

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 509**

Tuesday, July 19, 2022, 1:30 p.m.
Williams Tower 1
1 West 3rd Street, St. Francis Room
Tulsa, Oklahoma

Members Present	Members Absent	Staff Present	Others Present
Hutchinson, V. Chair Dunkerley Tisdale Hicks	Charney, Chair	S. Miller J. Hoyt S. Tauber	K. Edenborough, County Inspections N. Williams, Legal

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 13th of July at 3:28 pm, as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

Mr. Hutchinson explained to the applicants and interested parties that there were only four board members present. He explained that if there happened to be only four board members, it would be necessary to receive an affirmative vote from three board members to constitute a majority and if two board members vote no today, the application fails. Mr. Hutchinson asked if anyone would like to continue their case and if they understood. Everybody nodded in understanding, and no one requested a continuance.

Mr. Hoyt read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **TISDALE**, the Board voted 3-0-1 (Hutchinson, Hicks, Tisdale all “ayes”; no “nays”; Dunkerley “abstains”, Charney “absent”) to **APPROVE** the Minutes of June 21, 2022 (Meeting No. 508).

UNFINISHED BUSINESS

2975 – Susan Christensen

Action Requested:

Variance from the all-weather parking surface requirement (Section 1340.D),

Location: 7530 West 41st Street South Tulsa County, State of Oklahoma

Presentation:

Susan Christensen, 7530 West 41st Street, Tulsa, OK, stated that she was requesting a Variance from the all-weather parking surface requirement for the RV and boat parking. She explained that they contracted an engineer who developed a plan of materials to be used including textile fabric to create the parking surface.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hicks stated that he saw in the report about a retention pond. Ms. Christensen stated that they will do a retention pond and the French drain will be if there are any additional water run-off issues.

Mr. Hutchinson asked if the staff was comfortable with the engineering report and Mr. Hoyt stated that they are.

Mr. Dunkerley asked if Mr. Hutchinson and Mr. Hicks if they were comfortable with this engineering report. They both stated that they were comfortable with the report and plans. Mr. Hicks stated that the fabric will minimize the vegetation.

Board Action:

On **MOTION** of **TISDALE**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale all “ayes”, no “nays”, no “abstentions”, Charney “absent”) to **APPROVE** a Variance from the all-weather parking surface requirement (Section 1340.D), per the Conceptual Plans in the Agenda packet and outlined in the engineering report, the hardship is due to the topography of the property, and this will help slow the run-off.

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:

S/2 W/2 W/2 NE NW SEC 30 19 12 5AC, Tulsa County, State of Oklahoma

2976 - Billy Driver

Action Requested:

Variance of the street frontage requirements in an AG district from 30' to 0' (Section 207). Variance of the minimum lot width requirement from 150 ft to permit a lot split in an AG district Tract 2 (Section 330 Table 3)

Location: 13455 East 66th Street North

Presentation:

Billy Driver and Mona Driver, 13455 East 66th East Avenue, Owasso, OK, 74055, stated that they want to give their son a piece of their land so they could put a modular home on it. They need a Variance on the easement. The modular home is there which has been permitted and they want to give him the land. We have an easement, and we retained an attorney to get a perpetual easement later.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson asked staff if typically, the Board voted to do a split. He said normally they would have them go through a platting process. Ms. Miller stated that they will still have to go through a lot-split process for approval.

Mr. Hicks asked if the easement for the access must be in place now or if they can do that later. Mr. Driver and Ms. Driver stated that they have an easement.

Board Action:

On **MOTION** of **DUNKERLEY**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale all "ayes", no "nays, no "abstentions", Charney "absent") to **APPROVE** a Variance of the street frontage requirements in an AG district from 30' to 0' (Section 207) as well as a Variance of the minimum lot width requirement from 150 ft to permit a lot split in an AG district Tract 2 (Section 330 Table 3) per the Conceptual Plan in the Agenda packet. Finding the hardship to be the shape of the lot and the way the ingress and egress is established in the easement.

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:

SW NE SW & S35 W35 SE NE SW & W35 E/2 SE SW LESS S50 THEREOF FOR RD SEC 33 21 14 11.049ACS, MINGO HOLINESS ASSEMBLY OF GOD CHURCH Tulsa County, State of Oklahoma

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NEW APPLICATIONS

2980 - Thomas Aleshire

Action Requested:

Use Variance to permit Use Unit 15, Other Trades and Services, to allow a Service Establishment business in an AG district (Section 1215); and a Variance from the all-weather parking surface requirement (Section 1340.D).

