

**STILLWATER BOARD OF ADJUSTMENT
SPECIAL MEETING OF June 4, 2020
IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING
LAW, THE AGENDA WAS POSTED May 29, 2020
IN THE MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET**

Members Present:

Richard Buchanan
Terri Ventress
Craig Spencer
Trey Lester

Staff Present:

Dennis McGrath, City Attorney
Lanc Gross, Planning Manager
Melissa Higgins, Administrative Assistant

Members Absent:

Guests:

James Seargant
Derek Irwin
Jared Krittenbrink
Matthew Werner

1. CALL MEETING TO ORDER.

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

The following individuals are sworn in:

Mr. Lanc Gross

Mr. James Seargant

Mr. Derek Irwin

Mr. Jared Krittenbrink

Mr. Matthew Werner

2. BUSINESS ITEMS FOR DISCUSSION AND POSSIBLE ACTION ON:

- a. A-MAX Signs Co., Inc., **VARIANCE (VAR20-09)**, requesting review and granting of a variance to Ch. 23, Section 23-200(c) & (d) for the number of and size of signs at property address as 1710 E. 6th Avenue in the Commercial General (CG) district. **Harkins**

Lanc Gross, Planning Manager presents staff report and asks for any questions for staff; none respond.

Chair Buchanan opens public meeting. Chair Buchanan asks if there is anyone wishing to speak in favor of this item.

Mr. James Seargant, 13200 Maple Leaf Dr., Oklahoma City, OK, comes to speak on the following:

- Representing the owner.
- Explains this is the sign package for this building format for convenience of customers.
- Locke Supply current branding standard.
- Here to answer any questions for the board.

Chair Buchanan asks if there are any questions from the Board.

Vice-Chair Lester asks if each entrance is to separate departments or if it is completely open on the interior of the building.

Mr. Seargent responds that the interior is all open similar to a Lowe's store; the intent in having the signs above the separate entry points is to direct the customer to the specific departments so they don't have to wonder through the whole store looking for what they need.

Chair Buchanan asks if it is similar to the previous location layout and are the sign sizes being changed. Mr. Seargent responds that the layout is similar and the signs over each door have been shrunk by about 8% to get as close to meeting code as possible and still be legible from the road.

Chair Buchanan asks for any further questions for the representative; none respond. Chair Buchanan asks for anyone else wishing to speak in favor of the item; none respond. Chair Buchanan asks for anyone wishing to speak in opposition of the item; none respond. Chair Buchanan closes the public hearing and asks for staff alternatives.

Mr. Gross presents staff alternatives and asks for any questions; none respond.

Chair Buchanan opens for Board discussion.

Mr. Spencer states he struggles with the hardship and peculiarity to the property criteria a bit; the hardship could be the lack of convenience to customers and the brand recognition; peculiarity to the property is not clear as it is peculiar to the business but unsure how it's peculiar to the property; and doesn't see any detriment to the public and it does seem like the minimum necessary to meet their brand recognition.

Ms. Ventress states that she agrees with Mr. Spencer; the peculiarity to the property component that she sees is that the building sits a great distance back on the property; this is an established company that it seems has done a great deal to try and comply but with sitting so far back they still need to be visible to customers passing on 6th Avenue.

Vice-Chair Lester states he understands the hardship/peculiar conditions with the building sitting so far back and the sign being larger is justified but need to figure out the justification of the multiple signs; not sure it's justified with the building being completely open on the interior instead of divided; and thinks it would be good for the community as well as the business but wants to stay within the letter of the law.

Chair Buchanan states the particular conditions have been identified in the building being set so far back from 6th Avenue; it's definitely not a detriment to the public instead would be a benefit to the customers in knowing which door to enter; obviously, the minimum necessary needed; the hardship could be an issue except to not allow the variance creates the hardship on the public and the public would not know where to park or which door to enter and could be quite confusing.

Chair Buchanan asks for any further comments; none respond. Asks for a motion.

Vice-Chair Lester states he is still unsure how to get the second criteria requirement on both variance asks of size and number of signs; and the multiple signs is his struggle on having good verbiage for the justification.

Mr. Spencer states the multiple signs are necessary to allow them to establish which door the customers need to enter based on the items/department they are needing.

Vice-Chair Lester states he's unsure how that's peculiar to this property though. Mr. Spencer responds the peculiar component is justified in the building distance from 6th Avenue.

Vice-Chair Lester states that works for the sign size but with there being two different variances of size and number of signs, it doesn't seem the right verbiage for the number of sign variance.

Chair Buchanan states the comparative to Walmart and how they use signage to clarify areas such as "grocery," "automotive," "pharmacy" and "garden center"; and it doesn't seem like they are doing anything different than the big box stores other than directing their customers which door to enter most conveniently to find what they are looking for.

