

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 522
Tuesday, August 15, 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 Hutchinson, V. Chair Houston	Tisdale	S. Tauber J. Hoyt	Teresa Tosh - County Inspection

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, August 15, 2023, at 11:27 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.

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On **MOTION** of **Hutchinson**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all “ayes”; no “nays”; no “abstention” and Tisdale absent) to **APPROVE** the Minutes of June 26, 2023 (Meeting No. 520).

On **MOTION** of **Hutchinson**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all “ayes”; no “nays”; no “abstention” and Tisdale absent) to **APPROVE** the Minutes of July 18, 2023 (Meeting No. 521).

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UNFINISHED BUSINESS

CBOA 2694-A - William Vernon Bearden Jr.

Action Requested:

Modification to a previously approved Special Exception (CBOA-2694) for a firework stand (Use Unit 2) to extend the time limit (Section 310). Location: 17137 S Mingo Rd.

Presentation:

Applicants were not present.

Interested Parties:

None.

Comments and Questions:

Mr. Charney stated that the applicant was not present at the last meeting either.

Board Action:

On **MOTION** of **HUTCHINSON**, , the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all "ayes"; no "nays"; no "abstention" and Tisdale absent) to **DISMISS** a Modification to a previously approved Special Exception (CBOA-2694) for a firework stand (Use Unit 2) to extend the time limit (Section 310). Location: 17137 S Mingo Rd.

W/2 NW & SE NW LESS BEG NWC NW TH S65 E1155.3 SE20.6 E130 N70 W TO POB & LESS W24.75 FOR RD SEC 31 17 14 116.380ACS, Tulsa County, State of Oklahoma

NEW APPLICATIONS

CBOA 3085 - Elizabeth Kaiser

Action Requested:

Special Exception to permit a manufactured home in the RS district (Section 410);
Variance to permit two dwelling units on a single lot of record in an RS district (Section 208). Location: 4649 S 65th Ave W

Presentation:

Elizabeth Kaiser, 4649 South 65th West Avenue, Tulsa, Oklahoma, 74107, stated that they bought their land January 3, 2023, and have four acres, and we are looking at putting a manufactured home on our property according to the diagram that you have for my mother to move on property with us.

Mr. Charney stated that they currently own the land and there is an existing frame house on the 1.4 acres and the addition of this manufactured home would be as you drawn it in on the site.

Mr. Hutchinson asked if they were on a septic system.

Ms. Kaiser stated that it is a single wide and she would have an independent septic system. The water we understand from the company that we are going through will tie into ours. It is coming from the mainline it would go to her mobile home.

Mr. Charney asked if any of your neighbors approached you at all regarding this matter. Have you had a chance to speak with any of them?

Ms. Kaiser stated that when they bought their property was a lot split. She wanted to speak in affirmation.

Mr. Charney stated that sometimes it is important to our Board to grant requests for such a manufactured home, that there are certain requirements that we would want you to be aware of. They are generally that they meet that are appropriately tied down according to code, that there be skirting, and with the proper sewage disposal of water according to DEQ requirements. There also must be a hard surface area where any car is parked, that serves that mobile home. That manufactured home can be on a gravel drive, but where they park each night must be hard surface.

Ms. Kaiser stated that the company that we are going through this laid all of that out on the timeline of what needs to be completed and how.

Mr. Charney stated that if we were to approve this, based upon those conditions, they would understand those and comply with those. Is that correct? He asked Staff, if there are two matters; one is a Special Exception, and the other has to do with the Variance for the two units.

Mr. Hoyt stated that was correct.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all “ayes”; no “nays”; no “abstention” and Tisdale absent) to **APPROVE** a Special Exception to permit a manufactured home in the RS district (Section 410); and a Variance to permit two dwelling units on a single lot of record in an RS district (Section 208), per the Conceptual Plans shown on page 4.9 of the Agenda packet, with the conditions that there be property tie downs, skirting, meet DEQ requirements for the sewer, and there be hard surface parking. The hardship is the large nature of the subject tract that is almost an acre and a half.

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.

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:

LTS 3-62 LESS W50 THEREOF BLK 49, NORTH TANEHA, Tulsa County, State of Oklahoma

CBOA 3086 - Valorey Totten

Action Requested:

Special Exception to permit mining and dirt removal (Use Unit 24) in an AG district (Section 310) Location: 3274 E 66 ST N

Presentation:

Valorey Totten, 17217 East Marshall Street, Tulsa, Oklahoma, 74116, stated that she bought six and a half acres last year in 2022, that borders Bird Creek, and she leased it to Tulsa Topsoil. We want to operate that topsoil operation out of that location. They do not think they will have been flooding impact at all. We have been in the topsoil business for five years. We are aware of the DEQ regulations, the reclamation, and we think what we are doing to this particular property will be an asset.