Location: 9209 East 166th Street North

Presentation:

Tom Aleshire, 9209 East 116th Street, North, Owasso, OK 74005, stated that he was requesting to be allowed to run his business as he has for the past 17 years. No work has been performed on site, he and his employees load their equipment and leave. We have enclosed trailers, concrete grinders, and vacuums. I have asphalt driveway, and gravel parking.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson asked if what kind of equipment he had. Mr. Aleshire stated that they were three quarter ton pickups and bumper pulled trailers.

Mr. Hicks asked staff if when items like this are approved by the Board, should the property be sold, would the new property owner be allowed to operate any other type of business. Are we able to set a specific restriction that to limits if a business were to be there other than the business that he is operating now? Ms. Miller stated that whatever is approved today if you approve it this broadly the next property owner could do something different that fits under that category. If you want to limit to the use that it is now, you can mention that in your motion.

Board Action:

On **MOTION** of **HICKS**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale all "ayes", no "nays", no "abstentions", Charney "absent") to **APPROVE** a Use Variance to permit Use Unit 15, Other Trades and Services, to allow a Service Establishment business in an AG district (Section 1215); and a Variance from the all-weather parking surface requirement (Section 1340.D) per the documents provided in the Agenda packet, subject to the following conditions: the business allowed for this property be specific to the concrete grinding businesses that is operating at this time, and that the building will only be used for the storage of his equipment. Finding the hardship to be he has been operating in this manner for some time and the property is peculiarly rectangular in shape and limited in size and he is a distance from the 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:

**BEG 1032.76E SWC SE TH N1324.46 W31.31 N240 E232.40 S1564.36 W200 POB
LESS S16.5 THEREOF FOR RD SEC 1 21 13 7.283ACS, County of Tulsa, State of
Oklahoma.**

2981 - Jamie Bowling

Action Requested:

Variance to allow a detached accessory building to be located in the side yard in an RE district. (Section 420.2.A-2)

Location: 8387 North 67th East Avenue

Presentation:

Jamie Bowling, 8387 North 67th East Avenue, Owasso, Oklahoma 74055, stated that he would like to put a garage in the side yard by his house. It will be a 24-foot by 24-foot garage and it will match all the needs of the neighborhood. He stated that he had spoken with his neighbors, and they are all fine with it. The hardship is that the rear yard makes it difficult to fit a garage there. Everyone's yard drains down, so if he moved it back further, he would be in the utility easement right-of-way, and it would block everyone's water drainage as well as septic drainage. The construction will match the house and roof.

Interested Parties:

No interested parties were present.

Comments and Questions:

The Board members stated that they were comfortable with this Variance.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale, all "ayes", no "nays", no "abstentions", Charney "absent") to **APPROVE** the Variance to allow a detached accessory building to be located in the side yard in an RE district. (Section 420.2.A-2) per the Conceptual Plan on page 5.7 in the Agenda packet. Finding the hardship to be the topography of the land and distance the house is setback.

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 3 BLK 7, CROSSING AT 86TH STREET PHASE I, County of Tulsa, State of Oklahoma.

2982 - Lisa Moser

Action Requested:

Use Variance to permit a parrot rescue and rehabilitation center (Use Unit 15) in an RE district (Section 1215); Variance to permit a detached accessory building to exceed 750 square feet in the RE district (Section 240); Variance to allow a detached accessory building to be located in the side yard in an RE district. (Section 420.2.A-2)

Location: 7403 N. 129th East Ave

Presentation:

Lisa Moser, 7403 North 129th East Avenue, Owasso, OK 74055, stated that they operate parrot rescue and rehabilitation center. We have been in operation for 10 years and have relocated to a new property. They have been a home-based operation all this time and to be able to erect a separate building where all the parrots to reside. They reside indoors. Noise and odor will not be an issue. This building will have heating and air, electricity, and plumbing. The neighbors have not had any objections. We will have volunteers to help as well as doctors all by appointment. There will not be a high traffic usage.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Dunkerley stated he was having difficulty understanding the sketch on page 6.9. It looks like there is a building behind the house. Ms. Moser stated that house had been torn down and the house in front was built five years ago. The new building will be in that same place as the one that was town down.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale all "ayes", no "nays", no "abstentions", Charney "absent") to **APPROVE** a Use Variance to permit a parrot rescue and rehabilitation center (Use Unit 15) in an RE district (Section 1215); Variance to allow a detached accessory building to be located in the side yard in an RE district. (Section 420.2.A-2). The second Variance from original request was taken out as it was not necessary. The hardship to be that this is a large tract of land (3.25 acres).

