

STILLWATER BOARD OF ADJUSTMENT
Regular MEETING OF September 12, 2024
IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING
LAW, THE AGENDA WAS POSTED September 10, 2024
IN THE MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET

Members Present:

Jim Rice
Bryan Langford-Loftis
Micah Sexton

Members Absent:

John Houck

Staff Present:

Tammy Ewing, Assistance City Attorney
Jacquelyn Porter, City Planner
Diana Hood, Associate Planner
Cindy Gibson, Admin. Services Manager
Ally Maged, Admin. Assistant
Joshua Brown, Project Manager

Guests:

Colton Wayman, Todd Wallace, Nick Hudacko, and Jimmy Kuykendall

Meeting is delayed by 23 minutes while awaiting member arrival.

1. CALL MEETING TO ORDER.

Mr. Rice calls the meeting to order at 5:53 PM and swears in those who wish to speak.

Those sworn in are:

Colton Wayman Todd Wallace

Nick Hudacko

Jimmy Kuykendall

2. PUBLIC HEARING:

- a. Gamma Delta Chapter of Sigma Chi House Corporation requesting review and granting of a variance to Sec. 23-141.d.2.b & c and Sec. 23-141.e.1 for the required yard setbacks for a three-story building in the Multi-Family Urban (RMU) zoning district (1101 W University) and Sec. 23-211.1.e for the required setback for parking area of the Parking and Loading Standards Design Standards (221 S Lincoln) at the properties addressed as 1101 West University Ave and 221 South Lincoln St.

Mr. Rice invites staff forward to present the item.

Jaquelyn Porter, City Planner, presents the item and asks if the board has any questions for staff.

Ms. Tammy Ewing, Assistant City Attorney requests staff to clarify the uses of the proposed buildings, and which addresses they're going on.

Ms. Porter points out the locations referencing the site plan and explains they are replacing the building on the northeast property, tearing down the building on the southwest property to replace it with a parking lot and closing the alley between the properties.

Ms. Ewing verifies that Sigma Chi owns the three lots being presented, the fourth lot on this block in the northwest corner is owned by someone else and is not part of this request.

Mr. Langford-Loftis inquires about the electrical and other utility lines that the City's engineering had concerns with. Ms. Porter points out the utility lines on the map and explains there is existing electric and sewer that may require certain setbacks for the City to access said utilities.

Ms. Porter elaborates that City Engineering is concerned that with the proposed building plans; the City needs at least 10 feet of access for electric and general access for the sewer; however, the City has not received official building plans yet as they are still working through this process; and there is talk about moving the sewer and electric lines but right now this request is just for the setback variance so the applicant can get an idea for how to lay out the structure.

Mr. Sexton asks if electric is currently above ground. Ms. Porter confirms that the electric is currently above ground and comments that the applicant is currently working with Stillwater Electric to move it to the south.

Ms. Ewing asks where the sewer and water are located. Ms. Porter states that water is located off Lincoln and the sewer is right in the middle of the alley.

Ms. Ewing asks if electric is right on the lot line in the alley. Ms. Porter confirms.

Mr. Langford-Loftis asks if the purpose of the variance is to allow the applicant to work with these utility and sewer lines. Ms. Ewing responds no, because they're fine where they are; states the variances are requesting to be able to use more space in the small lots; and explains that if this goes through, they could do a 0' lot line for the parking lots and the building.

Mr. Langford-Loftis speculates that there are still discussions underway and what they are looking at is not a final plan. Ms. Porter states he is correct, there are options; and the City currently has a closing application for the alley that is being reviewed and discussed.

Mr. Sexton comments that was his next question, if they own properties on both sides can they close that alley. Ms. Porter says City staff is still having internal discussions on that, they have not issued a first comment letter yet.

Mr. Sexton asks if they were to, theoretically, close that alley would there be a reason for a variance. Ms. Porter explains yes, if they close the alley there would still be a need for a variance, if they vacated the alley there would not be; and if they were to vacate the alley their lot lines to the south and north would merge and it would eliminate the need for one of the four variances, but the others would still be needed.

Mr. Sexton clarifies that that would remove the need for the rear yard variance. Ms. Ewing points out that doing that would require they remove a sewer line from the middle of the street.

Mr. Sexton asks what the purpose is of having a setback on a parking lot. Ms. Porter explains it is a buffer zone for safety and that it's mainly in residential areas where it is required; and point out there is a larger right-of-way here that the parking lot would abut to that would provide that buffer.

Mr. Rice asks if there are additional questions for the staff; none respond.

Mr. Rice invites the applicant forward to present.

Mr. Colton Wayman with Wallace Design comes and comments on the following:

- Wallace is the Civil engineer on this project here with GH2 architects and a Sigma Chi representative.
- Sigma Chi owns all three connected lots on the map and one of the reasons they bought the southeast one is specifically for the parking lot to meet the City's parking requirements.
- Reviews the renderings for the proposed building plans.
- Explains that even if the alley was closed, none of these buildings are proposed to go on top of the sewer line as they are working on writing up an easement to still allow the city access.

