

Draft until approved at the next regular meeting:
STILLWATER BOARD OF ADJUSTMENT
SPECIAL MEETING OF August 6, 2020
IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING
LAW, THE AGENDA WAS POSTED August 3, 2020
IN THE MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET

Members Present:

Trey Lester
Terri Ventress
Craig Spencer

Staff Present:

Dennis McGrath, City Attorney
Lanc Gross, Planning Manager
Rian Harkins, Sr Planner
Cindy Gibson, Administrative Services Supervisor

Members Absent:

Richard Buchanan

Guests:

Rex Hayes

1. CALL MEETING TO ORDER.

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

The following individuals are sworn in:

Mr. Lanc Gross

Mr. Rian Harkins

Mr. Rex Hayes

2. BUSINESS ITEMS FOR DISCUSSION AND POSSIBLE ACTION ON:

- a. Rex Hayes, **VARIANCE (VAR20-04)**, requesting review and granting of a variance to Chapter 23, Section 23-121(b) for fence height and setback on property addressed as 1001 S. Husband Street in the Residential Single Family Small Lot (RSS) district. **Gross**

Rian Harkins, Senior Planner presents staff report and asks for any questions for staff.

Vice-Chair Lester asks staff if there are any visibility issues with the proposed fence. Staff responds no sight triangle issues are present.

Mr. Spencer asks if for clarification of what is existing and what is purposed. Staff details answer with photos from presentation.

Vice-Chair Lester asks if the board has any questions for staff; none respond.

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

Mr. Rex Hayes, 1012 S Main St, Stillwater, OK 74074, comes to speak on the following:

- The applicant.
- The existing fence is sturdy and withstood many storms.
- Fence along 10th Avenue has been grandfathered in being only 30" behind the sidewalk and the proposed fence will be 8' behind the sidewalk and all under 7' tall.
- Notes that theft is an issue in the area and is part of the reason for needing a privacy fence.

- Unusual circumstance because the property line is so near the sidewalk it leaves no room to move the fence to meet code without taking out an existing storm shelter used by the property owner and others on the block.
- All other properties in the surrounding area are zoned commercial except this property.
- No citizens have complained in regards to the fence.
- Would be a physical and financial burden to move the fence to meet the minimum setback requirement.
- The block to the west has an existing hedge crossing the sidewalk that is over 7' tall that has not be required to move.
- Here to answer any questions for the board.

Mr. Spencer asks if the fence is currently built or is it a new fence that will be built in the future. Mr. Hayes responds that the fence has been there for over 12 years.

Vice-Chair Lester asks if Mr. Hayes is rebuilding the fence or what is the explanation as to why this item is before the board now. Mr. Hayes states he is unsure why this has become an issue; once the house was demolished this issue arose at that time. Mr. Hayes states he intends no changes to the fence unless forced to do so by City of Stillwater.

Mr. Harkins states, for Board information, staff was advised by Code Enforcement that during the removal of the house the fence was being worked on triggering them to make contact with the property owner to advise him to either apply for a variance to put it back where it was or place it where code requires. Vice-Chair Lester thanks staff for the information.

Mr. Spencer asks to clarify if the fence has received any modification or will it receive any further modification. Mr. Hayes responds that he intends to do nothing further with the fence if allowed to keep it where it is.

Mr. Spencer asks if there was truly any modifications to the fence or not. Mr. Hayes states he thinks there was a misunderstanding as there was no work done on it. After the house was knocked down a fence was constructed around it while cleaning up but no change was made to the existing fence.

Vice-Chair Lester asks the applicant what the owner's intention is for this property in the future. Mr. Hayes states that he intends to eventually turn it over to management or sell it and move on once he settles everything here.

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

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

Vice-Chair Lester opens for Board discussion.

Ms. Ventress states that she drives by the subject property regularly and has not been disturbed by what is located there; realizes it is an older property and the fence has been located there for quite some time and basically grandfathered in; and if Mr. Hayes was building a new house on the lot or something of that effect it would be different but doesn't see any reason for action to be taken at this time.

Mr. Spencer states he's confused as to why this items it before the board to begin with. Ms. Ventress responds that based on the dates it appears that the demolishing of the residence may be what triggered this issue.

Mr. Spencer discusses how the application meets the required four criteria and asks Vice-Chair Lester for his opinion.

Vice-Chair Lester states he agrees with the justification given but has a question for Mr. McGrath regarding future property owners and what would be the trigger to revisit the issues if the fence is changed.

Mr. McGrath states they can make the motion conditional to apply only to the current property owner. Vice-Chair Lester responds that he doesn't necessarily wish to make it owner specific but design specific in that if the fence is approved and property sold this fence couldn't be altered without requesting a new variance from the board.

Mr. McGrath states that they could just grant the variance as requested and any future changes would be required to get a variance. Vice-Chair Lester thanks Mr. McGrath for the clarification.

Mr. Spencer moved, Ms. Ventress seconded to approve the variance given the hardship provided is that the property owner is unable to protect his personal property without a fence and it is already in place; it is a peculiar property because it is a corner lot with the restrictive side yard setback ordinances and the fence is existing; it does not appear to be any detriment to the public good as it conceals the property; and it's also the minimum necessary because it is already constructed and gives the height needed to give the desired privacy.

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

Time: 27 Minutes

3. MEETING SUMMARY FOR DISCUSSION AND POSSIBLE ACTION:

- a. Special Meeting Summary of June 4, 2020

Ms. Ventress moved, Vice-Chair Lester seconded to approve the draft minutes as presented.

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

Time: 2 Minutes

- b. Special Meeting Summary of July 9, 2020

Mr. Spencer moved, Ms. Ventress seconded to approve the draft minutes as presented.

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

Time: 1 Minute

c. Special Meeting Summary of July 16, 2020

Mr. Spencer moved, Vice-Chair Lester seconded to approve the draft minutes as presented.

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

Time: 16 Minutes

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

- a. Next Board of Adjustment meeting Thursday, September 03, 2020.

4. **ADJOURNMENT.**

This regular meeting of the Board of Adjustment adjourned with all members in attendance in agreement at approximately 6:03 p.m.

Prepared by – Melissa Higgins, Administrative Assistant

Approved by: Approved by Board of Adjustment at 10.01.2020 virtual meeting
Stillwater Board of Adjustment