

**BOA-23341**

19-12 13

# BOARD OF ADJUSTMENT CASE REPORT

STR: 9213  
CZM: 36  
CD: 4

Case Number: **BOA-23341**

**HEARING DATE:** 06/14/2022 (Continued from 05/10/2022) 1:00 PM

**APPLICANT:** Jason Coutant

**ACTION REQUESTED:** Special Exception to allow a wall or fence to exceed 8-feet in height (Sec. 45.080-A)

**LOCATION:** 1257 E HAZEL BV S

**ZONED:** RS-2

**PRESENT USE:** Residential Single Family

**TRACT SIZE:** 9618.09 SQ FT

**LEGAL DESCRIPTION:** LT 21 BLK 11, SUNSET TERRACE

**RELEVANT PREVIOUS ACTIONS:** None.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:** The Tulsa Comprehensive Plan identifies the subject property as part of an "Existing Neighborhood" and an "Area of Stability".

An **Existing Neighborhood** is intended to preserve and enhance Tulsa's existing single-family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code.

The **Areas of Stability** include approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

**ANALYSIS OF SURROUNDING AREA:** The subject tract is located East of the NE/c of Hazel Boulevard and S. Peoria Ave.

**STAFF COMMENTS:** The applicant is requesting a **Special Exception** to allow a wall or fence to exceed 8-feet in height (Sec. 45.080-A)

**45.080-A** Fences and walls within required building setbacks may not exceed 8 feet in height, except that in required street setbacks fences and walls may not exceed 4 feet in height. However, in R zoned districts, fences up to 8 feet in height are permitted in side street setbacks of detached houses or duplexes located on corner lots and in street setbacks abutting the rear lot line of houses or duplexes located on double frontage lots. The board of adjustment is authorized to modify these fence and wall regulations in accordance with the special exception procedures of [Section 70.120](#).

The applicant is seeking to add fencing onto an existing retaining wall which would put the structure over 8-feet from grade. Per the applicant the fencing will not be greater than 8-feet from the grade of the neighboring properties.

**SAMPLE MOTION:** Move to \_\_\_\_\_ (approve/deny) a **Special Exception** to allow a wall or fence to exceed 8-feet in height (Sec. 45.080-A)

- Per the Conceptual Plan(s) shown on page(s) \_\_\_\_\_ of the agenda packet.
- Subject to the following conditions (including time limitation, if any):  
\_\_\_\_\_.

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.



***Subject property***

Lauren Parker  
PLANS EXAMINER

TEL (918) 596-9499  
lauren.parker@cityoftulsa.org



## DEVELOPMENT SERVICES

175 EAST 2<sup>nd</sup> STREET, SUITE 450  
TULSA, OKLAHOMA 74103-3227

## ZONING CLEARANCE PLAN REVIEW

LOD Number: 01

January 20, 2022

Jason Coutant  
1257 Hazel Blvd.  
Tulsa, OK 74114

Phone: (918) 619-7208

**APPLICATION NO: BLDR-106550-2021** (PLEASE REFERENCE WHEN CONTACTING OUR OFFICE)

**Location: 1257 E Hazel Blvd**

**Description: Zoning Clearance Only - Fence**

### INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

#### REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2<sup>nd</sup> STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

**SUBMITTALS FAXED/EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.**

### IMPORTANT INFORMATION

1. IF A DESIGN PROFESSIONAL IS INVOLVED, HIS/HER LETTERS, SKETCHES, DRAWINGS, ETC. SHALL BEAR HIS/HER OKLAHOMA SEAL WITH SIGNATURE AND DATE.
2. SUBMIT TWO (2) SETS OF DRAWINGS IF SUBMITTED USING PAPER, OR SUBMIT ELECTRONIC REVISIONS IN "SUPPORTING DOCUMENTS", IF ORIGINALLY SUBMITTED ON-LINE, FOR REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
3. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT [WWW.INCOG.ORG](http://WWW.INCOG.ORG) OR AT INCOG OFFICES AT 2 W. 2<sup>nd</sup> ST., 8<sup>th</sup> FLOOR, TULSA, OK, 74103, PHONE (918)584-7526.
4. A COPY OF A "RECORD SEARCH" **THIS IS NOT** INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.)

(Continued)

## REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT [WWW.CITYOFTULSA-BOA.ORG](http://WWW.CITYOFTULSA-BOA.ORG)

Application No. BLDR-106550-2021

1257 E Hazel Blvd

January 20, 2022

This letter of deficiencies covers building plan review items only. You may receive additional letters from other disciplines such as Zoning or Water/Sewer/Drainage for items not addressed in this letter.

