

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 486**

Tuesday, September 15, 2020, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, OK

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Charney, Chair	Dillard	S. Miller	Tosh,
Hutchinson, V.Chair		R. Jones	County Inspector
Crall, Secretary		Sparger	
Johnston			

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 10th day of September, 2020 at 9:39 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Charney called the meeting to order at 1:30 p.m.

Ms. Jones read the rules and procedures for the Board of Adjustment Public Hearing.

Mr. Charney explained to the applicants and interested parties that there were only four board members present at this meeting. If an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application fails. Mr. Charney asked if anyone would like to continue their case and if they understood. Everybody nodded in understanding and no one requested a continuance.

MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Dillard “absent”) to **APPROVE** the Minutes of August 18, 2020 (No. 485).

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UNFINISHED BUSINESS

None.

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BOARD COMMENTS

Mr. Charney stated that today was to be Mr. Gene Dillard’s final meeting for the County Board of Adjustment and, unfortunately, he was unable to attend today. Mr. Charney wants to recognize Mr. Dillard’s many, many years of service; 22 years. Mr. Charney stated that there is a collective “thank you” from the Board members and staff and many of the people that appeared before the Board to have their cases heard. Mr. Dillard did his job with fairness and he was jovial and light-hearted about it. He wanted to make certain that the Board did not take themselves too seriously. He cared about people being straightforward and honest. Mr. Dillard cared a lot about the landowner’s rights, but he also cared a lot about whether the landowners had consulted with neighbors. Mr. Charney stated that he is well into his second decade of serving on the Board and Mr. Dillard was on the Board before he was. Mr. Charney stated he has fond memories of Gene being here and saying blunt things that needed to be said. Mr. Charney stated that Gene is a wonderful man, he appreciates Gene’s background and his wisdom that he brought to the Board. Everyone is thankful for his years of service and a Certificate of Appreciation will be presented to him.

Mr. Don Hutchinson stated that he was extremely pleased to be on the Board with Gene. The wisdom that he brought was impeccable. He appreciated the fact that Mr. Dillard spoke his mind and he considers him a friend and role model.

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NEW APPLICATIONS

2843—Mark Bales

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1). **LOCATION:** 13609 West 41st Street South

Presentation:

Mark Bales, 13609 West 41st Street South, Tulsa, OK; stated he would like to be able to grow in his back yard. His property is 5.1 acres and the east side is surrounded by agricultural.

Mr. Charney asked Mr. Bales if the remaining sides of his property were surrounded by residential. Mr. Bales stated that the northwest and the south sides are agricultural, and the east side is zoned RE.

Mr. Charney asked Mr. Bales if he would have any truck traffic or any customer traffic at the subject property. Mr. Bales answered no.

Mr. Hutchinson asked Mr. Bales if he planned to have the grow operation north of his house. Mr. Bales answered affirmatively. Mr. Hutchinson asked Mr. Bales if he had spoken with the neighbors to the east of his property. Mr. Bales answered affirmatively, and they have no objection. Mr. Bales stated the neighbors to the east also have an indoor grow operation, and plan to have both an indoor and an outdoor grow. Mr. Bales stated his grow operation will actually be within a greenhouse; a plastic shelter.

Mr. Charney asked Mr. Bales about the size of his proposed greenhouse structure. Mr. Bales stated there will be several small hoop houses like is seen at a nursery.

Mr. Hutchinson asked Mr. Bales if he was requesting a 10,000 square foot grow facility. Mr. Bales answered affirmatively.

Mr. Hutchinson asked Mr. Bales if the neighbor's facility was 704 square feet. Mr. Bales answered affirmatively.

Mr. Bales stated his grow operation will be like a little farm; the whole square footage will not be growing.

Interested Parties:

Tim Lutz, 13600 West 42nd Place, Tulsa, OK; stated his concerns are the increase in traffic and having a safe neighborhood.

Mr. Charney stated that historically it is important that the Board ask applicants whether there would be any increased traffic as a result of customers coming on to the site or a commercial operation that would have increased traffic. Very often that is not the case with the smaller grows. The Board has found that it is just the family itself attending to the grow, harvesting what they grow, and placing the product in the rear of a vehicle for delivery.

Mr. Johnston asked Mr. Lutz where his property is located in relation to the subject property. Mr. Lutz stated that it is southwest of the subject property.