Mr. Spencer asks Mr. Lester if Chair Buchanan's explanation helps and he acknowledges.

Vice-Chair Lester states it helps and he does agree it would be beneficial to the public interest he's just not sure how it's different or even why a variance needs approved at all; like Chair Buchanan stated Walmart has similar signs identifying the departments but asks how this situation is different.

Chair Buchanan states he believes it's with the archaic nature of the City ordinance that deals with this subject more than anything else; it's merely compartmentalization by a retailer of where you come in for different things can see an absolute necessity for it in this particular instance and doesn't see how it impairs the public interest in any way.

Mr. Gross states that if the signs above the door stated "entry" that would make them directional but what they currently have is simply the department names making them an advertisement and that is why they are viewed as such in the code.

Ms. Ventress states that she doesn't agree that it's an advertisement as much as a division of what they offer the public and showing you where you need to enter to shop for the items you're looking for.

Vice-Chair Lester states that he would also argue that they are more directional than advertisement and believes they should be approved.

Chair Buchanan asks for a motion.

Mr. Spencer moved, Ms. Ventress seconded to approve the variance and that the four criteria have been met based on the hardship being an inconvenience to customers, that the property is peculiar because of the building distance from the street and that the signage is more entry based as opposed to advertisement, there is no public detriment that has been identified and it is the minimum necessary to overcome that variance.

Roll Call:	Ventress	Lester	Vacant	Buchanan	Spencer
	Yes	Yes	N/A	Yes	Yes

Time: 22 Minutes

- b. Derek Irwin, **VARIANCE (VAR20-10)**, requesting review and granting of a variance to Chapter 23, Sec. 23-131(b) for front yard fence setback at property addressed as 1005 S. Knoblock Street in the Residential Single Family Small Lot (RSS) zoning district. **Harkins**

Lanc Gross, Planning Manger presents staff report and asks for any questions for staff.

Chair Buchanan opens public meeting. Chair Buchanan asks if there is anyone wishing to speak in favor of this item.

Mr. Derek Irwin, 2301 E Rock Creek Rd, Norman, OK, comes to speak on the following:

- The owner/applicant.
- Explains the updates of the property since acquiring it.
- Installed the fence in the same location as the previous chain link fence location.
- Cited by Code Enforcement for fence height and setback encroachment.
- Enhances the look of the neighborhood and does not obstruct line of sight for traffic at the corner intersection.
- It would cost about \$1500 to correct the fence to meet the setback requirements.
- Here to answer any questions for the board.

Vice-Chair Lester asks if the applicant owns the property directly beside this property as well. Mr. Irwin responds no; they own no other property in the area.

Mr. Buchanan asks to verify that the fence along the east boarder of the property is the portion of fence that the variance is requested. Mr. Irwin responds yes; he was told by Code Enforcement that both fences did not meet the setback but that it appears the side yard fence may meet the setback but wasnot told that at the time; the fence that comes toward the 10th Avenue side on the east side of the property would be the one they are asking for.

Ms. Ventress asks what the building is that is directly east of the existing house. Mr. Irwin responds that it is the neighbor's house.

Ms. Ventress asks to verify that the neighboring house is very close to the applicant's property. Mr. Irwin responds yes; that it was part of the reason why a privacy fence was installed.

Chair Buchanan asks for any other questions from the Board.

Vice-Chair Lester asks if the neighboring property to the east's main entrance is off of 10th Avenue. Mr. Irwin responds yes.

Chair Buchanan asks for any further questions for the representative; none respond. Chair Buchanan asks for anyone else wishing to speak in favor of the item; none respond. Chair Buchanan asks for anyone wishing to speak in opposition of the item; none respond. Chair Buchanan closes the public hearing and asks for staff alternatives.

Mr. Gross presents staff alternatives and asks for any questions; none respond

Chair Buchanan opens for Board discussion.

Vice-Chair Lester states he has a question for staff and asks staff to show how far back the four foot fence would have to be located on the aerial view given. Mr. Gross shows the Board on the aerial view of the presentation where the four foot fence would have to be located.

Mr. Spencer asks if there is a similar fence two houses down as it appears on the aerial view or is that chain link as well. Mr. Gross responds it is possible as there are a number of privacy fences in the neighborhood that have gone up recently.

Chair Buchanan asks for any other questions from Board members; none respond.

Chair Buchanan states that from looking at the aerial these lots were designed as small lots and at the time you knew your neighbor well; far more than we want to these days so that would be seen as an unusual/peculiar situation.

Vice-Chair Lester states that he's torn with the privacy fence being located so closely to the neighboring property and not sure that he would like it being that close if he were the resident of that property'; not sure if he can get on board with it not doing any public harm.

