

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 501**

Tuesday, December 21, 2021, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, OK

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS
Charney, Chair Hutchinson, V.Chair Dunkerley Hicks Tisdale		S. Miller R. Jones S. Kelvington	K. Edenborough, County Inspections

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 16th of January 2021 at 11:33 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

Ms. Jones read the rules and procedures for the Board of Adjustment Public Hearing.

Minutes

On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale “aye”; no “nays”; no “abstains”; none “absent”) to **APPROVE** the Minutes of November 16, 2021 (No. 500).

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

2933 - Kyle Gibson

Action Requested:

Modification to a previously approved site plan for a medical marijuana processing facility in an AG district (Section 1225); and a Variance of the required side yard setback from 15 feet in the AG District (Section 330). **LOCATION:** 6312 East 106th Street North

Presentation:

Kyle Gibson, 551 S Quaker Ave, Tulsa, stated he is here on behalf of his client, the property owner. They are seeking a modification from a previously approved site plan, CBOA 2805. They are looking for the side yard setback to be 6 ft, to match the previous building that was built to the north. This request is to build a larger-scale building 8 ft tall max height of 15ft. This new building will be used for growing only. There will not be any CO₂ involved, just a breakdown of the plant matter and shipping. He stated the hardship for his client is the existing pond and the limitation to where they can place the building on the property. There are wetland, foundational, and wildlife issues when placing the building in another area on the property.

Mr. Hutchinson asked the staff if there is a limitation on the area they can grow on the property. Staff replied no, they do not look at that. Mr. Gibson responded that if this proposed structure is approved and built, it will place the property at the max building allocation without providing new detentions.

Mr. Charney stated that one of his concerns was allowing a new building to be built within 6 ft of a property line with no new detention required, that it is very close to the property line, and they take that into consideration.

Mr. Hutchinson asks Mr. Gibson if he has viewed the pictures of the neighbor's flooding issue. Mr. Gibson replied no, he has not, but acknowledged that it is something that needs to be addressed and they are willing to take care of any runoff that is happening on the neighbor's property.

Mr. Charney asked if runoff was discussed at the previous hearing. Mr. Gibson replied that it was not.

Mr. Gibson stated the client has reached out to their neighbors, but they have not received any objections to date other than what is submitted in the case file.

Interested Parties:

Tony Heaberlin, 6108 E 106th St N, stated that he owns the property adjacent to the applicant and is present to oppose the applicant's request. The new building would be the 10th building to be built on the subject property. Mr. Heaberlin states there were no flooding issues on his property before the buildings were built. He claimed there are no gutters on any of the buildings and all run off flows on to his property. His parents have a house that was built to the west of the subject property, and he has submitted pictures of the flooding issues in the yard and the depth of the flooding. They have had their septic pumped several times and it has been water from the runoff. The proposed building has already been framed for the past 6 months, but now they are requesting the variance for something already under construction. The county inspector stopped construction so the property owners could seek this variance. Mr. Heaberlin stated he did not fight the original application because the building was already built. He said they have been good neighbors and have been good at drawing the shades on one of the 3 existing greenhouses. He stated the greenhouses cause light pollution, and that he is concerned about additional light pollution and the flooding on his property. He said spent between \$3,000 and \$4,000 over the summer on dirt work to try to mitigate the flooding, but it did not work.

Board Action:

On **MOTION** of **Charney**, the Board voted 4-0-1 (Charney, Dunkerley, Hicks, Tisdale "aye"; no "nays"; Hutchinson, "aye" "abstentions"; none "absent") to **DENY** the request for a Modification to a previously approved site plan for a medical marijuana processing facility in an AG district (Section 1225); and a Variance of the required side yard setback from 15 feet in the AG District (Section 330); for the following property:

PRT NE NE NE BEG 460W NEC THEREOF TH S659.83 W200.13 N659.84 E200.01 POB SEC 15 21 13 3.031ACS, Tulsa County, State of Oklahoma

2938- Adam K Wilbourn

Action Requested:

Use Variance to allow Use Unit 15 (Other Trades and Services) in an AG-R District for a Dog Training Facility (Section 1215) **LOCATION:** 8632 East 112th Street North

Presentation:

Adam Wilbourn, 8632 E 112th St N, Owasso, stated that he is not looking for a permanent variance. He is actively seeking a commercial property that will adequately suite his growing business, which includes his four employees. He would like a use variance for 6-8 months, until he is able to secure a commercial property. He has been in business since February 2018. He will not have any outdoor kennels, yard his completely fenced, 8 dogs max, except for his own personal dogs. His business is based around general dog obedience.