Rebuttal:

Mark Bales came forward and stated there will be no more traffic than what is there currently. By law no one can be on the property in the growing portion that does not have a license to be there. Mr. Bales stated the proposed buildings are about 20 x 25 enclosed with the ability to open the bottom portion for air circulation. The entire 10,000 square feet is not the growing space, it is the operation space. This is just like farming,

areas are needed to store equipment, mulch piles, etc. His grow will be on the very far southeast corner of 5 acres. When going west there is a creek and another 10 acres to the corner of 137th. When going north his friend lives about 10 acres away. Mr. Bales stated that his house sits so that there is nothing north or south of him and the wind blows predominately northward or southward. If the wind blows eastward his neighbors also grow and they don't mind the smell.

Mr. Crall asked Mr. Bales how many buildings he plans to have if they are 20 x 24 in size, because there could be a total of 20 buildings. Mr. Bales stated that he plans no more than six hoop houses.

Mr. Charney asked Mr. Bales what the building would be wrapped in. Mr. Bales stated that it is a very thick plastic similar to Visqueen.

Comments and Questions:

Mr. Hutchinson asked staff if the previous case that was approved next door to the subject property, if they choose to have an outside grow operation will they need to come before the Board? Ms. Jones answered affirmatively. Mr. Hutchinson stated he has an issue with this request because the grow will be outdoor. The request is for 10,000 square feet and the smell that is associated with growing sometimes has a tendency to hurt a resale value of neighbors.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 2-2-0 (Charney, Hutchinson, "aye"; Crall, Johnston "nays"; no "abstentions"; Dillard "absent") to **DENY** the request for a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1) finding that the proposed grow operation is located within a residential district; for the following property:

BEG 2310W SECR SE TH W330 N660 E330 S660 POB & S25 VAC ST ADJ ON N SEC 21 19 11 5.189ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

MOTION FAILED

2844—Mark Bales

Action Requested:

Special Exception to permit Use Unit 3, Agriculture, for a Horticulture Nursery in an (AG-R) Agriculture - Residential District (Section 310, Table 1). **LOCATION:** 20813 West Coyote Trail South

Presentation:

Mark Bales, 13609 West 41st Street South, Tulsa, OK; stated the subject property building has been in existence for several years and used as a commercial business.

This request is for an indoor grow facility. Mr. Bales stated he has two partners and the traffic will be less than what was there before because the building housed a former Port-A-Potty business so there were trucks coming and going constantly.

Mr. Charney asked Mr. Bales if there would be active selling, marketing or cultivation requiring third party employees from the facility. Mr. Bales answered no.

Mr. Hutchinson asked Mr. Bales about the square footage of the existing building. Mr. Bales stated the building is 3,000 square feet.

Mr. Hutchinson asked Mr. Bales how many plants did he anticipate having in the building? Mr. Bales stated there would be about 300 plants.

Mr. Hutchinson asked staff to explain the difference in the zoning, AG, AG-R and RE. Ms. Jones stated the R is residential and this property is zoned AG-R, which is an agricultural use with a residential bind, so the applicant must ask for a Special Exception for this use as opposed to a Use Variance.

Mr. Crall stated that the staff report says the hardship is because the zoning prevents relocation of the business; is this an existing business that is being relocated to the subject property? Mr. Bales answered affirmatively; there is an existing business located in Cherokee County currently.

Mr. Hutchinson asked Mr. Bales about the traffic after the plants are processed. Mr. Bales stated there would be no other traffic other than him and his two partners that come to the subject property.

Mr. Johnston asked Mr. Bales about the ventilation of the building. Mr. Bales stated there will be filters in the building, there will be no smell outside. Mr. Hutchinson asked if the County required ventilation for the building. Ms. Tosh stated the County requires ventilation and filtration for the building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **APPROVE** the request for a Special Exception to permit Use Unit 3, Agriculture, for a Horticulture Nursery in an (AG-R) Agriculture - Residential District (Section 310, Table 1), subject to conceptual plan 3.11 in the agenda packet. The grow facility is to be limited to the 3,000 square foot building currently located on the subject property. The building is to comply with all regulations by Tulsa County and the OMMA. Finding the Special Exception will be in

harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

PRT NW NW BEG 548.96S & 137.97SELY & 221.17SE NWC NW NW TH NE404.52 SE165.24 SW404.52 NW165.24 POB SEC 26 19 10 1.535ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2845—Sean Parchman

