



# City of Jonesboro

Municipal Center  
300 S. Church Street  
Jonesboro, AR 72401

## Meeting Minutes Board of Zoning Adjustments

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Tuesday, May 17, 2022

1:30 PM

Municipal Center, 300 S. Church

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### 1. Call to Order

**Present** 3 - Doug Gilmore; Max Dacus Jr. and Kevin Bailey

### 2. Roll Call

**Present** 3 - Doug Gilmore; Max Dacus Jr. and Kevin Bailey

**Absent** 1 - Rick Miles

### 3. Approval of Minutes

[MIN-22:040](#)

BZA Minutes for April 12, 2022

**Attachments:** [April 12, 2022 BZA Minutes](#)

**A motion was made by Kevin Bailey, seconded by Max Dacus Jr., that this matter be Approved . The motion PASSED with the following vote:**

**Aye:** 2 - Max Dacus Jr. and Kevin Bailey

**Absent:** 1 - Rick Miles

### 4. Appeal Cases

[VR-22-11](#)

VARIANCE: 509 Floyd Street

Wally Orr is requesting a variance for a 55' setback on Washington Ave., a 30' setback on Floyd St., addition of 2 parking spaces on Floyd St. , and reduction of first floor ceiling height to 9' and second floor ceiling height to 8'. 509 Floyd St. is zoned R-2 and located in the Neighborhood Transitional District.

**Attachments:** [Application](#)  
[Site Plan](#)  
[Corner of Walnut & Washington](#)  
[Location of Proposed Parking Pad](#)  
[Elevations](#)  
[Floor Plan](#)  
[South from Intersection](#)  
[West from Intersection](#)

**APPLICANT:** Wally Orr of 1109 Owens referred to the application and site plan

for 509 Floyd. He said there are three things to address – moving minimum setback from 25 feet to 55 on Washington, he thinks he had 35 feet on the Floyd side, ground floor ceiling height, would like to put a concrete parking pad down the side of Floyd Street. He referred to the packet where there is a picture showing trees they are trying to save. That is the reason for the request of the setback change along Washington. There is a mature oak tree and a sweet gum tree they would like to stay at least 20 feet from so they do not damage the trees while building. In the picture labeled “South view from Washington”, there is a large oak tree there, they would also like to stay away from to prevent damage to the tree and certainly don’t want to have to cut them down.

COMMISSION: Chair Doug Gilmore said he certainly appreciates that. He asked what the normal setback would be on Floyd (25 feet). He said since the plan is to stay further away than the required setbacks there should be no variances needed.

STAFF: Senior Planner Monica Percy said that since the property is in the Downtown Redevelopment District, the maximum setback is 30 feet on both streets.

COMMISSION: Chair Gilmore asked if that was due to the overlay and Monica confirmed. Chair Gilmore asked what the overlay says about the ceiling height.

STAFF: Monica said the first floor is set at 12 feet, and the upper floors should be 9 feet.

COMMISSION: Chair Gilmore said the reason the board is in place is to deal with things people want to do but to make sure they are also within reason with what makes sense. A 12 foot ceiling doesn’t necessarily always make sense even in the historical district. He referred to a West End resident in the audience, who has a grand home in the West End area, whose home was built around 1930, asking how high their ceiling is. She replied it is 9 ½ feet. He said he understands the concept when the city put the overlay in but said the practicality of it might not necessarily be that great. He went on to say he would rather see the applicant build a single family home on this lot than to see four tiny homes there. He maintained that in his personal opinion, he is supportive of single family homes being built in the West End area. He asked the board for questions. Chair asked Monica and Inspections’ Tim Renshaw if they know anything about the park-way they put on Matthews next to the Payne house.

STAFF: They both replied they do not.

COMMISSION: Chair stated that he has a park-way by his home on Oak and it is very handy.

APPLICANT: Mr. Orr stated they have owned the lot for more than a year and when people turn onto Floyd heading west on Washington, they get their tires in the grass and it’s a constant mud hole. To prevent that and get some extra parking space, they would love to be able to put the parking pad there. He referred to a picture on Walnut in the packet with a photo of a parking pad, saying that is similar to what they envision, with some landscaping at the end of it on the corner. That side of Floyd is not currently curbed and they would like to make a curb to keep cars off the grass there.

