

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 487**

Tuesday, October 20, 2020, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, OK

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

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 14th day of October, 2020 at 2:58 p.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. Wertin read the rules and procedures for the Board of Adjustment Public Hearing.

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

MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Hutchinson, Johnston "aye"; no "nays"; Tisdale "abstaining"; Crall “absent”) to **APPROVE** the Minutes of September 15, 2020 (No. 486).

UNFINISHED BUSINESS

2845—Sean Parchman

Action Requested:

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

Presentation:

Isaiah Brydie, 500 West 7th Street, Tulsa, OK; stated he represents Sean Parchman and his business partner Mr. Xander Buck. They would like to start a cannabis cultivation business on property owned by Mr. Parchman. The property is incorporated into a housing addition which is presently zoned as residential, however, the property around the addition is zoned agricultural. This request would not inflict any severe detriment on the surrounding properties use they are already zoned appropriately. Also, there will be no detriment to the housing addition itself. The proposed business will not be causing any additional traffic of any nature. Mr. Brydie stated that his clients have contacted any potential protestors and they have not received any responses. The building is an additional building, and the property is situated in the southwestern corner of the housing development. The building is about 1,000 square feet and the building far enough away from the street that it will not cause a public or private nuisance. Anyone wanting to access the property must first traverse the property back to the western edge. Mr. Brydie respectfully requests the Board approve this request.

Mr. Hutchinson asked Mr. Brydie about the driving lane that leads to the Arkansas River on the western side of the property. Mr. Brydie stated he believes that is actually a dried-up tributary that leads to the Arkansas River. There are two drainage easements and a street easement on the south side of the subject property, but he does not think the street easement is being used.

Mr. Charney asked Mr. Brydie if there were hundreds of acres surrounding the subdivision that are zoned AG. Mr. Brydie answered affirmatively stating that there are people that put their cattle out to pasture on the surrounding acreage.

Mr. Johnston asked Mr. Brydie if the subject property was fenced. Mr. Brydie answered no. Mr. Brydie stated that in the State of Oklahoma outdoor cultivation is required to have a fence around the perimeter of the cultivation area, but the property will have all required security and surveillance systems.

Mr. Johnston asked Mr. Brydie if the building would have all the required ventilation and filtration systems. Mr. Brydie answered affirmatively.

Mr. Johnston asked Mr. Brydie what materials are used for the construction of the subject building. Mr. Brydie stated there are no requirements for the construction materials of the building.

Mr. Tisdale asked Mr. Brydie what security measures will be taken and what will the impact be on the residents of the area. Mr. Brydie stated a fence is not required, but the Oklahoma Bureau of Narcotics requires there be a security and surveillance system, and there is to be controlled access via ingress and egress to the business itself. The building has a lock system and the security and surveillance system, additionally there will be additional precautions taken for securing the cannabis products.

Mr. Tisdale asked Mr. Brydie if the property to the west of the dried drainage ditch was residential. Mr. Brydie answered affirmatively.

Interested Parties:

Xander Buck, 7126 South Birmingham Place, Tulsa, OK; stated he wants to clarify the building materials question. The building is built from the same materials as the house; brick, stone, mortar and framed.

Will Wilkens, 21521 West 14th Street South, Sand Springs, OK; stated the property immediately south is zoned agricultural and it is essentially beach front along the Arkansas River. Directly to the west are residential lots separated by a very shallow creek that leads to the Arkansas River. There is concern among the homeowners in the area about the commercial grow facility in the middle of a residential neighborhood. Mr. Wilkens stated he is concerned about the smell from the commercial grow. The neighborhood is 1/3 acre lots and densely populated. Mr. Wilkens stated that Mr. Parchman did reach out to him, but he failed to get back with Mr. Parchman. Mr. Wilkens stated he does not believe this is a good fit for a residential neighborhood, and he would hope the Board would deny this application.

Rebuttal:

Isaiah Brydie came forward.

