

**BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 519**  
**Tuesday, May 16, 2023, 1:30 p.m.**  
**Williams Tower 1**  
**1 West 3<sup>rd</sup> Street, St. Francis Room**

**Members Present**

Charney, Chair  
Hicks  
Tisdale

**Members Absent**

Hutchinson, V.  
Chair  
Houston

**Staff Present**

S. Tauber  
J. Hoyt

**Others Present**

Nicholas Williams,  
Legal  
K. Edenborough  
Co. Inspection

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, May 12, 2023, at 9:45 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.

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

On **MOTION** of **Tisdale**, the Board voted 3-0-0 (Charney, Hicks, Tisdale all “aye”; no “nays”; no “abstention”) to **APPROVE** the Minutes of April 18, 2023 (Meeting No. 518).

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Mr. Charney stated that before we call the applicants up, there are a couple of things of note that he would like to discuss with all of those present today. 1) As we wonder through these applications, there are people here who are presenting and sometimes there are people here that would like to speak in opposition to an application and have a different perspective. We welcome both perspectives, we care about that, we only asked that everyone does so respectfully understanding that reasonable people can differ on a given application. Both may have goodness in their hearts, and both may believe passionately in their positions, but we want to make certain that it comes across respectfully and with a proper decorum as they make comments to the Board, please. 2) Normally this is a panel of five board members. Sometimes vacation schedules or an illness prevents us from having a full Board. When this happens, we call it to the applicants’ attention and remind you that it takes three affirmative votes to pass a matter before us. Given that there are only three Board members today, we ask if anyone in the audience wants a continuance to the next Board meeting in hopes that there will be more Board members present.

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## NEW APPLICATIONS

### 3061 – Lonnie Basse

#### Action Requested:

Modification of a previously approved Special Exception (CBOA-2683) to extend the time limitation (Section 310). **Location:** E of NEC N 129th E Ave & E 86th St N (CD 1)

#### Presentation:

**Lonnie Basse**, 1504 West Skelly, Tulsa, Oklahoma, 74107, stated that he works for TNT Fireworks Company. We are here to request to modify the dates of our previous approval that we have gotten over the many years to continue our firework sale on 86<sup>th</sup> St. It benefits the Owasso FFA Alumni Association and benefits FFA. We would like to continue, our prior approval granted was for five years, we would like to ask for ten.

Mr. Charney asked if he was aware of any complaints or issues with your operation. Has anyone come to you if you would please be forthright with us and tell us have you are aware of anything and your years of operation.

Mr. Basse stated that he had not.

#### Interested Parties:

No interested parties were present.

#### Comments and Questions:

Mr. Charney stated that sometimes in areas of significant growth like this, given the losses, especially that corridor, sometimes we have done two years, three years, sometimes five years is the longest that he can recall. In a high growth area where we think it is sometimes wise to review every so often how things are in the area, how things have unfolded, as to whether to continue a Special Exception. If that is our determination today, we want you to know the reason it is not because of our failure to trust your operation. It is just given the circumstances in a high growth area. Sometimes it requires revisiting,

Mr. Basse stated that he understood that the only thing he would like to point out regarding that is we set on a lot of commercial properties and other properties as well. In this case, that property owner was the FFA Alumni Association and FFA next door to him of any of our locations in Tulsa County we have up so that would not be surprised if anything.

Mr. Hicks asked what hours you have operated in the past and will they be the same. Normally, we operate from 10 a.m. to 10 p.m. Then on the 3<sup>rd</sup> and the 4<sup>th</sup> of July, we will go from 11 o'clock for some time until midnight.

Mr. Tisdale stated that since it had been there for a while, he was fine with five years.

**Board Action:**

On **MOTION** of **Charney**, the Board voted 3-0-0 (Charney, Hicks, Tisdale all “aye”; no “nays”; no “abstention”) to **APPROVE** the Modification of a previously approved Special Exception (CBOA-2683) to extend the time limitation (Section 310), for another 5 years upon the same terms and conditions as the previous case including the hours of operation.