Mr. Sexton asks if there has been any discussion on vacating the alley. Mr. Wayman says there has been a discussion, but they think closing it will work better for Sigma Chi.

Mr. Wayman states what the existing setbacks are and what the proposed setbacks will be; side yard setback request will be going from 15' to 10'; the existing house right now is about a 10 foot setback on the side so there would not be any substantial changes with that; with the rear yard they are also asking for 10 feet'; specifies with the rear set back, the code states that if it is abutting an alley, the setback requirements are 10 feet but if they close the alley it becomes 30' feet prompting the need for the variance.

Mr. Wayman shares a rendition of adjacent properties that also only follow the 10' setback requirements; notes that by bumping the proposed building back on the northeast corner closer to those southwest property lines it gives Sigma Chi more room to participate in outdoor homecoming activities and allows for a clearer sight triangle off university and Monroe.

Ms. Ewing asks for clarification if they are talking about the parking lot corner or the house for the sight triangle. Mr. Wayman says the parking lot is on the southeast corner; and is talking about University and Monroe which is in the northeast corner.

Mr. Wayman also states that he believes they are still following the principle of the sections of the code they are requesting a variance for; believes this section of code is in place to prevent apartment buildings from directly abutting residential backyards; continues that this would not be abutting any residential properties, it would be backing up to their own parking lot; and also shares a rendition of the other Greek row homes on the street that have much smaller set back requirements so they would be conforming with the existing infrastructure.

Mr. Wayman then discusses the variance request for the parking lot; as previously mentioned, they purchased this lot to meet city parking lot requirements and by having this variance granted, they would gain 10 extra spaces; and shares other examples of parking lots in the area that have exceptions to the setback requirements.

Ms. Ewing asks if he's saying without the variance, they would not be able to meet parking lot

requirements for this. Mr. Wayman says yes, it would make it more difficult.

Ms. Ewing asks how many spaces are required and what is that requirement based on. Ms. Porter returns to say that since they do not have final building plans, staff is unsure of how many they will need, therefore, the number of parking spaces is based on the number of beds.

Ms. Ewing asks the applicant how many they figure they will need. Mr. Wayman says they are estimating 78 at the moment.

Mr. Langford-Loftis asks if that is based on the current bed count or the proposed bed count. Mr. Tyler Wallace comes to the podium with Mr. Wayman to help answer some questions.

Mr. Wallace states that this is based on the current bed count; they would need this variance to determine how many more beds they can have because if they don't get this variance, they can only put so many beds in the new construction.

Mr. Langford-Loftis asks what they would like to be planning for. Mr. Wallace says around 80.

Mr. Landford-Loftis asks what the current bed count is. Mr. Kuykendall, the representative of Sigma Chi, states that currently it is around 70-75. Mr. Langford Loftis clarifies that that is the number of beds in the current house. Mr. Kuykendall confirms.

Mr. Rice inquires that the current parking only allows for 50 spaces. Mr. Wallace says that is correct, there is other parking close by. They are currently using the Pike house's parking as extra parking.

Ms. Ewing points out that closing the alley would not change the setback requirements. Mr. Wayman says he believes it would, because the code says the setback requirements are 10 feet if it is abutting an alley but if they close the alley, it would be 30 feet.

Ms. Ewing clarifies closing the alley would not change the lot lines and so the property would still be abutting an alley, it would just be a closed alley; and only vacating the alley would move the lot lines. Mr. Wayman says that he believes it would change the lot lines.

Mr. Porter comes back to explain that the closure is for a possible vacation; the backyard variance is still needed until it is closed and vacated; continues to explain that closing the alley would leave it as plated and they would leave the utilities there; and if they then vacated the alley, the utilities would need to be relocated, and then the lot lines would change.

Mr. Sexton asks what the width of the alley is. Ms. Porter says 20 feet.

Ms. Ewing says the City can close a street or alley, but with a closing, the city could decide to reopen it at any time, so it still exists even if it is closed; the City, or even private fiber companies, still have access to their lines if it is closed; closing it just closes it to the public; to vacate the property, the property owner would need to file a district court action requesting the court to vacate it; they also have to give all the utilities in it an opportunity to object; and until it's vacated the lot lines are not redrawn.

Mr. Wayman says that makes it even more important to get this variance.

The board questions given that information what setbacks are going to be granting a variance for and what are the current and proposed changes.

Ms. Porter apologized and explained that staff had gone back and forth on whether to add the back yard setback to the requests for today. After this discussion what they are requesting is going to be a 0 foot lot line setback not 10 feet. Ultimately, as the alley has not been closed yet staff would suggest withdrawing this part of the variance request until the alley is sorted out.

Ms. Porter advises that the board should just look at the variance for the side yard and the parking lot today.

Mr. Wayman agrees that there are a lot of moving pieces to this and concedes to taking the rear yard request off for today; ideally, they would like to vacate the alley, have an easement for the utilities; they have had discussions about access with the one neighbor to the northwest that would share part of that vacation.