COMMISSION: Chair asked if there is a sidewalk plan.

APPLICANT: Said there is not currently a sidewalk on Washington or Floyd but they would certainly welcome one.

COMMISSION: Chair Gilmore asked if there were any comments from the public. There were none.

APPLICANT: Added when he put the packet together, he was not aware he

would need a variance for a fence. Referring to the site plan, he said there are some hash marks from the corner of the driveway. He asked if it was possible to include that in today's discussion.

**COMMISSION:** Chair asked if he planned a privacy fence, 6 feet tall.

**APPLICANT:** He had a picture on his phone showing the type of fence he plans.

**COMMISSION:** Kevin Bailey asked of Planning's Shun Cornes if they could do that today or would need to come back. It was agreed they would need to address the fence at another meeting.

**APPLICANT:** Stated they envision a horizontal cedar fence that looks very nice.

**COMMISSION:** Chair questioned if every fence in that area was required to be stone. Kevin Bailey said yes, for the Downtown Improvement District, but said there are some variances that have come about for that, that have not yet been voted on. He said there is a public hearing coming up for MAPC about some of the changes to code. Chair complimented applicant on the Craftsman style planned for the home as it will fit into the area nicely.

**APPLICANT:** Assured the board this is to be their home, not an investment property.

A motion was made by Kevin Bailey, seconded by Max Dacus Jr., that this matter be Approved. The motion PASSED with the following vote.

**Aye:** 2 - Max Dacus Jr. and Kevin Bailey

**Absent:** 1 - Rick Miles

#### [VR-22-12](#)

VARIANCE: 5503 Beaver Lane

Mylo Ball is requesting a variance for the reduction of the 10' accessory building setback required from all other structures. 5503 Beaver Ln. is zoned R-1, Single-Family Medium Density District.

**Attachments:**    [Application](#)  
                          [Narrative Letter](#)  
                          [Site Plan](#)  
                          [Property Owner Notifications](#)  
                          [Permit from 2021](#)

**APPLICANT:** Mr. Ball stated he purchased the house last summer. It has a shop in the back they have really enjoyed and want to build onto.

**COMMISSION:** Chair asked if he wanted to add onto the front of the shop.

**APPLICANT:** Said yes, he wants to build 24 feet onto it. He was approved as planned for a permit last year and during the 180 days following, got the concrete poured but did not get the shop building built, and the permit expired. When he applied the second time, it was returned with the requirement that it should not be within 10 feet of the primary structure. It will actually be about 7 feet from the house. He assumes it slipped by (the reviewers) during the first application process or he would have stayed within that boundary, but now the concrete slab is already poured. He has received approval from neighbors.

**COMMISSION:** Chair said looking at the plan, especially from the street, he doesn't think one would be able to tell the difference between seven or ten

feet. The only time it would be an issue would be if one of the structures were to catch on fire.

**APPLICANT:** Agreed.

**COMMISSION:** Chair asked if there are any requirements for fire-proofing. Kevin Bailey said if it is closer than ten feet, then one of the two structures must have some fire-rated separation.

**STAFF:** Inspections' Tim Renshaw said there should be fire separation, fire-proofing on the corner that is closest to the house, or the house should have. One or the other must have one hour of fire protection.

**APPLICANT:** Asked if that would be like a cement structure.

**STAFF:** Tim Renshaw said it could be sheetrock or something else. There are UL listings rated by the time they should contain fire, some are for example, 5/8' sheetrock, maybe up to four (4) feet to either side of that corner, might be enough to fireproof it. It would probably be easier to put it on the new structure than the existing house.

**COMMISSION:** Chair asked the applicant if he will be doing the work himself.

**APPLICANT:** Said he would like to get someone to build it for him. He had put up square posts and planned to get it built during the time the permit was active, then the COVID pandemic started, lumber supplies were unavailable, and it did not work out.

**COMMISSION:** Chair suggested if the builder has questions about the fireproofing requirements, he can consult city staff. He asked for questions from the board. Kevin Bailey said in his opinion, he would suggest the front side wall of the shop addition all the way across should be a one-hour separation rated, and possibly two, but Inspections or the Fire Marshall could tell the applicant to be sure – the whole front wall facing Beaver.