The Board finds that the requested 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 SWC SE SW TH N550 E411.44 S550 W POB LESS S60.01 THEREOF FOR RD SEC 21 21 14 4.628ACS, CITY OF OWASSO, COUNTY OF TULSA, STATE OF OKLAHOMA.**

**3062 - David Henke**

**Action Requested:**

Variance of the street frontage from 30' to 0' in an AG district (Section 207)

**Location:** 18402 S Memorial Dr E. (CD 3)

**Presentation:**

**David Henke**, 2924 East 70th Street, Broken Arrow, Oklahoma, 74014, stated that they are asking for a zero-lot frontage due to a private road on the rear side of the property. The owner has a mutual access easement through this road. We are trying to divide the eighty acres up into blocks that will feed off this road. Mr. Henke stated that he is an engineer.

Mr. Charney asked if this is this a platted subdivision or to be platted subdivision.

Mr. Henke stated that it is to be platted. We were seeking platting after we got approval.

Mr. Charney asked if he would commit to us that if we were to grant this authority to come in off a private easement for your subdivision plat that it would be followed up immediately with the platting in accordance with what he put in his packet.

Mr. Henke stated that he would.

Mr. Charney asked if you have seen plats, where the majority of lots are accessed from a private easement. He did not necessarily have an issue with it. He just did not know if he had seen it before. In your professional opinion. You are an engineer that does this for a living. Should there are any maintenance concerns, we would like to have them addressed. Here the easement is spoken of in cryptic terms so that the grantees will figure out how to maintain it or something of that nature.

Mr. Henke stated that they tried to collaborate with the existing landowners to produce the mutual access easements or an agreement how to take care of this easement, they were reluctant to sign it in vain, saying that they would maintain it, saying that they already had access. We did try to work with that. As far as seeing this, he has seen it in the past, not seen so much present day just due to counties wanting access to the domain. He said it was more common in other states and areas.

Mr. Charney stated that these are large, platted lots so they get it. He thought that the way the easement was worded, the grantees shall be responsible for the costs of the reasonable maintenance of the easement granted herein. These platted lots are those all ones platted in one owner at that moment in time or are they separate owners today?

Mr. Henke stated that they are one owner today. There will be separate owners.

Mr. Charney asked if it were important to this Board and he was not sure that there was another way to get maintenance certainty, on how this would be managed. Could you by covenant in this subdivision say everyone upon accepting of a deed and covenants

to pay one seven of them according to reasonable, customary standard? If he were to buy one, if he were to write a title opinion on it, if he were to mortgage it, he would want a little more certainty, and that is not our job to advise you on that. He would suggest that you think about that, and you can even address that now, if you think that it is reasonable in the subdivision covenant, to address maintenance.

Mr. Henke stated that he would agree with that. It is just putting a lot on our owners, as opposed to the existing owners.

**Drew Ary**, 26159 East 121<sup>st</sup> Street, South, Coweta, Oklahoma, 74429, So we bought this about two and a half years ago, we contracted it with trying to get approval. We went before the commission and got our approval at the meeting for our plat. We went to Teresa Tosh and found that we could not get a building permit because of this issue. This was how it started. He bought about two and a half years ago, he had called three different meetings with the neighbors, and he has a good relationship with all of them, they know he is trying to do something that conforms with the area, larger, lots of subdivision, all of theirs are five- and 10-acre tracts across the street. They just felt like they were committing themselves to taking care of a road that they felt like we just have not figured out, we have no problem with it, we come and drop a load of gravel. In our covenants we did intend to address it and would be happy to do what we need to do to. He spent quite a bit of money on the road maintenance agreement. He had a nice document drawn up that he presented to the neighbors, and he did not know if it scared them or what. Mr. Johnny Stamps, who lives on the west side of the road, had a title issue. Mr. Ary told them if you will collaborate with me on this, it is a maintenance and access easement, and we will all have clear, dedicated ingress and egress to our lots. They opposed with no contention. When an issue arises, he is not just going to jump on it and assign an easement for you. We had a contract that just fell out of contract. Mr. Stamp wanted me to sign an easement and he is happy to sign an easement, but he wanted to get a real maintenance agreement and get it all ironed out. We are going to do is create an easement for everyone on that road. And then we are going to put most of the burden in writing on our lots.

Mr. Charney asked if this easement that we have in our packet provides legal access to your seven lots. It is in addition to whatever may be in existence. That is why you were assigning within its whatever interest you have in some other arrangement.

Mr. Ary stated that Mr. Charney was exactly right. He had to buy the road. That is what took about 18 months, he had to contact the owners that lived there 20 years ago and buy two little strips of land. There is a gap that is through the right edge, so we got an easement from the right edge as everyone has, on my side access through the two owned parcels.

