

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

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

MEMBERS ABSENT: Munson, Dunn

STAFF PRESENT: Thompson, Weber

APPROVAL OF MINUTES: Approval of the minutes from the September 28, 2022, Board of Zoning Appeals meeting.

A motion to approve the minutes from the September 28, 2022, Board of Zoning Appeals meeting was made by Bussing; seconded by Farrington. Motion carried with a unanimous roll-call vote of 4-0. For: Dr. Peppes, Hawk, Farrington, Bussing.

Chairman Clawson: We have a full slate tonight. I would ask that the applicants restrict their discussions and presentations to about five minutes, if possible. Our first case tonight is in Old Business.

OLD BUSINESS:

Case 39-2022 Cortez Francis/Owner-Request for a fence height exception in accordance with the LDO, Section 16-4-9.4 on an R-1 District for property commonly known as 2001 W. 83rd Terrace.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: Before I read the requested action, I would like to see if he's here. If you remember, last time he didn't show for the second time. Mr. Cortez, are you here? *Pause.* He's not here. He did receive a letter from me that was written by Marcy Knight, letting him know that if we didn't hear back from him by October 13, we would consider the application abandoned. I never did receive a call from him but wanted to give him a chance to show up. At this point, we will just consider the application abandoned.

Mr. Hawk: Wade, the fence has already been constructed so what is our course of action?

Mr. Thompson: Well, I believe he was written a citation for that. He hasn't shown up for court, so he has a warrant out for his arrest and that's probably why he's not showing up here. We will just stay the course. He will eventually have to cut the fence down to 4 feet or come before you.

Chairman Clawson: Should we take a vote to abandon the case?

A motion to remove Case 39-2022 Cortez Francis/Owner-Request for a fence height exception in accordance with the LDO, Section 16-4-9.4 on an R-1 District for property commonly known as 2001 W. 83rd Terrace was made by Bussing; seconded by Dr. Peppes. Motion passed with a unanimous vote of 4–0. For: Dr. Peppes, Hawk, Farrington, Bussing.

Case 52-2022 Wes Welch; Adam & Jennifer Bernardi/Owners-Request for a Variance to the build line in accordance with the LDO, Section 16-2-5.3(D) in an R- 1 District for property commonly known as 8329 Ensley Lane.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: The property owners would like to add an additional bedroom on the second floor. The existing home was constructed with an average rear yard setback of 17 feet. The new addition would have an average of 22.5 feet. To construct the addition as shown on the plan, a variance of 7.5 feet is requested.

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

Applicant Presentation:

Wes Welch appeared before the Board of Zoning Appeals and made the following comments:

Mr. Welch: This property is located right across the street from myself, so I want to make sure we do everything right. Basically, this all started with a simple request from my neighbor to add a master bathroom. *Plan drawing shown on screen*. The master bedroom is back in this corner and the bath is right in here. It is very close to the existing property line. They wanted to go out and I said that isn't going to happen because we're already 9 feet from the property line. So we kicked around some ideas. You can tell on this that both ends of the extension of the house are over the property line setbacks on each side. It is a very unusual lot from that standpoint. It is unique. This is the only possible area that you can build without getting some kind of variance or exception on. Basically what we ended up doing is not trying to add anything on the first floor, but rather to go up. *Points to plan drawing*. That hatched area right there is the footprint of the new second floor that we want to put on there. So it will be a master bedroom, bath, and closet. Then there will be a small open loft or office space at the front. The only place that requires a variance here is this little area right along here. I apologize, but there is part of this that I didn't really mention in the packet, but I did show it on the plan. They currently have this area as an addition that was done way back when. It has a flat roof, and they have a lot of problems with it. As part of this project, we would like to replace the roof with just a low slope pitch roof. *Front view drawing of house and roof shown on screen*. We'd like to put a 3 to 12 pitch on it just so that we can put shingles on it and get water to drain from it. The second-floor addition starts at the back wall line of the house.

Chairman Clawson: So you're not changing the footprint of the house, right?