Mr. Charney asked Mr. Brydie to state his hardship for the Use Variance request. Mr. Brydie stated the smells for the proposed business can easily be remedied by introducing specific HVAC units onto the property, as well as other specific ventilation systems. There would be a vestibule on the building so one door as to be closed before the other door is opened which would assist in cutting down on noxious fumes. Mr. Brydie stated that the surrounding property is zoned AG and with that those properties depending on their use may also give off certain noxious gases and odors, i.e., 700 head of grazing cattle may not be the most pleasant smell. This proposed business itself is in a similar position as those other agriculture use properties. Mr. Brydie stated that his client wants to use his property to the fullest extent possible and it is his belief that Mr. Parchman should be allowed to conduct a business that sufficiently meets the requirements that the Board may lay out.

Mr. Hutchinson asked Mr. Brydie that even with the HVAC and the carbon filters there will still be a noxious smell coming from the business. Mr. Brydie stated there is that potential because 100% removal of any noxious smell can be controlled.

Comments and Questions:

Mr. Hutchinson stated he has a hard time supporting this in an RS District and he does not see a hardship.

Mr. Charney stated that even though the property is surrounded by AG the property is in a residential district, and there is the possibility that the noxious odors cannot be completely contained. The legal standard the Board is held to is that there must be a hardship of some nature that is peculiar to the land or the structure involved, and he does not know he can find such a hardship.

Mr. Johnston agreed with Mr. Charney. Mr. Johnston stated that on the positive side this is a building that on outward appearances no one would ever know about the use. He is convinced there will be odors and because of the neighborhood being dense there is the potential of a smell for the surrounding residents.

Mr. Tisdale agreed with the other Board members.

Board Action:

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

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

NEW APPLICATIONS

2852—Chad Ramsey

Action Requested:

Special Exception to permit Use Unit 3, Agriculture (Section 1203), for a Horticulture Nursery in an (AG-R) Agriculture - Residential District (Section 310, Table 1). **LOCATION:** 11326 North 123rd Avenue East, Owasso

Mr. Charney recused and left the meeting at 2:10 P.M.

Presentation:

Chad Ramsey, 11325 North 123rd Avenue East, Collinsville, OK; stated he spoke to the neighbors and everyone is okay with his proposal. His potential grow will actually be in storage containers. He will be a contract grower and will be dealing with retail. The storage container will not leak out any smells because they are sealed, and access will be through another container. The storage container is ¼” thick and to break into one a person would need a plasma cutter. There will be motion sensors and cameras. Mr. Ramsey stated his father has to use cannabis to help with his medical issues and he has been taken off opioids. Mr. Ramsey stated he is an engineer and he likes the science side of the growing and genetics of cannabis, and he wants to get into this because of his father. Mr. Ramsey stated that the property directly south of him is AG and there are several surrounding plots that are AG. Mr. Ramsey stated his property is basically AG, but it is not zoned AG.

Mr. Hutchinson stated that he has visited some grow facilities that use storage containers, and he has been able to smell the cannabis. Mr. Ramsey stated that the facility may not have had a built-in CO2 system and possibly cycling fresh air throughout the container.

Mr. Hutchinson asked Mr. Ramsey if he wanted to have eight or nine containers. Mr. Ramsey stated that now he will start with a single 20 that will be the opening and two containers. Nine containers are large, and he does not think he wants to be there, maybe five.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Johnston stated that he could support this request because of the type of building, and this is a less dense area than the previous case.

Mr. Hutchinson stated that he is having a hard time because of the location and the area has a tremendous amount of growth; there could be problems in the future.

Mr. Tisdale asked staff if a decision can be made based on the possible future of the area. Ms. Miller stated the Board could place time limitations on the approval.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-1 (Hutchinson, Johnston, Tisdale “aye”; “nays”; Charney “abstaining”; Crall “absent”) to **DENY** the request for a **Special Exception** to permit Use Unit 3, Agriculture (Section 1203), for a Horticulture Nursery in an (AG-R) Agriculture - Residential District (Section 310, Table 1); for the following property:

N/2 OF S/2 SW NW NE & N/2 N/2 NW SW NE LESS E30 THEREOF FOR RD SEC 8 21 14 3.580ACS, REMINGTON PLACE, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney re-entered the meeting at 2:28 P.M.

2853—James Bagwill

Action Requested:

Variance to permit a detached accessory building to exceed 750 square feet in an RS District (Section 240.2-E); Variance to allow a detached accessory building in the side yard (Section 240.2.E). **LOCATION:** 6517 West Skyline Drive, Sand Springs

Presentation:

James Bagwill, 6517 West Skyline Drive, Tulsa, OK; stated he would like to have a 2,400 square foot storage/hobby building. Mr. Bagwill stated his property is four acres and the purpose of the building is for personal storage and to have a wood shop. The building will be metal, but it will be the same style and color as the house.

