

**STILLWATER BOARD OF ADJUSTMENT
Regular MEETING OF April 4, 2019
IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING
LAW, THE AGENDA WAS POSTED April 1, 2019
IN THE MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET**

Members Present:

Terri Ventress
Ron Walker
Richard Buchanan
Craig Spencer

Staff Present:

Dennis McGrath, Assistant City Attorney
Lanc Gross, Planning Manager
Cindy Gibson, Administrative Coordinator

Members Absent:

Trey Lester

Guests:

Mr. Chad Blew
Mr. Stephen Gose
Mr. Mark Determan
Mr. Darrel Nord

1. CALL MEETING TO ORDER.

Chair Ventress calls the meeting to order at 5:30 PM. Chair Ventress introduces the board and explains the proceedings for the evening.

The following individuals are sworn in:

Mr. Lanc Gross
Mr. Mark Determan

Mr. Chad Blew
Mr. Darrel Nord

Mr. Stephen Gose

2. BUSINESS ITEMS FOR DISCUSSION AND POSSIBLE ACTION ON:

- a. Tracy Loper, **VARIANCE (VAR19-03)**, requesting review and approval of a variance to Ch. 23, Section 23-121 and Sec. 23-137 to allow a fence over four (4) feet in height in the front yard setback on property addressed as 1523 W. 11th Avenue.

Lanc Gross, Planning Manager presents staff's report. Chair Ventress asks if there are any questions for staff.

Mr. Walker asks about it being in the right-of-way; Lanc responds yes which means that the fence has to be moved back out of the right-of-way but they are also asking for a variance to the fence height and be allowed in the front yard setback.

Discussion is held regarding the eight (8) foot encroachment into the right-of-way; needed relocation of the fence to the front yard setback; and variance needed for the fence height in the front yard as only a four (4) foot fence is allowed in the front.

Mr. Buchanan asks what they are being requested to grant a variance for; Lanc responds both fence height and setback as the fence is already at six (6) feet.

Lanc explains that the fence has to be moved out of the right-of-way but also wants to keep the six (6) foot high fence in the front yard setback.

Chair Ventress asks if there are any more questions; none respond. Chair Ventress opens the public hearing. Chair Ventress asks if there is anyone that wishes to speak in favor of this item; none respond. Chair Ventress asks if there is anyone that wishes to speak in opposition of this item; none respond. Chair Ventress closes the public hearing and asks for alternatives.

Lanc presents alternatives, which are:

1. Find that each of the criteria for approval of the request are met. The Board will explain how each criteria are met in order to approve the variance(s).
2. Find that each of the criteria for approval of the request are met by imposing modifications or conditions to ensure that the criteria are met. The Board will explain how the criteria are met to grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request are not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

Mr. Buchanan comments about this being on a corner lot so it's a challenge for putting up a fence.

Chair Ventress comments about the fence sticking out like a sore thumb; there are other fences in this area but nothing similar on Pine.

Mr. Walker talks about the differences in the setbacks. Lanc explains that the front yard setback in RSS is 20 feet and side yard is 5 feet. Mr. Walker comments about it being more helpful to have a drawing in the packet and is having difficulty following the applicant's letter.

Board comments about no one being present to talk in favor or in opposition so not for sure what the neighbors think about it; not able to follow the applicant's explanation; not able to find an peculiarity to the property even with it being a corner lot; fence being moved out of the right-of-way then granting the variance to allow the six (6) foot fence; fence being moved out of right-of-way could make it less intrusive or an eye-sore; and not being in support of the request when looking at the front door of the house to the south of this one.

Mr. Walker moved, Mr. Spencer seconded to deny the request.

Roll Call:	Ventress	Lester	Walker	Buchanan	Spencer
	Yes	Absent	Yes	Yes	Yes

Time: 21 Minutes

- b. Sixes, LLC, **VARIANCE (VAR19-05)**, requesting review and granting of a variance to Ch. 23, Section 23-8(a)(1) and (3) regarding easements and dedications at property addressed as 423 S. Gray Street in the Residential Two-Family & Multi-Family (RTM) district.