Mr. Welch: No. This will be sitting on top of the existing house. The only thing that we are doing is adding a cantilever in this section right here about a foot over this bottom wall. Only because we need about a little more width in that room upstairs to make this work. With the site plan the way it is, I went through and calculated this as if it was a nonconforming lot, which it is. I came up with the average setback being 17 feet, which is just about half of what the ordinance requires. The hatch part that you see there is down at 22.5 feet, so we're getting a lot closer to the requirement of 30 feet in the rear yard. We went through all kinds of scenarios trying to figure out how to do anything with this house. This is the only option that I can see available to us. It won't encroach upon the neighbors any more than what it already is and we have a lot of houses in the neighborhood that already have second floors, so I think it will fall in the spirit and intent of the ordinance in terms of what we're doing. It certainly is a unique lot. In 50 years of being in Leawood, I've never had a lot that was that close to the back property line. They even thought about tearing down the house, but with the lot lines and setbacks on both sides, I'm not sure we could even get approval on a new house. We're kind of between a rock and a hard place. It's going to cost a bit more than a simple little bump out for a master bath, but I think this is the best solution we have available to us to be able to do anything with this house.

Chairman Clawson: Are there questions by the Board for the applicant? I guess I have a question for Wade. If he's not changing the footprint, then what is the interpretation of the LDO that he needs this variance for?

Mr. Thompson: Even though he's not changing the footprint, he still has to meet the rear yard average, being an odd-shaped lot. At this point, it's considered legal nonconforming, but when they start the addition, they have to come into compliance.

Chairman Clawson: Is there anyone here that wishes to speak for or against this application? If not, we will go through the five factors and evaluate each one. The first factor is Uniqueness of the Property. Discussion by the Board?

Dr. Peppes: Mr. Chairman, I'd like to tackle this one. I believe it meets the criteria for being unique. I went there personally and took a look at it. This is an odd-shaped lot, and the backyard is very small. The plan that they have here really points out and shows that there's really not a lot that can be done other than go up. Like Wade said, it's legal nonconforming so the best they can do is keep it within the dotted lines and that's what they're doing.

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

Chairman Clawson: The second is Rights of Adjacent Property Owners. Letters have been mailed out.

Mr. Thompson: Yes, sir. No calls or complaints have been received.

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

Chairman Clawson: The third factor is Hardship.

Ms. Farrington: Mr. Chairman, I'll speak on this one. The hardship almost starts with the size of the lot itself to begin with. It sounds as if they've looked at various solutions to add an addition to this home and really this is the simplest way to achieve it without going outside of the building's footprint. The hardship would be that if it was denied, they couldn't really do anything without coming before us anyway.

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

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

Dr. Peppes: Mr. Chairman, I think the criteria has been met because the footprint is not changing at all. It would not create any greater danger than what is there right now.

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

Chairman Clawson: The fifth factor is Spirit and Intent.

Ms. Farrington: Mr. Chairman, I'll speak on Spirit and Intent. This design actually conforms completely with the neighborhood. It's just a small addition and not a teardown or start over, so it meets the spirit and intent of Leawood.

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

Mr. Bussing: Mr. Chairman, could I ask a question before we consider a Motion?

Chairman Clawson: Certainly.

Mr. Bussing: Wade, looking at this diagram, do we have any paperwork on this little addition that is on the back?

Mr. Thompson: We don't. We don't know when it was added. Again, it is going to be considered legal nonconforming so they would be able to put a roof on it. They couldn't increase the size, but it would be permitted to stay.

Mr. Bussing: But if it was put up without a permit, it wouldn't be legal nonconforming would it?

Mr. Thompson: Technically, yes.

A motion to approve Case 52-2022 Wes Welch; Adam & Jennifer Bernardi/Owners-Request for a Variance to the build line in accordance with the LDO, Section 16-2-5.3(D) in an R- 1 District for property commonly known as 8329 Ensley Lane– was made by Hawk; seconded by Farrington. Motion carried with a unanimous vote of 4-0. For: Munson, Dunn, Dr. Peppes, Hawk, and Farrington.

