

**STILLWATER BOARD OF ADJUSTMENT
SPECIAL MEETING OF July 20, 2023
IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING
LAW, THE AGENDA WAS POSTED July 17, 2023
IN THE MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET**

Members Present:

Brian Wiles, Chair
John Houck, Vice Chair
Jim Rice

Members Absent:

None

Staff Present:

Tammy Ewing, Legal Counsel
Joshua Brown, Project Manager
Jacquelyn Porter, City Planner
Diana Hood, Associate Planner
Cindy Gibson, Admin. Services Manager

Guests:

Melissa Higgins
Ken Horvath
Cory Williams
Stephen Gose
Kelly Harris
Eric Gil

1. CALL MEETING TO ORDER.

Chair Brian Wiles calls the meeting to order at approximately 12 p.m. and explains the proceedings for the afternoon.

The following individuals are sworn in:

Melissa Higgins	Ken Horvath	Cory Williams	Stephen Gose
Kelly Harris	Jacquelyn Porter	Diana Hood	

2. CONSIDERATION, DISCUSSION AND TRAINING WITH COUNSEL OF THE CITY ATTORNEY'S OFFICE REGARDING OPEN MEETING ACT, OPEN RECORDS ACT AND VARIANCES.

Tammy Ewing, Legal Counsel, given there are six items for consideration at this meeting, asks to delay this item to another meeting. She states that no action is needed.

3. BUSINESS ITEMS FOR DISCUSSION AND POSSIBLE ACTION ON:

- a. Kenneth Horvath, **VARIANCE (VAR23-07)**, requesting review and approval of a variance to Section 23-211 to allow for a gravel driveway approach at the property addressed as 1525 E. Burris Rd, in Residential Single-Family Large Lot (RSL) zoning.

Chair Wiles introduces the item and invites staff to present.

Diana Hood, Associate City Planner presents staff report and asks if there are any questions for staff; none respond.

Mr. Rice states that given recent instruction from the City Attorney's Office to not violate the spirit of the ordinance, and asks Staff to provide insight on the intentions behind the relevant section of City Code. He supposes that it has to do with erosion, and Ms. Hood confirms that the intent behind the requirement to pave the driveway approach is to prevent erosion and prevent gravel from going into the street and to keep from clogging storm drains, etc. Ms. Hood then reiterates that Burris Road is currently a gravel road and does not have any storm drains.

Tammy Ewing, Legal Counsel, states that conditional approval is an option that the Board may take and it is reasonable to have the variance be approved for so long as the road is unpaved.

Chair Wiles opens the public hearing, and invites the applicant or anyone wishing to speak in favor of the applicant to come forward.

Ken Horvath, owner of the subject property, states that their request is simply to allow for a gravel drive and driveway approach from the gravel road.

Vice-Chair Houck states that he understands that there is a financial hardship as well, seeing as a paved road would be more expensive to install and maintain, and asks the applicant if there is any other hardship he wishes to convey; Mr. Horvath says there is none.

Mr. Horvath states that everything about building a home is expensive, and if the City were to pave Burris Road in the future, and if may be difficult to then pave the driveway approach to bring it into compliance at that time.

Mr. Rice asks if that is a matter of record for the Board, and Vice-Chair Houck notes that it could be included in the motion. Ms. Ewing clarifies the question, and states that it is possible.

Chair Wiles asks if there is anyone wishing to speak in opposition of the item or wishing to make additional comment.

Eric Gil, who was not present at the beginning of the meeting to be sworn in, is sworn in and approaches the podium to speak.

Mr. Eric Gil, 1509 East Burris, states that he is Mr. Horvath's neighbor and states that he is in favor of the request as he is in a similar situation. He understands the City Ordinance and states that if the City paves Burris Road he would be willing to pave the driveway approach.

Chair Wiles asks if there is anyone else wishing to speak; seeing none, he closes the public hearing.

Ms. Hood presents the criteria for approval and alternatives, which are:

Criteria:

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:

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.

Ms. Hood asks if there are any questions for staff, to which Ms. Ewing asks if the Board approves the Variance with the condition that it be brought into compliance upon the paving of Burris Road, what the exact wording should be. Ms. Hood states that correct wording should be "paved."

Chair Wiles calls for discussion.

Vice-Chair Houck motions for approval with the condition that the property be brought into compliance with the ordinance upon the paving of Burris Road.