Mr. Charney asked Mr. Bagwill if he would be operating any commercial business out of the building. Mr. Bagwill answered no.

Mr. Charney asked Mr. Bagwill about the height of the proposed building. Mr. Bagwill stated the walls will be ten feet with a 7/12 pitch roof which is about the same as the house.

Mr. Johnston asked if the building would be hidden by the trees. Mr. Bagwill stated the property has an odd angle and the neighbor's property will block the building. Mr. Bagwill stated he cannot move the building back any farther the lot is a giant hill, and he will have to cut into the hill for the stem wall.

Mr. Charney asked Mr. Bagwill if he had heard from any of his neighbors. Mr. Bagwill stated that he did receive a few telephone calls but there were no objections.

Mr. Hutchinson if the building was going to be on a separate lot. Mr. Bagwill stated that he has had all the lots combined.

Mr. Charney asked Mr. Bagwill if the building would be used for living quarters. Mr. Bagwill answered no, but in the future he may install a restroom.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Charney, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a Variance to permit a detached accessory building to exceed 750 square feet in an RS District (Section 240.2-E), subject to conceptual plan 4.20 of the agenda packet. In granting a Variance, the Board must find 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:

BEG 550S NEC NE NE TH W277.13 SE381.50 NE120 N272 POB SEC 30 19 12 1.388ACS; E30 E/2 W330 E660 NE NE LYING N OF SKYLINE DR LESS N594 THEREOF SEC 30 19 12 .314AC; PRT NE NE BEG 550S & 277.13W NEC NE NE TH W52.87 S491.17 TO PT ON NLY R/W LN SKYLINE DR TH NE277.84 NW381.50 POB SEC 30 19 12 1.509ACS; E/2 W330 E660 NE NE LYING N SKYLINE DR LESS N594 & LESS BEG SWC TH N354.15 E135 S260.58 TO N R/W SKYLINE DR TH SW164.26 POB & LESS E30 SEC 30 19 12 .638AC, OF TULSA COUNTY, STATE OF OKLAHOMA

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a Variance to allow a detached accessory building in the side yard (Section 240.2.E), subject to conceptual plan 4.20 of the agenda packet. The Board finds the hardship to be the topography and large size of the tract. In granting a Variance, the Board must find 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:

BEG 550S NEC NE NE TH W277.13 SE381.50 NE120 N272 POB SEC 30 19 12 1.388ACS; E30 E/2 W330 E660 NE NE LYING N OF SKYLINE DR LESS N594 THEREOF SEC 30 19 12 .314AC; PRT NE NE BEG 550S & 277.13W NEC NE NE TH W52.87 S491.17 TO PT ON NLY R/W LN SKYLINE DR TH NE277.84 NW381.50 POB SEC 30 19 12 1.509ACS; E/2 W330 E660 NE NE LYING N SKYLINE DR LESS N594 & LESS BEG SWC TH N354.15 E135 S260.58 TO N R/W SKYLINE DR TH SW164.26 POB & LESS E30 SEC 30 19 12 .638AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2854—Dakota Williams

Action Requested:

Use Variance for Use Unit 15, Other Trades and Services, to permit a Landscaping Business (Section 1215.2.B.2) in an AG District. **LOCATION:** 7374 West 51st Street South

Presentation:

Dakota Williams, P. O. Box 517, Jenks, OK; stated he would like to centralize his landscaping business to one location, right now he and his employees are working out of their houses. He would like to build a 60 x 100 building. Currently there are grapes being grown on the property and he plans to leave the grapes but he wants to add more plants in the rear; trees, evergreens, etc. With that he offers services to plant those plants for customers. There will be no retail sales, all plants are delivered to the customers. Mr. Williams stated that his company also provides hardscape services and he purchases the hardscape materials from Hardscapes on Memorial Drive and Hardscapes delivers the materials to the job site.

Mr. Charney asked Mr. Williams what he would be doing inside the proposed building. Mr. Williams stated that building would house the trailers and trucks; seven trailers, seven trucks.

