

**STILLWATER BOARD OF ADJUSTMENT
 Regular MEETING OF May 1, 2025
 IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING
 LAW, THE AGENDA WAS POSTED April 29, 2025
 IN THE MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET**

Members Present:

Bryan Landford-Loftis
 Micah Sexton
 Rob Lamecker

Staff Present:

Tammy Ewing, City Attorney
 David Barth, Dev. Serv. Director
 Joshua Brown, Development Coordinator
 Ally Holle-Maged, Admin. Assistant

Members Absent:

Guests:

Gabriella Mosquera, James Walker

1. CALL MEETING TO ORDER.

Mrs. Holle-Maged, Admin. Asst. calls meeting to order at 5:30 pm.

2. INTRODUCTION OF MR. ROB LAMECKER

3. Election of Chair:

Mr. Sexton nominates Mr. Landford-Loftis as Chair

Roll Call:	Langford-Loftis	Sexton	Lamecker	Vacant	Vacant
	Yes	Yes	Yes		

Time: 2 minutes

4. Election of Vice Chair:

Mr. Landford-Loftis Nominates Mr. Sexton as Vice Chair

Roll Call:	Langford-Loftis	Sexton	Lamecker	Vacant	Vacant
	Yes	Yes	Yes		

Time: 2 minutes

5. PUBLIC HEARING:

Chair Landford Loftis swears in speakers for the Public Hearing:

Gabriella Mosquera, James Walker, Joshua Brown, and David Barth are sworn in.

- a. Request for a VARIANCE (VAR25-01) to Chapter 23, Sec. 23-211(1)(e)(2) for the Parking and Loading Design Standards for parking area setbacks for property addressed as 600 E. Hall of Fame Avenue in

the Commercial Shopping (CS) district.

Chair Langford-Loftis opened the public hearing and asks staff to present the item.

David Barth, Development Services Director, requested that before the staff report, the applicants be allowed to address questions that could impact the hearing.

Mrs. Gabriella Mosquera asked whether, if the variance request were denied tonight, would there be a required waiting period before reapplying. Ms. Tammy Ewing, Assistant City Attorney responds that if the request were denied, the applicants could not reapply for the same variance under the same section of code.

Vice Chair Sexton commented that if the request were denied, the applicants would have the ability to appeal the decision in district court.

Mrs. Mosquera indicated that they wished to proceed with the public hearing.

Joshua Brown, Development Coordinator, presented staff report; displayed maps showing the property location and surrounding areas, listed nearby businesses, and provided a street view of the location; stated that from the face of the curb to the west sidewalk, the distance is currently 21 feet; and the south parking area is 63 feet from the edge of the curb.

Mr. Brown also noted that the location of the dumpster is proposed to change.

Mr. Brown explained that the variance is being requested to accommodate additional drive-through lanes; specifically, the request is to encroach into the required 2-foot setback by 1.2 feet along the west property line and by 0.6 feet along the south property line.

Vice Chair Sexton asked why a 2-foot setback from parking areas is required. Mr. Brown cited vehicle overhang as one of the reasons for the requirement.

Vice Chair Sexton asked whether granting the variance would result in vehicles potentially hanging over the sidewalk. Mr. Brown clarified that, in this case, the applicant would be required to install curb stops to prevent vehicles from encroaching onto the sidewalk.

Chair Langford-Loftis asked if similar variances had been granted in the past. Mr. Brown responded that he could not recall a comparable case.

Mr. Barth added that the 2-foot buffer is not required when abutting properties are zoned CB (Commercial Business), IL (Light Industrial), or IG (General Industrial); however, the code still stipulates that parking areas must not have vehicle overhangs that cross property lines or sidewalks, regardless of adjacent zoning.

Mr. Barth noted that one alternative could be to relocate the sidewalk along Perkins Road.

Chair Langford-Loftis asked whether that responsibility would fall to the City or the applicant. Mr. Barth responded that sidewalk construction in the right-of-way is typically the responsibility of the developer; however, because Perkins Road is a state highway, additional coordination with the Oklahoma Department of

Transportation (ODOT) would be required.