Interested Parties:

Jerry Compton, 8424 112th S N, Owasso, stated that he submitted addresses and petitions that request a denial of the use variance. This was added to the case exhibits. Mr. Compton stated that he is friends with Mr. Wilbourn, but he is concerned about neighborhood covenants that are in place, and stated there was a previous variance denied in the past. He stated that he does not have a problem with this personally, but he is there on behalf of the neighborhood. He is concerned about the value of his property if the variance is approved.

Norman Trost, 8615 E 112th St N, Owasso, asked if this use variance is approved whether it would only be for the named property or for the entire neighborhood. Mr. Charney responded that it only applies to the legal description on the use variance application, and that it only applies to that address. Mr. Trost does not want to have a precedent started that other neighbors come in and start other businesses such as a marijuana grow facility with a cookie bakeshop in the front or someone that wants to open a car repair facility. He stated again that this is to be a neighborhood of country homes, not businesses, and that a business changes the whole complexity of the area. Mr. Charney asked Mr. Trost that if the Board names a specific amount of time for the use variance, if he feels that would be a fair resolution to this issue. Mr. Trost said yes that is fair, but he would want a specific date listed.

Rebuttal:

Mr. Wilbourn stated that he understood and wanted his neighbors to understand that he was not aware he was going against zoning codes with his business. He asked for the proper timeframe to make a different commercial property happen so he can keep his employees.

Comments and Questions:

After discussion, Board members reached a consensus that a period of time to transition to a different facility is something they could all agree on, but they believe it should be more than 6 months.

Board Action:

On **MOTION** of **Charney**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Use Variance to allow Use Unit 15 (Other Trades and Services) in an AG-R District for a Dog Training Facility (Section 1215) per the conceptual plan 3.12 in the agenda packet, with the following conditions:

- No outdoor kennels on the property
- All dogs will be housed indoors
- 8 dogs max allowed on the property, not including the owner's personal dogs.
- No dogs are to be off leash and unsupervised on the property, excluding the owner's dogs.
- Property will be fully fenced with a 5ft fence with a welded, electric gate on the driveway
- Use variance expires on 9/30/2022
- No increased intensity in the pace of the business.

The Board finds the large size of lot and the configuration of the lot is a hardship. The Board finds 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:

LT 10 LESS BEG 155.38SE NEC TH SE158 N112.41 NW55.77 POB & PRT LOT 9 BEG NWC LOT 9 TH SE 155.38 NW31.10 NW128.13 SW15 POB BLK 2, Countryside Estates, Tulsa County, State of Oklahoma

2939 - Mike Black

Action Requested:

Variance to permit a detached accessory building to exceed 750 square feet in the RS district. (Section 240); Variance to allow a detached accessory building to be located in the side yard in an RS district. (Section 420.2.A-2).

LOCATION: 4363 South 73rd Avenue West

Presentation:

Mike Black, 4363 S 73rd W Ave, Tulsa, stated that he recently built a new home and would like to place a 30x40 shop on his property closer to his house for easier accessibility. Due to the topography and the tree line in the back of his property he is not able to place the accessory building in the rear yard. He stated that he has not had any complaints from his neighbors.

Mr. Hutchinson asked if it was a metal building. Mr. Black answered affirmatively.

Interested Parties:

No interested parties.

Comments and Questions:

None.

Board Action:

On **MOTION** of **Hutchinson**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a **Variance** to permit a detached accessory building to exceed 750 square feet in the RS district (Section 240); **APPROVE** the request for a **Variance** to allow a detached accessory building to be located in the side yard in an RS district (Section 420.2.A-2), both approved per conceptual plan 4.17 in the agenda packet. The Board finds the size of the lot and the topography as the hardship. The Board finds 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:

Tract B: A tract of land situated in the Northeast Quarter (NE/4) of Section Thirty (30), Township Nineteen (19) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma and more fully described as follows: Commencing at the Northwest corner of said Northeast Quarter (NE/4); thence South 00°38'26" East along the West Line of said Northeast Quarter (NE/4), a distance of 1410.41 feet to the Point of Beginning; thence North 89°21'51" East, a distance of 350.00 feet; thence South 00°38'26" East, a distance of 204.77 feet; thence South 89°21'51" West, a distance of 350.00 feet to the West Line of said Northeast Quarter (NE/4); thence North 00°38'26" West along said West Line, a distance of 204.77 feet to the Point of Beginning, with the West 40 feet dedicated for roadway containing 71,669.50 square feet or 1.65 acres; Tulsa County, State of Oklahoma