NEW BUSINESS:

Case 55-2022 Micaela Johnson/Owner-Request for a Variance to the 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 11911 Overbrook Road.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant would like to construct a new fence that would enclose the rear yard that would be in line with the other fences along State Line Road. The fence would be constructed on the property line and a variance for 35 feet is needed to place it as shown on the plan.

Chairman Clawson: Are there any questions for staff?

Applicant Presentation:

Micaela Johnson, 11911 Overbrook Road, appeared before the Board of Zoning Appeals and made the following comments:

Ms. Johnson: *Picture displayed on screen.* As you can see from that picture, my house backs up to State Line Road, which is a very busy four-lane street with lots of car and foot traffic. I am a single homeowner and the first five houses on the block all have a 6-foot fence. I'm here today to apply for a 6-foot fence, which is that exception, as well as the variance to align the back of the fence with the current homeowners who all have fences on the property line.

Chairman Clawson: Without the variance, where would the fence be?

Ms. Johnson: Straight through the yard.

Dr. Peppes: Mr. Chairman, I have a question for Wade. The applicant mentioned the other fences along State Line Road. Were those all given variances?

Mr. Thompson: A few have been, but a few others have been there so long that it wasn't needed at the time they built their fences.

Ms. Johnson: Also, the first five houses all have 6-foot fences due to the safety reason of the properties backing up to State Line. There are all families living in those houses and I'm a single homeowner. That is also why I'm applying for a 6-foot fence. There's currently a deck on the back of my house which gives open access for anyone to walk up to my back doors.

Chairman Clawson: You mentioned in the report that many trees have been removed and that was done by the HOA?

Ms. Johnson: Yes. Actually, that was City property that they touched, so that is another issue of needing a fence.

Chairman Clawson: This is a variance, so we have to evaluate the five factors, like we did in the previous case. The ones we primarily have trouble with are Uniqueness and Hardship. Could you discuss those?

Ms. Johnson: Of why this is unique or if this presents a hardship to the City?

Chairman Clawson: For a variance, it generally has to be a unique situation that arises that would demand some action by this body to correct it. For example, if you had a case where your lot was such that the setbacks would almost prevent you from building a house, that would be a unique situation. I'm trying to get a handle for the Board here on how we can justify the uniqueness of your case.

Ms. Johnson: The uniqueness of my case and the reason for the variance request is to that the fence doesn't go straight through my yard.

Chairman Clawson: Could you please say that again?

Ms. Johnson: Without approval of the variance, the fence would go straight through my yard.

Chairman Clawson: Yes.

Ms. Johnson: To align with the rest of the houses on that block, a variance is needed to push the fence back so that my yard doesn't stand out of place.

Chairman Clawson: In general, Wade, this area has a lot of fences along the property line?

Mr. Thompson: Yes. A majority of the homes along that portion of State Line do. As a matter of fact, I think there are only two homes in that area that don't. One being hers and the other being on the corner.

Mr. Hawk: That in itself makes it unique, if this is one of the only residences that doesn't have a fence.

Mr. Thompson: The existing tree line is nice. They have planted some pines that will, years from now, grow up and shield the fence even more. This house actually does kind of stick out because you have a line of houses with fences, then no fence, then a pool with a 6-foot fence. It is kind of an odd look.

Ms. Farrington: Mr. Chairman, I frequent this path. I know it gets a lot of foot traffic and is on a very busy road. All of the houses in line have wooden fences except this one and one other. This one has very pretty pine trees. Not all of them have this type of landscaping. I personally

experienced something very frightening there a couple of years ago where a very aggressive dog came through this tree line at me when I was running one day. I ended up in the middle of State Line Road. Having a fence would be a good thing. Not only for safety, but also because of the landscaping.

Dr. Peppes: Wade, I've got another question. Isn't this considered a through lot as well?

Mr. Thompson: Yes, it is.