**APPLICANT:** Added that on the south side of the house, not visible in the photo, there is plenty of access where any vehicle, etc. that needed to, could drive in there. The property backs up to Craighead Forest Park.

**STAFF:** Inspections' Tim Renshaw asked Monica to show the floor plan again to look at the hand drawn floor plan to look at front wall. He noted that with the front wall having an overhead door, it might also need to be fire-rated also.

**APPLICANT:** Said the door would be further than ten feet away from the house, but it they are going to plan to fire rate the entire front wall, he is fine with the door also being fire-rated. To make sure all is understood, applicant added that on the south wall, there will be a regular walk-in door, and asked if it should also be fire-rated.

**COMMISSION:** Kevin Bailey said he thinks so.

**STAFF:** Tim Renshaw said if that door closest to the house, it should be a 20-minute door.

A motion was made by Max Dacus Jr., seconded by Kevin Bailey, that this

matter be Approved with the condition of approval by the Fire Department. The motion PASSED with the following vote.

**Aye:** 2 - Max Dacus Jr. and Kevin Bailey

**Absent:** 1 - Rick Miles

[VR-22-14](#)

VARIANCE: 710 Morningview Drive

Lisa Gunter is requesting a variance for a 6' tall ornamental fence located in the front yard. 710 Morningview Dr. is zoned R-1, Single-Family Medium Density District.

**Attachments:**    [Application](#)  
                              [Certified Letters](#)  
                              [Site Plan](#)

**APPLICANT:** Josh Moss of Moss Fencing representing the homeowner, Lisa Gunter, has requested a variance on the height limit for a fence in what is considered the front yard of the property.

**COMMISSION:** Chair asked what an ornamental fence looks like – iron, metal, etc.

**APPLICANT:** Said black, smooth, ornamental iron that can be seen through. Typically, only 4 feet high fencing is allowed in front yards, and 50% open. This will be about 75% open but want to go to a 6 foot height.

**COMMISSION:** Chair asked if she has some animals to contain. (Yes, dogs that like to jump.) Chair asked if 6 feet will contain them properly.

**APPLICANT:** Said, yes, 6 feet will hold them. Since she is on a corner, both her east and west sides are considered to be front yard.

**COMMISSION:** Chair asked if they are fencing the entire property.

**APPLICANT:** They are not actually going past the front of the house.

**COMMISSION:** Chair asked if they are attaching the fence to the home.

**APPLICANT:** Yes, off the house, heading east and west, then following the setback line all the way around. Gating and fence will all match, black, smooth top, same as all the houses in Sage Meadows. She is also having a pool put in and has some concern about the four-foot requirement not being tall enough to deter kids from climbing it.

**COMMISSION:** Referred to Planning staff, who agreed they are supportive of the fence plans. Kevin Bailey said to Chair Gilmore that as the board moves forward, there are more fence items on the agenda. He wanted to make a statement that he wants the board to be cautious not to set a precedent by approving variances so many times and so often to the code on fences. Where personally, he doesn't think there's anything wrong with this particular 6 foot variance request on this ornamental fence, he doesn't feel like there's a hardship to allow a 6 foot fence to be put in place. He says that because he feels like if the board is not careful, moving forward, by granting variances on fences, they will be inundated with requests for fence variances. Chair Gilmore agreed, and affirmed they should look at each situation. Where typically someone requests a higher fence, it's usually for a visual reason, where there house might be taller, etc., it's rare that people even ask for a 6 foot fence in front of the home, but this one, being in a cul-de-sac, . . .

**APPLICANT:** Said he has been contacted, for the first time ever, by all the neighbors, and after explaining the plan to them, he has received their blessings, where typically no one calls or comes to the meeting.