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1). **LOCATION:** 1372 South 220th Avenue West

Presentation:

The applicant requests a continuance to October 20, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **CONTINUE** the request for a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1) to the October 20, 2020 Board of Adjustment meeting; for the following property:

LT 12 & BEG SWC LT 12 TH SLY50.65 E APROX 206.30 N50 WLY206 BLK 8, CANDLESTICK BEACH, CANDLESTICK BEACH THIRD ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2846—DSK Investments, LLC

Action Requested:

Use Variance to allow outdoor storage (Use Unit 23 – Warehousing and Wholesaling) in an RE District (Section 1223); Use Variance to allow for an office use (Use unit 11 – Offices and Studios) to permit an office in an RE District (Section 1211). **LOCATION:** 11505 East 68th Street North

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **CONTINUE** the request for a Use Variance to allow outdoor storage (Use Unit 23 – Warehousing and Wholesaling) in an RE District (Section 1223); Use Variance to allow for an office use (Use unit 11 – Offices and Studios) to permit an office in an RE District (Section 1211) to the October 20, 2020 Board of Adjustment meeting; for the following property:

LT 6, JONESVILLE, OWASSO FENCE RESUB S/2 L2 & ALL L3-5 B1 JONESVILLE, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney stated that since there are technical difficulties with the caller the agenda item will be moved to the end of the agenda.

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **MOVE** the request for a Use Variance to allow outdoor storage (Use Unit 23 – Warehousing and Wholesaling) in an RE District (Section 1223); Use Variance to allow for an office use (Use unit 11 – Offices and Studios) to permit an office in an RE District (Section 1211) to the end of today’s agenda; for the following property:

LT 6, JONESVILLE, OWASSO FENCE RESUB S/2 L2 & ALL L3-5 B1 JONESVILLE, OF TULSA COUNTY, STATE OF OKLAHOMA

2847—Ray Green

Action Requested:

Use Variance to allow a manufactured home in a CS District (Section 710).

LOCATION: 6204 West 60th Street South

Presentation:

Ray Green, P. O. Box 131, Oakhurst, OK; stated he would like to have single wide mobile home on his Grandmother’s property. His Grandmother passed away and the existing house is not in good condition, so he has boarded the house up and uses it as storage.

Mr. Charney asked Mr. Green if he would be the one living in the mobile home. Mr. Green answered affirmatively.

Mr. Hutchinson asked Mr. Green why the property is zoned CS. Mr. Green stated that he does not know why the property was zoned CS years ago, but the property has been in the family for 50 years and he heard that the structure that is on the property was a former store.

Mr. Hutchinson asked Mr. Green if he plans to keep the structure. Mr. Green answered affirmatively; he uses the building to sell car parts. Mr. Hutchinson asked Mr. Green if he sold the car parts out the subject structure. Mr. Green answered affirmatively.

Mr. Green stated the surrounding property is family property. The subject property was left to him when his Grandmother passed away. The property was put in his Father's name because he lived in Texas at the time his Grandmother passed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Hutchinson stated he has concerns about two structures being on the same property. He is glad the applicant is cleaning up the property but he has a hard time supporting the request.

Mr. Charney stated he is struggling with the hardship.

Mr. Crall stated he is familiar with the area and would not have a problem approving this request.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 2-2-0 (Charney, Hutchinson "aye"; Crall, Johnston "nays"; no "abstentions"; Dillard "absent") to **DENY** the request for a Use Variance to allow a manufactured home in a CS District (Section 710); for the following property:

LOTS-1-2-3-BLK-10, NEW TANEHA, OF TULSA COUNTY, STATE OF OKLAHOMA

MOTION FAILED

2848—Mathew & Laura Cain

Action Requested:

Variance to permit a detached accessory building to exceed 750 square feet in an RS District (Section 240.2-E). **LOCATION:** 12591 East 132nd Street South

Presentation:

Laura Cain, 12591 East 132nd Street South, Broken Arrow, OK; stated she would like to build a 40 x 50 storage building, east of the residence. The building would be storing her vehicles and her small lawn business equipment.

Mr. Charney asked Ms. Cain if there was an existing 500 square foot storage building on the subject property? Ms. Cain answered affirmatively.

