



**Board of Adjustment Minutes
January 9, 2023**

The City of Yukon Board of Adjustment held a meeting January 9, 2023 at 6:00 p.m. in the Centennial Building at 12 South 5th St.

ROLL CALL: (Present) Joe Horn, Chairman
Sherry Huston, Vice-Chairman
Buddy Carpenter
Ken Smith
Rhonda Dennis

OTHERS PRESENT: Mitchell Hort, Assistant City Manager
Amanda Burton, Secretary
Attorney Rinehart

INVOCATION: Chairman Horn
FLAG SALUTE: Chairman Horn

1. ITEM: APPROVAL OF THE MINUTES OF NOVEMBER 7, 2022 MEETING

Sherry Huston motioned to approve the minutes of the November 7, 2022, meeting.
Seconded: Ken Smith

The Vote:
Ayes: Horn, Huston, Carpenter, Smith, Dennis
Nays: 0
Vote: 5-0
Motion Carried

2. ITEM: VISITORS

Resident, Mike Burris, of 300 E. Platt Drive came to speak again against the Airbnb located at 241 E. Meade Drive. He said with the new ordinances that will be coming from Johnson and Associates, that if we end up allowing Airbnbs, that he would like to treat the pools at the locations like hotels or motels. He would not like having the mosquitoes.

He would also like Airbnbs to get insurance.

Chairman Horn stated that he feels like Mr. Burris is wanting the board to vote on this a certain way, and that is not their authority.

Attorney Rinehart said that there is no authority for this.

Mr. Burris said he understood.

Chairman Horn questioned when the city ordinances are going to City Council.

Mitchell stated that they are currently working on notices, and then it will go to City Council.

Mr. Burris hoped the board is approaching this as to not allow crazy stuff to happen. He asked to let people have their homes in a residential area. He is aware it is not the board's issue. He just hoped that this does not get loud and crazy for the nearby residents.

Chairman Horn said to Mr. Burris, thank you for your comments.

Vice-Chairman Huston stated that this is dually noted.

Mr. Burris said to the board, thank you for your time.

- 3. ITEM:** TO HEAR A REQUEST BY 2Z DEVELOPMENT LLC FOR A VARIANCE ON CITY OF YUKON ORDINANCE APPENDIX A 603.3 LOT, YARD AND HEIGHT REGULATIONS. NO LOT OR YARD SHALL BE ESTABLISHED OR REDUCED IN DIMENSION OR AREA IN A COMMERCIAL DISTRICT THAT DOES NOT MEET THE MINIMUM REQUIREMENTS SET FORTH. ASKING FOR A VARIANCE ON THE WESTERN SIDE 25 FOOT BUILDING SETBACK THAT ENCROACHES APPROXIMATELY 3.14 FEET, LOCATED AT 1111 W. VANDAMENT AVE., YUKON, OK.

A PART OF LOT ONE B (1B) OF BLOCK ONE (1), IN A REPLAT OF LOT ONE (1), IN BLOCK ONE (1) OF YUKON ANGLE,

AN ADDITION TO YUKON, CANADIAN COUNTY, OKLAHOMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1B, SAME POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF W. VANDAMENT AVENUE; THENCE S89°36'45"W ALONG THE SOUTH LINE OF LOT 1B A DISTANCE OF 123.73 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S89°36'45"W ALONG SAID SOUTH LINE A DISTANCE OF 91.77 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 1B; THENCE N45°14'15"W A DISTANCE OF 35.26 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 1B, SAME POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF FIRST PLACE BOULEVARD; THENCE N00°05'15"W ALONG THE WEST LINE OF SAID LOT 1B A DISTANCE OF 106.04 FEET; THENCE N89°36'45"E AND PARALLEL TO THE SOUTH LINE OF SAID LOT 1B A DISTANCE OF 116.77 FEET; THENCE S00°05'15"E A DISTANCE OF 131.04 FEET TO THE POINT OF BEGINNING.