Vice-Chair Houck states that the request meets Criteria #1 for hardship given that Burris Road is not paved, so the requirement to pave the driveway approach is unnecessary. He then adds that it is peculiar to this particular piece of property because Burris Road is no paved, which is unusual, and would not be a detriment to the public good as well as being the minimum necessary to alleviate the hardship.

With that being said, Mr. Rice seconds the motion based on criteria #1 requirement is un-necessary due to the lack of improvement on Burris; criteria #2 is on a gravel road; criteria #3 it doesn't create an substantial detriment to the public good or impair the purpose and intent of the ordinance of the Comprehensive plan; and criteria #4 the relief is the minimum necessary to alleviate the un-necessary hardship.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	Yes	Yes	Yes	N/A	N/A

Time: 18 minutes

- b. Ideal Homes Development, LLC, **VARIANCE (VAR23-08)**, requesting review and approval of a variance to Section 23-195(b)(4) for the number of signs per subdivision entrance at the property currently addressed as 2224 W. 29th Ave, in Residential Single-Family Small Lot (RSS) zoning.

Jacquelyn Porter, City Planner, presents the item and asks if there are any questions for staff.

Mr. Rice inquires concerning the intent of the ordinance, similar to the previous item. Ms. Porter states that the intent of the sign code is to eliminate visual clutter.

Mr. Rice then asks if the provided site plan is correct, and there are two entrances to the subdivision. Ms. Porter responds affirmatively, stating there is one entrance on the south side of the subdivision connecting to the Frye Farms subdivision and one on the west leading to Western Street.

Mr. Houck then asks that code states there may be only one sign per entrance, and that the request is for a second sign at the west entrance. Ms. Porter responds affirmatively.

Chair Wiles asks if there are any other questions for staff. Seeing none, he opens the public hearing for the applicant or anyone wishing to speak in favor of the item.

Melissa Higgins, representative for Ideal Homes, states that the placement of the two signs is due to the privacy fences as well as to be able to make sure both directions of traffic can see and recognize the subdivision.

Vice-Chair Houck asks if there are plans to screen the area, Ms. Higgins states that they have already installed privacy fences.

Vice-Chair Houck asks if there is anything preventing visibility making it impossible for just one sign to be angled in a way that makes it visible to both directions of traffic.

Ms. Higgins states that the privacy fences' placement would prevent one direction of traffic from seeing the sign, so two signs would make it visible to both directions of traffic.

Seeing no more questions for the applicant or anyone wishing to speak in favor, Chair Wiles asks if there is anyone wishing to speak in opposition or make additional comments.

Seeing none, Chair Wiles closes the public hearing and invites staff to provide the alternatives.

Ms. Porter reminds the Board of the criteria for approval, and the 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 Wiles calls for the Board to discuss.

Vice-Chair Houck states that he is having a hard time identifying the hardship for this case; and states that he is in favor the request, but doesn't see how it meets the criteria for an exception.

Chair Wiles states that having to redesign the sign and placement of the sign could be considered a hardship, and that having the two signs in close proximity to one another would decrease the visual clutter.

Vice-Chair Houck asks how large the signs are; Ms. Porter, referencing the packets provided, states they are 8 feet tall and 15 feet wide.

Chair Wiles states that the unnecessary hardship criteria is met due to the visibility concerns with regards to vehicles slowing down to see the subdivision name and thereby creating a traffic hazard. He continues and states that it is peculiar to the particular piece of property, and that he does not believe it would cause a detriment to the community or violate the spirit of the ordinance. He concludes by stating that he feels the request is the minimum necessary to alleviate the hardship.

With that being said, Chair Wiles moves to approve the variance based on criteria #1 the hardship being that vehicles slowing down to see the subdivision; criteria #2 as it is peculiar that piece of property; criteria #3 it won't cause a detriment to the community or violate the spirit of the ordinance; and criteria #4 it is the minimum relief necessary to alleviate the hardship.

Ms. Ewing states that a member of the Board may move to approve or second a motion to approve but may vote against the item. She clarifies that a motion and a second simply brings it to a vote and that they may vote in any way they wish.

Mr. Rice seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	Yes	No	No	N/A	N/A

Time: 13 minutes

- c. Eric & Samantha Gil, **VARIANCE (VAR23-09)**, requesting review and approval of a variance to Sec 23-211 to allow for a gravel driveway approach at the property addressed as 1509 E Burris Rd in Residential Single-Family Large Lot (RSL) zoning.

