

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 493**

Tuesday, April 20, 2021, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, OK

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS

Charney, Chair	Johnston	S. Miller	
Hutchinson, V.Chair		R. Jones	
Crall, Secretary		Sparger	
Tisdale		J. Wertin	

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 15th day of April, 2021 at 8:31 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.

MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Tisdale "aye"; no "nays"; "abstaining"; Johnston “absent”) to **APPROVE** the Minutes of March 16, 2021 (No. 492).

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.

* * * * *

UNFINISHED BUSINESS

2876—Codey Zickefoose

Action Requested:

Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30 feet in the AG District to permit the construction of a single-family home and lot split (Section 207). **LOCATION:** 784 East 165th Street South

Presentation:

Codey Zickefoose, 800 East 165th Street South, Glenpool, OK; stated he would like to be able to build on family land. The portion that he would like to build on is land locked.

Mr. Charney stated the Board wants Mr. Zickefoose to understand that if he owns other land around the subject tract the Board does not want anyone to believe that the Board would allow the continuation of lot splits making a mini subdivision. Mr. Charney asked Mr. Zickefoose if he would be seeking any additional lot splits. Mr. Zickefoose stated that he does not want any additional lot splits from the five acres he was given.

Mr. Charney stated there is a copy of an easement in the agenda packet that satisfies Mr. Zickefoose's need to get from the dedicated roadway back to his tract, and he asked Mr. Zickefoose if he was satisfied with that easement. Mr. Zickefoose answered affirmatively.

Mr. Crall asked Mr. Zickefoose how many properties were being serviced by the road. Mr. Zickefoose stated there are seven houses. Mr. Crall asked Mr. Zickefoose if the lot split would make that eight houses. Mr. Zickefoose answered affirmatively.

Mr. Charney asked Mr. Zickefoose if some of those houses were serviced from East 165th Street South. Mr. Zickefoose answered affirmatively.

Mr. Hutchinson asked Mr. Zickefoose if his address was 800 East 165th Street. Mr. Zickefoose stated that is where he is currently living. Mr. Hutchinson asked Mr. Zickefoose if he already has a house down the subject street. Mr. Zickefoose stated that he does not, he is living with his parents.

Mr. Hutchinson asked staff if this was really close to a wild cat subdivision. Mr. Zickefoose stated there is a subdivision directly to the south of the subject property. Mr. Hutchinson asked Mr. Zickefoose if that subdivision was down 167th Street. Mr. Zickefoose answered affirmatively. Mr. Hutchinson stated the area he is referring to, looking at 165th where it dead ends going to the west, it appears to be 13 tracts and he asked Mr. Zickefoose if that was correct. Mr. Zickefoose stated there may be, his grandfather passed away about a year ago and when he passed the property was split

into three separate tracts for his three children. Mr. Zickefoose stated that in addition to the houses that were already built, the remaining land was split among his three children, one of those children being his father.

Ms. Miller stated that the original parent tract has been split more times than would be allowed without a subdivision if it came in now. She thinks what happened is this was done over time and more than five years has lapsed since those splits. Ms. Miller stated that some people do not go through the formal process for a lot split and if they do that without going through the formal process and record the deed within five years then the lot becomes legal.

Mr. Charney asked Mr. Zickefoose if his family owned the land to the north and to the west of the subject property. Mr. Zickefoose answered affirmatively.

Mr. Tisdale asked Mr. Zickefoose if it was all family members that lived on the land being discussed. Mr. Zickefoose answered affirmatively, stating that there is only one house that is not a family member, but that property is serviced by Peoria.

