

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 525
Tuesday, November 21, 2023, 1:30 p.m.
Williams Tower 1
1 West 3rd Street, St. Francis Room

Members Present	Members Absent	Staff Present	Others Present
Charney, Chair	Hicks	S. Tauber	Higginbotham -
Houston		J. Hoyt	Legal
Hutchinson, V. Chair		C. Pate	
Tisdale			

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, October 6, 2023, at 9:29 a.m. as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

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Mr. Charney stated that they are typically a five-person Board, however, only four members were there today.

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

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On **MOTION** of **TISDALE**, the Board voted 3-0-1 (Charney, Hutchinson, Tisdale all “aye”; no “nays”; Houston “abstained”, and Hicks absent, to **APPROVE** the Minutes of October 17, 2023 (Meeting No. 524).

UNFINISHED BUSINESS

CBOA - 3091 - Timothy Merrill

Action Requested:

Use Variance to allow Use Unit 15, Other Trades and Services to permit a personal shop building as the primary use (Section 410). Variance of the street frontage from 30' to 0' (Section 207). Variance for size of an accessory building in an RS district from 750 sf (Section 410). **Continued** from August 15, 2023 (related to Lot Combination **CLLD-12**) **Location:** 4315 W 46th St S

Presentation:

Timothy Merrill, 4316 West 45th Street South, Tulsa, Oklahoma, 74107, stated that he had decided to combine his two lots to build an accessory building on the other lot. The total combined lots are 2.14 acres.

Mr. Charney asked that giving the applicants willingness to do a lot combination what do you understand the access to be to get to this back lot.

Mr. Merrill stated that there is a Tulsa County easement that connects the property to the asphalt road, there are two. One has a on South 44th, but that road was never finished. The next would be West 46th Street.

Mr. Hoyt stated that there is a dedicated right of way, but no road has been constructed, which is the requirement of the zoning code that it be a publicly maintained road, not just an easement for a future possible one. This will eliminate the original Use Variance since this will be considered an accessory building in an RS district. The first two Variances will be eliminated once the lots are combined. The only Variances that he will need is the for size of an accessory building.

Interested Parties:

No interested parties were present.

Comments and Questions:

No comments or questions.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Houston, Hutchinson, Tisdale all “aye”; no “nays”; no “abstention”, and Hicks absent) to **APPROVE** a Variance for size of an accessory building in an RS district from 750 sf (Section 410) pursuant to the site plan that has been submitted in the Agenda packet, with the condition that the applicant provide the County authorities with proof that there has been an executed Lot Combination Agreement filed of record so these lots are forever coupled together. This Variance is contingent upon that being filed with the County that meets their requirements.

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 2, YARGEE HOMESITE ADDN, Tulsa County, State of Oklahoma

CBOA - 3102 - Luis Raul Hernandez Galindo

Action Requested:

Special Exception to permit a manufactured home in the RS district (Section 410). **Continued** from September 19, 2023.

Location: 6314 N Trenton Ave

Presentation:

The applicant was not present, staff indicated that the applicant was informed that they needed to attend the meeting.

Interested Parties:

None.

Comments and Questions:

None.

Board Action:

The case was moved to the end of the Agenda and **CONTINUED** until the next County Board of Adjustment meeting on December 19, 2023.

LT 13 BLK 3, PHILLIPS FARMS ADDN, Tulsa County, State of Oklahoma

CBOA - 3110 – John Wilson

Action Requested:

Variance to permit two dwelling units on a single lot of record in an RS district (Section 208). **Continued** from October 17, 2023. **Location:** 3719 S 60th W Ave

Presentation:

John Wilson, 3719 South 60th West Avenue, Tulsa, Oklahoma, 74107, stated that he would like to put another residence for his parents. It would be no more than five hundred square feet, in the middle of our lot. None of his neighbors have a problem with it so far. We have septic.

Mr. Charney stated that there would have to be proper DEQ approval for the septic system.