Ms. Diana Hood, Associate City Planner, presents the item and asks if there are any questions for staff.

Seeing none, Chair Wiles opens the public hearing and asks if the applicant or anyone else wishes to speak in favor of the item.

Eric Gil, owner of the subject property, states that he does understand the ordinance and the intent behind it, and if the City were to pave the road in the future he is willing to bring the property into compliance at that time.

Chair Wiles asks if there is anyone wishing to speak in opposition or make additional comments; none respond.

Chair Wiles closes the public hearing and calls for the Board to discuss.

Mr. Rice asks if they may adopt the motion from the first agenda item as they are similar requests, Ms. Ewing states that they cannot make the previous motion apply to this item but they may make the motion to approve on the condition that the property is brought into compliance upon the paving of Burris Road.

Mr. Rice so moves; Vice-Chair Houck seconds the motion.

Mr. Rice motions for approval with the condition that the property be brought into compliance with the ordinance upon the paving of Burris Road. Vice-Chair Houck seconds the motion based on criteria #1 requirement is un-necessary due to the lack of improvement on Burris; criteria #2 is on a gravel road; criteria #3 it doesn't create a substantial detriment to the public good or impair the purpose and intent of the ordinance of the Comprehensive plan; and criteria #4 the relief is the minimum necessary to alleviate the un-necessary hardship.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 4 minutes

- d. Reilly Davis, **VARIANCE (VAR23-10)**, requesting review and granting of a variance to Ch. 23, Sec. 23-121.b to allow construction of a wooden privacy fence at property addressed as 901 W. Will Rogers Drive in the Single Family Large Lot Residential (RSL) district.

Ms. Diana Hood, Associate City Planner, presents the item and asks if there are any questions for staff.

Mr. Rice asks Ms. Hood to clarify the orientation of the property based upon the provided diagram of the lot.

Mr. Rice then asks if the applicant is respecting the spirit of the ordinance with the request, Ms. Hood responds affirmatively and states that the applicant is aware of the intent behind regulations and will ensure that they do not create a visual obstruction at the nearby intersection.

Ms. Ewing notes that staff has been drafting an amendment to this section of code to address similar issues, and while it is not yet codified it is something that staff is aware of.

Seeing no more questions for staff, Chair Wiles opens the public hearing and invites the applicant and anyone wishing to speak in favor of the request to speak.

Seeing none, Chair Wiles invites anyone wishing to speak in opposition to the request or wishing to make additional comments to speak.

Seeing none, Chair Wiles closes the public hearing and invites staff to present alternatives.

Ms. Hood presents alternatives and criteria.

Mr. Rice clarifies that a four foot tall fence would be allowed by code, and the applicant is requesting to have a six foot tall privacy fence; Ms. Hood responds affirmatively. He clarifies that the sight lines will be unaffected, Ms. Hood again responds affirmatively.

Mr. Houck states that this is an interesting piece of property and there are several reasons why it is peculiar for criteria #2; criteria #3 will not cause substantial detriment in that most properties fronting Washington Street have 6 foot fences; and that the applicant is facing the hardship, criteria #1, of being unable to fully use their property.

With that being said, Mr. Houck motions to approve the variance request. Mr. Wiles seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 7 minutes

- e. Keystone Engineering on behalf of Henry Anderson, TreanorHL Architects & Zeta Tau Alpha Fraternity, **VARIANCE (VAR23-11)**, requesting review and granting of two (2) variances: #1: Ch. 23, Sec. 23-121.c for projection into yard for setback requirements; and #2: Ch. 23, Sec. 23-141.d for maximum building heights for a proposed new building at 1001 W. University Drive in the Multi-Family Urban Residential (RMU) district.

Jacquelyn Porter, City Planner, presents the item and asks if there are any questions for staff.

Mr. Rice clarifies that this request is for two variances, Ms. Porter responds affirmatively.

Seeing no other questions for staff, Chair Wiles opens the public hearing to allow the applicant or anyone else wishing to speak in favor of the item.

Kelly Harris from Bancroft International (formerly known as Keystone Engineering) located at 923 S. Lowry St is present on behalf of the applicant and delivers a presentation on the project and the variance requests based upon the letter of justification.