It was heavily wooded, full of lots and lots of trash, and it had been a dumping area. It is west of Highway 75 On 66th Street going towards Turley. There were abandoned structures there where it looked like an old house had been torn down. The concrete had never been removed. The well had not been properly closed off, things like that. We went in and built roads, built gates, cleared all the underbrush, removed most of the trash and took it to the landfill, and started operation.

Mr. Charney asked if it were important for our Board to know that there would never be any efforts to use the site for landfill purposes or for trash debris dumping purposes, would you be comfortable with such a condition if we were to grant your request.

Ms. Totten stated they would agree to that. Once we fully mined it, then we will refill those low excavated areas with concrete, not trash. It will be DEQ approved filled, then regrade that and planted. It will be returned to pasture as opposed to an overgrown and secluded area for dumping.

Mr. Charney asked if they knew the Department of Mines regulates this sort of activity.

Ms. Totten stated that they had a Department of Mines permit.

Mr. Charney asked if they have silt fencing requirements. Will you follow all the requirements that are placed upon you by the Department of Mines?

Ms. Totten stated that they would.

Mr. Charney asked if there is a roadway off 66th street into your tract.

Ms. Totten stated that they built one. That provides the ingress and egress for the trucks to get loaded. Then part of the reclamation is that we take all that back out.

Mr. Charney asked regarding dust control. He did not see any significant amount of residential activity right near you at all, at least in the aerial photograph, but sometimes dust controls important to people as well the Department of Mines also regulates that to an extent. Will Ms. Totten follow the necessary protocol to keep dust to a minimum

whether it is keeping the area wet during dry seasons, etc. Can you describe that for us?

Ms. Totten stated that they own a water truck that will sprinkle water as you drive it across the roads. So far it has not been a problem with all the rain.

Mr. Hutchinson stated that he was familiar with this area and thought it was all a flood zone and could never be built on.

Mr. Hicks stated that he noticed in your scope of work, you mentioned that the material will be screened. Will this be screened on site?

Ms. Totten stated that the Oklahoma Mine regulations say you cannot screen on site. We remove it to her brother's property next door, but the dust and just the traffic becomes too much of a hazard to do it all together.

Mr. Hicks stated that his understanding is Ms. Totten has a permit in place now, but you also mentioned you are going to request a second mining permit. He stated that he was not familiar with them, so are they given for 12 months at a period or will the second one just be for 12 months at the expiration of the first one?

Ms. Totten stated that a limited use permit is for 12 months, and then you have six months to reclaim and get inspected. Then you can get another, but you can only get two acres at a time. The most they can get out of six and a half acres are two limited use permits because of the boundaries that you must stay back from the river as well as 66th Street.

Mr. Houston asked if her current date of your permit is 12 months from November 1, 2022, so that in November, then you have six months and after that you will seek the next permit.

Mr. Hutchinson asked if they had to get flood plain permits as well.

Ms. Totten stated that she did not realize that at the time, but Tulsa County has now educated me that you must get an Earth Change permit.

Ms. Tosh stated that there had to be a floodplain permit for tree removal. Any earth moved must have a floodplain permit to make sure there is no impact and a flood related area.

Mr. Hutchinson stated that you really cannot remove any trees without getting without contacting the County first.

Ms. Tosh stated that those trees could be holding the soil in place for when the flood comes. All those things must be evaluated. Sometimes it takes a hydrological study to know that what you are doing will not impact the water, raise it to any degree, cause the

velocity to change, soil erosion or anything. That is why it is so important. FEMA audits us on these things, and they fly their drones over and they know exactly what went on in the floodplain. So, it is very important to have that floodplain permit. It took us a year and a half to get through the last audit.

Mr. Charney stated that we need a commitment from our applicant that all the state and local regulations be followed in order. That if we were to grant this would be conditioned upon following all those associated regulations.

Mr. Charney stated that he has expressed to his fellow board members that given where the tract is located if all appropriate regulations and local rules are followed. He would be comfortable with the concept.

Mr. Hutchinson stated that he was comfortable if they adhere to the DEQ regulations, the state and then even the local, which is something new he learned on the local side.

Mr. Hicks asked if since the mining permit has an end date, are we able to tie this approval to that end date or should we.

Mr. Charney stated that the approval is conditioned upon a valid permit from the Department of Mines being in existence and whenever that stops then the Special Exception could cease. It would be fair to tie it to the existence of a valid permit with the Department of Mines.