Interested Parties:

No interested parties were present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Houston, Hutchinson, Tisdale all “aye”; no “nays”; no “abstention”, and Hicks absent) to **APPROVE** a Variance to permit two dwelling units on a single lot of record in an RS district (Section 208). subject to the following condition that all DEQ approvals are met and that the second dwelling is 16 x 30. Finding that the hardship to be that this is a 20,000 square foot lot and this should not have any impact.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 3 BLK 2, PLEASURE ACREAGE 3RD ADDN, Tulsa County, State of Oklahoma

NEW APPLICATIONS

CBOA – 3113 - Linda C. Morton

Action Requested:

Variance of the street frontage from 30' to 0' in an AG district to permit a lot split (Section 207). **Location:** 2652 E 171st St S

Presentation:

Linda Morton, 13123 South Yorktown Avenue, Bixby, Oklahoma, 74008, stated that she would like to split the 15.65 acres into two separate tracts; one at 5.65 and the other at 10 acres. With that we would like an easement for 5.65 acres of the 40-foot road access.

Mr. Charney stated if the lot split is approved, there will not be any opportunities for the 5.65 acres to become 2 or 2.5 acres or the ten to become two five-acre tracts. There also needs to be an easement of record for the Board to know that speaks about many things. This is an exceptionally long roadway from the public dedicated road back to the 5.65-acre tract. We care a lot about shared cost of maintenance, the installation of it, how the drainage works, the matter of how it is constructed, and the long-term maintenance of it is sometimes important to the Board to grant a lot split. Absent that easement, thorough language needs to be prepared by a competent Title Attorney to say this easement provides perpetual non-encumbered access to the back lot in a way that will allow most parties to use it.

Mr. Hutchinson stated that it is important to note that the County Engineer requested a Mutual Access Agreement which spells out everything the Chairperson stated that protects everyone down the road.

Mr. Charney stated that it may be important to the Board that such a document be prepared and for the County to weigh in on it. Sometimes we continue a matter until the next agenda for an applicant to have the opportunity to prepare something that speaks to all the necessary items that a seasoned Title Attorney would know about to make sure it is not averse to your neighbors. Tell them that you need an easement to get to the rear lot and it needs to speak to maintenance.

Interested Parties:

No interested parties were present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Houston, Hutchinson, Tisdale all “aye”; no “nays”; no “abstention”, and Hicks absent) to **CONTINUE** the Variance of the street frontage from 30' to 0' in an AG district to permit a lot split (Section 207) to the next County Board of Adjustment meeting of December 19, 2023 to give the applicant time to prepare a thorough easement for the County and the Board’s review prior to that date. Related to **CELD-5**.

E/2 NE SW NW & NW SE NW LESS E40 THEREOF & W40 E80 SW NE NW & W40 E80 NW NE NW SEC 31 17 13 15.606ACS, Tulsa County, State of Oklahoma

CBOA – 3114 - John Neffendorf

Action Requested:

Use Variance to allow Use Unit 19 to permit a recreation center (Sec. 310).

Location: E of NEC W 161st St S and Hwy 75

Presentation:

John Neffendorf, 19255 Carriage Court, Mounds, Oklahoma, 74047, stated that he is seeking a 14,000 square foot, basketball/volleyball, semi-private facility on six acres out of eighty acres off 161st Street. It is on the Southwest corner of the of the tract.

Mr. Charney stated that they would have to specify the region of the lot where this work was going to be done. Mr. Neffendorf had given the Board members a copy of the 6-acre survey carved out of the southwest corner of the tract.

Mr. Houston asked if this was going to be destination for league play or just for after-school play.

Mr. Neffendorf stated that this would be a practice facility for teams, a training facility for trainers, and third-party rental. The main hours would be from 4:00 p.m. to 9:00 p.m. during the week and the weekend would be daylight hours.

Mr. Hutchinson asked if he would speak on the parking lot lighting. It would be preferable that the lighting be focused down for security focus.

Mr. Charney stated that since this is not zoned for this type of facility, it would be important to the Board to know about the big picture before they look at the Variance.

Interested Parties:

Ed and Kim Rucker, P. O. Box 1450, Glenpool, Oklahoma, 74033, stated that they live directly south of the property in question. Ms. Rucker stated that they are directly across from the southeast corner of this tract, and they have concerns about where the entrance would be. It looks like it will be right across from their driveway. Another question they had was about the signage they would have and would there be any additional structures.