Mr. Charney asked Mr. Williams if he also had a lawn maintenance business with the landscaping business. Mr. Williams answered affirmatively stating that his business has over 135 star reviews on Google and he is very serious about being professional. His company does landscaping, he wants to grow the plants and install those plants, he does commercial maintenance and high-end residential maintenance. His company takes care of the properties and treat lawns with herbicides.

Mr. Charney asked Mr. Williams if he will be servicing his equipment and various mechanical pieces on the subject site. Mr. Williams answered affirmatively stating unless it is a complicated repair and then it will be taken to a maintenance shop.

Mr. Charney asked Mr. Williams about the hours of operation. Mr. Williams stated that they try to start around 6:00 A.M., sometimes a little earlier because the employees try to beat the heat of the day, and they try to finish before 5:00 P.M. Weather is also a factor so sometimes it is sunup until dark.

Mr. Williams stated the picture he distributed is an concept of what he would like to do and he only wants to make the subject site look better. His company purchases pallets of individual bags of mulch but there would be no semi-trucks making those deliveries; he purchases from wholesale nurseries. Some flats of flowers will be grown at the subject site and stored inside, or they will be ordered in and brought in on a flat bed truck then stored inside.

Mr. Tisdale asked Mr. Williams if he planned to store any hardscape materials at the subject site. Mr. Williams stated he does not plan to store it but he will take deliveries of boulders or rocks for flower bed borders, and sometimes there are leftover materials which would be brought back to the site.

Mr. Hutchinson asked Mr. Williams if he will be living on the subject site. Mr. Williams answered no.

Mr. Johnston asked Mr. Williams if there would be night lighting on the subject site other than what would be required on the building. Mr. Williams stated there might be a small area in the back off the patio where there would be lighting. Mr. Johnston asked if there would be any parking lot lighting. Mr. Williams answered no.

Mr. Charney asked if there was residential structures to the east and to the west of the subject site. Mr. Williams answered affirmatively stating there is a residence to the east and his building would be lined up with that resident's shop so they are in line. To the west there is a couple of rows of greenhouses and residences a little farther back.

Interested Parties:

Doreen Riesen, 28803 Blue Ridge Drive, Sand Springs, OK; stated she is the current owner of the subject property. The property has a Use Variance to be able to sell wine and wine products. This is just a change from wine into the landscape business. Just up the road there is the Scissortail Grove, they grow hydroponics lettuce and sell it to Reasors. The property is about 1.3 miles from the Creek Turnpike so there is a lot of commercial property mixed into the area, all the way down 51st Street. She would request the Board approve this request.

Mr. Charney asked Ms. Riesen if she used much motorized equipment in her current operation on the subject property. Ms. Riesen she has a crusher-destemmer and a hydraulic press that is used during harvest. She has had the public coming to the site and her operating hours were 11:00 A.M. to 6:00 P.M.

Chuck Sittler, 7272 West 51st Street, Tulsa, OK; stated he is the adjacent property owner to the east. The residents of the area do not want to have a landscape business in the neighborhood and the 12 residents have signed a petition. Mr. Sittler stated he spoke with Mr. Williams about the business and it will involve the storing of rock and boulders at the subject site; there is a rock company a short distance up the road. Mr. Sittler stated he does not want to look out his window and look at a pile of rocks and does not want to smell fermenting landscape items. There is a severe traffic hazard on the road; anything that comes onto the road with a trailer poses a hazard. Mr. Sittler stated that in front of his house there have been two people killed and he has been hit in the rear while he was turning into his driveway. Mr. Sittler stated that he has a business a mile away and he has front end loader that he drives back and forth; it has a slow moving triangle mounted on it, it has flashers, it has turn signals, and twice cars have taken the ditch to miss him as he is turning into the driveway. Mr. Sittler stated this is a very hazardous area. Mr. Sittler stated he did speak with Mr. Williams and he sounds

like he is a nice person to have as a neighbor but not as a business next door. The business trucks will be leaving and coming in during the traffic rush hours. Mr. Sittler stated that Mr. Williams has stated he wants to grow trees and he looked up Section 1215.2.B.2 and nothing in that section spoke about operating a nursery, and to grow trees is a nursery. To the west is a body shop the burned down and is unsightly. Mr. Sittler stated he does not want medical marijuana to be grown around his house nor around his grandchildren. The proposed lights would infringe upon his property. Mr. Sittler stated that his hobby is collecting old tractors and restoring them, and now that he is older he is selling them but he still likes to play in his shop. Mr. Sittler stated that nothing on his property is commercial. He and the residents like the area the way it is and do not want this business in the neighborhood, and he asks the Board to deny this application.