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:

S220 N440 SW NW NW LESS W16.5 THEREOF FOR RD SEC 33 21 14, County of Tulsa, State of Oklahoma.

2983 - Esmerelda Duarte

Action Requested:

Special Exception to permit a single-wide mobile home in an RS district (Section 410).

Presentation:

Esmerelda Duarte, 6706 North Victor Avenue, Tulsa, OK 74130, stated that we would like to get a permit for a single-wide mobile home to put on this property.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that it looks like there is a business at this address because there are many vehicles parked there. Ms. Duarte stated these are for immigrants that come up from Guatemala and Central America. They are bought from auctions, and we keep them until they come through Tulsa.

Mr. Hutchinson asked staff if that was an issue and staff stated that it was. Ms. Miller stated that it was not before the Board right now, but it was an issue.

Mr. Hutchinson asked Ms. Duarte if she knew all the requirements for a mobile home such as skirting, and concrete pad. Ms. Duarte stated that she was aware of these requirements.

Mr. Tisdale asked that by acting do we preclude the storage issue or do we need to delay action until the storage issue is resolved. Ms. Miller stated that on the Motion since that is not part of the request. Mr. Hutchinson stated that they have made Motions that as long the lot was cleaned up. He also stated that we do not want to hurt anyone's property value, we want to enhance it. As I drive by and look at it today, I could not support it, but if it were cleaned up, we could look at this at a later date.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale, Charney "absent") a **CONTINUANCE** on Special Exception to permit a single-wide mobile home in an RS district (Section 410) to September 20, 2022.

LT 6 BLK 3, TIBBS ADDN, County of Tulsa, State of Oklahoma.

2984 - Brian Brady

Action Requested:

Variance to permit a detached accessory building in the RS district to be greater than 750 sf of floor area (Section 240.2.E)

Location: 5723 S 35th West Ave

Presentation:

Brian Brady and Jamie Agee, 5723 South 35th West Avenue, Tulsa, Oklahoma stated that Mr. Brady purchased it February 2022. Mr. Brady began parking his vehicle there eight years ago with permission from the previous owner and had paid rent for parking there. They had no knowledge of prior zoning problems or issues and has been in existence for 35 to 40 years. We want to put a building there to enable us to lock our vehicles there. There is an older storage there that needs to be torn down. There have been several thefts from their vehicles.

Interested Parties:

Leslie Davis, 5645 South 33rd West Avenue, Tulsa, OK, 74107, stated that she was there with other neighbors. I was here in 2007 when they said this was residential zoning and they were supposed to cease running their business there. They scaled down their operation. We were concerned that Mr. Brady was going to run a trucking business out of the property as well. We do not want this property to turn commercial.

Comments and Questions:

Mr. Hutchinson asked that this will be a 40-foot by 60-foot building and once it is built and the other one is torn down will you have any vehicles stored outside. Mr. Brady stated that he plans to store his boat, hotrod, and tool in this building. He will still have trucks (a couple of one-ton trucks and a trailer). We do not operate our office there, nor is it an income producing property.

Ms. Agee stated that there are seven vehicles if all are there. We are not going to run a business from this property, it is strictly to store our belongings in the building.

Mr. Brady stated that there the previous owner has a semi-trailer that he left there, but it will be removed. He also stated that there are also other trucks that park there. A man that lives down the street parks his semi-truck there when he is in town.

Mr. Dunkerley asked if there was a house on the property. Ms. Agee stated that they got ahead of themselves. Ms. Agee stated that the house was inhabitable and had to be torn down. Once the Variance is approved, they will have to back up with the county and go in with all the permits that are needed for where we are at this point. The old house has been taken down, we put up the new building and that is what we need the Variance on.

Mr. Hutchinson asked staff about the zoning on RS-3, is it a requirement that a house must be on the property before a storage is built. Ms. Miller stated that this is correct.

Mr. Hicks asked if they were planning to use this to store vehicles for your business. Mr. Brady stated that was correct. Mr. Hicks asked staff that since the previous owner tried to run a business and was turned down, but that is not the request before us. Ms. Miller stated that the only request was to allow a building greater than 750 square-feet. Mr. Hicks stated that there is no approval before them to operate a business, whether they are storing their business vehicles or operating a business, which is not allowed right now.