Ms. Ewing asks for clarification on the ownership, as this structure is stated to be the Zeta Tau Alpha Sorority House yet the owner is listed as the Zeta Tau Alpha Fraternity. Ms. Harris responds that Greek Houses are all owned by Parent Fraternities and then designate specific houses as Sororities.

Ms. Ewing also asks Ms. Harris to verify that she has been given authority to act in behalf of the applicant, which Ms. Harris states that she does.

Seeing no more questions for Ms. Harris, Chair Wiles asks if there is anyone else wishing to speak in favor of the applicant; none respond.

Chair Wiles asks if there is anyone wishing to speak in opposition or make additional comment.

Seeing none, Chair Wiles closes the public hearing and invites staff to present the alternatives, which are the same as the previous items.

Chair Wiles calls for the Board to discuss.

Mr. Rice asks staff to clarify the intent behind the height ordinance. Ms. Porter responds that a taller building lends itself to a higher intensity of use, and the front yard setback ordinance also deals with perceived density. She continues that the intent behind both of these requirements is to control the perception density.

Chair Wiles remarks that other Fraternity/Sorority houses have received similar variances in the past, and it seems to be almost a competition between them. He goes on to note that the alternative to obtaining this variance would be for the applicant to redesign the house or not including the terrace altogether, which he sees as a substantial hardship.

Ms. Ewing asks the Board to address the requests one at a time.

With regard to the variance request for Section 23-141 on Height restrictions, Chair Wiles states that he feels that redesigning the building would be an unnecessary hardship.

Ms. Ewing comments to the Board that anyone denied a variance will have to revise their plans. The presented project is conceptual and the drafted plans are not compliant with City ordinance, which is a self-imposed hardship. She advises the Board that while it may be a hardship, they must keep in mind the difference between a hardship and an unnecessary hardship.

Vice-Chair Houck states that he feels there would be an unnecessary hardship with the application of City ordinance given the character of the rest of the neighborhood.

Mr. Rice , adding on to Mr. Houck's comment, states that the proposal would cause no detriment to the public and would be the minimum necessary given that the design of the house is meant to match the rest of the neighborhood.

Mr. Rice asks Ms. Harris what the impact would be if the pitch of the roof had to be lowered by 3.5 feet, therefore bringing it into compliance. Ms. Harris responds that it would greatly complicate the design and construction of the roof and would require them to flatten certain areas, which would not fit with the specific architectural style meant for the building.

Mr. Rice asks Ms. Harris if they couldn't use take some space away from the third floor, she responds that isn't possible because it would affect the roof line and would make it uneven from the rest of the neighborhood.

Mr. Rice notes that he feels that would be unnecessary hardship, and that the requested 3.5 feet is the minimum necessary to alleviate said hardship.

Chair Wiles moves to approve the variance for Sec. 23-141 for height regulations, Mr. Houck seconds.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 20 minutes

Chair Wiles calls for discussion on the variance request for Sec. 23-121 for projections into the yard.

Mr. Rice asks, in regard to the current footprint of the building, if the proposal would bring the structure closer to the street. Ms. Harris responds that the current structure is 15 feet from the property line, which does not meet the required 20 feet. The proposal would bring the building eight feet closer to the property line than it currently stands.

Chair Wiles asks for any additional questions or discussion.

Mr. Houck states that he feels the request meets criteria #1 the unnecessary hardship criteria; criteria #2 in that the property is peculiar due to the tightness of the area; criteria #3 sees no detriment to the public; and criteria #4 feels that the request meets the minimum necessary to alleviate the hardship.

With that being said, Mr. Houck moves to approve the variance for Sec. 23-121 for projections into the yard. Mr. Rice seconds.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 5 minutes

- f. Gose & Associates on behalf of Bob White Real Estate Trust, LLC / Cory T. Williams, **VARIANCE (VAR23-12)**, requesting review and granting of four (4) variances: **#1:** Ch. 23, 23-132 to allow a variance to the maximum gross density of 11 dwelling units per acre to 13 dwelling units per acre; **#2:** Ch. 23, 23-138(c)(1) to allow a minimum lot area of 7,000 square feet instead of 7,500 square feet is being requested for each pair of lots; **#3:** Ch. 23, 23-138(c)(2) to allow a minimum lot width of 50 feet instead of 60 feet is being requested for each pair of lots; and **#4:** Ch. 23, 23-138(d) to allow a front minimum front yard setback of 8 feet instead of 20-feet for the west side of Lot 17 and the east side of Lot 32; both are secondary frontages for the buildings to be developed on properties currently addressed as 1017 W 9th Ave, 1109 W 9th Ave, 1022 W 10th Ave, 1024 W 10th Ave, 1104 W 10th Ave, 1110 W 10th Ave, 1122 W 10th Ave, 1124 W 10th Ave AND 920 through 924 South Jefferson Street in the Two-Family Residential (RT) district.

