

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 495**

Tuesday, June 15, 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
Hutchinson, V.Chair
Crall, Secretary
Johnston
Tisdale

S. Miller
R. Jones
Sparger
J. Wertin

T. Tosh, County
Inspections

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 10th day of June, 2021 at 9:40 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 **TISDALE**, the Board voted 3-0-2 (Charney, Johnston, Tisdale "aye"; no "nays"; Crall, Hutchinson "abstaining"; none “absent”) to **APPROVE** the Minutes of May 18, 2021 (No. 494).

UNFINISHED BUSINESS

2887—Natalie Jackson

Action Requested:

Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in a CS District (Section 1225). **LOCATION:**
7425 North Peoria Avenue East

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **DENY** the request for a Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in a CS District (Section 1225) for non-appearance; for the following property:

LOT 6 BLK 3, GOLDEN HILL ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

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NEW APPLICATIONS

2890—Michael Skinner

Action Requested:

Special Exception to permit a fence to exceed 4 feet in height in the front yard setback (Section 240.2); Variance from the all-weather parking surface requirement (Section 1340.D); Special Exception to allow Use Unit 25, Light Manufacturing Industry, to permit a heavy construction contracting service in a CH District (Section 1225). **LOCATION:** South of the SE/c of West Skelly Drive & South 41st West Avenue

Presentation:

Michael Skinner, 505 South River Avenue, Exeter, NE; stated he would like to receive approval for a storage yard for storage of heavy equipment. There will be a fence for security because there has been equipment stolen.

Mr. Charney asked Mr. Skinner if he was staging for significant construction in the area. Mr. Skinner stated his company has five projects in the Tulsa area, different counties, and the staging area is needed because the company is out of Nebraska.

Mr. Charney asked Mr. Skinner if the projects were highway construction. Mr. Skinner stated it is underground utility work.

Mr. Charney asked Mr. Skinner if this would be for a set of contracts that are set to expire. Mr. Skinner stated there is a 3 year lease agreement. The company is also looking at purchasing the property if this request is approved.

Mr. Charney asked Mr. Skinner about the proposed fencing. Mr. Skinner stated that the fence will be a galvanized chain link fence with barbed wire along the top.

Mr. Charney asked Mr. Skinner about the gravel road that gives ingress and egress to a hard surface road. Mr. Skinner stated the gravel road existed when he leased the property and would like to extend that.

Mr. Hutchinson asked Mr. Skinner about the height of the proposed fencing. Mr. Skinner stated that he would like to erect a six foot fence with one foot of barbed wire on the top for security.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; “absent”) to **APPROVE** the request for a Special Exception to permit a fence to exceed 4 feet in height in the front yard setback (Section 240.2); Variance from the all-weather parking surface requirement (Section 1340.D); Special Exception to allow Use Unit 25, Light Manufacturing Industry, to permit a heavy construction contracting service in a CH District (Section 1225). The fencing will be six feet in height with additional barbed wire along the top of the chain link fence. The Board finds the hardship to be the temporary nature of the use and the storage of equipment on the property with no construction activity occurring on the leased property. The approval has a time limit of three years, June 2024. 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. 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 22; LT 5 BLK 22; LT 3 BLK 22; LT 8 BLK 22; LT 11 BLK 22; LTS 14 15 BLK 22; LT 10 BLK 22; LTS 12 13 BLK 22; LT 2 & S25 VAC ST ADJ ON N BLK 22; LTS 6 7 BLK 22; LT 4 BLK 22, SOUTH HAVEN AMD, OF TULSA COUNTY, STATE OF OKLAHOMA

Ms. Miller informed the Board that the applicant, Natalie Jackson for case #CBOA-2887, has arrived and asked the Board if they would like to hear the case. Mr. Charney answered affirmatively. Mr. Charney then asked the Board members if they would reconsider hearing this request and all agreed.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **RECONSIDER** the request for a Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in a CS District (Section 1225) for non-appearance; for the following property:

LOT 6 BLK 3, GOLDEN HILL ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2887—Natalie Jackson

Action Requested:

Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in a CS District (Section 1225). **LOCATION:** 7425 North Peoria Avenue East

Presentation:

Tony Thomas, 2145 South 74th East Avenue, Tulsa, OK; stated he would like to be able to have light duty processing to be able to make pre-rolls.