Mr. Hutchinson asked Ms. Cain what materials would be used to build the building. Ms. Cain stated that it will be a metal building with wainscot. Mr. Hutchinson asked Ms. Cain if the wainscot would be brick. Ms. Cain stated there will be some brick. There will be a lean-to that faces her yard that will have brick half up the beams.

Mr. Charney asked Ms. Cain how tall the building would be. Ms. Cain stated the height will be 12 feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **APPROVE** the request for a Variance to permit a detached accessory building to exceed 750 square feet in an RS District (Section 240.2-E), subject to conceptual plan 7.11 of the agenda packet. The Board has found the hardship to be the size of the structure in relation to the size of the lot would be a constraint not to permit broader coverage on a lot when the same restrictive requirement would be applicable to a small quarter acre lot. Finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

S283 W200 E1095 N595 N/2 LESS S25 FOR RD SEC 8 17 14 1.299ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Ms. Jones informed the Board that the applicant for Item #5, DSK Investments, is now on line. Mr. Charney stated the Board would be willing to hear the case now.

2846—DSK Investments, LLC

Action Requested:

Use Variance to allow outdoor storage (Use Unit 23 – Warehousing and Wholesaling) in an RE District (Section 1223); Use Variance to allow for an office use (Use unit 11 – Offices and Studios) to permit an office in an RE District (Section 1211). **LOCATION:** 11505 East 68th Street North

Presentation:

Will Presler, 6817 North 115th East Avenue, Owasso, OK; stated the property to the east of the subject site has enough room to have four offices with storage in the rear; a little over an acre. The storage in the rear would be used for storage of temporary fencing for job sites and the offices would be in the house. There will be no major upgrades so the structure could become a house again if need be.

Mr. Charney asked Mr. Presler what business is located to the west of his location along Highway 169. Mr. Presler stated that it is Owasso Fence Company, that is who DSK Investment is. Mr. Charney asked Mr. Presler if he owned the building that fronts the expressway. Mr. Presler answered affirmatively.

Mr. Charney asked Mr. Presler if he was the resident currently in the house on the subject lot. Mr. Presler stated he owns the house and currently there is nothing in the house; the house was purchased as an investment.

Mr. Charney asked if the subject property would be servicing Owasso Fence and if that was the reason for the need of outdoor storage. Mr. Presler answered affirmatively.

Mr. Charney stated that because the subject property is within the Owasso fence line there was input from the Owasso City Planner. The City Planner suggests that at a minimum there be a six-foot opaque fence to screen the entire area where cars are being stored or any other outdoor storage. The City Planner stated that the lot is zoned residential and there should be a limit to the number of cars and should not be turned into a salvage yard. Owasso requires all outdoor storage areas to be screened.

Mr. Charney asked Mr. Presler if inoperable cars had been allowed to be stored on the subject property, and if there would be any cars stored there in the future. Mr. Presler answered no; every square foot of outdoor storage would be used for storing fence materials.

Mr. Charney stated that he is going to recuse himself from this case from this point forward because there may be a possibility that he has done business with

Owasso Fence in the past, but he is not certain. Because he is not certain he will recuse.

Mr. Charney recused and left the meeting at 2:52 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-1 (Crall, Hutchinson, Johnston “aye”; no “nays”; Charney “abstaining”; Dillard “absent”) to **APPROVE** the request for a Use Variance to allow outdoor storage (Use Unit 23 – Warehousing and Wholesaling) in an RE District (Section 1223); Use Variance to allow for an office use (Use unit 11 – Offices and Studios) to permit an office in an RE District (Section 1211), subject to conceptual plan 5.13 of the agenda packet. The Board has found the hardship to be that the applicant owns the property to the west and there is no opposition. There is to be a 6’-0” opaque fence, at a minimum, around the storage area. This is not to be a salvage yard. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 6, JONESVILLE, OWASSO FENCE RESUB S/2 L2 & ALL L3-5 B1 JONESVILLE, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney re-entered the meeting at 2:56 P.M.