Mr. Langford-Loftis says he understands there is still a lot of planning but what, right now, does the applicant precede their hardship to be. Mr. Wallace says he believes the hardship is similar to Figi's variance hardship from 2013, where this area of Stillwater is uniquely dense for a residential area compared to the rest of the city; and he states that without this variance, they would not fall in line with the surrounding Greek houses.

Mr. Rice opens the hearing to the public and invites anyone who would like to speak in favor or against; none respond. Mr. Rise closes the public portion of this meeting and invites staff back up to present criteria and alternatives.

Ms. Porter presents the 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.
4. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

Ms. Porter continues, stating the 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. Porter suggests that the board vote on the two remaining variances separately.

Mr. Rice asks if they need to table the third one or deny it.

Ms. Porter explains that given the developments, she would need to resend the public notices for that item, so it is withdrawn from the table today.

Ms. Ewing reviews the requested variance and clarifies that they board is voting on Sec. 23-141.d.2.b and Sec. 23-141.e.1 for the side set back on the house and Sec. 23-211.1.e for the parking.

Mr. Langford-Lofts asks if there's anything they need to do to make sure that their vote on these variances does not prevent them from bringing back the rear yard one once that is sorted out.

Ms. Ewing requests the applicant, state themselves, that they are withdrawing that item from the docket. The applicant states that they are withdrawing the request for the rear setback variance.

Mr. Rice asks if there is any further discussion or a motion from board members.

The board clarifies with Ms. Ewing that they can vote on the two for the house together and the one for the parking separately. Ms. Ewing confirms.

Ms. Porter shares that there are plans, with the code update that is in progress, to add an overlay district to these Greek houses as the board has seen many similar variance requests come through in the past; and hopefully, this will alleviate the hardship of having the need for these variances in the future.

Mr. Langford-Loftis shares that he has heard a lot of theoretical plans this evening but is still not entirely certain what the concrete plan for these set back lines are going to be on the items they are voting on.

Mr. Wayman comes back up to say that the plans they are presenting today is exactly what they would like to do; and so, the setbacks listed on the site plans presented to them are the exact setbacks they would be asking for.

Mr. Langford-Loftis asks if the current structure is already too close. Ms. Porter confirms, the structure was built before the current zoning code was passed so it is legally non-conforming; however, if you rebuild or even remodel a property you need to bring it up to current zoning codes.

Mr. Sexton weighs in that he is both an engineer and a lawyer, the engineer in him would like to approve it, as doing so doesn't cause any harm; however, the lawyer side of him feels that this does not meet the legal requirements for a variance; states that the legal requirements for a hardship say there needs to be something peculiar to this specific piece of property and this hardship is not specific to this piece of property.

Mr. Rice states that one could argue that the hardship is the way the zoning code affects this particular area, because all the surrounding properties do not follow it.

Mr. Langford-Loftis states that issue affects all of these properties in this area and isn't particular to this one.

Mr. Sexton says the way it is now, even if there might be an overlay or other lots might have gotten a variance, he has to look at this property and how the laws is now.

Ms. Ewing states that she thinks she is aware of other examples of case law involving old town areas where they deemed that the code forcing the property affected to not be consistent with the surrounding area was an undo hardship.

Mr. Langford-Loftis asks if a property sells, are the purchasers required to bring it up to code.

Ms. Ewing says no, the property only loses its legal nonconforming status if the property undergoes substantial changes to structure or use.

Mr. Sexton asks for the case law.

Mr. Rice asks if the board is bound by precedent. Ms. Ewing says they are not, they have to look at each case individually.

Mr. Sexton says he's leaning towards tabling this until he can look over that case law.

Ms. Ewing asks staff if they would have enough time to table this discussion to a certain date and re-notice for the item taken off of today's agenda or are the applicants better off to withdraw the whole application. Ms. Porter says they would have time to notice for the next hearing and there is no need to withdraw the whole application they will just modify what remains.

Mr. Sexton Motions to table the items to the next meeting of October 3rd 2024, Mr. Langford-Loftis seconds.

Roll Call:	Houck	Rice	Langford-Loftis	Sexton	Vacant
	Absent	Yes	Yes	Yes	

Time: 60 minutes

3. Minutes for Discussion and Possible Action:

- a. Regular meeting minutes of March 7, 2024.
- b. Regular meeting minutes of July 11, 2024.

Mr. Sexton and Mr. Langford-Loftis state that there are minor spelling and grammatical changes that they have marked but otherwise approve both sets of minutes as presented.

Mr. Sexton moved, Mr. Langford-Loftis seconded to approve the minutes with corrections as noticed.

Roll Call:	Houck	Rice	Langford-Loftis	Sexton	Vacant
	Absent	Yes	Yes	Yes	

Time: 2 minutes

4. Reporters from Officers and Boards:

- a. Ms. Porter shares the Comprehensive Plan and Community Surveys are currently taking place for the future changes to the zoning code

b. Next regular meeting is Thursday, October 3rd, 2024.

5. ADJOURNMENT.

This regular meeting of the Board of Adjustment adjourned at approximately 6:58 p.m.

Prepared by – Alexandria Maged, Administrative Assistant

Reviewed by – Cindy Gibson, Administrative Services Manager

Approved by: 
Stillwater Board of Adjustment