Mr. Charney asked Mr. Thomas if there were spaces on either side of the subject site. Mr. Thomas answered affirmatively stating that he is in Suite B.

Mr. Charney asked Mr. Thomas if he had spoken with the neighbors. Mr. Thomas stated that he has heard no objections.

Mr. Hutchinson asked Mr. Thomas if he had a grow house on one side and a dispensary on the other side of the subject site. Mr. Thomas answered affirmatively stating that the grow house is no longer in existence.

Mr. Hutchinson asked Mr. Thomas about the equipment he used to make the pre-rolls. Mr. Thomas stated it is a small electrical machine.

Mr. Charney asked Mr. Thomas what a pre-roll is. Mr. Thomas stated that he calls it a joint.

Mr. Hutchinson asked Mr. Thomas if his pre-rolls had the plastic tip. Mr. Thomas answered affirmatively.

Mr. Hutchinson asked Mr. Thomas if he was going to do any other type of light manufacturing. Mr. Thomas answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in a CS District (Section 1225), subject to conceptual plan 2.11 of the agenda packet. The manufacturing is to be limited to the pre-rolls only. The Board has found the hardship to be that it is a very quiet operation. Finding that 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 6 BLK 3, GOLDEN HILL ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2891—Jennifer Jefferson

Action Requested:

Special Exception to allow Use Unit 5, Community Services and Similar Uses, to allow a youth day camp in an AG District (Section 1205); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 14601 South Lewis Avenue East & 14775 South Lewis Avenue East

Presentation:

Jennifer Jefferson, 14775 South Lewis Avenue, Bixby, OK; stated she owns and directs Eight Acre Summer Camp and it is the camp’s 20th year. The program is outdoor based and is for elementary aged children. She has teachers and teacher assistants that work with her when the camp is open. She would like to expand the indoor area as an additional space for lunch and snack time or when it is raining.

Mr. Charney asked Ms. Jefferson if there were two parcels involved in this request. Ms. Jefferson stated that 14775 is her home address and there is an additional lot that is not mentioned and she does not use, and the 14601 is her daughter’s house.

Mr. Charney asked Ms. Jefferson where the increased activity is going to occur. Ms. Jefferson stated that it will take place at 14601.

Mr. Charney asked Ms. Jefferson if she had heard from any of the neighbors about her request. Ms. Jefferson stated that everyone is supportive. She has two neighbors that the children and staff walk across their driveway, and their concern was liability if a child is hurt. Ms. Jefferson stated she is adding an insurance rider naming those neighbors as insured to protect them.

Mr. Hutchinson asked Ms. Jefferson if she ran the camp only during the summer. Ms. Jefferson answered affirmatively stating that she is licensed through DHS for up to 120 children a day. She is also open during spring break, fall break and Christmas break. She averages about 80 to 100 children a day during the summer. She also has a cookout one night a year at the end summer for the families. She does not want to increase the number of children but she does want more space for them. During the school year, camps are larger than ever before and there were 30 to 40 children a day.

Mr. Hutchinson asked Ms. Jefferson about her operating hours. Ms. Jefferson stated that her operating hours are 7:00 A.M. to 6:00 P.M. and those hours do not change.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Special Exception to allow Use Unit 5, Community Services and Similar Uses, to allow a youth day camp in an AG District (Section 1205); Variance from the all-weather parking surface requirement (Section 1340.D). The camp use will be during the summer and during school breaks when the children are out of school. The hours of operation will be 7:00 A.M. to 6:00 P.M with one evening allowed during the summer for a school event. The Board finds the hardship to be the large nature of the tract and temporary use of the parking areas, primarily in the summer months. 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. 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:

PRT NW SW BEG 908.84S & 50E NWC SW TH E1270 S411.16 W765 N381.16 W505 N30 TO POB SEC 17 17 13 7.569ACS; PRT SW BEG 938.84S & 50E NWC SW TH E505 S381.16 W244.50 N351.46 W260.50 N30 TO POB SEC 17 17 13 2.318ACS; S207.50 N641.34 W525 NW SW LESS W50 FOR RD SEC 17 17 13 2.262ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2893—Kenneth Johnson