2849—Alicia Warlick

Action Requested:

Variance of the minimum lot width (Tracts A, B, & C), lot area (Tracts A & B), and land area per dwelling unit (Tracts A, B, & C) in the AG District to permit a lot line adjustment (Section 330, Table 3); Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30 feet to permit a lot line adjustment (Tracts A, B, & C) (Section 207). **LOCATION:** 22307 West 6th Street South

Presentation:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated she represents Ms. Alicia Warlick. At issue are three tracts of land that are about 1 ½ miles northeast of the Keystone Dam on the north side of Highway 412; page 8.5 shows the configuration of the lots and are labeled A, B and C. In between Tract C and Tracts A and B there is a label depicting Bradley Street or driveway. Bradley Street extended toward the west and that was vacated in 1957 with the Keystone Expressway being built. The street on the east half was never built as a street and it was never maintained by the County, and in 2007 the County vacated the eastern portion of the street. By vacating the street, the subject lots lost their frontage on a dedicated public road. The property owners intend to reconfigure the lots into five lots so each lot can have access off the section line road, South 221st Street. These five lot configurations are shown on pages 8.6, 8.7 and 8.8 of the agenda packet.

Mr. Charney asked Ms. Cornett if this would be giving everyone simple title back out to South 221st Street or is it being done by mutual access easement? Ms. Cornett stated there will be a mutual access easement and utility easement established that will cover the flagpole so that each tract has mutual access out to South 221st Street.

Mr. Charney asked Ms. Cornett if there were currently three different owners and three different structures on the property. Ms. Cornett stated the property is all under the same ownership currently and the owner would like to be able to sell the lots individually, which will require the access and there is only a structure on Tract B, a house.

Mr. Charney asked Ms. Cornett if the two lots that currently front 221st have structures on them, and that she does not represent them. Ms. Cornett answered affirmatively.

Mr. Charney asked Ms. Cornett if technically this would create three sellable lots that used to be one. Ms. Cornett answered affirmatively. Ms. Cornett stated the property has been treated as three tax parcels at the Assessor's office, but going back in land records at one point it was one large lot that has been broken up through the years, prior the applicant's ownership of the subject property.

Mr. Charney asked Ms. Cornett if the old street that has been vacated has been attached to the mother parcel and it is included in the new legal. Ms. Cornett answered affirmatively. There is a driveway that exists currently, and it will be encumbered by the access easement so all the property owners will use the one drive to get to 221st Street.

Ms. Cornett stated that what will be created is a 1.3-acre lot, a 1.4-acre lot and a 2.2-acre lot. The first set of Variances is for the lot width and that stems from the nature of the flag lot. The Code defines lot width as the average width between all side lot lines, and the flag portion of the lot has a lot width on the eastern border of 160 feet. The pole of the flag is only 12'-6" so when the average of those put this under the 150-foot width requirement. The same applied to the other tracts with varying lot widths, but it is a similar concept for each of them. The next requested Variances for all three lots are of

the street frontage. The street frontage that is required is 30 feet and each of these lots will have their frontage by the pole of 12'-6" for Tracts A and B and 25'-0" for Tract C, and the mutual access easement will resolve that in that all of them will have access.

Mr. Charney asked Ms. Cornett if all of the flag poles contained within the description of the mutual access easement. Ms. Cornett answered affirmatively. Mr. Charney asked if the mutual access easement speak to future maintenance and the sharing of cost for such. Mr. Cornett answered affirmatively.

Ms. Cornett stated that the Variances requested for the lot area and land area per dwelling unit the Code requires two acres, and all of the surrounding lots are 1-acre to 1 ½ acres except for the one to the north which is a large tract. Given the development pattern that is established none of the lots are in compliance with the 2-acre requirement.

Ms. Cornett stated that each of these lots were previously non-conforming and because the flag poles are being added, readdressing, and getting the non-conformities she hopes they will be approved by the Board.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the request for a Variance of the minimum lot width (Tracts A, B, & C), lot area (Tracts A & B), and land area per dwelling unit (Tracts A, B, & C) in the AG District to permit a lot line adjustment (Section 330, Table 3); Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30 feet to permit a lot line adjustment (Tracts A, B, & C) (Section 207) pursuant to the exhibit submitted with the application. The Board finds that it will not be inconsistent with the Comprehensive Plan or injurious to the public welfare. The Board finds the hardship to be the former existence of a publicly dedicated road that serviced the tracts previously and since has been vacated necessitating the need for the flagpole access to the publicly dedicated street. As for the lot area of Tracts A & B the Board finds the hardship to be similar as the previous hardship stated in this motion and the unusual configuration of the land, and the subsequent construction of the Keystone Expressway and the vacation of the formerly publicly dedicated street adjusted the lot area in such a manner that it is appropriate for the Board grant the Variance. This will not be detrimental to the public welfare or inconsistent with the Comprehensive Plan. As for the land area per dwelling unit for Tracts A & B the Board has found that a Variance for Tract C is no longer needed. The Board has found the hardship to be the unusual configuration of the lots and the former existence of a publicly dedicated street. The granting of this Variance is not detrimental