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

Bill Johnson, 11905 Overbrook Road, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Johnson: I am the house next door to the south and I am also her father. I would like my daughter to have a fence at the back edge of her yard to line up with all the other fences on the block. As has been noted, I think there are nine houses on the block. The one at 121st Terrace does not have a fence on the corner. All of the other houses up the block to 119th have a fence and they are all in line with each other. This is the only open lot on the block. Obviously, I am concerned about her safety. You can tell from some of the pictures that a person could just walk right through there. You can see right through there. We've lived at this address for 30 years. I would like to add that the traffic back then was about half of what it is now. Just the noise by itself is a problem at times.

Chairman Clawson: Is there anyone else here that wishes to speak on this case? If not, we will go through and evaluate the five factors. The first one is Uniqueness of the Property.

Mr. Bussing: Mr. Chairman, I will take a pass at this one. As Dr. Peppes mentioned, this is a through lot. We have historically granted exceptions for through lots regarding fences in relationship to property lines. I would suggest that this property, like others along there, meets the uniqueness criterion.

Uniqueness of the Property criterion satisfied with a unanimous vote of 5-0. For: Munson, Dunn, Dr. Peppes, Hawk, Bussing.

Chairman Clawson: The second factor is Rights of Adjacent Property Owners. Letters have been mailed out?

Mr. Thompson: Yes, sir. There was one email received that was in support of the application, which I've included in your packet.

Rights of Adjacent Property Owners criterion satisfied with a unanimous vote of 5- 0. For: Munson, Dunn, Dr. Peppes, Hawk, Bussing.

Chairman Clawson: The third is Hardship. Comments by the Board.

Dr. Peppes: Mr. Chairman, I'll take that. Once again, I'd like to reiterate that this property is a through lot and that does affect hardship. Also, if the line was drawn where the fence would have to be put to remain within the LDO, we'd be looking right at her back door. There wouldn't be much of a yard left. I feel like this meets the criterion for hardship.

Mr. Hawk: It simply lines up with the same fences along the neighboring properties.

Hardship criterion satisfied with a unanimous vote of 5-0. For: Munson, Dunn, Dr. Peppes, Hawk, Bussing.

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

Ms. Farrington: Mr. Chairman, I'll speak on Public Safety and General Welfare. Adding the fence actually enhances the property. The beautiful landscaping that is there will not be impeded and, in fact, it will probably hide the fence and blend in well. Being on that busy street, it will be an improvement for the homeowner and the public.

Public Safety and General Welfare criterion satisfied with a unanimous vote of 5- 0. For: Munson, Dunn, Dr. Peppes, Hawk, Bussing.

Chairman Clawson: The fifth factor is Spirit and Intent.

Ms. Farrington: Mr. Chairman, I'll speak on Spirit and Intent. It meets the spirit and intent of Leawood. All of the fences on that street line have the same location of fence and the same height.

Spirit and Intent criterion satisfied with a unanimous vote of 5-0. For: Munson, Dunn, Dr. Peppes, Hawk, Bussing.

A motion to approve Case 55-2022 Micaela Johnson/Owner-Request for a Variance to the 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 11911 Overbrook Road, was made by ; seconded by Dr. Peppes. Motion carried with a unanimous vote of 4-0. For: Dr. Peppes, Hawk, Farrington, Bussing.

Case 56-2022 Micaela Johnson/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 11911 Overbrook Road.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: The applicant would like to enclose the rear yard with a 6-foot tall wooden fence to match the neighbors. The home to the south has a pool and a 6-foot tall privacy fence.

Applicant Presentation:

Micaela Johnson, 11911 Overbrook Road, appeared before the Board of Zoning Appeals and made the following comments:

Ms. Johnson: This case is for an exception to be able to build a 6-foot-tall fence rather than a 4-foot fence. This also is in accordance with the first five houses on the block that all have a 6-foot fence specifically due to the safety concern of backing up to State Line Road. I would be the sixth house with a 6-foot fence. Anyone can hop over a 4-foot fence.

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

Bill Johnson, 11905 Overbrook Road, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Johnson: Her 6-foot fence would match my fence. It would be the same material, same stain, same everything. I will add that we were granted our 6-foot fence when we installed the pool, but the next four houses south all have 6-foot fences. So this would be the sixth house in the line to have a 6-foot fence. You have an email in there from her neighbor, Grant Jones. He has four little bitty girls and he would prefer that she got a 6-foot fence to help block the view from his yard.

