

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**7:00 P.M. THURSDAY, DECEMBER 7, 2017**  
**COUNCIL CHAMBERS, JENKS CITY HALL, 211 NORTH ELM STREET**  
**JENKS, OKLAHOMA 74037**

The Jenks Board of Adjustment was called to order at 7:01 p.m. on December 7, 2017, at Jenks City Hall by Chair Shari Keathley. A roll call vote was taken by Planning Assistant Malea Stoner as follows:

Members Present

Paul Greek  
Gina Wilson  
Steve Murtha  
Larry Hengst  
Chair Shari Keathley

Members Absent

Staff Present

Jim Beach  
Malea Stoner  
Teresa Nowlin

Chair Shari Keathley requested a review of the minutes from November 2, 2017, Board of Adjustment meeting and asked if there were any corrections or omissions. Steve Murtha made a motion to approve the minutes of November 2, 2017. Seconded by Paul Greek. A roll call vote of members was taken as follows:

|                      |     |
|----------------------|-----|
| Paul Greek           | Yes |
| Gina Wilson          | Yes |
| Steve Murtha         | Yes |
| Larry Hengst         | Yes |
| Chair Shari Keathley | Yes |

Motion carried.

**BOARD CASES**

Start with Item 2 – New Business

2. JBOA-397 Request by Jamelle Moore, Wallace Engineering on behalf of Robert and Cathy Vincent, for an approval of a Variance from Jenks Zoning Code Section 330, Table 3 and any other Zoning Code provision to reduce the minimum lot width from 300 feet to 105 feet; the minimum lot area from 2 acres to 1 acre; and minimum land area per

dwelling unit from 2.5 acres to 1.06 acres to permit a lot split in an AG (Agriculture) Zoned District described as:

A tract of land in the Northwest Quarter (NW/4) of the Southeast Quarter (SE/4) of Section 25, Township 18 North, Range 12 East, Tulsa County, State of Oklahoma, Beginning 600 feet South of the Northwest Corner of the NW/4 of the SE/4, thence South 210 feet, thence East 415 Feet, thence North 210 feet, thence West 415 feet to Point of Beginning.

General Location: 10709 South Elgin Avenue West. Jim Beach addressed the Board and presented his Staff report. Jim Beach stated Staff is in support of the variance as requested. Gene Phillips, Wallace Engineering, 977 W. 106<sup>th</sup> St., Jenks, addressed the Board and gave a brief overview of the requested variance to permit a lot split. Paul Greek made a motion to approve JBOA-397. Seconded by Larry Hengst. A roll call vote of members was taken as follows:

|                      |     |
|----------------------|-----|
| Paul Greek           | Yes |
| Gina Wilson          | Yes |
| Steve Murtha         | Yes |
| Larry Hengst         | Yes |
| Chair Shari Keathley | Yes |

Motion carried.

#### Old Business

1. JBOA-395 (673) Request by Mary-Ann Murias for an approval of a Variance from Jenks Zoning Code Sections 240.2.f and 430.1 Table 3 and any other Zoning Code or Planned Unit Development Number 14 (PUD 14) provision restricting the placement of an approximately 96 square-foot detached accessory building in the south side yard of property in the RS-2 Residential Single-Family District with PUD 14 described as:

Lot 29, Block 3, Wakefield Village, an Addition to the City of Jenks, Tulsa County, State of Oklahoma, according to the Recorded Plat # 5503 thereof.

General Location: 12430 South Cedar Avenue. Chair Shari Keathley requested the applicant approach the podium. Julie Patuto, 12430 S. Cedar Ave., addressed the Board and stated she is not the applicant, but the daughter of the applicant. The applicant is out of the country, and I reside at 12430 S. Cedar Ave. Chair Shari Keathley asked if any

communication had taken place between Julie Patuto and the HOA. Julie Patuto responded that her mother is not convinced that a resolution has been reached with the HOA, and she has sought legal counsel with regard to the building. Jim Beach presented his Staff report. Jim Beach stated Staff recommends that we proceed with the hearing to consider the variance from the Jenks Zoning Code Sections 240.2.f and 430.1 Table 3 and any other Zoning Code or Planned Unit Development 14 provision restricting placement of an approximately 96 square foot detached accessory building in the south side yard of property in the RS-2 Residential Single Family Zoning District located at 12430 S. Cedar Ave. in Wakefield Village. Board members asked questions of Jim Beach regarding the accessory building, which Jim Beach answered. The Board then asked questions of Julie Patuto, which she answered. Chair Shari Keathley opened the floor and asked if an official representative for the HOA was present to speak to the Board. Kevin Stufflebeam, 317 W. 121<sup>st</sup> Pl S., addressed the Board and stated he is the At-Large Member of the HOA. The HOA issued Julie Patuto a notice in accordance with the covenants and received a response back for a compromise that the shed would be removed and the fence moved back 3.5 feet. We issued a letter stating we would agree to that compromise. Then we learned that Ms. Patuto and her mother had taken a legal review of the matter, and that's where we stand now. Kevin Stufflebeam gave the Board copies of correspondence. Jim Beach read Julie Patuto's correspondence to the HOA. Jim Beach then read the HOA President's response to Julie Patuto. Tom Fulton, 12503 S. Birch Ave., addressed the Board and spoke in opposition to the building. Michael Trokey, 305 E. 125<sup>th</sup> Ct. S., addressed the Board and spoke in opposition to the building. Jim Beach read a formal letter from Jenks Code Enforcement Officer John Taylor written to Julie Patuto regarding the shed being in violation of the Jenks Zoning Code. Julie Patuto addressed the Board and gave her rebuttal to the HOA. Chair Shari Keathley closed the floor. Jim Beach pointed out that the building is not 96 square feet as shown on the drawing, but is 132.8 square feet which would have required a building permit. A building permit was never obtained. Had a building permit been applied for it would have been denied because of the location of the building. Following discussion by the Board, Larry Hengst made a motion to refuse the variance. Seconded by Gina Wilson. A roll call vote of members was taken as follows:

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|----------------------|-----|
| Paul Greek           | Yes |
| Gina Wilson          | Yes |
| Steve Murtha         | Yes |
| Larry Hengst         | Yes |
| Chair Shari Keathley | Yes |

Motion carried.