Ms. Ventress asks staff to verify that the process of notifying neighboring properties of the applications being heard by the Board are followed. Mrs. Higgins responds yes; explains the process of notifying the public.

Chair Buchanan asks if any comments in opposition were received by staff. Mrs. Higgins responds none were received by administrative staff; unsure if any were sent directly to Mr. Gross. Mr. Gross responds that he received none.

Chair Buchanan states that whoever occupies the property to the immediate east may see it as a benefit from having the fence in place to protect their privacy as well.

Mr. Spencer states that he's in agreement with Mr. Lester, to take the subjectivity out of it, in sticking with the items we have to meet the hardship being stated as cost and the other hardship possibly being loss of privacy in the front yard.

Ms. Ventress states she doesn't see cost as a hardship but privacy is a hardship.

Vice-Chair Lester states that he agrees that privacy is a hardship in this case and agrees that there is one; that it's peculiar but just worries about making a decision that effects the other property; the people that are there now may not care but later on it will have different owners/renters.; there is the reason the setback requirement is in place and he can't stand behind allowing this particular variance.

Chair Buchanan asks staff how many feet would have to be reduced from the current six feet to the required four feet should the variance fail. Mr. Gross states the distance is approximately twenty feet.

Vice-Chair Lester states to clarify with staff that their other option would be to just remove the fence from that portion of the setback. Mr. Gross states in the setback portion they are allowed to have a four foot fence in the setback or remove it completely from the setback.

Mr. Spencer states the privacy hardship is a little difficult on this one as it is typically in the back yard of the property that wraps around the house but that's not the case in this one.

Vice-Chair Lester states it's hard because the side yard in this instance is someone else's front yard; and he would not be happy if his neighbor put up a fence down the side of his front yard.

Ms. Ventress states that is an individual preference; in looking at this property on the aerial view provided they don't really have much of a back yard; They only really have a side yard which abuts the neighbor's front yard; the hardship could be in not having any yard and how much it would be preferred to have privacy fence for pets or children or numerous other reasons; sees why it would be a good idea; it doesn't affect the line of sight at the intersection; and feels like we are doing the very minimum in this situation especially without anyone speaking in opposition of the application.

Chair Buchanan states he sees no problem with the fence extending in to the setback as it will give privacy benefit to both properties.

Vice-Chair Lester states that he agrees it would probably be best but they couldn't guarantee that it would be best for everyone that's there and can't infringe on the rights of the people that could potentially live there in the future; and feels better just going by the letter of the law in this instance.

Chair Buchanan states that if it were that offensive to a future tenant they would know the fence was there prior to signing a lease and moving in and they would certainly have an option to seek somewhere else to live; and we are not impairing their right to make a selection just ensuring the privacy of both parties.

Vice-Chair Lester states that going the other direction with that thought in it being a rental property having the fence in place could dwindle the number of potential renters to the owner of the property.

Chair Buchanan states the flip side of that statement would be it could also increase the number of potential renters due to the increased privacy; the justification in this is that the lots are very narrow and the houses were constructed very close together and we all have a right to a little privacy; the current circumstances are that it does not impair or offend anyone from the property to the east or south because they didn't show up for the meeting or lodge a complaint with the City; and asks staff if there was notification signage posted on the property.

Mrs. Higgins explains that this particular application does not require signage to be posted on the property but that public notice is published in the NewsPress and property owner letters are mailed to all owners within 300' of the property.

Chair Buchanan states they have a mild disagreement going. Asks if anyone would like to make a motion.

Vice-Chair Lester moves to deny the variance due to all four criteria having not been met and sites it being a public detriment, Mr. Spencer seconds

Roll Call:	Ventress	Lester	Vacant	Buchanan	Spencer
	No	Yes	N/A	No	Yes

Time: 28 Minutes

Clerk asks Assistant City Attorney how they must proceed with a failed motion. Mr. McGrath states with the motion failing another motion must be made. Clerk verifies that they can make another motion or table it to a date certain. Mr. McGrath responds affirmatively.

Vice-Chair Lester states that he likes the idea of tabling the item to a date certain to give the applicant another chance to speak when the Board possibly has another member or also give them time to obtain a letter from the adjacent property owner or tenant to help sway Mr. Spencer or himself.

Chair Buchanan states he would recommend the applicant further study the issue in regard to the front twenty feet as there may be some acceptable alternatives.

Chair Buchanan motions, Mr. Spencer seconded to table the variance request to July 9, 2020.