**COMMISSION:** Max Dacus said it seems to him on requests like this, the codes and ordinances should be looked at, because where this 6 foot fence is not out

of line – there are other people present that have 6 foot fences around their houses. It is just a normal height fence, and if the code were different, the variances wouldn't have to be requested and brought before the commission. Kevin Bailey said he does not disagree, he just knows that since he has been on the commission, they've seen more and more fence variances, raising 6 feet to 8 for privacy, etc. and doesn't want the board to set themselves up for seeing more and more fence variance requests because they have allowed others, and be cautious. Chair noted for information that Commissioner Max Dacus is not associated with Dacus Fence Company. Max Dacus asked to clarify that two sides of the fence would be permitted to 6 feet in height with no variance. Chair said yes, the issue is the way the house sits on one side of a cul-de-sac so it technically has two "fronts" – actually, three "fronts."

**APPLICANT:** Mr. Moss said anytime he encounters a situation like this, even if the height is not an issue, he tries to automatically tell his customers, they will need an ornamental fence (for frontage, or a chain-link, depending if it's allowable in the applicable area) so it is open and meets that requirement. He said in regards to any hardship, if they were not allowed to expand into the yard, she would have to literally come straight off the back of her house, on each side, and once the swimming pool goes in, there would be no room to enclose the children or the dogs.

**COMMISSION:** Asked the applicant where the driveway is to the house.

**APPLICANT:** It comes in at the cul-de-sac on the left side of the house in the picture.

**COMMISSION:** Casey Caples pointed out that the highlighted area on the drawing shows the fence coming from "the front" of the house. He suggested if it was moved straight to the back corner, there wouldn't be as much of a variance needed, technically coming off the "back" of the house. It looks as if on the parking side it would come across the driveway.

**APPLICANT:** The garage actually faces north so the driveway does come up and pull in. Now that it was mentioned, Mr. Moss recalls that since this drawing was submitted, the owner decided to remove the automated entry gate from the plan, and that section of fence does come straight off the back of the house on the west side/corner. That side would not be in the "front" yard any longer. They removed the plans for the automatic gate on the driveway to reduce the costs, so that eliminates one of the three "front" yards. Applicant applied because it was his understanding that anything facing a street is considered front yard. If that is not the case, they might be able to modify their plan. He thinks the homeowner may not mind if the fence comes off the front or back of the house, as long as she has a sizeable piece of the property fenced in.

**COMMISSION:** Chair said not knowing how deep the house is, but if the fence was moved back 25 feet, she might not miss that.

**APPLICANT:** Agreed that she probably would not have a problem with that. So they might come off the back and head east instead of the front and heading east.

**COMMISSION:** Kevin Bailey said with everything presented today, if the applicant is willing to move the fence to the back corners of the house and go to the east toward the street that way, he would be in favor of the plan and make a motion to approve the variance based on that plan.

**APPLICANT:** Said that likely would be agreeable with the homeowner, and clarified to the Board that both sides of the fence would come off the back corners.

A motion was made by Kevin Bailey, seconded by Max Dacus Jr., that this matter be Approved . The motion PASSED with the following vote.

**Aye:** 2 - Max Dacus Jr. and Kevin Bailey

**Absent:** 1 - Rick Miles

[VR-22-15](#)

VARIANCE: 1238 S. Main Street

Bill Carwell is requesting a variance for a 6' tall privacy fence to enclose property along S. Church St. 1238 S. Main St. is zoned R-2 and located in the Neighborhood Transitional District.

**Attachments:**     [Application](#)  
                              [Certified Letters](#)  
                              [Site Plan](#)

**APPLICANT:** Josh Moss of Moss Fencing representing the homeowner said Mr. Cardwell has a double-lot property that goes from Main Street to Church Street. With the size of the house and the development of the property, there essentially is no back yard. Referencing the drawing, it shows how the homeowner plans to enclose a portion of the back yard so he has a fenced in area. The homeowner is aware of the typical setback being measured from the center of the street, but he would want to have the side yard on the north side and the east side along Church Street fenced in.

**COMMISSION:** Chair asked if there would be a gate.

**APPLICANT:** Not at this time, but once they finish up some projects on the house to completion, they do want to gate it in for their pets, etc.

**COMMISSION:** Chair asked what type of fence is planned.

**APPLICANT:** Standard wood privacy. Without a fence in the backyard, there is no other place to put it. The driveway turns and goes between a building in the back yard referencing the aerial photo which shows the property to be 1234 South Main and 1235 South Church.