Lanc Gross, Planning Manager presents staff's report. Chair Ventress asks if there are any questions for staff.

Discussion is held that there are no electric lines or equipment in the easement; the easement is under a Closing request to the City Council; no information on why it was a ten (10) foot easement with nothing in it; staff will be at the City Council meeting to introduce and sponsor the item; and if the Board of Adjustment approved the request but City Council doesn't approve the closing then staff will have to go to District Court to overturn the Board of Adjustment's action.

Chair Ventress asks if there any other questions for staff; none respond. Chair Ventress opens the public hearing. Chair Ventress asks if there is anyone that wishes to speak in favor of this item.

Mr. Stephen Gose of Gose & Associates, 113 E. 8th Avenue comes to speak on the following:

- Here representing the applicant
- They want to start construction now rather than later in May
- Wants to meet the building deadline for August occupancy
- Only an electric easement so there were no other utilities in this easement
- SEU has reviewed the closing and has no issues with the request

Chair Ventress asks if there are any questions for Mr. Gose; none respond. Chair Ventress asks if there is anyone else that wishes to speak in favor of this item.

Mr. Darrel Nord comes to speak, not in opposition, but to ask questions about what impact this will have on the small house he owns across the street; and much information has been provided that answers questions so he isn't in opposition of the request.

Chair Ventress asks if there is anyone else that wishes to speak in favor of this item; none respond. Chair Ventress asks if there is anyone that wishes to speak in opposition of this item; none respond. Chair Ventress closes the public hearing. Chair Ventress asks for alternatives.

Lanc presents alternatives, which are:

1. Find that each of the criteria for approval of the request is met. The Board will explain how each criterion is met in order to approve the variance(s).
2. Find that each of the criteria for approval of the request is met by imposing modifications or conditions to ensure that the criteria are met. The Board will explain how the criteria are met to grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request is not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

Chair Ventress asks for board discussion.

Mr. Spencer comments about this being a formality.

Mr. Walker comments about being able to support them starting earlier in order to help the builder and tenants.

Mr. Buchanan comments about not having an issue with it.

Mr. Spencer moved, Mr. Walker seconded to grant the variance based upon the letter of explanation from Gose and Associates.

Roll Call:	Ventress	Lester	Walker	Buchanan	Spencer
	Yes	Absent	Yes	Yes	Yes

Time: 12 Minutes

- c. Chad Blew, **VARIANCE (VAR19-06)**, requesting review and granting of a variance to Chapter 23, Section 23-121 for fence height and Sec. 23-137 for setbacks on property addressed as 2 Elmwood Circle in the Residential Single Family (RSS) district.

Lanc Gross, Planning Manager presents staff's report.

Mr. Walker asks about the fence being all on the yard and not in the right-of-way; Lanc confirms.

Chair Ventress asks if there are any more questions for staff; non respond. Chair Ventress asks if there is anyone that wishes to speak in favor of this item.

Mr. Chad Blew, 2 Elmwood Circle comes to speak on the following:

- Apologies because they had started building the fence before they realized they needed a permit
- Kids play outside in the pool during the summer
- Not going to do a privacy fence on the north side across the creek
- Putting up an eight (8) foot fence because its split level back yard so the yard slopes down as you go north
- Would like to have some privacy for the kids and family

Mr. Walker asks for Mr. Blew to explain the hardship. Mr. Blew responds by their desire is to have privacy for their kids; had already bought the material and fence is built so it would have to be cut down and losing part of their back yard due to the creek which is eroding.

Chair Ventress asks if there are any questions for Mr. Blew; none respond. Chair Ventress asks if there is anyone else that wishes to speak in favor of this item; none respond. Chair Ventress asks if there is anyone that wishes to speak in opposition of this item.