Brandon Helscel, 7120 West 51st Street, Tulsa, OK; stated he has lived in his house for about two years and lives on the very dangerous curve. He has seen three wrecks and is concerned about the commercial vehicles and the trailers. He loves the neighborhood and likes the slice of country life in the area and he is concerned about the hardscape materials and the nursery aspect. His concern is having commercial in an area that he would like to see grow as a residential area.

Nick Reed, 17609 North 116th West Avenue, Skiatook, OK; stated he is the realtor for Mrs. Riesen. Mr. Reed presented photos to the Board and he does not think this Variance request is much different than the existing use. Landscaping is about as close to agricultural as a business could possible get to what is there. He would be concerned about how the petition that was presented was signed because of the picture that Mr. Sittler sent out, and if those residents understood that it is actually not what is going onto the property; the picture presented is about one mile away. Mr. Reed stated that 51st Street has multiple commercial businesses and the proposed business will not be anything like what is going on the pictured property. Mr. Reed stated that many of the photos presented are Mr. Sittler's property and he has tractors stored, old broken down vehicles stored, and semi-trailers stored in the rear on an agricultural property not zoned for commercial use. Mr. Reed stated that is far more of an eyesore than anything that will go onto the subject property. Mr. Reed stated that Mr. Sittler contacted him as well as Ms. Riesen to purchase the subject property, so he would be concerned that there is a conflict of interest in Mr. Sittler's opposition to this request.

Chuck Sittler came forward and stated that he did realize his property looked like a commercial operation, and he has removed all those vehicles. As for the sem-trailers in the back he uses them as storage and that is why they are in the back.

Linda Fitzgerald, 5047 South 26th West Avenue, Tulsa, OK; stated she is concerned about safety and the traffic on the road. The little road cannot handle the type and amount of traffic that will be brought into the area.

Doreen Riesen came forward and stated the subject property is in the straight section of the road. Ms. Riesen stated that Mr. Sittler operates a wrecker service and he pulls out on that road so please do not let the traffic deter the decision.

Rebuttal:

Dakota Williams came forward and stated there is more traffic on the road because of the winery and that is more traffic than his business will have. The winery was a retail location and they had sipping parties so there would be multiple cars. He respects the gentleman that has the residential property because he is the same way about his property, that is why he wants to improve the way this looks. Nothing against Mr. Sittler but his property is an eyesore so he does not understand Mr. Sittler's objections.

Mr. Charney asked Mr. Williams to restate his hardship for this request. Mr. Williams stated his business is operating at different locations and he would like to centralize everything so the business can be at one location.

Mr. Johnston asked Mr. Williams how many personal vehicles will be parked on the subject site. Mr. Williams stated the seven vehicles includes his truck and his brother's truck and there will be three vehicles for the ladies that work in his office.

Comments and Questions:

Mr. Johnston stated that he drives the road that has been discussed, whether it is 51st Street or 41st Street the sun in September is a problem coming and going. It is something that a driver and a resident has to respect and realize that people behind you and in front of you might not be able to see very well. As he sees it, this is a Variance that was approved in 2005 and this request is expanding it.

Mr. Tisdale stated that this does not seem to be a drastic change in use and he does not have any objections.

Mr. Hutchinson thinks this is a good spot for the landscaping business but he wishes the applicant lived there. There seems to be a very wide entrance for the trucks and trailers. If the Board chooses to approve this he would like the condition placed on it that there be no hardscape materials stored on the site no more than a week.

Mr. Charney stated the nature of the tract being long and skinny potentially creates the hardship for the new structure to be located well in the rear of the property. Mr. Charney asked Ms. Riesen to come forward so he can ask a question.