Mr. Crall asked Mr. Zickefoose if he had stated that in the future the remaining property would be split into five acres. Mr. Zickefoose answered affirmatively. Mr. Crall asked Mr. Zickefoose if those splits would take place after the subject five acres. Mr. Zickefoose answered no stating that he had been referring to his five acres.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Hutchinson stated he understands the need for family, but it is more important to him that it needs to be a publicly dedicated road. He sees this as a wildcat subdivision, and he cannot support this request.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Crall, Hutchinson, Tisdale “aye”; no “nays”; no “abstentions”; Johnston “absent”) to **DENY** the request for a **Variance** of the minimum frontage requirement on a public street or dedicated right-of-way from 30 feet in the AG District to permit the construction of a single-family home and lot split (Section 207), finding that it appears as a wildcat subdivision and there could be potential issues in the future; for the following property:

The East 329.58 feet of the West 857.00 feet of the South Half of the Southwest Quarter of the Northeast Quarter (S/2 SW/4 NE/4) of Section Twenty-five (25), Township Seventeen (17) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, Containing 5.00 acres, more or less., OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

2881—Jake’s Fireowrks – Jason Marietta

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an RE District (Section 410); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 13108 East 106th Street North

Presentation:

Staff requests a continuance due to an incorrect legal description.

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, Tisdale “aye”; no “nays”; no “abstentions”; Johnston “absent”) to **CONTINUE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in an RE District (Section 410); Variance of the all-weather surface material requirement for parking (Section 1340.D) to the May 18, 2021 Board of Adjustment meeting; for the following property:

NW NE NW NW LESS .13AC FOR RD SEC 16 21 14 2.37ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2879—Richard Lyons

Action Requested:

Variance of the required lot area in the AG District (Section 330, Table 3); Variance of the required land area per dwelling unit in the AG District to permit an existing dwelling to remain during construction of a new dwelling (Section 330, Table 3).

LOCATION: 11106 South 26th Avenue West

Presentation:

Richard Lyons, 11106 South 26th West Avenue, Jenks, OK; stated he would like to build a house on the subject property. Currently there is a 10-year old double wide mobile home on the property and he is living in it. The property was a three acre lot and there was a Variance approved about ten years ago to allow two houses on the property. The property has been split and given to him and his brother. He is living on 1

½ acres and his brother lives in the house on the other 1 ½ acres. He would like to continue living in the mobile home while the new house is being constructed.

Mr. Charney asked staff if this was actually two Variance requests before the Board. Ms. Jones stated that the lot area in AG requires 2.1 acres for each dwelling unit. The intention of the application is to allow the existing house to remain temporarily and meet the bulk and area requirements for a dwelling unit on the parcel.

Mr. Charney asked Mr. Lyons if he would commit to removing the mobile home after the house is built. Mr. Lyons answered affirmatively.

Mr. Hutchinson asked Mr. Lyons if he was building the new house west of the mobile home. Mr. Lyons answered affirmatively. Mr. Hutchinson asked Mr. Lyons how large the house would be. Mr. Lyons stated that he estimates it will be about 2,500 square feet. Mr. Hutchinson asked Mr. Lyons about the time frame of removing the mobile home after he completes construction of the new house. Mr. Lyons stated that it would be as soon as possible because he plans to sell the mobile home.

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, Tisdale “aye”; no “nays”; no “abstentions”; Johnston “absent”) to **APPROVE** the request for a Variance of the required lot area in the AG District (Section 330, Table 3); Variance of the required land area per dwelling unit in the AG District to permit an existing dwelling to remain during construction of a new dwelling (Section 330, Table 3), subject to the removal of the existing mobile home off the subject property leaving one dwelling unit on the subject 1 ½ acres. The removal is to be complete within 90 days after issuance of the Certificate of Occupancy on the new house. The Board has found the hardship to be that it is a 1 ½ acre lot and the 2,500 square foot house, after the removal of the mobile home, will not be detrimental to the surrounding area. 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:

**N/2 E/2 S/2 N/2 E794.3 NE NW SEC 34 18 12 1.505ACS, OF TULSA COUNTY,
STATE OF OKLAHOMA**

2880—Brian and Sheila Hopper

Action Requested:

Variance to permit a detached accessory building in the side yard in an RE District (Section 420.2-A.2). **LOCATION:** 9017 North 67th East Avenue

Presentation:

Brian and Sheila Hopper, 9017 North 67th East Avenue, Owasso, OK; stated he would like to build a detached garage or an accessory building. Mr. Hopper stated he needs the Variance because his backyard is not deep enough due to a drainage easement on the back of the property plus there is a utility easement. He would like to place the garage in his side yard because he does not want to block his neighbor's view of the pond because when the lots were sold there was a premium for the lots near the pond.