Ms. Porter presents the item and asks if there are any questions for staff.

Mr. Rice asks about the density requirements for the area. Ms. Porter clarifies that the calculation is per acre, and that the request exceeds the units allowed per acre by six units. Ms. Porter continues to clarify her math by stating that the allowed amount of units per acre in the RT zoning district is 11 units. The subject area is 1.7 acres, which evens out to approximately 18 units allowed, which the proposal exceeds.

Mr. Rice then inquiries concerning the intent behind the ordinance. Ms. Porter responds that the density requirements are there to address the impact on the infrastructure as well as the impact on the neighboring areas.

Mr. Houck clarifies that there are a total of four variances for consideration, Ms. Porter responds affirmatively.

Chair Wiles opens the public hearing and invites the applicant or anyone wishing to speak in favor of

the item to do so.

Stephen Gose with Gose and Associates, 113 E. 8th Avenue, is present on behalf of the applicant, and states that Lewis Addition (where the subject property is located) was platted before the current city standards were put in place. He clarifies that the lots as they were platted are only 25 feet wide by 140 feet long, and the proposed project would install duplexes with parking access off of the alley. This means that no driveways are emptying onto 9th Street or 10th Street, which lessens the traffic impact onto those streets.

Mr. Gose continues that he believes that the proposal meets the intent of the code, which requires 60 foot wide lots and the proposal indicates 50 foot wide lots, and when combined with the 140 foot depth of the lots the total square footage comes out to 7,000 – compared to the 7,500 square feet required by code. He clarifies that exemption for setbacks is for the corner lots, since they are only 25 feet wide abiding by the current setback requirements would leave very little area left to build on.

Mr. Gose references the letter of justification they submitted and asks if there are any questions for him.

Ms. Ewing asks for clarification on the ownership of the property and who can give authorization to represent the owner. She states that the owner is Bob White Real Estate, LLC, the application has listed Bob White Real Estate Trust, LLC, as the owner, and there is a letter signed by Cory Williams with Look Real Estate giving Gose and Associates permission to represent the project.

Ms. Ewing asks Mr. Gose to clarify if the owner is Bob White Real Estate, LLC, or Bob White Real Estate Trust, LLC. She explains that since variances are attached to the land parcel itself, the ownership information needs to be very specific and wholly correct.

Mr. Gose responds that he does not have a copy of the deed with him, but the letter of authorization signed by Mr. Cory Williams does state 'Bob White Real Estate, LLC.' as the owner. Ms. Ewing asks the record to reflect that the owner of the property is Bob White Real Estate, LLC, and that Mr. Gose has authority to represent them.

Ms. Ewing continues to ask for Mr. Gose to explain how the Board can grant a variance to multiple lots that have not been combined through a re-plat. She states that two 25 foot lots has a total width of 50 feet, but they are not combined and asks for clarification on how they would have permission to build a structure on a lot line.

Mr. Gose states that the owner of both lots can build a structure over the lot lines, and if they ever attempted to sell the lots individually it would then become a civil title issue.

Mr. Houck asks why they didn't just do a subdivision to re-draw the lot lines, and Mr. Gose replies that the cost and time involved made doing a re-plat more complicated. He states that the request for these variances keeps things more simple and manageable.

Ms. Ewing asks how the variance will be tied to the lot if there are multiple lots. Mr. Gose replies that the intent was to have the variances apply to all the listed lots to avoid making the same variance request multiple times for each lot. He refers to the development site plan that was submitted and states that these variances are necessary to implement said plan.

Ms. Ewing asks if Mr. Gose sees this causing issues for future buyers. Mr. Gose responds that he always recommends to his clients that they record it with the County Courthouse after approval so it always stays with the property and is always present on any title or abstract work.

Ms. Ewing asks if that would then allow one 25 foot lot to have a duplex where it would normally be required to be 60 feet wide. Mr. Gose responds that a totally new development of duplexes would have to be compliant with city code, but this project is for infill development and they have to work with the conditions that are already there.