ALONG WITH AN EASEMENT LYING WITHIN THE FOLLOWING TRACT:

A PART OF LOT ONE B (1B) OF BLOCK ONE (1), IN A REPLAT OF LOT ONE (1), IN BLOCK ONE (1) OF YUKON ANGLE,

AN ADDITION TO YUKON, CANADIAN COUNTY, OKLAHOMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1B, SAME POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF W. VANDAMENT AVENUE; THENCE S89°36'45"W ALONG THE SOUTH LINE OF SAID LOT 1B A DISTANCE OF 123.73 FEET; THENCE N00°05'15"W A DISTANCE OF 131.04 FEET; THENCE S89°36'45"W A DISTANCE OF 116.77 FEET TO A POINT ON THE WEST LINE OF SAID LOT 1B, SAME POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF FIRST PLACE BOULEVARD; THENCE N00°05'13"W ALONG SAID WEST LINE A DISTANCE OF 40.56 FEET TO THE NORTHWEST CORNER OF SAID LOT 1B; THENCE N89°32'44"E ALONG THE NORTH LINE OF SAID LOT 1B A DISTANCE OF 240.50 FEET TO THE NORTHEAST CORNER OF SAID LOT 1B; THENCE S00°05'15"E ALONG THE EAST LINE OF SAID LOT 1B A DISTANCE OF 172.06 FEET TO THE POINT OF BEGINNING.

Chairman Horn asked if anyone is here for the project.

Mark Zelnik said that he is here on behalf of this item to ask for a variance on this building setback. He stated that he is here to build a Medwise Urgent Care facility. He then stated that they are respectfully requesting for this variance.

Vice-Chairman Huston asked if this has been purchased already?

Mark stated that it is under contract. He said that after the variance happens, that they will submit civil plans. He stated that they cannot push it to the East at all, and it needs relief on the West side for 3 feet.

Ken asked if they are wanting the building to face Garth Brooks Boulevard. He also asked if they cannot shift the building. Ken then also verified that the board received the justification letter from the attending party today.

Mark stated that there is not enough parking if the building is shifted. He stated that you would have to walk a great distance if it is flipped. He also mentioned that the architect will not let them flip the building.

Ken stated that if the building is facing South to Vandament Avenue, then it looks like there would be 20 parking spaces.

Mitchell stated that this is the third of fourth configuration that has been shown to us. He also verified that there is already a filed cross access agreement and said that they have seen several.

Buddy asked if the shaded area on the plan is the building?

Mark then went up to the board members. (He showed the board members what would happen if the building were turned). Mark stated that there would be no front parking if the building is shifted. (He also pointed out the easements on the plan).

Chairman Horn asked what about the size of your building? He asked if they have considered reducing it?

Mark stated that this is a 3,080 square foot building.

Ken stated that there is a 25-foot easement, and questioned if this is calculated by 3 that it would be 75 feet?

Mark stated that no, it is a 25-foot setback. He stated that they have looked at several other properties that would accommodate the urgent care facility. He then said that they would not be allowed to reduce the building. He said that the interior has already been gone through. He also verified again that this is just for a building setback. Mark also stated that to accommodate the urgent care, that they have not been able to find any that will negotiate with the property owner.

Ken asked if the 120 square feet would not fit within the medical facilities requirements?

Mark stated that if the board is asking about reducing the facility, then no. The way it is designed, the interior layout would not allow them to reduce it to 2,940 square feet. They have already reduced the building from their original design in Tulsa which is 3,750 square feet. They have already gone through the interior building layout. They have taken a lot of measurements in rooms that they do not need, squished it down, and this is as small as they can go. He then continued by explaining that for the interior layout, the flow, the need for the IT room, a utility room, a nurse's station, the bathrooms, all that makes up 3,080 square feet, they still have the 10-foot landscape setback. They will have landscaping, and it is just for a building setback. They are far enough from the corner that they did not feel like this would be an infringement on any visibility to the corner.

Ken said let us hypothetically say that the variance gets approved, and they build this building. To the West, and to the North, for where this building sits, are those other individual lots going to set the precedent that they can impede?

Vice-Chairman Huston stated that is what she was also going to ask.

Ken questioned if there are no other visible spaces North of there?

Buddy questioned if they will be able to go North. He then said that they are right up against the street.

Ken said he is not talking about them. He said that he is talking about future development on that property, and he asked if there are more developable lots North of what they are talking about here. (Points to plan)

Chairman Horn questioned that on the North side of the main building, there is availability, is there not?

Mitchell then referred to the plan, and stated that North of this, there is currently a building that is already being constructed. There is not another lot that is between them.

Ken then questioned the North side.

Mitchell said right now the only other lot is HTeaO. The rest of that is all one parcel. There is a detention pond on the far Northwest corner.

Chairman Horn then questioned, that no one will ever want to come back here to develop?

Mitchell said he did not state that.

Ken said another scenario, let us say we approve this, how many more lot types are we going to be asked for on this variance for something similar on what is left of the developable area of that property?

Mitchell said that is any property, in that situation.

Ken then suggested that they should set a precedent.