to the public welfare or harmful in any way to the public good and is not inconsistent with the Comprehensive Plan. As for the Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30'-0" to 12'-6, 12-6" and 25'-0" for Tracts A, B and C. The Board has found the hardship to be the vacation of a former publicly dedicated street and that creates the inability to get out to the publicly dedicated street. The new configurations are to be consistent with the exhibit submitted by the applicant. The granting of this Variance would not be detrimental to the public welfare or harmful to the public in any way and is not inconsistent with the spirit of the Comprehensive Plan; for the following property:

N10AC S12 1/2AC LESS WLY3AC & LESS S182 & LESS E330 & LESS W330 E660 N132 SW NW & S25 W BRADLEY ST S ADJ ON N SEC 3 19 10 1.434ACS; 1AC IN N 10AC S12 1/2AC SW NW BEG 330W NEC TH W330 S132 E330 N132 POB SEC 3 19 10; N10AC S12 1/2AC LESS WLY3AC TO USA & LESS N198 & LESS E330 SW NW PRT SW NW BEG 413N & 743.17W SECR SW NW TH W70 N25 E70 S25 POB & N25 W BRADLEY ST S ADJ ON S SEC 3 19 10 2.034AC, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Crall left the meeting at 3:18 P.M.

2850—Eller & Detrich – Nathalie Cornett

Action Requested:

Variance of the minimum lot width to permit a lot-split in an AG District (Section 330, Table 3). **LOCATION:** 16325 South 43rd Avenue East

Presentation:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated these Variance requests are to permit a future lot split. The property is located south and west of the intersection of 161st and Yale. The proposed lot split is displayed on page 9.9 in the agenda packet. Off 161st Street is South 43rd East Avenue and there is a small residential neighborhood on the ½ mile collector street. The subject property is currently 4.06 acres and has a lot width of 290 feet on the east side of South 43rd. All of the lots along South 43rd are two or four acre lots on the east and there are some 1 ½ acre lots on the west side. The property owner tends to split his four-acre tract into two 2.03-acre tracts and convey one of the tracts to his daughter. The jog in the lot split is to accommodate an existing structure that the property owner lives in. The average lot width between the two lots would be 145 feet and the Code requires 150 feet. Looking at the development pattern along South 43rd it appears those lots have 145 feet of street frontage; the four acre lots have 290 feet of street frontage. No lots along the street would ever be able to meet the 150 feet frontage requirement including the subject property. This property is within the Bixby fence line.

Mr. Charney asked Ms. Cornett if she or her client have heard any opposition to the requested lot split. Ms. Cornett stated that she is not aware of any.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **APPROVE** the request for a Variance of the minimum lot width to permit a lot-split in an AG District (Section 330, Table 3), subject to conceptual plan 9.9 of the agenda packet. The Board has found the hardship to be the precise frontage being a few feet short of the requirement; the existence of current structures prevent a more precise split needing for one lot to be less than what would otherwise be the case. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

S290 N1475 E610 W/2 NE SEC 28 17 13 4.06AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2851—Triple G Excavating – Scott Gann

Action Requested:

Variance of the front setback requirements in an RS District (Section 430, Table 3); Special Exception to permit a manufactured home in an RS District (Section 410, Table 1). **LOCATION:** 906 West 4th Street North

Presentation:

Scott Gann, P. O. Box 2077, Sapulpa, OK; stated he represents his client, Ms. Potter. She would like to install a mobile home on the subject property. The house across the street is at 44 feet from the center of the road, and 800 feet to the east there are several properties that are less than 35 or 40 feet from the center of the road. He has been told that the road would not be widened. Mr. Gann stated there is an aerobic system and a septic system directly behind the house and it is located at eight feet from the property line. Mr. Gann stated the subject mobile home is a double wide.

Ms. Jones stated that a double-wide mobile home is allowed by right, therefore, the request for the Special Exception can be withdrawn.