Mr. Charney asked if the board were to be comfortable granting this easement to provide access to those seven subdivided lots and it conditioned upon language that you all would draft and your covenants that would speak to maintenance with greater specificity that were that open ended. Is that something you all would commit to do?

Mr. Ary stated that they would.

**Comments and Questions:**

Mr. Charney asked the Staff for a moment, if our goal is to permit access to lots that have zero frontage by giving them this even, we have done that, quite frequently, maybe not just seven in a row that he could think up. But the concept is one we have done a great frequency, isn't it? Yes. And I do like the legalities of the title component is they are worried later when they convey to third parties. The marketability of it is their concern regarding maintenance that we should advise them about it. That is where he was comfortable stopping.

Mr. Hoyt stated that if it is maintained, he has no issues with it.

Mr. Charney stated that we need to help by saving some people from themselves. If they do not address it, it will be a big issue later. They seem to understand exactly where they are.

Mr. Hicks stated that the owner owns the easement. He noticed on the map, there are parts up here where it says limited or no access.

Mr. Charney stated that in platting, they required that to make certain the lot can be accessed to one spot, but one group only. It is common in the planning process to see those limits.

**Board Action:**

On **MOTION** of **Charney**, the Board voted 3-0-0 (Charney, Hicks, Tisdale all “aye”; no “nays”; no “abstention”) to **APPROVE** a Variance of the street frontage from 30' to 0' in an AG district (Section 207), per the Conceptual Plan on 3.6 of the Agenda packet. The hardship being that there is no publicly dedicated access along the western boundary of the property and that it is an unusually configured piece that is back off from the publicly dedicated streets. The one condition is that the covenants of the sub-division on the seven lots use this easement to access their property that there a paragraph regarding maintenance inserted into covenants when the plat is filed.

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 548.44E & 532.83S NWC GOV LT 4 TH E766.72 S1191.88 E1316.87 S988.91 W1317.75 N329.92 W1317.43 N1512.21 E549.22 N TO POB LESS E50 THEREOF**

**FOR RD SEC 2 16 13 76.960ACS, SPRINGVIEW ESTATES ADDN, CITY OF TULSA,  
COUNTY OF TULSA, STATE OF OKLAHOMA.**

**3064 - Cynthia A. Schweizer**

**Action Requested:**

Variance of the minimum lot width from 150' in the AG district to permit a lot split (Sec 330) **Location:** W of the NW/c of S Peoria Ave & W 171st St S **(CD 3)**

**Presentation:**

**Chet Kaywood**, 11712 South Willow place Jenks, Oklahoma, 74037, stated that what we are wanting is a Variance for the lot width. It is 150 feet, but because of the total square footage equation that the planning office uses, our width has been skewed into our 30-foot strip of frontage coming from the back of the lot to the front. On paper, it is technically over the 150-foot required width, but the equation skews it which is what we are asking the Variance for.

Mr. Charney stated that track one has 33 to 30 feet of frontage with a large flag lot coming out. Track two, has a turn in it with another long strip of thirty feet of frontage attaching both of those 30-foot pieces that end into a publicly dedicated roadway. If the board were to grant a Variance such as this, these are some exceedingly long deep blocks that we have created track one and two. Sometimes people come back and say they would like to split this and put another home in the back in addition to this home or another home. When we split it much more than we have right here, our Board usually has an allergy to that. That is when it is time to plat it more formally. He would want you to be aware if our Board should approve this, it is unlikely the Board would ever look upon one dwelling unit on one track and another one on another one another on another one and not to seek more even though it has great depth. This is how historically, how we felt about lot splitting more than three times. Can you tell me your plan is not to do so and just to have three dwelling units there?

Mr. Kaywood stated that was correct. Our plans just have three units.

**Cindy Schweitzer**, 11712 South Willow Place, Jenks, Oklahoma, 74037, stated that right now there is one driveway. But if someone were to plan to move, we have had to discuss this with the builder before because we have tried to do everything the right way. It has been a learning process for us. There is one driveway right now, it is allotted for two. And if somebody chose to leave, or if they wanted to sell, we would have been another one in.