Mr. Rucker stated that they already have an issue with lighting going into their driveway from a business that has gone in next to them, so the commercial businesses do affect them. The storm water issue is of concern since they are starting to see erosion from the property west of them and he would be concerned about Mr. Neffendorf's property

as well. There is not good drainage along the roadway. The county ditch along the road needs to be dug out more.

Mr. Charney asked Mr. Neffendorf if he had given thought to the exact point of access and egress into the facility parking lot and if he had given signage any thought.

Mr. Neffendorf stated that they are flexible about the ingress and egress point and the only signage would be on the building. There would be no large lighted sign.

Mr. Houston asked if the applicant was able to move his driveway as far as possible from the Rucker family's driveway.

Mr. Neffendorf stated they would move the driveway more to the west.

Mr. Tisdale asked if this was the best area to build on his acreage.

Mr. Neffendorf stated that it was the highest elevation and that the water naturally flows to the back of the property.

Comments and Questions:

Mr. Hutchinson stated that he was fine with it if the lighting from the signage did not disturb his neighbors. He also stated that he was fine with the hours.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Houston, Hutchinson, Tisdale all "aye"; no "nays"; no "abstention", and Hicks absent) to **APPROVE** the Use Variance to allow Use Unit 19 to permit a recreation center (Sec. 310) conditioned upon the following items:

1. The hours of operation during would be approximately 4:00 p.m. to 9:00 p.m., Saturday hours would be approximately 8:00 a.m. to 8:00 p.m., and the Sunday hours would be approximately 12:00 p.m. to 6:00 p.m.
2. The County storm water requirement be satisfied regarding the construction of the building to insure that there is no increased storm water runoff from the subject property. The applicant provide the necessary hydrology to the County to be certify the compliance with the storm water regulations.
3. The lighting in the parking lot be down lighting so that the light pollution is minimized in a manner similar to lighting in the City of Tulsa.
4. The signage is not to be backlighted or neon.
5. The construction be similar to the site plan submitted to the Board by the applicant with the primary ingress and egress being along the eastern perimeter of the subject 6-acre tract.

*Finding that by the reason of the nature of this 6-acre tract being carved from the 80-acre of the whole tract, that the literal enforcement of the code would result in unnecessary hardship would be that it is a large area of land, and this would not be detrimental to the subject tract.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

W/2 SE SEC 23 17 12 80AC, Tulsa County, State of Oklahoma

CBOA – 3115 - Jerusha Daniel

Action Requested:

Variance of the minimum land area per dwelling unit requirement in an AG district (Sec. 330) **Location:** 17120 W Wekiwa RD

Presentation:

Jerusha Daniel, 17120 West Wekiwa Road, Sand Springs, Oklahoma, 74063, stated that she would like to place a mobile home on a property that is under 2.1 acres and is just under one acre. This is a vacant lot currently. There are other mobile homes in the area. It is a double wide 16 x 28-foot mobile home. The property belongs to her parents and is attached to the property they live on. She stated that they want to be close to her parents. The company that they are buying the home from will make concrete piers, tie downs, and skirting of the home. The car will be on concrete or asphalt. She had a DEQ report from them coming out and testing the property as well.

Interested Parties:

No interested parties were present.

Comments and Questions:

No further comments.

Board Action:

On **MOTION** of **TISDALE**, the Board voted 4-0-0 (Charney, Houston, Hutchinson, Tisdale all “aye”; no “nays”; no “abstention”, and Hicks absent) to **APPROVE** a Variance of the minimum land area per dwelling unit requirement in an AG district (Sec. 330) subject to the following conditions that all the skirting, tie downs, hard surface parking, and DEQ requirements are met.

Finding that the hardship it is a large enough lot that the literal enforcement of the code would result in unnecessary hardship would be that it is a large area of land, and this would not be detrimental to the subject tract.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

PRT GOV LT 9 BEG 850SWLY EL ALG SL WEKIWA RD TH SWLY100 S417 E TO PT DUE S OF POB TH N436 TO POB SEC 6 19 11 .979AC, Tulsa County, State of Oklahoma

CBOA – 3116 - Camps Construction

Action Requested:

Variance to permit a detached accessory building in the side yard in the RE district (Section 420.2.A.2) **Location:** 8150 N 70th E Ave

Presentation:

Barrett Smith, 8150 North 70TH East Avenue, Owasso, Oklahoma, 74055, stated that he wanted to build a two-car garage on the side of his property. The garage will look like my home. We will put up a silt fence during construction.