Mr. Charney asked Ms. Riesen what she thinks the hardship for the application is. Ms. Riesen stated the hardship is that there is an existing Variance and if the Board does not allow the Variance change how can she sell the property in the future? The property is 5.01 acres and from the existing 40 x 60 building the required 20'-0" for a fire truck to traverse around the building is in place, and she has 12 rows of grape vines with space enough for a small tractor to drive through the vines. There is 84 feet on one side of the

building and 96 feet on the other side of the building, so there is plenty of room on the property.

Mr. Tisdale asked Mr. Williams to come forward and asked him about the entry to the property, how will the property be secured? Mr. Williams stated that there will be a wrought iron gate that is manually locked with a chain, but it would be automated in the future.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Charney, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a **Use Variance** for Use Unit 15, Other Trades and Services, to permit a Landscaping Business (Section 1215.2.B.2) in an AG District, subject to conceptual plan 5.9 of the agenda packet. There is to be no permanent storage of rocks and hardscape materials. The Board finds the hardship to be that the site is already zoned for a Variance and the proposed business is not much different than what is currently on the property. 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 659.16N & 150W & 648.4N SECR NW TH N875 NW249.35 S941 E240.22 POB SEC 31 19 12 5.010ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2855—Eller & Detrich – Lou Reynolds

Action Requested:

Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in an AG District (Section 1225). **LOCATION:** 15601 West 19th Place South

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents Richard Watts, the owner. The property is about 6.3 acres, the southerly two acres are zoned RS, and the northerly 4.3 acres is zoned AG. There is an existing 28,000 square foot industrial building and an existing 2,000 square foot house which was built in 1970. The existing 28,000 square foot industrial building is shaped like a “J” and at the end of the “J” portion that portion of the building is about 2,400 square feet. In the 2,400 square foot area there is marijuana being grown there now in a permitted legal fashion. What the applicant would like to do is process the marijuana he grows. The marijuana would be reduced down to “butter” and that butter will be used for baking. Mr. Reynolds showed the Board a small kitchen type appliance that will be used in the processing of the

marijuana; 110 volts. Mr. Reynolds stated that Mr. Watts lives on the property and runs his business from the property. In 1978 14,000 square feet of the building was built which was before the County had a Zoning Code. The business started out as an oilfield pump company where pumps were manufactured, and after the County Zoning Code was implemented the building was expanded with a Variance about another 14,000 square feet. Currently Mr. Watts operates a construction company out of the building. A year ago, the County Board of Adjustment approved a fuel storage and lubricant business but right after the hearing the property flooded so that request was aborted. There are two pecan farms in the area and a former peach orchard. There is no retail use with today's request so there will be no customers and all the products will be delivered to dispensaries that are off site. Mr. Reynolds stated that the literal enforcement of the Code represents an unnecessary hardship, and it will not have a detrimental impact on the neighborhood or the public interest. Mr. Reynolds requests the Board to approve the Variance request.

Mr. Hutchinson asked Mr. Reynolds if the small kitchen type appliance is the only equipment necessary to process the marijuana. Mr. Reynolds stated there will actually be two of the appliances, but it is the only equipment necessary to process the marijuana into butter.

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, Hutchinson, Johnston, Tisdale "aye"; no "nays"; no "abstentions"; Crall "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 an AG District (Section 1225), subject to conceptual plan 6.17 of the agenda packet. The approval is for the use of the southerly 2,500 square feet of the structure on the subject tract. This Variance request will not affect any of the residential zoning that was described in the application. The Board has found the hardship to be the large nature of the tract and the relative setbacks of the surrounding uses from the subject area that will be used for the processing. 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:

A tract of land that is part of the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) and part of the Northwest Quarter of the Southwest Quarter (NW/4