Ms. Ewing responds that she understands that, but she doesn't understand how a variance that articulates that from a legal standpoint.

Mr. Gose responds that the notification of action sent by staff after approval is usually sufficient as it lists the variance that was granted and the legal description for the subject property, and that information satisfies the county records.

Mr. Rice asks if the legal description Mr. Gose is referencing is for the total lot, to which Mr. Gose responds affirmatively. He explains that from a title standpoint the documentation of approval ties to all of the lots, whether they are separated into twos or grouped all together.

Ms. Ewing states that she has no more questions.

Chair Wiles states that he understands the line of questioning since this seems confusing and they would like to avoid causing issues for future buyers. Mr. Gose clarifies that they have spoken with a local title attorney and have been assured this is the best way to proceed. He states there will be separate deeds for lots nine and ten, 11 and 12, and so forth.

Mr. Houck again asks why they decided not to re-plat the area. Mr. Gose responds that they would still need to ask for the same variances if they did so, considering the 25 foot sections of land to put together will still add up to the same square footage totals. He continues to state that they are not significantly smaller than what is required by code so the project is still feasible.

Mr. Rice clarifies that they could have submitted for a subdivision but would not have been approved, and Mr. Gose agrees stating that any subdivision not meeting the bulk standards would not be approved and they would have had to request these same variances anyway.

Ms. Ewing asks if they could have done a PUD (Planned Unit Development). Mr. Gose states that that is an option given by the current code, but they felt that the current proposal met their needs and there was no need for a PUD.

Mr. Rice asks where they are at in the building process, Mr. Gose responds that they are nowhere in the building process.

Mr. Houck asks if a Planned Unit Development would have to go to Planning Commission. Ms. Ewing states that it would indeed go before the Planning Commission and City Council.

Mr. Houck notes that the same case would be presented to Planning Commission if they had done a

PUD instead of the Board of Adjustment piecing it all together. Mr. Gose responds that this is one request. Mr. Houck responds that there are four variances requested. Mr. Gose responds that the same four variances would be necessary for a PUD as well.

Ms. Ewing disagrees, from a legal perspective, they would not be variances.

Mr. Rice states that he supports infill projects.

Ms. Ewing states that her lines of questioning have been meant to inform the Board the extent to which this constitutes a hardship, and to answer questions she has had herself.

Mr. Gose states he is happy to answer any more questions after others have spoken.

Seeing no more questions for Mr. Gose at this time, Chair Wiles asks if there is anyone else wishing to speak in favor of the item.

Cory Williams approaches and clarifies that he is the attorney representing the family LLC and Trust that currently owns the land, which Bob White aggregated over the course of several decades. He continues that he is also the broker organizing the sale of the land to a developer who has done similar projects to the one proposed.

Mr. Williams states that a PUD is a viable option, but are usually a costly and lengthy procedure and requires much of the cost up front, which can lead to a sunk cost if the PUD is denied. He continues to state that the land has not been transferred in title at all, it is still held by the family, and is under contract under the condition that these variances are approved and the project is viable.

Mr. Williams notes that earlier Mr. Rice asked a question about hardship, and Mr. Williams states that the setbacks for the corner lots significantly decrease the amount of developable area. He states that he would have liked to default back to the original Lewis Addition plat with the 25 foot wide lots, but with the evolution of development codes they must comply with the current regulations. He states that he is trying to follow the City of Stillwater Master Plan by creating infill development in areas that need it. He notes that one of the houses in the subject area is specifically for canine use.

Mr. Rice asks about the relocation of said canines, and Mr. Williams states that they will be adopted out in an appropriate manner.

Mr. Houck clarifies that they are locked in to the 25 foot lots, and by doubling them up they meet 50 feet of the 60 feet required, and the application of setback requirements on the corner lots would mean they lose 2 whole units. Mr. Williams responds affirmatively.

Mr. Williams recalls a different property on Duncan Street that had a structure that needed demolition and they erected a new structure exactly where the old one was, but that location was not compliant with city code due to changes in the development requirements since the original building's installation.

Mr. Williams continues to note that applying for all these variances as they did was the best way to see if the project was viable for the area, or if they needed to simply sell it off in individual pieces. He states that Bob White, when he was alive, did a good job of aggregating property. He references an area a

few blocks to the east of the subject area at 9th and Knoblock which was also aggregated by Mr. Bob White and is managed by Mr. Williams. Mr. Williams states that it was cleared and they build duplexes and triplexes on that property and that it has been a benefit to the community and enhanced property values.