Mark stated that the argument he has against that, is that they have a unique situation. With the land, the surface size is big enough to accommodate their building, but it is the easements and its location process that gives them hardship. His understanding on creating any adjustments is what is the hardship, and his hardship is the easements that are impacting their property. He continued by stating that if they are saying that there is another property to the North, and it does not have the same easements, then that impact on where they can position the building means that they really do not have that hardship. They may have other hardships that you would listen to them and say, yes, I agree with your hardship.

Ken said his question, or his concern, is instead of needing a 3-foot variance on the last 2 developable areas, are they going to need a 10-foot variance? And are we going to be more subject to pressures after having said precedent?

Mark then stated to correct him if he is wrong, if they were to change zoning, zoning sets the precedent. Granting a variance is not a precedent setting item, is it? He then said that he would never come to a zoning meeting and say, you granted Ms. Rogers the variance, grant mine. He would come saying you have granted this type of zoning, you have matched or intruded into the neighborhood with this type of zoning, and we can go over another zoning category, on I-type zoning. He has heard that example being precedent setting. He has never heard of a variance being precedent setting, but that has been his experience.

Ken stated he does not know.

Attorney Rinehart then stated that the revised nature is that the Board of Adjustment deals with these on a case by case basis. He then quoted that "The application of this Ordinance to this particular piece of property would create an unnecessary hardship."

Chairman Horn then verified that the present is not created by the applicant. Attorney Rinehart agreed and stated that that is correct, and that the next part is that it is not created by the applicant. He then quoted "Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Zoning Ordinance," and if "such conditions are peculiar only to the particular piece of property involved." Then he stated that finally, if the variance is granted, it would be the minimum necessary to alleviate the unnecessary hardship. You would just have to determine for yourself.

Ken then questioned that that is on an individual basis? We could not feel pressured in the future having made a decision one way or another on this.

Attorney Rinehart stated to think of each property on its own and what things are particular to that property to determine it.

Chairman Horn said that I think you meet the criteria of the property. I am not sure the hardship, and I do not like hard decisions to impact whether or not businesses come to our city. However, this building is hopefully going to be here forever. I just want to make sure that we are not jumping over the ordinances that were put in place for it.

Ken then stated again that in approving this, hypothetically, can you think of how negatively that 3 feet is going to effect the neighboring property where it is going to be in general?

Chairman Horn then asked Mitchell about Ken's question.

Mitchell stated that the rest of the property is owned by the developer. Other than the corner that has been zoned for HTeaO, which was going to be another restaurant, and then the coffee place on the corner, this is abutting where the developer wanted to subdivide the land.

Chairman Horn questioned that these are the only parcels that the developer wanted to subdivide?

Mitchell stated that there are 3 parcels on the South and then there 1 parcel on the North that he was parceling off as we speak today.

Chairman Horn then questioned if there is 1 more parcel on the South side?

Mitchell said that is right. (Points on plan)
He then continued by saying that where the dumpster is at in the white space, there is 1 lot left in there.

Mark then verified that in the white area, that they hold not only a visibility easement, but they also hold parking rights. The request for a building there, in their opinion, they have tied their

rights up, and there will not be another building there. Otherwise, they are blocked, and that is not why they did it. They have tied up that lot for visibility, easements, and parking rights.

Chairman Horn stated that right there (pointed to the plan), the developer has created this. He then questioned that all they had to do is move this over 3 feet into that lot?

Mitchell said what Mark is talking to you about when you look there (pointed to the plan) is a cross access agreement that he cannot encroach on. That is what we are talking about on the drive to the South. We want to keep a straight line in there. We do not want to have to jog around vehicles. That is the straight line, and what he is talking about is not uncommon. The Chisholm Center has some of those agreements with the businesses that are in there that you cannot block them, so that typically happens. It is a green space when it turns out to be parking.

Chairman Horn then questioned, what about the main building, The Angle? When it was built originally, when it was just the bank building, with all that parking around it, he does not know how many square feet was in the building and how many parking spaces there were for that building.

Mitchell said we do keep a total on that. It depends on the use that happens upstairs, but they knocked a big portion of that building off when they parceled out for that jeep place as well as the other business that is in there because it was extremely deep. A big chunk of it has been removed.

Chairman Horn then asked if this is true for the dealership?

Mitchell stated that that is correct, but that is for the parking requirements because of that. Right now, they meet the requirements as the regular business is upstairs. If they build out, it is looked at as businesses or office space.

Chairman Horn then verified that with this completely built out with the parking that is there, this building on this lot is applicable?

Mitchell stated that that is correct. What this group is providing is outside of this for the Angle because it is going behind. If they do not meet the requirements when the Angle builds the two stories out, then you have to add that additional parking. This lot has what it is required, and the other lot has what it is required. They may have a cross access agreement here between everybody for them parking and for the Angle parking.