Mr. Barth also stated that the average vehicle overhang is approximately one foot.

Vice Chair Sexton inquired why the 2-foot buffer exception exists for CB, IL, and IG zoning districts. Mr. Barth responds that CB zoning applies to dense commercial areas like downtown, while IL and IG districts are typically located farther from pedestrian zones.

Ms. Ewing, Asst. City Attorney advised that the buffer zone is traditionally intended to provide a safety margin for pedestrians using the sidewalk.

Mr. Lamecker noted that there is an existing utility easement on the south side of the property and observed that the sidewalk appears to be located near it and asked whether relocating the sidewalk would be restricted due to maintenance concerns, such as the presence of a water line. Mr. Barth responded that he was unsure of the exact location of the water line in relation to the sidewalk but acknowledged that ideally, pavement would not be placed directly over utility lines. Mr. Barth noted, however, that in areas like this, it can be difficult to avoid as utilities are generally preferred to be located in city-owned easements rather than in the state highway right-of-way, which often results in paving over utilities.

Vice Chair Sexton asked who would have the authority to approve the relocation of the sidewalk. Mr. Barth stated that it would require joint approval from the City and ODOT, both of whom would require documentation and review.

Vice Chair Sexton observed that there appears to be a large grass area between the existing sidewalk and Perkins Road, which might make relocation feasible with the proper permits. Mr. Barth agreed that sidewalk relocation could be possible along Perkins Road but noted that the sidewalk along Hall of Fame Avenue is adjacent to the roadway.

Mr. Barth said that City code requires a 6-foot-wide sidewalk but was uncertain of the actual width in this location.

Mr. Lamecker said he believed the sidewalk along Perkins Road is 10 feet wide.

Chair Langford-Loftis noted that the staff recommendation includes the following language: "If the BOA grants the variance, the applicant will still need to comply with paragraph 23-211(1)(h), which states: 'Parking spaces and driving aisles shall be provided with a curb, wheel guard, fence, or wall so located that no part of a parked vehicle will extend into or over a sidewalk, property line, or street right-of-way.'"; and asked whether there were any additional spatial constraints that could affect the ability to grant the variance.

Mr. Barth stated that the parking design standards provide width and length dimensions but do not take wheel stops into account; however, he did not foresee any issues with the ability of vehicles to use the spaces as designed.

Mr. Barth also added that the spacing along Perkins Road is already less than 2 feet, but staff could not locate any record of previously granted variances for the property as the spaces are currently 3in short.

Chair Langford-Loftis asked whether the existing conditions could be considered legally nonconforming. Ms. Ewing, Asst. City Attorney advised that even if the condition were legally nonconforming, that status would be lost due to the proposed changes.

Chair Langford-Loftis then invited the applicant to present.

Ms. Gabriella Mosquera stated that the restaurant requires a third drive-through lane to accommodate traffic volume at this location; explained that the drive-through lanes currently total 540 linear feet and would be extended to 791 linear feet; and the parking lot is also being reconfigured to create a separate walkway for employee safety.

Chair Langford-Loftis noted that the two-foot setback adjacent to the drive-through area is being taken from the employee parking while a substantial buffer still exists between the road and the property, the setback is required from the property line.

Chair Langford-Loftis asked what the applicant considered peculiar about the property. Ms. Mosquera responded that the main constraint is the size of the lot and how much the business has expanded over time.

Chair Langford-Loftis asked if the applicant had considered alternative site plans. Ms. Mosquera said yes, but stated that this configuration best aligns with the code requirements.

Chair Langford-Loftis asked whether the proposed configuration increases the number of parking spaces and if reducing the amount of added parking might help the configuration comply with code. Ms. Mosquera replied that removing parking would make the site noncompliant with required parking minimums.

Ms. Ewing, Asst. City Attorney asked how many parking spaces are required. Mr. Brown explained that the applicant has a shared parking agreement with the adjoining shopping center, which is owned by the same entity and because of this, sufficient parking is available across the combined lots.