Seeing no more questions for Mr. Williams, Chair Wiles asks if there is anyone else wishing to speak in favor of the item.

Seeing none, Chair Wiles asks if there is anyone wishing to speak in opposition or provide additional comment on the item.

Seeing none, Chair Wiles closes the public hearing and invites staff to present the criteria and alternatives, which are:

Criteria

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

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.

Ms. Ewing advises the Board that there should be a separate motion and vote for each of the four variance requests.

Chair Wiles calls for the Board to consider the variance request for Section 23-132 for maximum gross density to allow 13 dwelling units per acre instead of 11.

Mr. Rice comments that he finds the existing condition of the lots and platting unduly restrictive.

Mr. Rice motions to approve the variance to 23-132 with regard to maximum density (minimum lot size) due to the application of the code to the existing piece of property creating an unnecessary hardship for criteria #1; criteria #2 in that this area is peculiar because the smaller size of the lots and being older in design; criteria #3 that the relief, if granted, would have limited or no detriment to the neighborhood; and criteria #4 would be the minimum necessary to alleviate the hardship.

Chair Wiles seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 32 minutes

Chair Wiles calls for the Board to consider the request for a variance to Section 23-138 to allow a reduction of the minimum lot area from 7,500 square feet to 7,000 square feet.

Mr. Rice moves to approve the request for a variance to 23-138.c.1 to allow a minimum lot area of 7,000 square feet due to the smaller size of the lots and being older than current code and that relief if granted would have no detriment to the neighborhood and would be the minimum necessary to alleviate the hardship.

Mr. Houck seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 2 minutes

Chair Wiles calls for the Board to consider the request for a variance to Section 23-138.c.2 to allow a minimum lot width of 50 feet instead of 60 feet.

Mr. Rice moves to approve the variance to Section 23-138.c.2 to allow a minimum lot width of 50 feet instead of 60 feet. He states that the lots in question align themselves more toward a width of 50 feet and that 60 foot wide lots would not be feasible, and that the relief would not be a detriment to the neighborhood and would be the minimum necessary to alleviate the hardship.

Chair Wiles seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 2 minutes

Chair Wiles calls for the Board to consider the request for a variance to Section 23-138.d to allow a minimum front yard setback of eight (8) feet instead of 20 feet for the west side of Lot 17 and the east side of Lot 32.

Mr. Rice moves to approve the variance to Section 23-138.d.2.a.1 to allow a minimum front yard setback of eight (8) feet due to the fact that the lots are small and old in design and that application of the current code would prevent the reasonable use of the property, creating an undue hardship. He continues that they are particular to that piece of property and would not create a detriment to the neighborhood and is the minimum necessary.

Chair Wiles seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	YES	YES	YES	N/A	N/A

Time: 2 minutes

4. MINUTES FOR DISCUSSION AND POSSIBLE ACTION:

- a. Regular Meeting Minutes of July 7, 2022.

Vice-Chair Houck moves to approve all minutes listed, Mr. Rice seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	Yes	Yes	Yes	N/A	N/A

- b. Special Meeting Minutes of August 25, 2022.
c. Regular Meeting Minutes of October 6, 2022.
d. Regular Meeting Minutes of January 5, 2023.
e. Regular Meeting Minutes of May 4, 2023.

Chair Wiles moves to approve all minutes listed, Mr. Houck seconds the motion.

Roll Call:	Wiles	Rice	Houck	Vacant	Vacant
	Yes	Yes	Yes	N/A	N/A

Time: 2 minutes

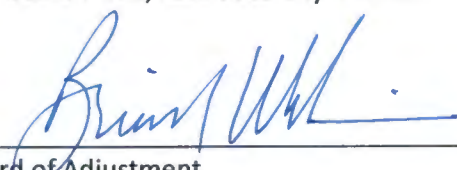
5. MISCELLANEOUS ITEMS FROM STAFF FOR DISCUSSION AND POSSIBLE ACTION:

- a. Next Board of Adjustment meeting Thursday, August 03, 2023.

4. ADJOURNMENT.

This regular meeting of the Board of Adjustment adjourned with all members in attendance in agreement at 1:47 p.m.

Prepared by – Diana Hood, Associate City Planner

Approved by: 
Stillwater Board of Adjustment