### 1. 45.080-A – Fences and Walls.

Fences and walls within required building setbacks may not exceed 8 feet in height, except that in required street setbacks (front setback) fences and walls may not exceed 4 feet in height. However, in R zoned districts, fences up to 8 feet in height are permitted in side street setbacks of detached houses or duplexes located on corner lots and in street setbacks abutting the rear lot line of houses and duplexes located on double frontage lots. The board of adjustment is authorized to modify these fences and wall regulations in accordance with the special exception procedures of Section 70.120.

### 90.170-A Fences and Walls.

The height of fences and walls is measured as vertical distance from the average finished grade on the inside of the fence to the top of the fence or wall. **Fences atop walls or landscape features (e.g., raised beds) are measured to average finished grade at the base of the wall or landscape feature.** Fence posts may exceed the height of the highest connected portion of the fence by up to 12 inches.

**Review Comments:** Provide documentation indicating the proposed fence will not exceed 8' in height measured from grade (the base of the retaining wall) or apply to BOA for a special exception to allow a fence to exceed 8' in height.

**Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:**

<http://www.tmapc.org/Documents/TulsaZoningCodeAdopted110515.pdf>

**Please notify the reviewer via email when your revisions have been submitted**

**This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.**

**A hard copy of this letter is available upon request by the applicant.**

## END – ZONING CODE REVIEW

**NOTE:** THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.

## Explanation

1. **The special exception will be in harmony with the spirit and intent of the Zoning Code.**

### Section 45.080 Fences and Walls

45.080-A Fences and walls within required building setbacks may not exceed 8 feet in height, except that in required street setbacks fences and walls may not exceed 4 feet in height. However, in R zoned districts, fences up to 8 feet in height are permitted in side street setbacks of detached houses or duplexes located on corner lots and in street setbacks abutting the rear lot line of houses or duplexes located on double frontage lots. The board of adjustment is authorized to modify these fence and wall regulations in accordance with the special exception procedures of Section 70.120.

### Section 90.170 Other Height Measurements

90.170-A Fences and Walls The height of fences and walls is measured as vertical distance from the average finished grade on the inside of the fence to the top of the fence or wall. **Fences atop walls or landscape features (e.g., raised beds) are measured to average finished grade at the base of the wall or landscape feature.** Fence posts may exceed the height of the highest connected portion of the fence by up to 12 inches.

#### Response:

The requested exception will be in harmony with the spirit and intent of the Zoning Code because 90.170-A was drafted assuming that grade of a wall is the same on both sides of the wall (the bottom of the wall). In the applicant's case, grade on one side of the wall is the bottom of the wall, and grade on the other side of the wall is the top of the wall. The wall in question is a retaining wall. See photo. The proposed fence is therefore in harmony with the spirit and intent of the Zoning Code because the proposed fence will not exceed 8 feet in height as measured from the top of the wall grade side. The proposed fence will be 6 feet in height and will be installed directly on top of the existing retaining wall.

2. ***The special exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare.***

#### Response:

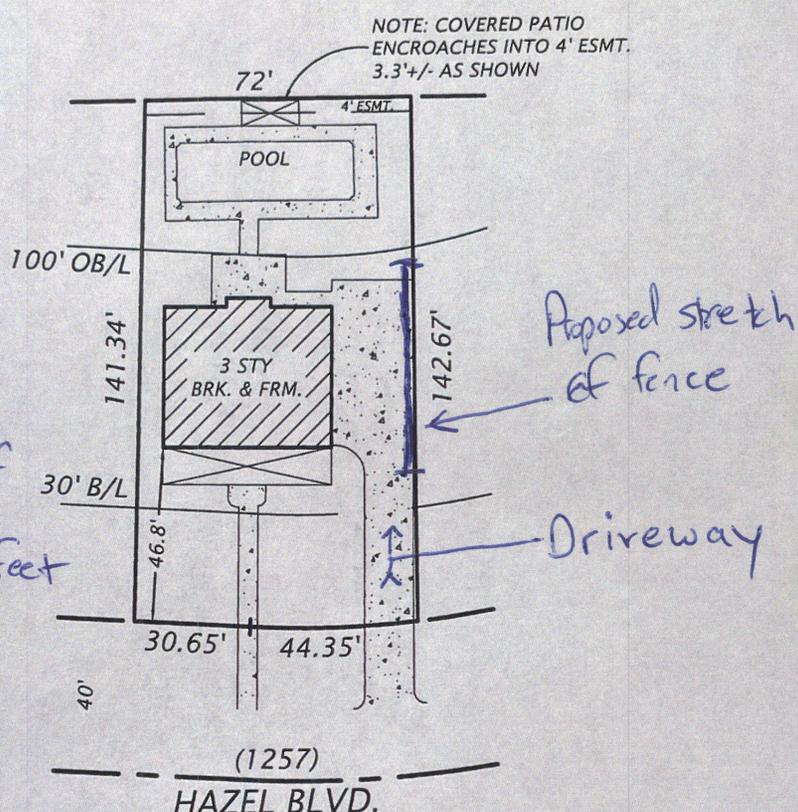
The proposed fence will be wood construction privacy fence. The proposed fence will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Applicant's neighbor to the east will benefit from reduced noise pollution from applicant's cars and basketball. The proposed fence will also be aesthetically pleasing from the curb.