**COMMISSION:** Chair asked if Staff had any comments. Chair clarified to Inspections Tim Renshaw that the property is one of those that goes straight through from Main Street to Church Street. Several months ago, the board had allowed a variance for the homeowner to make a driveway onto Church Street, even though it is close to an intersection with Richmond. The discussion then had been about turning left onto Main out of the driveway which would be nearly impossible.

**APPLICANT:** Stated again there is really no back yard on the property because of the driveway, the shop building and the house. Without a variance, there is nowhere to put a fence to allow them to enclose it.

**COMMISSION:** Chair stated if you look at houses up and down the Church Street side, for several blocks, there are fences right up to the street.

**APPLICANT:** Agreed and said they have the plans set back plenty to avoid any obstruction of driveways or traffic.

**COMMISSION:** Agreed it should be set back enough so the owner could see pulling out onto Church and not pull out in front of oncoming traffic. Max Dacus asked about the enclosed area of fence shown on the drawing.

**APPLICANT:** Said that actually shows the existing little shed building on the property.

**COMMISSION:** Casey Caples asked how far the fence would be off Church Street.

**APPLICANT:** He and the homeowner measured the standard, he thinks it was

15 feet off the curb and kept it off the existing utility lines. The homeowner had already researched it also to make sure it would be far enough off the street, but the homeowner wasn't aware that a variance would be needed since it faces a street and is technically considered front yard by definition. COMMISSION: Kevin Bailey asked to clarify that it's not being considered for a 4 foot height, but for a 6 foot height, because it's actually a back yard instead of a "front" yard. Chair agreed.

APPLICANT: Used the example of several properties in that same area where the lots are double deep like this one, and they all have 6 foot privacy fences around them.

COMMISSION: Chair noted one which has a much taller concrete block fence around it. Max Dacus asked if the 15 feet from the curb the applicant had referred to was from the back of the curb.

APPLICANT: From the back of the curb. He is aware that they used to have to be 30 feet from the center of the street, which put them ten (10) feet off the curb, but there were already marks there showing the existing utilities since there is already some work being done in that area though the applicant does not know what kind of work is being done. They plan to go back 15 feet to stay away from the marked utility lines.

COMMISSION: Kevin Bailey asked if the code does not state that the fence needs to be 50% clear in the Neighborhood Transitional District, and not 100% privacy, if it's being treated like a front yard. Casey Caples agreed and said then it would have to be 4 feet tall, but it's not actually a front yard. He said his concern is – assuming these are still two separate lots, as far as the city is concerned, he's probably never got it re-platted - if the homeowner, if he or a different owner of the house could, ever sell the back lot. Chair said at that point, there would have to be a new building permit and the fenced area would have to be reviewed at that time.

APPLICANT: He doesn't know what the house looked like before the owner did all the work to it but if you were to drive by there now, it appears that he has built so much onto the house that you'd have to tear part of the house down to divide the lot.

COMMISSION: Chair said there is no room to build a house behind the existing house.

APPLICANT: No, there is not enough room.

COMMISSION: Kevin Bailey said so they are actually discussing this 6 foot privacy fence in a back yard situation. Chair agreed, in essence, that is what it is.

APPLICANT: For Moss Fencing, it is considered a back yard, and that is how they approached it. Because they can't be certain of each little requirement of the ordinance, they want to be sure they have permission to do the fence properly and have authorization from the city. He asked for a "front" yard variance, though there might be a different or additional variance that applies.

COMMISSION: Max Dacus said this situation is unique with the height of the fence, type of fence, facing the street, even though it is the back yard – but in his opinion brick posts between fence sections might look good, and if the requirement is that you should be able to see through it, it puts the board in a tough position. He can see it from all the aspects of the applicant but the city is really making a big leap to let a privacy fence go across there.

APPLICANT: Said he can see the commissioner's point, but from his side, he doesn't think it's that big a leap when every subdivision in town has street-facing, front fence, alongside the road just as this one is planned.

COMMISSION: Max Dacus said it seems like this fence would need to be something that meet the (50%) clear requirement like the ornamental wrought



iron at least across the back.

**APPLICANT:** But then they would lose the privacy and that's the issue with Church Street being a very busy and noisy street. Not to mention, it would triple the cost of the fence.