Mr. Charney stated that if they were to grant this that drainage would have to be done in a way that does not increase storm water to a neighbor.

Interested Parties:

Ty Ragle, 8241 North 69th East Avenue, Owasso, Oklahoma 74055, stated that he is an adjacent neighbor, and his main concern was answered that it would be built in a manner to match his house.

Greg Morris, 8239 North 69th East Avenue, Owasso, Oklahoma 74055, stated that he lived directly behind the subject property. His concern was that the land does slope down toward his property and there are no concerns at this point, but he wanted to make sure that they took measures to alleviate any problems in the future with this construction.

Rebuttal:

Mr. Smith stated that he had heard the concerns and that he planned to address these issues.

Comments and Questions:

No further comments were made.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Houston, Hutchinson, Tisdale all “aye”; no “nays”; no “abstention”, and Hicks absent) to **APPROVE** a Variance of the minimum land area per dwelling unit requirement in an AG district (Sec. 330) subject to the following conditions that the architecture will match the existing house, to have a silt fence up during the construction and all the County requires.

Finding the hardship to be there are numerous other homes in the neighborhood that have detached garages as well.

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:

LOT 10 BLOCK 4, CROSSING AT 86TH STREET PHASE V, CROSSING AT 86TH STREET PHASE IV, Tulsa County, State of Oklahoma

CBOA – 3117 - 2235 State RE Partners, LLC

Action Requested:

Use Variance to permit Use Unit 23 – Warehouse and Wholehousing in the AG district (Sectin 310) **Location:** 1821 E 66th St N

Presentation:

Jake Freeman, 4919 South Boston Avenue, Tulsa, Oklahoma, 74105, stated they plan to renovate the whole building and move businesses into the building. It is currently a church, free standing building, and 23,000 square feet on 7+ acres. The plan is to renovate and lease the building to a business. He has been involved with the community since the notice was sent out. We held a community meeting last week and answered questions. About forty people showed up.

Mr. Charney stated that they were looking at Use Unit 23, Warehousing and Wholesale.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that he commends this applicant for helping to renew this business in Turley.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Houston, Hutchinson, Tisdale all “aye”; no “nays”; no “abstention”, and Hicks absent) to **APPROVE** a Use Variance to permit Use Unit 23 - Warehousing and Wholesaling in an AG district (Section 310) finding the hardship to be existing structure is dilapidated and vacant for some time.

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:

E250 W830 S/2 SW SE SEC 31 21 13 3.788ACS; W250 E/2 SW SW SE LESS S50 THEREOF FOR RD SEC 31 21 13 3.501ACS, Tulsa County, State of Oklahoma

CBOA – 3119 - T & S Harmon Properties LLC

Action Requested:

Variance of the all-weather surface material requirement for parking (Section 1340.D). **Location:** 10505 N Garnett Rd

Presentation:

Todd Harmon, 8505 East 360th Road, Oologah, Oklahoma, 74053, stated since he applied for the Variance and now, he has decided to build all the storage units instead of just two. The main reason that he wanted to do gravel was along Garnett Road there is only a four” sewer drain, so the civil engineer had to extend the retention pond which will work with asphalt. If they put gravel on there it will help saturate the water into the ground rather than pushing it all to the road. They got approved for the asphalt, so they are going to go ahead with it.

Mr. Hutchinson asked how much gravel he wanted to have.

Mr. Harmon stated that gravel is a lot cheaper than asphalt, but there were concerns about dust control. He does not want to waste the gravel by doing it now and coming back and doing asphalt later. He would do concrete along the gates and towards the road. The parking is going to be asphalt.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that he felt more comfortable with it all being asphalt and he thought he would be better off doing asphalt all at once instead of bearing the cost of the gravel and then having to come back to do it later. The potential dust might cause him a lot of headaches.

Board Action:

The applicant chose to **WITHDRAW** his request for a Variance.

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NEW BUSINESS

OTHER BUSINESS

BOARD MEMBER COMMENTS

ADJOURNMENT

There being no further business, the meeting adjourned at 3:02 p.m.

Date approved: 1-16-2024

 _____ Chair