Ken questioned if there is going to be some shared parking, is that his understanding?

Mitchell said that they do that a lot, but each space typically has its own enclave.

Ken questioned if there is a curb cut on Vandament Avenue for access?

Mitchell stated that it is already there. There will be no more additional curb cuts than what is there right now.

Chairman Horn questioned that what Mitchell said is the second story?

Mitchell stated that there is nothing in the second story or third story. We did look at this as a whole for if there were offices up there, what they would be required to have.

Chairman Horn questioned if they have that space now?

Mitchell stated that they have what they need for now and if they need, they do have additional space to create that.

Chairman Horn then stated that he feels like what he heard is that they do not have enough parking for the second story and third story.

Mitchell verified that nothing is built up there. We did look at it, and there are some general parking spaces now that would meet the requirements if it was built as office space. Now if we have a call center in there, they would have to add additional, if that is what you are asking. Those uses depend on the uses that we end up getting in the future.

Chairman Horn then asked if anyone else has any other questions while Mitchell is still standing there?

Vice-Chairman Huston then verified to make sure she understood correctly, by questioning if this is not limiting what could go into the second and third story because of the lack of parking places?

Mitchell said that no, because the developer claims that they do not have enough for whatever they use it for, and they will make sure they do.

Ken questioned then if not, it will come before this board again?

Mitchell said that they have parking in between the two buildings now, and it comes around on the North side as well. There is a lot of parking there.

Ken questioned the North side, there is a lot there to be developed?

Chairman Horn then stated that there is a lot of property, but it is not parking.

Ken said that right now it is parking.
Chairman Horn said that no, it is vacant ground.

Mitchell then confirmed that there is a lot of asphalt that has not been striped out if that is what they are asking.

Chairman Horn questioned if there is asphalt on the North?

Mitchell said that there is some.

Ken then asked if there is still a lot in the future that could be developed on the North side of the jeep dealership?

Mitchell stated that no, the lot is already being built on right now, and HTeaO has got it. We always do cross access parking on these types of developments. Nobody wants to walk a long way so that they can park. That is a common deal for common access, common parking, and shared parking. In Lowe's we do the same thing, cross access parking.

Chairman Horn then said, he sees the rest of the space around that building and he can see them wanting to buy it up and sell it, and then they will not have adequate parking. He does not want to create a problem doing what they are doing today if they decide to sell off what else they have.

Mitchell said that we have talked to Rod Baker about that and the developers.

Chairman Horn then questioned if this is creating an issue?

Mitchell stated right now with what Baker has provided to us, is what he is looking at. Now like it was said before, if it is a call center, then it is not like an office that we would have for a business. It would be more condensed. Call centers are not a thing like they used to be, so we do not see it being in there. They have been trying to lease it for quite a while.

Chairman Horn then asked if there are any other questions?

Ken stated that he does not want to oversimplify this, and asked if we are talking about 3 feet by 40 feet into a greenbelt? He questioned again if this is the variant that Mark is asking for?

Chairman Horn asked how deep is the greenbelt?

Mark then stated that it is not a greenbelt, and that it is a building setback. The building setback from the right-of-way is 25 feet.

Ken stated that he thought that they said there was going to be a greenbelt on the West side of that.

Mark verified that the landscape setback is by 10 feet, and that 10 feet is something that they will not be getting at all. He explained that he could asphalt that area between the building and the landscape setback. It again is the building setback that he is asking relief from and in that area approximately there is 25 feet. He is not asking for relief of landscaping. He is asking for relief from a building setback.

Mitchell said that where they are saying that there is a greenbelt, typically that is the area that has the grass.

Ken then questioned Mark by stating that these 3 feet, not counting coming out of the greenbelt, they are talking about out of the building setback itself, as a building developer, you said you cannot take that 3 feet out of the building and still make it work?

Mark said that he has already done that, and he has already taken out everything they can out of the building. They are not impacting the landscape. They are impacting the building setback.

Chairman Horn asked again if there are any other questions from the board? The floor is open for a motion.

Buddy stated that he will make a motion to accept this building setback.

Seconded by Rhonda Dennis.

The Vote:

Ayes: Horn, Huston, Carpenter, Dennis

Nays: Smith

Vote:4-1

Motion Carried

4. ITEM: NEW BUSINESS
NONE

5. ITEM: OPEN DISCUSSION
NONE

6. ITEM: ADJOURNMENT – NEXT MEETING FEBRUARY 6, 2023
6:40 p.m.