Action Requested:

Use Variance to allow Use Unit 13, Convenience Goods and Services, to permit a medical marijuana dispensary in the AG District (Section 1213). **LOCATION:** 7703 West 7th Street South

Presentation:

Kenneth Johnson, 7703 West 7th Street, Tulsa, OK; stated he owns 52 acres and he started his business three years ago with the outdoor grow. He has enlarged the business and was before the Board last year to receive approval for processing. At the last meeting there were a couple of neighbors protesting the request but they are not in attendance today. He would like to enlarge his business again and would like to have a medical dispensary on the subject property. In the year since the Board approved the processing, the Sheriff's Department has never been called, there have been no ambulance runs, and there have not been any Fire Department runs. The medical dispensary would be in a 8'-0" x 40'-0" Conex building and he would like to be able to sell wholesale to the patients.

Mr. Charney asked Mr. Johnson if he currently grows and processes then takes that product to a different locaiton to sell. Mr. Johnson stated that he has some dispensary customers that come to him; about 25 sales a week and he also delivers the products to dispensaries.

Mr. Charney stated that sometimes when he is reviewing a case in the rural area for possible approval the Board may feel that when the public is invited onto a site with a lot of ingress and egress traffic there are different thoughts about that because it is straying away from the AG use. Mr. Johnson stated that across the street there is a DVIS shelter and, if anything, some of the businesses that exist in the area have affected the rural area. The DVIS shelter has 3-4 police calls a week, there are ambulances and fire trucks that come to that site, there are 35-40 cars in the parking lot every day. Toward the west the City of Sand Springs stops at 10th Street, Tulsa County picks up at 7th Street and there is a new four-way stop at that corner because there are about 8,000 vehicles that go through that intersection daily; the rural area is not rural any longer and it is growing. The rural community is disappearing.

Mr. Hutchinson asked Mr. Johnson why he has not changed his property zoning into a commercial setting for his business. Mr. Johnson stated that he may do that in the future but up until three years ago he sold farm implements and sold pest control

products. His mother had a ceramic shop on the property for 20 years but no one cared. Maybe in a year he might file for a new zoning on his property.

Mr. Hutchinson asked Mr. Johnson about the parking lot that is being proposed. Mr. Johnson stated that in 1977 the property was used by Tulsa County for years so the road bed is about four feet of asphalt and gravel. The parking lot needs to be ADA compliant and he does not know if the gravel will suffice for parking.

Ms. Miller stated that if the applicant came into INCOG to rezone the property she would not advise him to do that for something that is that large. If the dispensary is to be granted it should be more localized within the property because it is a large piece of land. Mr. Johnson stated that the building would be set 97'-6" from the middle of the road, it is 172'-0" from the east property line, it is 230'-0" from the west property line, and it is about 2,528'-0" from the north property line.

Mr. Crall stated that he is concerned about the traffic and when Mr. Johnson first appeared before the Board he stated that there would be no employees and that the traffic would be negligible and now he has stated that people do come to the site. Mr. Johnson stated that when he stood before the Board a year ago he was not doing processing and he was not selling from the farm. He has been in business for two years and he should be growing and he is growing. So now he does have customers that come to him. On a daily basis he would estimate the traffic would be minimal, about 50 customers at different times of the day.

Interested Parties:

Amy Johnson, 7703 West 7th Street, Tulsa, OK; stated the employees that they have do not park by the road, there is a designated parking area for them. People that come in to purchase their goods is not a massive amount. This is for dispensaries that come to stock up product. She thinks 50 cars a day might be a little zealous.

Comments and Questions:

Mr. Tisdale stated he does not have an issue with the request but the concern would be the traffic as they grow.

Mr. Charney stated that maybe the Board would be inclined to allow this more intense use in an AG District and review it after a period of time. The County could let the Board know if there is a problem with the traffic.

Mr. Johnston stated that if this is approved it should be limited to the 8'-0" x 40'-0" building for this approval. For this type of facility he thinks the Zoning Code has a minimum parking requirement.

Mr. Crall stated there is no one here in protest and there are no complaints so something is being done correctly.