Mr. Charney asked Mr. Hopper if his neighbor was aware of his plans for the garage. Mr. Hopper answered affirmatively stating that he has spoken with them.

Mr. Hutchinson asked Mr. Hopper if he was going to build the new garage with the same materials as the house. Mr. Hopper answered affirmatively stating that he has asked the builder to match the house materials and the garage has received the HOA approval.

Mr. Hutchinson asked Mr. Hopper how large the new building would be. Mr. Hopper stated that it will be 24 x 36 so he can store his RV.

Mr. Charney asked Mr. Hopper if there would be a bedroom or cooking area or a dwelling area in the garage. Mr. Hopper answered no stating the building will only have electric hooked up to it.

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, Tisdale "aye"; no "nays"; no "abstentions"; Johnston "absent") to **APPROVE** the request for a Variance to permit a detached accessory building in the side yard in an RE District (Section 420.2-A.2), subject to the garage being built from similar materials as the house. The Board has found the hardship to be the topography of the subject property as well as the utility easement in the rear. 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:

Lot 4 Block 4, SHERIDAN CROSSING PHASE III, OF TULSA COUNTY, STATE OF OKLAHOMA

2882—Jackie Dodgin

Action Requested:

Variance of the minimum land area per dwelling unit in the AG District to permit two dwelling units on one lot of record (Section 330). **LOCATION:** 4327 West 26th Street South

Presentation:

Jackie Dodgin, 4327 West 26th Street, Tulsa, OK; stated he would like to be able to build a mother-in-law dwelling and he has four acres. His mother-in-law has already sold her house and moved in with him because she can no longer maintain a house on her own. If he is allowed to build the accessory dwelling unit, he would be able to move his autistic son into it in the future.

Mr. Charney asked if the house and the accessory dwelling unit would be served by the same driveway. Mr. Dodgin answered affirmatively.

Mr. Charney asked Mr. Dodgin if he understands that the accessory dwelling unit would never be able to be severed from the mother tract by virtue of a deed. Mr. Dodgin stated that he understands and he is trying to stay away from the process because he does not want to split the property.

Mr. Hutchinson asked Mr. Dodgin if the new structure would have its own utilities and septic system. Mr. Dodgin stated that he has been told by the builder that he has to install a separate septic system for the new structure but he would like to be able to tie the utilities together.

Mr. Tisdale asked Mr. Dodgin what the distance is between the main house and the new structure. Mr. Dodgin stated that it is about 35 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, Tisdale “aye”; no “nays”; no “abstentions”; Johnston “absent”) to **APPROVE** the request for a **Variance** of the minimum land area per dwelling unit in the AG District to permit two dwelling units on one lot of record (Section 330), subject to conceptual plan 6.13 of the agenda packet. The Board has found the hardship to be that the overall acreage of the property is sufficient so that the normal land requirements would be too constraining for this modest additional house, and it would be an unreasonable hardship on the homeowner to require an additional splitting of the property or for the acquisition of additional land. 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:

BEG 265N SWC E/2 SW SE NW TH N394.76 E330.23 S659.76 W165.18 N265 W165.20 POB SEC 16 19 12 4ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2883—Eller & Detrich – Lou Reynolds

Action Requested:

Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 150 feet to 30 feet in the CS District to permit a lot-split (Section 730). **LOCATION:** 5031 East 116th Street North

Presentation:

Nathalie Cornett, 2727 East 21st Street, Suite 200, Tulsa, OK; stated this property is owned by Dr. Brent Smith who operates a dentistry practice there. He has been in practice for over 40 years and will now be retiring, so he will be selling the dentistry practice. He would like to split off about an acre which would allow Dr. Smith to sell the practice and retain the remaining 1 ¼ acres. The lot split configuration is shown on page 7.9 of the agenda packet. The 30-foot frontage Variance request is for the frontage on 116th Street North, on the flag pole portion.