Mr. Charney stated that we would want to alert you that it might be necessary to make some improvements. Also talk about shared maintenance, what you just heard to get it saleable or mortgageable. If you are aware of that that is beyond our purview, but we would like to let the world know whenever they are up here simply because we permit the thirty feet of frontage does not mean that every mortgage lender is going to like it without the proper documentation in place.

**Interested Parties:**

No interested parties were present.



**Comments and Questions:**

Mr. Charney stated that it is a large, deep piece of land that can support the dwelling units thereafter. They provided us with some names and addresses of surrounding neighbors who say they are in support of this effort.

**Board Action:**

On **MOTION** of **Charney**, the Board voted 3-0-0 (Charney, Hicks, Tisdale all “aye”; no “nays”; no “abstention”) to **APPROVE** a Variance of the minimum lot width from 150' in the AG district to permit a lot split (Sec 330), per the Conceptual Plan shown on page 4.7 of the Agenda packet showing tracts 1 and tract 2 as having 30-feet of frontage each that goes to a publicly dedicated street. The hardship is an unusually deep and narrow configuration of overall tract that needs such a Variance to divide the tract to allow other dwelling units that the applicant is seeking.

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 SECR SW SE TH W329.50 N1321.84 E329.50 S1321.92 POB SEC 25 17 12  
10ACS, COUNTRY ACRES, Tulsa County, State of Oklahoma**

**3065 - Robin Mayhugh**

**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:** 5654 S 167th W Ave (**CD 2**)

**Presentation:**

Applicants were not present.

**Interested Parties:**

**Comments and Questions:**

**Board Action:**

On the **MOTION** of **Charney**, the Board voted 3-0-0 (Charney, Hicks, Tisdale all “ayes”, no “nays”, no “abstentions”) to **CONTINUE** a 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:** 5654 S 167th W Ave (**CD 2**) until June 20, 2023 at the next County Board of Adjustment meeting.

**LT 7 BLK 2, OAK HAVEN II, CITY OF SAND SPRINGS, COUNTY OF TULSA, STATE OF OKLAHOMA**

**3066 - Matt King**

**Action Requested:**

Modification to a previously approved site plan (CBOA-2971, CBOA-2934, CBOA-1690) to allow an additional building (Use Unit 5) community market in the AG district. **Location:** 200 W 46th St N **(CD 1)**

**Presentation:**

**Brandon Bissram**, 16 East 16th Street, Suite 500, Tulsa, Oklahoma, stated that he had with him **Katie Plohocky** who is the founding Director and President of the Healthy Community Store Initiative, and Director of this new program we are trying to implement. The purpose of our request today, again, is to modify our previously approved site plan that has been approved by Special Exception for use of unit five buildings. Our intention is to add an additional building of six hundred square feet, which is going to be a community market serving the community. Local growers and farmers can use this facility to sell their produce.

Mr. Charney stated that the only modification to the site plan is that it is a six hundred square foot building. It is located on the northeast corner.

Mr. Charney asked if he were you comfortable with the existing infrastructure, which is there the parking access to whatever sorts of things that would need Are you otherwise comfortable with the location given what is there?

Mr. Bissram stated that yes, he was, and we have added just for ease of access, we have added one additional accessible parking space, which is just adjacent to the south of the building on site of that existing infrastructure that was part of the previous application encompasses the location of the building. So, in terms of site lighting, even utilities, they are all in proximity.

Mr. Charney stated that he had one question for your co-applicant.

**Katie Plohocky**, 330 North 41st Street, Tulsa, Oklahoma, 74106, stated they are a nonprofit dedicated to enhancing the health of underserved communities by access to healthy food. We have current programs, a mobile grocery store, we have a farm which is located half mile just to the south of this location. We have some programming, we are going to bring the kids and we will have a couple raised beds, but it will be accessible to the community to access fresh and healthy locally grown foods.

Mr. Charney asked if you all have been in contact with the governance of the Dream Center who are comfortable with this and who are the reason, you are here he would imagine.

Ms. Plohocky stated that they contacted us. We are also in partnership with the American Heart Association.

Mr. Charney stated that he understood.

Mr. Tisdale stated that a letter came in.

Mr. Charney stated that he was going to ask the architect if he knew any of the background, whether you are aware of any restrictions in the deed. We received a letter from someone who was the donor of the land saying that were hopeful that there would be better relations between the Dream Center's governance and their family about what is permitted and what is not permitted on the site. Have you had any knowledge of that as the architect of record at all?