## New Business

1. JBOA-396 Request by Tom Schooley for an approval of a Variance from Jenks Zoning Code Section 430.1 Table3 and any other Zoning Code or Planned Unit Development Number 58 (PUD 58) provision to reduce the required front yard setback from 30 feet to 24 feet in an RS-2 Residential Single-Family District with PUD 58 described as follows:

Lot 22, Block 1, The Brook at Stone Bluff, an Addition to the City of Jenks, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof.

General Location: 10606 South Gum Street. Jim Beach addressed the Board and presented his Staff report. Jim Beach stated if the Board were inclined to approve the variance, the application would need to seek to close and vacate the encroached easement area. The City Planner would need to be provided with copies of the recorded closure ordinance and the journal entry of judgment causing the area to be vacated. Chair Shari Keathley asked the applicant to come forward. Tom Schooley, 8919 S. College Pl., Tulsa, addressed the Board and stated we are first time home builders and we are inexperienced and overwhelmed with the decisions involved in this situation. Tom Schooley gave an overview of the property and the design of the home. Jack Arnold, Architect, 7310 S. Yale Ave., Tulsa, addressed the Board and stated I am the architect. Jack Arnold explained how the error was made and showed an overlay of why he felt the design would not be detrimental to the neighborhood. Board members and Jim Beach asked questions of Jack Arnold, which Jack Arnold answered. Steve Murphy, 10615 S. Fir Ave., addressed the Board and said as a builder we have never run into a situation like this. We received the survey on September 1, and that's when I got ahold of the architect and we went to the field. This house is crammed on the rear building lines. Steve Murphy passed out a drawing showing the building lines. Dan Gutterman, 10708 S. Holley St., addressed the Board and stated I am the President of the Brook at Stone Bluff HOA. I am speaking tonight on behalf of the HOA to oppose the request for the variance. Dana Krumey, 1117 W. 108<sup>th</sup> Pl. S., addressed the Board and stated I am on the Architectural Design Committee as well as the board of directors for the HOA. Dana Krumey spoke in opposition to the variance. Kelsey Pierce, attorney representing the Brook at Stone Bluff HOA, 525 S. Main St., Tulsa, addressed the Board and spoke to the Board regarding their job and the findings they must conclude to in order to grant a variance. Jack Arnold addressed the Board with rebuttal and stated Steve Murphy is a very good builder and is very honorable. None of us knew about this until it was discovered. It was a mistake. I have the credentials to say I think it will be good and won't impact the neighborhood. If I thought there was a way for this to be changed, we wouldn't be here. The Board and Jim Beach had several questions for Jack Arnold. Greg Gruenwald, 12717 S. 3<sup>rd</sup> St.,

addressed the Board and stated I am the one who contacted Tanner Rush regarding the issue. I am the one who ordered the survey when I was doing the slab. As soon as we got the information we came forward with it. I spoke to Tanner Rush about it, and I believe Mr. Rush has spoken with Mr. Beach about it, and I asked that I would have that conversation documented for this meeting. I was told with a text message, that I can provide, that none of that was going to be submitted today. The information is accurate and we came forward with it as soon as we knew about it. It took about 30 days after the survey was requested for it to be done. Then when the survey company thought they made an error and went back out, it took another 10 days before we got the information. Most builders don't strike a survey at stemwall. Most builders see one at the closing table if they do one at all. We spent an extra \$3,000.00 so we would know. We set the house exactly by the plan we had. It's not that we knew and did it on purpose. Steve Murphy addressed the Board with a rebuttal. Jim Beach addressed the Board and stated my only advice to you tonight is you've been told a couple of times what the test is for approval of a variance. If this Board is inclined to grant this variance, then statements need to be made for the record that are consistent with the 3 findings that are necessary to grant a variance. Teresa Nowlin, City Attorney, addressed the Board and stated by a finding that the application of the ordinance to the particular piece of property would create an unnecessary hardship, that such conditions are peculiar to the particular piece of property involved, that relief if granted would not cause a substantial detriment to the public good or impair the purposes and intent of the ordinance or the Comprehensive Plan, and that the variance if granted would be the minimum necessary to alleviate the unnecessary hardship. To tell us a little bit about hardship is that the hardship is peculiar or unique to the applicant's situation, that there's some degree of interference with an ordinary legal property right from which the hardship would arise, and that substantial deprivation results to the applicant by the hardship. Hardship can't be self-imposed, and a financial hardship by itself is not sufficient to grant a variance. Following much discussion by the Board, the finding was that there was a hardship due to the site and topography, it was not self-inflicted, and the error was not caused by the homeowner. Larry Hengst made a motion to approve JBOA-396 with the stipulation that the front has to be landscaped where the 5 foot protrusion can't be noticed and submit a landscape plan to the City, and the easement has to be vacated. Seconded by Steve Murtha. A roll call vote of members was taken as follows:

|                      |     |
|----------------------|-----|
| Paul Greek           | Yes |
| Gina Wilson          | Yes |
| Steve Murtha         | Yes |
| Larry Hengst         | Yes |
| Chair Shari Keathley | Yes |

Motion carried.

Adjournment. Gina Wilson made a motion to adjourn. Seconded by Steve Murtha. The Jenks Board of Adjustment adjourned at 9:53 p.m.