2940 - Edward and/or Tania Wilson

Action Requested:

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

LOCATION: 3302 South 63rd Avenue West

Presentation:

Tania Wilson, 5517 204th W Ave, Sand Springs, stated that she is the owner of the property which has been the location of her mom's home for the past 48 years. In July, the home burned down. As a replacement, her mom has chosen a 2-bedroom manufactured home and they will build a deck. Ms. Wilson stated that the home had been purchased, but on the day of the delivery they were asked if they had the necessary permits to have the home installed. They did not. She is asking for the special exception to be approved so her mom can move into her new home. She has spoken to her neighbors and did not know there was any opposition until she saw the board agenda. She stated that she and her mom were surprised because her mom has been in the neighborhood for so long.

Interested Parties:

No interested parties.

Comments and Questions:

None.

Board Action:

On **MOTION** of **Hicks**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to permit a single-wide mobile home in an RS district (Section 410) per application with the following conditions:

- Cars to be parked on an all- weather surface
- To meet all DEQ requirements, which include skirting and to be tied down
- A deck is to be built on the rear of the home
- Proper permit / testing for septic

The Board finds that the Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E/2 OF N 91 LT 20 BLK 2, Berry Hill Acres, Tulsa County, State of Oklahoma

2941- Kyle Rampey

Action Requested:

Variance to permit two dwelling units on a single lot of record in the AG-R district (Section 208). **LOCATION:** 3241 East 171st Street South

Presentation:

Kelly Rampey, 3241 E 171st Street S, Bixby, stated they purchased their property during the time of COVID and it was difficult to buy materials to build their home. They have 2.27 acres and they built a barn with an office, shop and bathroom. It is an 1800sq ft white metal building. It will be used as a future pool house. When they tried to pull their permits, they discovered that it was considered their home. They have multi-million dollar properties that surround them and they are now requesting a variance for a permit so they can build their permanent home. The current barn matches the style of the home they will be building. They have approved site plans that include both the home and barn.

Mr. Hutchinson asked what the future plans were for the barn if the variance is approved. Mrs. Rampey stated that it will be used for personal use, they will not be turning it into a commercial rental property.

Interested Parties:

No interested parties.

Comments and Questions:

None.

Board Action:

On **MOTION** of **Charney**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance to permit two dwelling units on a single lot of record in the AG-R district (Section 208) per the conceptual plan 6.12 in the agenda packet and under the condition that it will be used for personal use and not made into a commercial property. The board finds the size of the property of more than 2 acres and the size of the two structures as the hardship. The Board finds that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

Lot 5 Block 1, Woodward Acres, Tulsa County, State of Oklahoma

2942- Nathalie Cornett

Action Requested:

Variance of the required frontage in IM from 200' to 30' to permit a lot split. (Section 930)

LOCATION: 2124 West 166th Street South

Presentation:

Nathalie Cornett, 2727 E 21st Street, Tulsa, stated that she represents the owner of the property. The owner would like to sell the front 5 acres along Highway 75 so it can be used as industrial or heavy commercial / industrial use. There is a propane gas line that runs under the existing access road which makes it difficult to develop and ultimately sell. The access road will provide access to the back 3 acres and the additional property that is owned by the property owner. They will have a mutual access easement of 50 ft.

Mr. Charney asked if they would okay if they make the mutual access part of the approval.

Ms. Cornett responded yes.

Interested Parties:

No interested parties.

Comments and Questions:

None.

Board Action:

On **MOTION** of **Charney**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance of the required frontage in IM from 200' to 30' to permit a lot split (Section 930) with the condition that the applicant is to file a mutual access easement of 50 ft. The Board finds 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:

The South 330.00 feet of the S/2 of the SE/4 of the NE/4, Less the East 156.70 feet thereof for U.S. Highway 75 purposes, situated in Section 23, T-17-N, R-12-E, Tulsa County, State of Oklahoma, and containing 8.81 acres, more or less.

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OTHER BUSINESS

None.

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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 1:56 p.m.

Date approved: _____

2/15/22

David E. Charny
Chair