



**ISSUED BY THE COMMUNITY DEVELOPMENT  
DEPARTMENT STILLWATER, OKLAHOMA**

**Date of Meeting:** May 28, 2020  
**Subject:** Variance to Section 23-121 (b), fence heights in the front yard setback.  
**Project Name:** Freedom Homes, LLC  
**Location:** 2217 N Briarwood Dr.

### **BACKGROUND**

The subject site is located at the southeast corner of the intersection of N Briarwood and E Swim. East Swim is not constructed although the right-of-way was dedicated with the plat years ago. The property is zoned RSS and completely surrounded by RSS zoning. The subject site is a lot within an existing platted subdivision. The house is currently under construction and nearing completion.

The Land Development Code allows for a front yard setback of 20 feet from each property line that abuts a public street. A variance was approved on February 6, 2020 by the Board of Adjustment to allow for a 5 foot setback along Swim Avenue; thereby granting a 15-foot variance. That variance was granted because at the time the building permit was reviewed for the subject property, the lot was adjacent to the future extension of East Swim Avenue. East Swim Avenue will be extended as part of a larger development immediately to the north of the subject property. A second minor Variance request was approved on April 7, 2020 after the survey indicated the house was closer to the north property line than what was previously presumed. Because the house currently being constructed would be issued a Certificate of Occupancy with the developer knowing the structure will be within the front yard setback on the north side of the property, it is necessary to request a variance in order for future title transfers without issues.

The variance request for this property is for the allowance of a six foot (6 ft.) fence to be located on the front yard setback along the frontage of Swim Avenue. Under the Land Development Code, fences within a front yard setback are allowed at a maximum of four feet (4 ft.) in height. **A 2 foot variance request for height from 4 feet to 6 feet.** The applicant is asking for this variance to help maximize the use of the yard on a corner lot.

### **CODE APPLICATION**

#### **Sec. 23-121 (b) Exemptions, setbacks for fences, projections into yards:**

Fences shall be zero to four feet in all setbacks. Fences may be between four and eight feet in the rear and side setback, provided no fence shall be taller than four feet in the front setback.

### **CRITERIA FOR APPROVAL**

The Board of Adjustment must find that each of the following four criteria have been met based on evidence and testimony received from the applicant and during the public hearing. Such approval may be granted in whole, in part, or with reasonable modifications and conditions.

- (1) The application of the ordinance to the particular piece of property would create an unnecessary hardship;

- (2) Such conditions are peculiar to the particular piece of property involved;
- (3) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the Comprehensive Plan; and
- (4) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

**ALTERNATIVES**

The Board of Adjustment has the following alternatives of action:

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.

**Prepared by:** Rian Harkins, Senior Planner  
**Date of Preparation:** April 9, 2020  
**Attachments:** Application Packet, Area Map, Site Plan  
and Letter of Request