Mr. Hutchinson stated that what the staff is discussing is with the current zoning to be able to have a garage or a building, a house must be there.

Ms. Miller stated that it must be an accessory to something, so the site plan does show the house there and that is why the request was recorded like it was. Now there is no house. There is an issue here.

Mr. Hutchinson asked if Mr. Brady and Ms. Agee had any plans to build a house on this property and they stated that they did not.

Ms. Miller stated that a Use Variance would be more appropriate to allow for a building and whatever the use is that need on the property that is not residential. We need more details about that if it is all in the building.

Rebuttal:

Jamie Agee and Brian Brady, 5732 South 35th West Avenue, Tulsa, OK, stated that the semi-trucks on West 33rd Avenue, it is mainly from the trucking school and business around West 49th.

Mr. Dunkerley stated that there are two access points into this property, one off 58th Street, and one off 35th. If we approved, would you be willing to limit the hotshot business trucks only access from 58th Street? Ms. Agee stated that they had already put a gate up to limit that.

Mr. Tisdale asked if there were restrictions on times. Mr. Brady stated that the trucks that he owns do not sit there and idle or come in late at night. Mr. Tisdale asked if they could have the owner of the other truck that parks to not park there anymore. Ms. Agee stated that they would ask him if they needed to.

Ms. Miller asked the Chair for a minute to explain that since the staff had found out that there is no house on the property anymore the request was no longer correct. She explained that there was case similar where they wanted to put a building on a lot without a house, so they asked for a Use Variance to allow for Use 23 Warehousing and Wholesaling to permit storage. Another component of this that is different is that of the outdoor storage of vehicles. The case today does not seem to reflect what they really need.

Mr. Hutchinson stated that need to be revised and readvertised.

Ms. Miller stated that they will need to come back into the office, and we will need to re-notice and just pay the notification fee. We will need to run it back through. It will need a month's continuance to run all the new notices through again and figure out what that request really needs to be.

Mr. Hutchinson stated that with the zoning that is currently on the property, you must have a house there.

Ms. Miller stated that they needed a Use Variance for both of those component; the warehouse component and somehow the storage for the vehicles outside the warehouse.

Mr. Hutchinson stated that he also recommended was that the applicant meet with the neighbors, and we do not want a commercial use on a residential property.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale all "ayes", no "nays", no "abstentions", Charney "absent") for a **CONTINUANCE** of Variance to permit a detached accessory building in the RS district to be greater than 750 sf of floor area (Section 240.2.E) until August 16, 2022, for the following property:

S90 W/2 LT 11 & ALL LT 14, CAMPBELL HILLS, City of Tulsa, State of Oklahoma.

2985 - Thomas Lueb

Action Requested:

Use Variance to allow Use Unit 11, Offices and Studios, to permit a laser and engraving studio in an AG District (Sec.1211)

Location: 7940 N. 88th East Ave

Presentation:

Tom Lueb, 7940 North 88th East Avenue, Owasso, OK, 74055, stated that he wants to operate a business on his property. He received a permit about a month ago to put the building in the backyard and was not aware that he could not do a commercial business on Agriculture zoned property. He wants to do a laser engraving business in this building. The building will be south of his home. The driveway will come off my existing driveway. The building is going to be 30-feet by 40-feet. He stated that he wants to purchase two lasers; one is a CO2 laser, and the other is a fiber laser. The business will be internet based.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Dunkerley stated that they had received three emails of approval from the neighbors.

Mr. Hutchinson stated that this kind of business does not really affect anyone with noise or traffic.

Board Action:

On **MOTION** of **HICKS**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale all “ayes”, no “nays”, no “abstentions”, Charney “absent”) to **APPROVE** a Use Variance to allow Use Unit 11, Offices and Studios, to permit a laser and engraving studio in an AG District. Finding the hardship to be the lot size is large and the noise will be minimal and minimal public access to the business.

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 1 BLK 2, KAUFFMAN VIEW ESTATES, County of Tulsa, State of Oklahoma.

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OTHER BUSINESS

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NEW BUSINESS

None.

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BOARD COMMENTS

None.

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There being no further business, the meeting adjourned at 2:56 p.m.

Date approved: 8-16-2022


Chair