Mr. Bissram stated that he did not.

Mr. Charney stated that he might suggest that whoever has been engaged by the Dream Center, may be the architect of record might be a good person to double check, we would appreciate it, if you would speak with those who govern the dream Center's activities are published executive director or board of directors and say there are some bad feelings that exist, and are we certain that all we're doing is in conformity with the terms of the gift. It is not for us to get into it. We received a letter that expresses discomfort, and we think of being good stewards of the community, it is important for people like you, who are the architect of record to ask them if they could please, the Staff would provide me with a copy of this. And you could look at it. There is a fence to mend there.

Ms. Plohocky stated that she has been working directly with the Executive Director.

Mr. Charney stated if we were to grant this is that you at least inquire.

Mr. Tisdale stated that he did not think it has anything to do with your program. It has everything to do with whatever the relationship is with

Ms. Plohocky stated that we had open houses at the Dream Center, with the community highlighting the project.

Mr. Charney stated that he respects it immensely. He was thankful that you are doing it. The executive director could do something to make certain that that relationship is repaired, or at least addressed. He thought that he would be comfortable given the kind of unique nature of what is in there, he thought it was regarding a past transaction unrelated to this. He would be comfortable going ahead and voting on it. Just receiving their commitment on the record that they would approach the executive director.

**Board Action:**

On **MOTION** of **Tisdale**, the Board voted 3-0-0 (Charney, Hicks, Tisdale all “yays”, no “nays”, no “abstentions”) to **APPROVE** a Modification to a previously approved site plan (CBOA-2971, CBOA-2934, CBOA-1690) to allow an additional building (Use Unit 5) community market in the AG district, subject to the following conditions that they follow-

up with the Executive Director of the Dream Center concerning relations with the neighbors.

Finding the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code for the following property:

**LT 1 BLK 1, TULSA DREAM CENTER, CITY OF TULSA, COUNTY OF TULSA, STATE OF OKLAHOMA.**

**3067 - John Simons**

**Action Requested:**

Special Exception to permit a single-wide mobile home to replace existing mobile home in an RS district (Section 410) **Location:** 5520 S 67 AV W **(CD 2)**

**Presentation:**

**John Simons**, 912 South 70<sup>th</sup> West Avenue, Tulsa, Oklahoma, 74107, stated that this property originally had a home there, my family has owned for a long time. The original home was demolished in 2018. We would like to put a single wide mobile home where that home was. It was a single family to stick built home. It was beyond repair.

Mr. Hicks asked if he had received any feedback from your neighbors.

Mr. Simons stated that most comments have been good.

Mr. Tisdale asked if he was aware that he needed skirting, tie-downs, and a hard surface to park on.

Mr. Charney asked if the original house was tied into a sanitary sewer system or if it is a septic.

Mr. Simon stated that it had septic. It has been removed, so we will have to get a new septic system.

Mr. Charney stated that what Mr. Tisdale was asking a great question, if we were to approve this, we would need your commitment that it would be tied down according to code, skirted, and where the vehicle is parked overnight would have to be on a hard surface not on gravel. Also, all the DEQ requirements for the individual sewage disposal system would be met.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Charney stated that given the large rural nature, and the fact that there is not a neighbor here with strong disagreement it seems reasonable.

**Board Action:**

On **MOTION** of **Hicks**, the Board voted 3-0-0 (Charney, Hicks, Tisdale all “yays”, no “nays”, no “abstentions”) to **APPROVE** a Special Exception to permit a single-wide mobile home to replace existing mobile home in an RS district (Section 410), per the Conceptual Plan shown on page 7.6 of the Agenda packet. Subject to the following

conditions that the mobile home will be skirted, tied down, the car park will be a hard surface such as concrete or asphalt, and that all necessary approvals through DEQ are pursued.

The Board finds that the requested 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:

**LTS 1-62 BLK 39, NORTH TANEHA, CITY OF TULSA, COUNTY OF TULSA, STATE OF OKLAHOMA.**

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**OTHER BUSINESS**

None

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**NEW BUSINESS**

None

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**BOARD MEMBER COMMENTS**

None

There being no further business, the meeting adjourned at 2:15 p.m.

Date approved: 6-26-2023

  
\_\_\_\_\_ Chair