SW/4) and part of the Northeast Quarter of the Southwest Quarter (NE/4 SW/4) of Section Eight (8), Township Nineteen (19) North, Range Eleven (11) East of the Indian Base & Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, said tract of land being described as follows: Beginning at a point that is the Northeast corner of the SW/4 SW/4; Thence South 00°58'19" East along the Easterly line of said SW/4 SW/4 for 407.35 feet; Thence South 89°47'42" West parallel with the Northerly line of said SW/4 SW/4 for 208.20 feet; Thence North 00°58'19" West parallel with the Easterly line of said SW/4 SW/4 for 407.35 feet to a point on the Northerly line of said SW/4 SW/4, the same being a point on the Southerly line of the NW/4 SW/4; Thence South 89°47'42" West along the Southerly line of said NW/4 SW/4 for 55.80 feet; Thence North 00°58'19" West parallel with the Easterly line of said NW/4 SW/4 for 325.37 feet; Thence North 89°48'08" East for 264.00 feet to a point on the Easterly line of said NW/4 SW/4, the same being a point on the Westerly line of the NE/4 SW/4; Thence North 00°58'19" West along the Westerly line of said NE/4 SW/4 for 66.67 feet; Thence North 89°47'42" East parallel with the Southerly line of said NE/4 SW/4 for 267.19 feet; Thence South 00°59'17" East for 392.00 feet to a point on the Southerly line of said NE/4 SW/4; Thence South 89°47'42" West along the Southerly line of said NE/4 SW/4 for 267.30 feet to the Point of Beginning of said tract of land, OF TULSA COUNTY, STATE OF OKLAHOMA

2856—Jim Stauss

Action Requested:

Variance to permit a detached accessory building to exceed 750 square feet in an RS District (Section 240.2-E); Variance to allow two dwelling units on a single lot of record in an RS District (Section 208). **LOCATION:** 13702 South 125th East Avenue

Presentation:

Jim and Karen Stauss, 13702 South 125th East Avenue, Broken Arrow, OK; stated she purchased the lot next door to her house with the intent of clearing it because it was densely covered in growth. She would like to have a building that would be connected to the house by a breezeway. The building would have living quarters in the front portion for her mother to live in, and the rear portion would be used for storage for an RV. There would be a separate building that would also be used for storage. She and her husband would like to secure water control because water comes down on their property. Her husband has spoke to the neighbor to the north and he has no concerns. The neighbor south of them also has no concerns. Ms. Stauss stated she has not heard from anyone else.

Mr. Charney stated that it appears the request is for one new 30 x 80 building and another new 30 x 40 building, and he asked Ms. Stauss if that was correct. Ms. Stauss answered affirmatively. Mr. Charney asked Ms. Stauss if one of the buildings was going to house her mother. Ms. Stauss answered affirmatively. Mr. Charney asked Ms. Stauss

if that building would have other uses or if it would be just a house. Ms. Stauss stated the front portion will be the living quarters for her mother and the rear portion would be a garage for a future motorhome. Mr. Charney asked Ms. Stauss to explain what the other building would be used for. Ms. Stauss stated that it will be for storage; there is no intent for commercial use. The area will be screened with a privacy fence.

Mr. Hutchinson asked Ms. Stauss she did not want to place the mother-in-law quarters on a separate lot instead of attaching it to the existing residence. Mr. Stauss stated the two lots have been combined into one lot.

Mr. Hutchinson asked what the square footage of the living quarters would be. Mr. Stauss stated the quarters will be about 1,200 square feet or half the building.

Mr. Johnston asked for an explanation on the sides of the building that appear to be canopy. Mr. Stauss stated that is a covering to keep the weather out around the doors.

Mr. Johnston asked what the exterior materials would be on the building. Mr. Stauss stated the front portion of the building would be wood siding and the rear portion will be metal and it will be the color of the house.

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, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a Variance to permit a detached accessory building to exceed 750 square feet in an RS District (Section 240.2-E); Variance to allow two dwelling units on a single lot of record in an RS District (Section 208), subject to conceptual plan 7.21 of the agenda packet and it is to be constructed as described by the applicant. The Board finds the hardship to be the nature of the large land area and the topography being such that the larger buildings will not be a detriment to the neighborhood. 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 2 BLK 5 HICKORY HILLS ADDN & LT 1 BLK 2, HICKORY HILLS 3RD ADDN, HICKORY HILLS 4TH ADDN, HICKORY HILLS ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2857—Rick Clark

Action Requested:

Use Variance to allow (Use Unit 23 - Section 1223) storage of personal items;
Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E). **LOCATION:** 11802 East 140th Street North

Mr. Hutchinson recused and left the meeting at 3:53 P.M.

Presentation:

Rick Clark, 10517 East 136th Street, Collinsville, OK; stated he purchased this three acres from his parents and wants to build his retirement home on the property; currently he lives a mile away. His plan and desire is to build a 40 x 80 pole barn for his own use to store building materials in to build the future house and there would be no commercial use. Mr. Clark stated he has spoken to four of the closest neighbors and they have no objections to this proposal. The only objection that he is aware of is the e-mail that was sent yesterday from a property to the south that no one lives in and no one has lived in it for about 20 years. The area is considered agricultural.