**COMMISSION:** Kevin Bailey said it is a conundrum because even though it is in the owner's back yard, it is platted as a front-facing yard on Church Street. Chair said if you look at, for example, Phillip Jones' home in that area, he has a 6 foot "shadow box" with a topper of lattice-work that might be 8 feet with the topper. Max Dacus said with that being two separate lots, that is the front of that lot. It needs to be re-platted into one lot so then it would be the "back" of the lot. Chair mentioned the fence at the old Phil & Flo Jones house which is brick and ornamental. Continuing south, the next (Garner) is solid brick/block. Chair wondered if the homeowner would be willing to re-plat that into one lot. The house at Church & Elm is Matt Garner's house, the old Rainey house, which has concrete blocks, then if you continue south, that entire block is concrete block.

**APPLICANT:** Pointed out that if those fences or walls were erected in a time when variances were required, they were granted by the same measure. If this had been requested two or three years ago, saying this homeowner doesn't have a back yard, and needs a fence for privacy. Some of these fences are much older than that.

**COMMISSION:** Max Dacus said he believes the remedy might be, to get the lot re-platted. He asked the board if that were to happen, how the board might treat the "back" fence that is on a street. Chair said he thinks if they had the proper setbacks from the street (it might be approved) Board referred to Planning's Shun Cornes for information. (Inaudible.)

**APPLICANT:** But we would have the exact same request.

**COMMISSION:** Max Dacus said the board doesn't want to lead the applicant in one direction and then come back and the request still be denied, or requiring to build a more expensive fence thinking the regular privacy would be allowed. But if they have it re-platted, that would bring the request down to only one variance. The city would still require that it be 50% clear – that would be the only variance needed.

**APPLICANT:** The current request is for a 6 foot privacy fence is a front yard, the hardship being that he has no "back" yard. Ultimately, for the homeowner to be happy he needs to have privacy in his back yard.

**COMMISSION:** Chair said Ms. Rainey built that concrete block fence during his lifetime and she built that because she didn't like the noise on Main Street and Church Street. She had enough money that she could afford to build a concrete block fence and it looks good in this particular case. Though he is not a proponent of walls around houses, there is precedent up and down that street with existing fences. He said personally he is not objecting to this at all. He would want to be able to have a private back yard, but the board can decide however they want to move on the issue. Max Dacus said having the property re-platted would at least allow them to say that is the back yard.

**APPLICANT:** Mr. Moss can't speak for Mr. Cardwell, the homeowner, but he would not think he would be opposed to getting it re-platted.

**COMMISSION:** Max Dacus said that would eliminate whether they would ever change the use of the lot. Chair recommends that Mr. Cardwell have it re-platted. The cost of that might be less than the cost of an ornamental iron fence. He asked the board their opinion on making the recommendation.

**APPLICANT:** Asked if they should resubmit for a variance after the re-plat is completed.

**COMMISSION:** Chair answered yes.

A motion was made by Kevin Bailey, seconded by Max Dacus Jr., that this matter be Denied . The motion FAILED with the following vote.

**Nay:** 2 - Max Dacus Jr. and Kevin Bailey

**Absent:** 1 - Rick Miles

[VR-22-16](#)

VARIANCE: 4621 Judes Park

Tamara La'Joy is requesting a variance for a 8' tall privacy fence along the rear property line of 4621 Judes Park. This property is zoned R-1, Single-Family Medium Density District.

**Attachments:**     [Application](#)  
                              [Certified Letters](#)  
                              [Site Plan](#)

**APPLICANT:** Jeff Moss of Moss Fencing representing the homeowner, said she has a 60 foot stretch across her rear yard, where there is a big ditch. There is a lot of activity with people riding 4-wheelers, etc. behind the house. To block that out and have privacy, they need to put up an 8-foot tall privacy fence.