Mr. Gann stated the property is in a flood zone and to move the mobile home back any farther means it would encroach farther into the flood zone.

Ms. Tosh stated the County did receive the application in good faith and Mr. Gann has worked with her department very well and has done everything that has been asked of him. Her department had a new inspector and when he reviewed the site plan it said the mobile home was going to be back farther than it is. The inspector did not physically measure, he walked the measurement off. The applicant did not intentionally violate any rules and did only what her department told them to do.

Interested Parties:

Barbara King, 913 West 4th Street, Tulsa, OK; stated she is representing herself and her neighbors. Ms. King presented pictures of the immediate neighbors and the subject home. The subject property is unkempt, and she is concerned that it will not change. She does not think the homeowner will take care of the property and there is an existing house on the property. There is no parking available so the homeowner would have to park on the street, and no one parks on the street.

Mr. Charney asked Ms. King if the subject property has an existing house on it or is the house in the picture next door to the subject property? Ms. King stated the house is next door. Mr. Charney asked if the house was on a separate lot. Ms. King stated she did not know, but it is the same owner.

Rebuttal:

Scott Gann came forward.

Mr. Charney asked Mr. Gann if the two lots being discussed were owned by the same person. Mr. Gann stated he is the contractor and Linda McDaniel is the owner of the property. Ms. McDaniel's elderly mother lives in the house, the mother sold her house to purchase the double wide so the daughter could move in and help take care of her.

Mr. Charney asked Mr. Gann if he knew if someone was living in the poorly kept house. Mr. Gann stated the daughter is currently living in the house.

Mr. Gann stated there is a driveway that he has laid gravel for, but he halted the work when he found out he needed to come before the Board of Adjustment.

Mr. Johnston asked Mr. Gann if there would be skirting installed around the double wide. Mr. Gann answered affirmatively. Mr. Gann stated the plan is to remove the tongues after the house is set.

Mr. Charney stated that when the Board is asked to grant Variances the Board takes different factors into consideration. He knows the Board always feels better about a decision when someone is attempting to improve the neighborhood and that is not real apparent right now in this case.

Mr. Hutchinson asked Mr. Gann what was on the property previous to the proposed double wide mobile home. Mr. Gann stated there was a house. Mr. Hutchinson asked

Mr. Gann if the existing aerobic system belonged to the former house. Mr. Gann answered affirmatively. Mr. Hutchinson asked Mr. Gann to confirm that it was not the septic system for the daughter's house and that it is its own system for the proposed mobile home. Mr. Gann stated that it is the subject property's own system.

Mr. Charney asked Mr. Gann if there is a planned hard surface parking area for vehicles. Mr. Gann answered no, but the applicant would be willing to install a hard surface if the request is approved.

Comments and Questions:

Mr. Hutchinson stated he can support the request. He realizes that the request is for an eight-foot Variance but moving the mobile home back into the existing flood zone by eight feet would not make that big of a difference, plus there is the existing septic system.

Mr. Charney stated the Board many times historically takes existing flood plains, topography and matters of that nature into consideration when deciding the outcome of a request. It is not unusual for the Board to grant Variances due to pre-existing matters on the ground. Mr. Charney stated that in general he is supportive of the idea, but he wants the applicant to know that if the Board were to grant this request, the client should understand the Board cares a lot that the mobile home be set up properly, the applicant obey the rules about skirting, obey the rules about the hard surface parking, and that the property be generally cared for well which includes the lawn care.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall, Dillard "absent") to **APPROVE** the request for a Variance of the front setback requirements in an RS District (Section 430, Table 3) to permit up to an eight-foot encroachment and no more from the existing front yard setback. There is to be a hard surface area for parking vehicles. There is to be attractive skirting of the mobile home and is to meet all DEQ requirements. The property owner is to maintain the mobile home and both lots. The Board has found the hardship to be the existence of the inground septic system and the flood plain in the rear of the subject lot creating a hardship such that the front yard Variance should be granted. Finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan. In granting a Special Exception, the Board must find that the Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

BEG AT PT 948 W & 30 S OF NE COR SE QTR TH W 50 S 190 E 50 N 190 TO PT OF BEG SEC 10-19-11, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 3:50 p.m.

Date approved: 10/20/2020
David E. Charney
Chair