Mr. Hutchinson stated he could support the request limiting it to the 8'-0" x 40'-0" building.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Hutchinson, Johnston, Tisdale "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Use Variance to allow Use Unit 13, Convenience Goods and Services, to permit a medical marijuana dispensary in the AG District (Section 1213). The Variance approval is to be limited to the south 150'-0" of the legal description that borders West 7th Street. The dispensary operation is to be limited to an 8'-0" x 40'-0" Conex building on the subject property. The approval will have a time limit of three years, June 2024. The Board has found the hardship to be the unique configuration of the land along with the fact that there are intense use surrounding the subject property and the former use of the 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:

TR 2 W984.24 E1916 SW LESS S770 E368 & LESS W210 E1510 S520.65 SEC 6 19 12 50.63 AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2894—Dustin Carder

Action Requested:

Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30 feet to 0 feet in the AG District to permit a lot-split (Section 207). **LOCATION:** 7719 East 176th Street North

Presentation:

Dustin Carder, P. O. Box 945, Collinsville, OK; stated the land is being gifted to him by his wife's parents and it is a little over 2 acres. His portion would be the north end of the property and accessed from Memorial. His family is a blended family and they are living in a mobile home and he would like to upgrade the home by using the gifted land as collateral. The portion of the subject property can only be accessed from a right-of-way road that connects to Memorial.

Mr. Charney asked Mr. Carder if it was a driveway that goes in westerly direction from Memorial. Mr. Carder answered affirmatively.

Mr. Charney asked Mr. Carder about the size of land that was being gifted. Mr. Carder stated that his in-laws own 9.88 acres and they are gifting 2.12 acres which is already fenced off.

Mr. Charney asked Mr. Carder about the driveway. Mr. Carder stated that he maintains that drive and it is all easement; it has been in use for 30 years.

Mr. Charney suggested to Mr. Carder to get a legal opinion on whether there needs to be an amended restated easement that makes certain that he truly has the rights to it, and make certain that it speaks to the maintenance and who maintains it.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30 feet to 0 feet in the AG District to permit a lot-split (Section 207). The Board sees evidence of an easement going out to a publicly dedicated street that terminates at the proposed subject property. The Board finds the hardship to be the unusual configuration of the property and it is set off the County road. 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:

W/2 W/2 SE SE LESS S16.5 THEREOF FOR RD SEC 2 22 13 9.875ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

Ms. Miller asked the Board about future virtual meetings. At this point the Board cannot attend a meeting virtually unless the Board member wants to post the address, they are participating in the meeting from and they would have to allow the public in at that

address, i.e., your home. That is not a feasible option. She asked if the Board would like to continue the virtual meeting for the public or the applicants, is it beneficial enough to keep the virtual meetings going?

Mr. Johnston stated that he thinks the public is past that.

Mr. Charney stated that maybe virtual meetings could be reinstated in the future if there were another pandemic spike; it is not compelled by CDC guidelines any longer.

Ms. Miller stated that in this setting sometimes a virtual meeting is beneficial, but this Board often see people that are either older or do not have knowledge on how to use the virtual system.

Mr. Crall stated that TCC has said that everything they are doing they are duplicating, even his online classes has an online component.

Ms. Miller stated that City Council has zero virtual options, they are all in person. The Planning Commission will discuss this tomorrow at their meeting. The City Board of Adjustment thought there would be no harm if the virtual meetings continued. Ms. Miller stated that the virtual meetings could be removed and see if that need arises and deal with it at that time.

Mr. Tisdale stated that he does not think the virtual meetings should be carried forward.

Mr. Charney stated that if there is a group or person that really needed to attend a meeting then the Board and the staff should make a special exception to accommodate that special need, after that he would be comfortable with it not being the norm.

Ms. Miller stated that she and Teresa Tosh are excited to announce that the County Commission has approved funding to significantly update the County Zoning Code. Kirk Bishop is being hired, an expert zoning consultant in the country and he was hired for the City Code update. He is great to work with, so knowledgeable, and so helpful. That contract will be taken to the INCOG Board in July, and the process can start being discussed.

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BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:48 p.m.

Date approved: July 20, 2021
David E. Charney
Chair