Roll Call:	Ventress	Lester	Vacant	Buchanan	Spencer
	Yes	Yes	N/A	Yes	Yes

Time: 2 Minutes

- c. Batis Development Co., **VARIANCE (VAR20-12)**, requesting review and granting of a variance to Ch. 23, Sec. 23-153(c)(2)(a) for front yard setback at property addressed as 2515 W 6th Avenue in the Commercial General (CG) district. **Harkins**

Lanc Gross, Planning Manager presents staff report and asks for any questions for staff.

Chair Buchanan asks to verify that the variance request is to make the boundary line shown on the presentation straight across to allow them to meet the setback.

Mr. Gross responds that the applicant is asking for a reduction of setback from the current 25' requirement down to 15'; and he applicant has done research as to why the line is not straight across as it is to the east.

Mr. Spencer asks if staff will be explaining why there is a jog back in the line or will the applicant. Mr. Gross responds that the applicant will detail that information in their presentation; and notes that the development will not encroach any further than the existing parking lot currently there.

Chair Buchanan asks if they are trying to change the right-of-way line where it jogs back to the south.

Mr. Spencer states they are not trying to change the right-of-way line but instead relax the setback requirement to offset the distance on the north side of the building.

Chair Buchanan asks if they are wanting to eliminate the setback. Mr. Gross responds they are asking for a variance to a portion of the setback not the entire thing.

Chair Buchanan asks how far they are asking for.

Mr. Gross responds fifteen feet is what they are asking for.

Chair Buchanan asks for any further questions for staff; none respond.

Chair Buchanan opens public meeting. Chair Buchanan asks if there is anyone wishing to speak in favor of this item.

Mr. Jared Krittenbrink, 14101 Wireless Way Bldg A, Suite 150, Oklahoma City, OK, comes to speak on the following:

- Requesting 8’ variance from bumpout area at the drive-thru and 3’ variance for the remainder of the building.
- There are no other additional 15’ easement properties found along 6th Avenue making this a peculiar property.
- Would align with the other buildings in the area.
- Existing hotel to the south so the applicant is unable to move the building any further south without creating a hardship of obtaining additional property.
- Verified with ODOT that there are no widening plans for this portion of 6th Avenue.
- Here to answer any questions for the board.

Chair Buchanan asks if the Board has any questions for Mr. Krittenbrink; none respond.

Chair Buchanan asks for anyone else wishing to speak in favor of the item.

Mr. Matthew Werner, 2933 SW Woodside Dr., Topeka, KS, comes to speak on the following:

- Architect for the applicant.
- 83% of building frontage is only 3’ variance 17% is 8’ variance at the drive-thru bumpout.
- Here to answer any questions for the board.

Chair Buchanan asks for any questions for the representative; none respond. Chair Buchanan asks for anyone else wishing to speak in favor of the item; none respond. Chair Buchanan asks for anyone wishing to speak in opposition of the item; none respond. Chair Buchanan closes the public hearing and asks for staff alternatives.

Mr. Gross presents staff alternatives and asks for any questions; none respond

Chair Buchanan opens for Board discussion.

Vice-Chair Lester states that it seems easy to define the required criteria.

Mr. Spencer discusses how the applicant meets the four required criteria

Vice-Chair Lester states that the motion needs to be specific to the site plan provided by the applicant so that should they decide to change the plans they will have to come back before the Board for another variance.

Chair Buchanan asks for a motion.

Ms. Ventress moved, Vice-Chair Lester seconded to approve the variance based on the letter of justification provided in the application with the inclusion of the site plan.

Roll Call:	Ventress	Lester	Vacant	Buchanan	Spencer
	Yes	Yes	N/A	Yes	Yes

Time: 17 Minutes

3. MEETING SUMMARY FOR DISCUSSION AND POSSIBLE ACTION:

- a. Regular Meeting Summary of March 5, 2020

Ms. Ventress moved, Mr. Spencer seconded to approve the draft minutes of March 5, 2020.

Roll Call:	Ventress	Lester	Vacant	Buchanan	Spencer
	Yes	Yes	N/A	Yes	Yes

Time: 1 Minute

- b. Special Meeting Summary of May 28, 2020

Mr. Spencer moved, Vice-Chair Lester seconded to approve the draft minutes of May 28, 2020.

Roll Call:	Ventress	Lester	Vacant	Buchanan	Spencer
	Yes	Yes	N/A	Yes	Yes

Time: 1 Minute

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

- a. Next Board of Adjustment meeting Thursday, July 09, 2020.

4. ADJOURNMENT.

This regular meeting of the Board of Adjustment adjourned with all members in attendance in agreement at approximately 6:43 p.m.

Prepared by – Melissa Higgins, Administrative Assistant

Approved by: [Board approved 08.06.2020 via ZOOM](#)
Stillwater Board of Adjustment