Discussion is held regarding adding parking in this case appears to benefit the business owner rather than relieve a hardship, particularly since shared parking is available as an alternative; parking dimension requirements if the applicant were to implement angled or parallel parking on the side where the variance is requested; and about the square footage of the building, but it was clarified that the building size does not affect required parking counts due to the shared parking agreement.

James Walker, also representing Chick-fil-A, came forward to add that multiple configurations had been evaluated; each option required a variance for either setbacks, parking, or greenspace; and believed the setback request was the smallest and most reasonable of those options.

Mr. Walker also emphasized that the reconfiguration is aimed at addressing safety concerns, noting that the current drive-through is highly congested; they are planning to relocate the dumpster pad to improve visibility for vehicles entering and exiting the site; and this change also consumes additional space.

Chair Langford-Loftis pointed out that even if this variance is denied, the applicant still has the option to return with an alternative configuration.

Mr. Sexton asked Ms. Ewing, Asst. City Attorney, whether a condition of approval could require the applicant to move the sidewalk that borders the property, even though the sidewalk is not located on the applicant's property. Ms. Ewing, Asst. City Attorney, responded that such a condition could be imposed.

Mr. Lameker observed that requiring the sidewalk to be moved might raise concerns with ODOT, especially if the sidewalk ends up encroaching in the other direction. Mr. Barth responds that he did not believe the setback on the opposite side would be a concern; however, because approval from ODOT would be required, there is always the possibility that the request could be denied.

Chair Langford-Loftis stated that he views this variance request as providing more of a benefit to the applicant than relieving a hardship.

Mr. Lameker agreed, saying he did not see anything peculiar about the property that would justify a variance, and that it appeared to be a business advantage rather than a zoning hardship.

Mr. Sexton acknowledged that the applicant is trying to address an operational issue on an existing site but said that legally he did not believe the request meets the criteria for granting a variance.

Chair Langford-Loftis then invited staff to return and present findings and alternatives.

Mr. Brown presents criteria and alternatives, which are:

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
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- (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.

RECOMMENDATION:

Staff has reviewed the application, letter of justification and other submitted materials, and is of the

opinion that the applicant does not meet all four criteria required for granting a variance. Staff recommends denial of this request. If the BOA grants the variance, the applicant will still need to comply with paragraph 23-211(1)h which states: Parking spaces and driving aisles shall be provided with a curb, wheel guard, fence, or wall so located that no part of a parked vehicle will extend into or over a sidewalk, property line, or street right-of-way.

Chair Langford Loftis motions to deny the variance because it does not meet all four (4) standards as the request is granting a benefit to the business vs a hardship to the property and the request is not the minimum necessary as there are other parking options. Mr. Lamecker Seconds.

Roll Call:	Langford-Loftis	Sexton	Lamecker	Vacant	Vacant
	Yes	Yes	Yes		

Time: 1 hour 5 minutes

6. Miscellaneous Items from Staff, Board Members or City Attorney for Discussion and Possible Action:

- a. Legal makes a clarification on a point that was made in the previous special meeting of January 2025 that an abstention is not a no vote.

The board members make a clarification that it is essential a no vote as 3 yeses are needed for an approval and therefor an abstention would be a denial.

Members request clarification that if they have a conflict of interest and need to recuse themselves would that mean there is unable to be a quorum and the item could need to be tabled until there was another person on the board.

Ms. Ewing, Asst. City Attorney suggest coming to them to discuss the specifics if those circumstances arise.

- b. Staff asks if any members know anyone who would like to apply to be on the board please direct them to the city.
- c. Next Board of Adjustment meeting Thursday, June 05, 2025.

4. ADJOURNMENT.

This regular meeting of the Board of Adjustment adjourned at approximately 6:45 p.m.

Prepared by – Alexandria Holle-Maged, Administrative Assistant
Reviewed by – Cindy Gibson, Administrative Services Manager

Approved by: Bryan Langford-Loftis
Stillwater Board of Adjustment