Interested Parties:

No interested parties were present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all “ayes”; no “nays”; no “abstention” and Tisdale absent) to **APPROVE** the Special Exception to permit of mining and dirt removal, use unit 24 in this AG district, conditioned upon a valid permit for the Department of Mines being in existence, all the appropriate regulation for the Department of Mines being followed as well, all of the any federal, state and local regulations, including Tulsa County related to the DEQ and/or floodplain requirements, all to be followed up by the applicant.

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:

BG.NE COR.NE TH.W.730'TO CENTER BIRD CRK TH.SELY.TO PT. ON E.L. OF NENE TH. N.740'TO BG. SEC. 5-20-13, Tulsa County, State of Oklahoma

CBOA 3087 - Yesenia Hernandez

Action Requested:

Variance to permit two dwelling units on a single lot of record in an RS district (Section 208). Location: 3274 E 66 ST N

Presentation:

Yesenia Hernandez, 6509 West 59th Street, Tulsa, Oklahoma, 74107, stated that her father has bought this property in the year 2020. Due to his health condition, we want to put a mobile home on his lot. We know that we are allowed to have a double wide only in that section.

Mr. Charney stated that there is no further action needed by us so long as it is permitted to use those if it is double wide and conformed with all the building permit regulations and setbacks, etc.

Mr. Hutchinson asked if there is sewer available here.

Ms. Hernandez stated that they were on the city sewer and would follow with all permits required. We will have separate bills on all utilities.

Mr. Charney stated that the placement of the second dwelling would conform to the exhibit that was given to us that is prepared by a licensed professional surveyor dated June 25, 2020.

Ms. Hernandez stated that they are going to get a permit to remove the garage that is falling and put their doublewide on lots three and four.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that he could support this request.

Mr. Charney stated that looking at the size of a track and comparing it to what is around it is a much larger track. He thought it would be because of the size of the combined set of tracks. What might normally be fifty feet of frontage has 150 feet. Mr. Charney was comfortable with the request.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all "ayes"; no "nays"; no "abstention" and Tisdale absent) to **APPROVE** a Variance to permit two dwelling units on a single lot of record in an RS district (Section 208). Finding the hardship to be several tracts of land together, subject to the following conditions that there will be a doublewide mobile home on the lots.

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:

LTS 3 THRU 8 INCL BLK 49, TANEHA, Tulsa County, State of Oklahoma

CBOA 3088 - Ervin Walker

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: 6253 N Garrison Av E

Presentation:

Eric Walker, 242 East 27th Place, Tulsa, Oklahoma, 74106, stated that he owns 1.38 acres off North Garrison, and he wanted to add an enclosed carport for his classic cars. He stated that he has a house on that land.

Mr. Charney asked if he lived in the house on the property.

Mr. Walker stated that he is remodeling it and getting permits in place. There is a double car garage that is detached also.

Mr. Hutchinson asked if that was included in the 750 square feet allowed.

Ms. Tosh stated it would be accumulation.

Mr. Hutchinson stated that instead of just being 210 square feet over, it is going to be 960 square feet. Does he have to be living in the house?

Ms. Tosh stated that they had instances in the past in some of these older neighborhoods, where there is an old structure and the very same scenario, and then we ended up with just garages and storage units in a residential area. So, what they have done in the past was, we would allow that, provided they got the remodeling permit for the house at this same time and work progressed.

Mr. Charney stated that it is important to us. Our Board may be inclined to permit a nice new structure like the one you are planning that also be important to us if you are going to live on the site. If we were to condition the granting of the approval for your new garage, upon your getting the permit, and then moving in, would that be fair to you? Do you understand the reasoning behind it?

Mr. Walker stated that he was going to get the permits at the same time.

Mr. Charney stated that the Board supports that and that shows evidence of your good faith, and we are comfortable with that.

Ms. Tosh asked that the only other question she had was on that square footage was did we need to advertise it any differently or is it okay the way it is.

Mr. Hoyt stated it the notification stated that was just to exceed the 750 square feet allowance.

Mr. Charney stated that the request before us is to allow an additional structure that would be over the 750 square feet accessory building. We now know given the existence of a two-car garage, that would be substantially greater. It is important to know we have nearly 1.4 acres. The 750 square feet requirement is a matter of right.

Interested Parties:

No interested parties were present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HICKS**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all “ayes”; no “nays”; no “abstention” and Tisdale absent) to **APPROVE** 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) per the Conceptual Plan shown on pages 7.8 and 7.9 of the Agenda packet. Subject to a condition that the remodel permit be in place at the same time as the permit for the new accessory structure.