Mr. Mark Determan, 19 Elmwood Circle comes to speak on the following:

- Most privacy fences in this area are 6 to 6 ½ feet tall
- Will look like a fortress when you drive around the area
- Talked to Chad and his neighbor with the eroding creek and some trees that need to be removed but couldn't come to an agreement with the other neighbor as she wanted to keep her trees
- Can't get the City to help fund fixing the creek and drainage issue
- No objection to the fence but the height of it
- Modifying your house is one thing but the fence should follow the ordinance
- Thinks that a 6 ½ to 7 ½ foot fence should be allowed
- When does the City draw the line that stops letting some people to do what they want

Chair Ventress asks for clarification of where Mr. Determan's house is located; Mr. Determan explains that he is in the northeast cul-de-sac.

Mr. Walker asks if he would find that a 6 ½ foot fence acceptable; Mr. Determan responds nothing higher than a seven foot fence such as his.

Chair Ventress asks if there are any more questions for Mr. Determan; none respond. Chair Ventress asks if there is anyone else that wishes to speak in opposition of this item; none respond. Chair Ventress closes the public hearing. Chair Ventress asks for alternatives.

Lanc presents alternatives, which are:

1. Find that each of the criteria for approval of the request is met. The Board will explain how each criterion is met in order to approve the variance(s).
2. Find that each of the criteria for approval of the request is met by imposing modifications or conditions to ensure that the criteria are met. The Board will explain how the criteria are met to grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request is not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

Chair Ventress asks for Board discussion.

Board discussion is held regarding this neighborhood being a hidden gem; not finding the fence offensive; a lot of trees and greenery; the fall of the yard being more than 3 feet and very noticeable; the eight (8) fence would be the height of the fence all along the property line rather than the fence growing in height with the slope of the yard; the privacy fence will be on the west side just to the creek; the hardship being the loss of privacy in the backyard; and being of no detriment to the neighborhood or sight triangle.

Mr. Walker asks for Mr. Blew to return to the podium

Mr. Walker asks for Mr. Blew to confirm that the request is not for the whole west side of the property; Mr. Blew responds yes as they have no plans or desire to cross the creek. Mr. Walker asks if Mr. Blew's understanding is that the eight (8) foot is the maximum above the ground at any point; Mr. Blew responds yes.

Mr. Buchanan asks for clarification of how far north the fence will go; Mr. Blew responds that the privacy fence will go to just south of the creek and connect to the chain link. Chair Ventress asks if there are any more questions for Mr. Blew; none respond.

Mr. Spencer moved, Mr. Buchanan seconded to grant the variance to allow the eight (8) foot fence to the extent of shown on the drawing provided, just south of the creek, based on the criteria #1 the hardship being the loss of privacy within the backyard; criteria #2, peculiar because it has three front yard setbacks; criteria #3, there is no unnecessary hardship to the surrounding community that will impact sight line; and criteria #4 this is the minimum relief necessary to alleviate the hardship based on the fall of the yard.

Roll Call:	Ventress	Lester	Walker	Buchanan	Spencer
	Yes	Absent	Yes	Yes	Yes

Time: 29 Minutes

3. MEETING SUMMARY FOR DISCUSSION AND POSSIBLE ACTION:

- a. Special Meeting Summary of February 14, 2019.

Chair Ventress asks if there are any changes and/or corrections; none respond.

Chair Ventress moved, Mr. Walker seconded to approve the special meeting summary of February 14, 2019 as presented.

Roll Call:	Ventress	Lester	Walker	Buchanan	Spencer
	Yes	Absent	Yes	Yes	Yes

4. MISCELLANEOUS ITEMS FROM STAFF FOR DISCUSSION AND POSSIBLE ACTION:

- a. Next Board of Adjustment meeting Thursday, May 02, 2019.

5. **ADJOURNMENT.**

This regular meeting of the Board of Adjustment adjourned with all members in attendance in agreement at approximately 6:35 p.m.

Prepared by – Cindy Gibson, Admin. Coordinator

Approved by: *M. L. Ventres* 6 June 19
Stillwater Board of Adjustment