade, thank you for putting this picture up. From the landscape that's there, I can't quite tell. Are the neighbors' fences all along the same line?

Mr. Thompson: Yes. Whenever those fences need to be replaced, they'll be before you. They are all in a common line.

Chairman Clawson: These fences, in general, were approved by the City during the original construction. Is that correct?

Mr. Thompson: Yes, sir. This particular fence was constructed when the pool was built, so it's been there for a long time.

Mr. Hawk: With all the vegetation, you can hardly see the fence.

Mr. Thompson: Exactly. I couldn't get really good pictures because the vegetation is so thick.

Ms. Farrington: Mr. Chairman, may I ask the staff: Is this diagonal from the fire station?

Mr. Thompson: Yes, it is.

Applicant Presentation:

Bill Beck, 12605 Alhambra Street, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Beck: As he stated, there are four or five of us neighbors who are directly across from the fire station on Mission Road. We are set back about sixteen feet right now and are all lined up. My fence is in disrepair. I went to hire someone to replace it and they informed me of the new ordinance that was passed. The problem I would have is, obviously, I would be out of line with all of my neighbors. Number two, moving it back would put it down on my pool deck, which was built in 1987 with the house.

Chairman Clawson: Are there questions for the applicant? Is there anyone here who wishes to speak for or against the application? This is a variance, so we have to look at the five factors. The way it works is, as a Board, we have to evaluate and vote on each factor. We have to vote in the affirmative on each one to support a Motion for Approval.

Chairman Clawson: The first factor, of course, is Uniqueness of the Property.

Mr. Hawk: As staff points out, the fence has been there for almost three decades, and the City approved it. You have to look pretty hard as you drive by or even walk by, to notice that there's even a fence there. I think that makes it unique.

Mr. Munson: Well, Uniqueness of Property is one that we always struggle with. In this case, his situation is kind of unique. To not do this like he's asking, would be a unique wrong.

Dr. Peppes: Mr. Chairman, I think it needs to be pointed out that we're talking about a through lot here. As you've known in the past, most of these cases have to come before us. Even though there are a lot of these cases, we still feel as a Board that through lots are unique.

Uniqueness of the Property criterion satisfied with a unanimous vote of 4-0. For: Munson, Dr. Peppes, Hawk, Farrington.

Chairman Clawson: The second factor is Rights of Adjacent Property Owners. Letters have been mailed, I presume.

Mr. Thompson: Yes, sir. No calls or complaints.

Mr. Munson: It looks like he's trying to match his neighbors, which should be pleasing for them.

Rights of Adjacent Property Owners criterion satisfied with a unanimous vote of 4-0. For: Munson, Dr. Peppes, Hawk, Farrington.

Chairman Clawson: The third factor is Hardship.

Ms. Farrington: Mr. Chairman, I'll take a stab at Hardship on this one. I actually go by this property a lot doing my running and walking. It's very wooded and there's a significant amount of landscaping and large Evergreen trees. To move this in would be a hardship to the owner. To have to reconfigure their landscaping and the fence having to be on their pool deck that's been there for almost thirty years would create a hardship.

Hardship criterion satisfied with a unanimous vote of 4-0. For: Munson, Dr. Peppes, Hawk, Farrington.

Chairman Clawson: The fourth factor is Public Safety and General Welfare.

Mr. Hawk: As Dr. Peppes pointed out, this is a through street with considerable traffic and considerable noise. It would make sense to approve this portion.

Public Safety and General Welfare criterion satisfied with a unanimous vote of 4-0. For: Munson, Dr. Peppes, Hawk, Farrington.

Chairman Clawson: The fifth factor is Spirit and Intent.

Dr. Peppes: Mr. Chairman, I believe that the spirit and intent has been met. As we all know, the rest of the fences are right there along the same line as his. They've been there for a long time and they were permitted years ago.

Spirit and Intent criterion satisfied with a unanimous vote of 4-0. For: Munson, Dr. Peppes, Hawk, Farrington.

A motion to approve Case 29-2022 Bill Beck/Owner-Request for a Variance to the rear build line for the placement of a fence on a through lot in accordance with the LDO, Section 16-4-9.3(D) in an R-1 District for property commonly known as 12605 Alhambra Street—was made by Farrington; seconded by Dr. Peppes. Motion carried with a unanimous vote of 4-0. For: Munson, Dr. Peppes, Hawk, and Farrington.

WITHDRAWN Case 30-2022 Allweatherservices; Ryan Costello/Owner-Request for a Variance to the rear build line for the placement of a sport court in accordance with the LDO, Section 16-4-1.3(B) 6 c in an R-1 District for property commonly known as 8927 Wenonga Road.

MEETING ADJOURNED.