Chairman Clawson: Is there anyone else who wishes to speak on this application?

Mr. Bussing: Mr. Chairman, I have a question. Sorry. I'm a bit slow on the uptake tonight. Are we enclosing the yard or is this just along the perimeter of State Line Road?

Mr. Thompson: They are enclosing the rear yard.

A motion to approve Case 56-2022 Micaela Johnson/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 11911 Overbrook Road– was made by Dr. Peppes; seconded by Hawk. Motion carried with a unanimous vote of 4-0. For: Dr. Peppes, Hawk, Farrington, Bussing.

Case 57-2022 Total Home Fence & Deck; Darlene Campbell/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 12624 Howe Drive.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: The homeowner would like to replace the existing 4-foot tall wooden fence in the same location. The current fence has been in place for at least two decades and is in need of replacement. The fence is on the property line and a variance for 35 feet is needed to replace the fence in its current location.

Chairman Clawson: Are there other fences in this area?

Mr. Thompson: Yes, sir.

Mr. Chairman: Are there any questions for staff?

Dr. Peppes: Wade, this is on a through lot, correct?

Mr. Thompson: Yes, sir. *Aerial photo displayed on screen.* In this picture you can see the current fence. The red line is where it would be if it followed the setback requirements of the LDO.

Chairman Clawson: Would that go through their house?

Mr. Thompson: Yes. The house is built pretty close to the 35-foot build line.

Mr. Bussing: So we're just replacing a 4-foot fence?

Mr. Thompson: Yes, sir.

Chairman Clawson: Is the applicant here?

Mr. Thompson: Darlene Campbell? Mr. Chairman, the application was actually filled out by the fence company, so I wasn't sure who would show up to present the case tonight. I will just have to continue the case to the next meeting.

A motion to continue Case 57-2022 Total Home Fence & Deck; Darlene Campbell/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 12624 Howe Drive, to the next meeting, was made by Dr. Peppes; seconded by Hawk. Motion carried by a unanimous vote of 4-0. For: Dr. Peppes, Hawk, Farrington, Bussing.

Case 58-2022 R.M. Standard Construction; Joseph & Sharon Lambert/Owners-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 11214 Rosewood Street.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: Due to a fire in December of 2017, the homeowners would like to construct a new home on the lot that exceeds what is permitted by the Leawood Development Ordinance (LDO). The plan is to construct a 4,443 square-foot home, which is twenty percent bigger than what is permitted.

Applicant Presentation:

Brett Standard, 11233 Nall Avenue, appeared before the Board of Zoning Appeals and made the following comments:

Mr. Standard: On the issue of increasing the square footage, one factor we would like to note is that the current house we're proposing is actually 1,000 square feet (give or take) smaller than what was originally there prior to the fire. We're proposing a story and a half, and there's maybe one ranch in the neighborhood. So, we're keeping with the neighboring homes. Other than that, the next issue is height. We feel like it's a good fit for the neighborhood. If it weren't for the newer requirements of square footage that have come since the original house was built, this request wouldn't be necessary.

Chairman Clawson: Are there any questions for the applicant?

Dr. Peppes: Let me make sure I understand. Since this request is just regarding the square footage, all of the setbacks and stuff are within normal limits.

Mr. Thompson: Yes, sir.

Ms. Farrington: Mr. Chairman, I have a question. In 'Staff Comments' you have noted that there were two requests made in May of 2018 for a variance for maximum allowable height and square footage. Is this the exact same plan and request?

Mr. Thompson: It is not. The previous home was clearly a variance because it was over the twenty percent threshold for height and square footage. They've redesigned the home with the twenty percent in mind to meet the exception. The same goes for the next case regarding height.

Mr. Bussing: If I recall, Leawood Country Manor has a pretty active Homeowners Association (HOA), doesn't it? Have you been in contact with the HOA?

Mr. Standard: We personally have not.

Mr. Hawk: This pertains to height. It appears that the elevation moves up as you go to the south. It looks higher than the residences across the street.