**COMMISSION:** Chair Gilmore asked if the lot behind it rises.

**APPLICANT:** Both - her lot drops down into the ditch that's in the back and the lot behind hers rises up.

**COMMISSION:** Chair asked if the houses are on about the same level.

**APPLICANT:** He hasn't paid a lot of attention but would guess that the house behind is about 1.5 feet higher than hers. When she is in her back yard, the people at 4614 (Bedrock), because they're uphill can see her in her back yard. She is only asking for the height variance across the back, not all the way around. There are a bunch of kids that live next door and have 4-wheelers and hang out on that back ditch. The actual ditch will have to be fenced off due to the easement through there. It could probably stand to be even taller than 8-feet, but fencing being standard 6 & 8 foot, they are asking for 8 feet. All the neighbors have their own fence already so it's not tying into any neighbors or obstructing anybody's views except for her property.

**COMMISSION:** Chair asked if the other fences are 6 feet to the sides.

**APPLICANT:** Yes.

**COMMISSION:** Casey Caples said he is not a fan of 8 foot fences, especially in a neighborhood. If the property was out in the country, and had a, for example a junk yard or something nearby that you wanted privacy from, he would be in favor of it, but being in a neighborhood where everyone else is mandated to a limit of 6 feet, it's hard to give a variance for one person in the center of the neighborhood an 8 foot section for just a little bit more privacy. While he understands the concern and the need for privacy, the code is there for a reason. They don't need to set a precedent so that every third person is asking for an 8 foot fence. In his opinion, it makes the look of the neighborhood go down. The requirement is in place for a reason so he is not supportive of the variance. Chair stated Mr. Caples has expressed these views before and they are unchanged.

**APPLICANT:** This is one of those situations where the property falls off the back so a 6 foot fence is essentially giving her a 4.5 foot fence height.

**COMMISSION:** Chair asked if she lined up her fence with the other neighbors, if at 8 feet, would it be aligned with the neighbors due to the drop off.

**APPLICANT:** No, it would still be higher.

**COMMISSION:** Chair asked if she would be willing to be in line with the other fences.

**APPLICANT:** That would not afford her the privacy she seeks from the people in the house at 4614 Bedrock being able to look directly at her when she is in her back yard.

**COMMISSION:** Max Dacus asked if the additional two feet would afford her that privacy.

**APPLICANT:** Absolutely. What he does is go out with a tape measure, hold it up, and show them 6 feet, and they say, "Well that's not even going to give me the privacy I'm looking for." She doesn't have children she's trying to enclose. She's trying to protect herself from onlookers. Mr. Moss said for him, imagining his wife sitting out on the back porch, with the neighbors staring at her – there's nothing anyone can do to stop the neighbor staring, except to approve an 8 foot fence. It is a burden for the homeowner, and every other house on this block has an existing fence as far as he is aware.

**COMMISSION:** Max Dacus asked if she moved the fence closer to the house some, if that would alleviate the problem.

**APPLICANT:** It is a small yard already. That back ditch area is already lost to the property because there is no consistency to the back fence lines on the other properties. Some are more forward, some further back, some are actually in the ditch line, and basically where they shouldn't be. Those are Rausch-Coleman homes & they throw fences up – probably most don't even have a fence permit. They build the fences days before closing.

**COMMISSION:** Max Dacus said he personally doesn't feel like if a person wants to look over into a yard, they could likely stand up, or get in the house and look out the window.

**APPLICANT:** They are single story homes. It doesn't change the height going from the back porch into the house.

**COMMISSION:** Casey Caples said he has that at his house also, if he is standing on his back deck, he can see his neighbor with no problem. He has no privacy whatsoever if he is standing on his deck, but he bought the house and knew it was there then. This is one of those situations that if he said he wanted an 8 foot fence, then there would be this gigantic fence and no one else would have one. In his opinion, it would look terrible, just having periodically a taller fence.

A motion was made by Kevin Bailey, seconded by Max Dacus Jr., that this matter be Denied . The motion FAILED with the following vote.

**Nay:** 2 - Max Dacus Jr. and Kevin Bailey

**Absent:** 1 - Rick Miles

[VR-22-17](#)

VARIANCE: 3005 Pinewood Circle

Greg Smith is requesting a variance for a 8' tall privacy fence at 3005 Pinewood Circle, R-1, Single-Family Medium Density District.

**Attachments:**    [Application](#)  
                              [Site Plan](#)  
                              [Notification Letters Signed](#)

**Tabled**

**5. Staff Comments**

**6. Adjournment**