Legal Description

Lot Twenty-one (21), Block Eleven (11), SUNSET TERRACE,  
an Addition to the City of Tulsa, Tulsa County, State of Oklahoma,  
according to the Recorded Plat No. 644.

SCALE  
1" = 40'

Length of proposed  
fence = 55 feet  
Height of proposed  
fence = 6 feet  
Distance from center of  
Hazel Blvd. to  
beginning of fence = 81 feet



SUBJECT PROPERTY LIES WITHIN FLOOD ZONE "UNSHADED X" AN AREA OF MINIMAL  
FLOOD HAZARD AS SHOWN ON FIRM MAP#40143C0240L, DATED 10/16/12

Property address: 1257 Hazel Boulevard, Tulsa, Oklahoma

SURVEYORS STATEMENT

I DARRELL BIBLE PROFESSIONAL LAND SURVEYOR DO HEREBY STATE THAT IN MY PROFESSIONAL OPINION, THE ABOVE  
INSPECTION PLAT SHOWS THE DWELLING AS LOCATED ON THE PREMISES DESCRIBED, THAT IT IS ENTIRELY WITHIN THE  
DESCRIBED TRACT BOUNDARIES AND THERE ARE NO ENCROACHMENTS THEREON BY VISIBLE PERMANENT IMPROVEMENTS,  
EXCEPT AS INDICATED, FENCING NOT SHOWN; THAT THE ABOVE INSPECTION PLAT SHOWS ALL RECORDED PLAT EASEMENTS  
AND OTHER SUCH EASEMENTS WHICH HAVE BEEN DISCLOSED BY A CURRENT TITLE OPINION OR BY COMMITMENT FOR TITLE  
INSURANCE AND COPIES THEREOF PROVIDED TO US; THAT THIS INSPECTION PLAT WAS PREPARED FOR IDENTIFICATION ONLY  
FOR THE MORTGAGEE AND IS NOT A LAND OR BOUNDARY LINE SURVEY, THAT NO PROPERTY CORNERS WERE SET, AND IS NOT  
TO BE USED OR RELIED UPON, FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER IMPROVEMENTS, THAT UNDERGROUND  
UTILITIES WERE NOT FIELD LOCATED AND THEREFORE ARE NOT SHOWN ON THIS INSPECTION PLAT UNLESS SPECIFICALLY  
REQUESTED BY THE CLIENT; THAT THIS INSPECTION PLAT WAS PREPARED SOLELY FOR THE CLIENT LISTED HEREON AND  
MAY NOT BE USED FOR ANY SUBSEQUENT LOAN CLOSING, REFINANCE, OR OTHER TRANSACTION;  
AND THAT NO RESPONSIBILITY OR LIABILITIES ASSUMED HEREIN OR HEREBY TO THE PRESENT  
OR FUTURE LAND OWNER OR OCCUPANT. BURIED SERVICE CABLE LOCATIONS ARE APPROXIMATE,  
CALL OKIE BEFORE DIGGING 1-(800)-522-6543



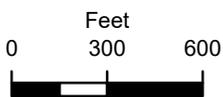


Proposed  
fence



It will look like this

New fence to go here



Subject Tract

**BOA-23341**

19-12 13

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2020/2021



7.10



**E 26TH ST S**

**E 26TH ST S**

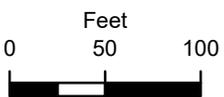
**S PEORIA AVE**

**E 26TH PL S**

**HAZEL BLVD**

**E 27TH ST S**

**E 27TH ST S**



**Subject  
Tract**

**BOA-23341**

19-12 13

*Note: Graphic overlays may not precisely align with physical features on the ground.*

Aerial Photo Date: 2020/2021



**7.11**

**From:** [Thomas M. Askew](#)  
**To:** [Chapman, Austin](#)  
**Subject:** BOA--23341  
**Date:** Monday, May 9, 2022 1:54:40 PM  
**Attachments:** [c4505f.png](#)  
[image757764.PNG](#)

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Mr. Chapman,

I represent Elizabeth Paskiewicz, the neighbor to the east, who is most impacted by the referenced application.

We are planning to attend tomorrow at 1:00 p.m. to object to the application. I have attached a photograph that best shows the area where the proposed fence would sit atop the nearly 8' retaining wall.

I will likely have additional photographs or demonstratives for presentation to the Board. Is there anything special I need to know regarding copies or technology?

Thanks.

Tom Aske 918-629-7555 (cell)

**Thomas M. Askew** | [taskew@riggsabney.com](mailto:taskew@riggsabney.com)

Shareholder



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Office: 918-587-3161 | Fax: 918-587-9708  
Direct: 918-699-8919

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