Mr. Charney asked if the property would still be retaining the commercial zoning on the new tract. Ms. Cornett answered affirmatively stating that currently the property is zoned CS and there are no plans to change the zoning nor any plans to develop the property at this point.

Ms. Cornett stated that currently, as the property sits, Dr. Smith and his family own this property and the contiguous 75 acres. The corner is developed on the south side and on the southwest side there is a salvage yard and there is development happening right now. Ms. Cornett stated the hardship for the Variance request is that the lot is quite

large, almost 500 feet in depth and the frontage is 220 feet currently, and with the one acre being split it will meet the CS requirements. There is really no configuration that could be done to both properties to meet the CS requirements.

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, Tisdale “aye”; no “nays”; no “abstentions”; Johnston “absent”) to **APPROVE** the request for a **Variance** of the minimum frontage requirement on a public street or dedicated right-of-way from 150 feet to 30 feet in the CS District to permit a lot-split (Section 730). The Board has found the hardship to be the unusual deep configuration of the subject lot, it is long and skinny and would not be inappropriate to split the property in the manner that the applicant has requested. 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:

BEG 440E SWC SW TH N497 E220 S497 W220 POB LESS S50 THEREOF FOR RD SEC 3 21 13 2.26ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2884—Chris Burnette

Action Requested:

Variance to permit a detached accessory building (Pole Barn) in the side yard in an RE District (Section 420.2-A.2); Variance to reduce the required side yard setback from 15 feet to 4 feet to allow a detached accessory building (Pole Barn) in an RE District (Section 430). **LOCATION:** 9477 East 139th Street North

Presentation:

Chris Burnette, 9477 East 139th Street North, Collinsville, OK; stated he would like to build a pole barn on the east side of his house next to the garage to have a storage area for his boat. The barn would be 34 x 24. Mr. Burnette stated he has an inground swimming pool that will not allow him to build the pole barn in the back yard.

Mr. Charney asked Mr. Burnette if he had spoken with the neighbor on the side where the pole barn would be constructed if approved. Mr. Burnette answered affirmatively.

Mr. Burnette stated he would like to place the barn next to the garage so no one would see a barn in the back yard. He plans to brick the structure so it will match the house.

Mr. Charney asked Mr. Burnette if the pole barn would have brick on all four sides when it is completed. Mr. Burnette stated he will brick the barn on three sides that face the road leaving the north side of the building with no brick which is back yard.

Mr. Charney asked Mr. Burnette if his neighborhood was called Mingo Crossing. Mr. Burnette answered affirmatively. Mr. Charney asked Mr. Burnette if his property was located in Tulsa County. Mr. Burnette answered affirmatively.

Interested Parties:

Nathan Smith, 9439 East 139th Street North, Collinsville, OK; stated he lives next door to the applicant, on the west side. Mr. Smith wants to verify that Mr. Burnette will not be crossing the front line of the property and that the barn will be behind that line or behind the house. Mr. Burnette stated that he will be staying to the back side of the house.

Comments and Questions:

None.

Board Action:

On **MOTION of CHARNEY**, the Board voted 3-0-1 (Charney, Crall, Tisdale “aye”; no “nays”; Hutchinson “abstaining”; Johnston “absent”) to **APPROVE** the request for a Variance to permit a detached accessory building (Pole Barn) in the side yard in an RE District (Section 420.2-A.2); Variance to reduce the required side yard setback from 15 feet to 4 feet to allow a detached accessory building (Pole Barn) in an RE District (Section 430), subject to the new structure be built in conformity architecturally to the dwelling as the applicant has committed. The Board has found the hardship to be the unusual nature of the RE zoning being a broad zoning and generally the setbacks of a side yard are more than found in other subdivisions. 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 9 BLK 2, MINGO CROSSING, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:44 p.m.

Date approved: 5/18/21
David E. Anonely
Chair