Mr. Standard: I can't speak on the homes across the street, but I can tell you that the previous home was 35 feet tall. So, we're actually 6 feet shorter than the house that was originally there.

Chairman Clawson: Height is the next case. Any other questions for the applicant? Is there anyone here who wishes to speak for or against the application?

A motion to approve Case 58-2022 R.M. Standard Construction; Joseph & Sharon Lambert/Owners-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 11214 Rosewood Street, was made by Bussing; seconded by Dr. Peppes. Motion carries with a unanimous vote of 4-0. For: Dr. Peppes, Hawk, Farrington, Bussing.

Case 59-2022 R.M. Standard Construction; Joseph & Sharon Lambert/Owners-Request for an exception to the maximum allowable height of a home in accordance with the LDO, Section 16-2-5.3 (F) 1 in an R-1 District for property commonly known as 11214 Rosewood Street.

Staff Presentation:

Wade Thompson made the following presentation:

Mr. Thompson: Due to a fire in December of 2017, the homeowners would like to construct a new home on the lot that exceeds the 30-foot limit. The request is for 2 feet, which is the maximum for an exception.

Chairman Clawson: Questions for staff?

Mr. Thompson: I would like to make one comment. We don't get very many of these for height. It is still an exception. If you go through the criteria on 'C', it might be hard for them to meet because it has to do with grade. This is a pretty level lot, so I think that's something that needs to be taken into consideration. The whole home was designed with the twenty percent square footage exception and the height exception in mind, so I just wanted to point out that there's nothing about the grade that I think would meet that factor.

Chairman Clawson: I am not sure what you mean. Please elaborate, Wade.

Mr. Thompson: I think the house could've been designed at 30 feet and they wouldn't have to go before the Board. If there was an extreme grade change on the lot, I could see that factor being met. I just wanted to point out that, while this is an exception, it is still a bit different than the maximum square footage requirement because the height exception requirement has criteria that has to be met and the maximum square footage exception requirement doesn't really have specifics.

Dr. Peppes: Can we talk about that for a minute? What you're saying is that, typically, it's because of a walkout or the grade is at a point that makes it have to be a certain height whereas we're dealing with a level grade right now.

Mr. Thompson: Correct. Obviously, there's no way to put a walkout home on this particular lot. If there was a steep grade change or a creek on the lot where they did have an elevation change, it would be a different story. But this is a fairly level lot.

Mr. Bussing: Wade, I drove down Rosewood and I have a hard time visualizing 32 feet versus 30. There are plenty of homes along there that are pretty high. This home would seem to fit into the character of the street.

Mr. Thompson: I agree. Those are considered legal nonconforming. The previous house, which was much bigger than what the design of this house is, was also legal nonconforming but it burned down so they have to bring it into compliance. That's the uphill battle. Like I said, 'C' is the only one I think they'll have trouble meeting.

Ms. Farrington: When you look at the elevation, it shows the heights. It looks like it's 12' 5/8" for the first level and 9' 1 1/2" for the second level. They're probably trying to achieve ten-foot ceilings on the first floor and eight feet on the second level. It's not uncharacteristically high and if you look at the adjacent properties, they're both two story homes. It's just a matter of a newer home and them wanting a higher ceiling on that first floor.

Mr. Bussing: We appreciate you pointing that out though, Wade. Thank you.

Chairman Clawson: In general, the house they're proposing would not be out of place in your opinion.

Mr. Thompson: It would match the other homes in the neighborhood.

A motion to approve Case 59-2022 R.M. Standard Construction; Joseph & Sharon Lambert/Owners-Request for an exception to the maximum allowable height of a home in accordance with the LDO, Section 16-2-5.3 (F) 1 in an R-1 District for property commonly known as 11214 Rosewood Street, was made by Farrington; seconded by Dr. Peppes. Motion carries with a unanimous vote of 4-0. For: Dr. Peppes, Hawk, Farrington, Bussing.

Chairman Clawson: Case 60-2022 has been withdrawn, so that is the last case for this evening.

MEETING ADJOURNED.