Mr. Charney stated that very often accessory buildings are accessory to a dwelling. The Board has often struggled with requests to build the accessory building first because it is not accessory to anything yet. Mr. Clark stated he lives a mile away and this will be a gradual process of transitioning his belongings. He may be doing the process in reverse order, but he really needs to have a place to store building materials and personal items.

Mr. Charney stated that if a building is accessory to a residence in a residentially zoned area on large tracts, he does not know if the Board has granted this to be done before the house.

Ms. Miller stated the Use Variance is to address that issue. A Use Variance is to allow the storage of personal items, so that addresses the fact that this would be storage. It is interesting that the second request is for an accessory building. Ms. Robi Jones stated that due to the size of the building the accessory building Variance had to be requested. Ms. Miller asked Ms. Jones if she had to request the Use Variance because there was not an existing house on the property. Ms. Jones answered affirmatively, that was the only thing that could be requested. Ms. Miller stated that even though this is not an accessory building it is still an RS District and that is a safe request if there is to be a future residence.

Mr. Clark stated that he would be wasting the Board's time and his money if he did not build a house on the property. He has no other use for the property other than to live on it. If he puts a building on it with the intent of reselling it, he thinks it would be a negative gain.

Mr. Johnston stated that he does not know if he can be in favor of this request, but one point to be made is that the applicant could invest in a set of plans that show what he plans to build, present a site plan to show where the house and building are to be located, but he could not promise the Board would approve the request at that point. A financial commitment, even if it is toward a house plan, in showing how this would fit on the site overall would help.

Mr. Tisdale stated the concern he has the proximity of how close the applicant lives to the property now, there is no incentive to move quickly. He is not questioning the applicant's integrity but taking into consideration the proximity of the applicant's current residence.

Mr. Charney stated that normally when the Board approves accessory buildings that are larger the Board is provided the whole site plan; where does the house sit, where is the ingress and egress, what is the drive back to the accessory building in conjunction with the residence. What the Board has now is just an indication of how this particular 40 x 80 structure would be situated on the property. The Board is hesitant to grant a request for a building in a residential location not knowing where the building is actually placed, what it looks like, where the ingress/egress is in relation to the house and the building, etc.

Mr. Clark stated that he has already committed to a realtor to sell his existing house so he can pay for the new house and the new building. The only reason he has not fully committed is because he does not know how long it will take to sell his existing house, even the realtor says it is a great market.

Mr. Charney stated that an option might be a continuance so a site plan can be brought back to the Board for review.

Interested Parties:

Angela Jackson and Richard Tanner, 2417 Avenue M, Galveston, TX; stated she submitted an e-mail stating objections to the request. Ms. Jackson stated her father is the landowner to the south of the subject site. This appears to be a warehouse for storage that is much larger than the allowed. She does not want a warehouse in a residential area.

Rebuttal:

Rick Clark came forward and stated that the Tanner property has been vacant for at least 20 years and it is severely depleted. Mr. Clark stated that he does not understand how someone that has lived in Galveston for the last 29 years can have an objection to his request.

Comments and Questions:

Mr. Johnston stated that if the Board approves this request and something happens to Mr. Clark or his situation and the house is never built, then what happens? That is a major concern. He would prefer Mr. Clark request a continuance.

Mr. Charney and Mr. Tisdale agreed.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-1 (Charney, Johnston, Tisdale "aye"; no "nays"; Hutchinson "abstaining"; Crall "absent") to **CONTINUE** the request for a Use Variance to allow (Use Unit 23 - Section 1223) storage of personal items; Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E) to the December 15, 2020 Board of Adjustment meeting; for the following property:

LTS 1 TO 12 INCL BLK 17, HIGHLAND PARK ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Hutchinson re-entered the meeting at 4:21 P.M.

OTHER BUSINESS

Review and approval of the 2021 meeting schedule.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hutchinson, Johnston, Tisdale "aye"; no "nays"; no "abstentions"; Crall absent) to **APPROVE** the 2021 calendar schedule for the Board of Adjustment meeting.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 4:23 p.m.

Date approved: 11-17-2020


Chair