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 2 BLK 1, FAIRVIEW HGTS ADDN, Tulsa County, State of Oklahoma

CBOA 3089 - Elvajeon Hope

Action Requested:

Special Exception to permit a single-wide manufactured home in an RS district (Section 410). Location: 5944 N Rockford Ave

Presentation:

Elvajeon Hope, 2107 East 63rd Street North, Tulsa, Oklahoma, 74130, stated that she wanted to move a single wide manufactured home to a residential district. There was a doublewide manufactured home. It is not there and now we have a vacant lot. It is on the Tulsa sewer.

Mr. Charney stated that if the Board were to permit this there are requirements that are standard, as far as tying it down, skirting, and the hard surface parking for a vehicle. If we were to grant this, you would comply with all of those and all the necessary requirements for securing the mobile home project. Are you familiar with or know any neighbors in the area? And have you had any discussions with any of them by chance on your request?

Ms. Hope stated that her next-door neighbor and neighbor across the street are very glad. It will be in the same place that the doublewide sat in the widest part of the lot. The same driveway will be used with an existing pad.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Charney stated that he could support this request.

Board Action:

On **MOTION** of **HOUSTON**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all "ayes"; no "nays"; no "abstention" and Tisdale absent) to **APPROVE** Special Exception to permit a single-wide manufactured home in an RS district (Section 410). Subject to the conditions of skirting, tie downs, and hard surface parking.

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 23 THRU 26 BLK 4, EAST TURLEY ADDN AMD B1&4-5&8, Tulsa County,
State of Oklahoma**

CBOA 3090 - Earth Property Management LLC

Action Requested:

Special Exception to permit mining and dirt removal (Use Unit 24) in an AG district (Section 310) Location: 3404 E 66th St N

Presentation:

Anthony Totten, 1324 North 171st East Avenue Tulsa, Oklahoma, 74116, stated that his sister has a triangular portion adjacent to Bird Creek. She purchased that a year ago. After the first of this year of 2023, the adjacent thirty-two acres became available. Because of our close relationship, he was able to purchase that property. We know that Valerie will be mining her property and then he has some of the same floodplain area that we would like to move on after she has completed doing the mining. Of these thirty-two acres, ten acres are not in the floodplain. It has some ponds, which are we think leftover borrow pits from the original construction of highway 75. At the top of that hill and non-flood plain property, we would like to fill those ponds and make that a developable piece of property. There is a beautiful view of downtown Tulsa, and we think that that property would be a commercial, viable project.

Mr. Charney stated that the matter that is before us today, though there is no land use request regarding future matters, is an AG district today. You are just letting us know your plans. What is before us today is you are seeking permission today to have some mining and dirt removal on the or floodplain portions of the 31.3-acre tract,

Mr. Totten stated that was correct. We also want to have mining operation in the non-flood plain area.

Mr. Charney stated that if we were to grant it, we are not constraining that grant any part of the lot. You understand that today, we cannot speak to allowing you to fill old borrow pits or how the Core of Engineers would feel about that. We are only here for one kind of very direct item and whether we feel it is appropriate to grant exceptions to allow you to mine dirt on your tract.

Mr. Hutchinson asked if he was aware of all the federal, state, and local permits.

Mr. Totten stated that it has been quite a learning experience to hear what his sister has gone through, and we are hoping to get ours a little bit smoother process, by coming here and doing everything as best we can up front.

Mr. Hicks asked if Mr. Totten could provide some clarification because reading it sounds like he is not reading the word mining is happening what he was reading is you are filling in some existing ponds. Are you going to be doing mining on the site?

Mr. Totten stated that they are going to be doing mining on the site. We have the opportunity for topsoil, but we also have the opportunity for shale rock. They use that more to fill foundation bases.

Mr. Hicks asked Mr. Totten if he had any mining permits in place at this time.

Mr. Totten stated that they do not have any permits in place. Depending on the action of this Board, we are prepared to mail the application to Oklahoma City.

Mr. Hicks asked if he had any expectations or thought there would be one permit for one 12-month period or if you think you will have multiple ones.

Mr. Totten stated they thought they would start out with one permit for a 12-month period and then we will seek the larger permit for the whole property.

Mr. Charney asked if when you mine and we asked this of the related application for you there would be no backfilling of the excavated areas with what we call standard landfills sorts of trash, but you are seeking permission for what they call deconstruction debris.

Mr. Totten stated that it would not be filled would not be construction debris. The backfilling material is most known as DRC: dirt, rock, and concrete. That comes from projects where there could be demolished, and subdivisions being put in. It is natural material, just not to this location. So, it is not going to be trash, landfill type material,

Mr. Hutchinson and concrete and rebar, currently. So, if we limited it to the DRC, that was all. He thought it was a legitimate question of neighboring landowners to want to know what is going to be back on it. It is natural debris, just not natural in that area, that is one thing, but if it is old asphalt, old construction materials, shingles saying that is not what you are asking.

Mr. Totten stated that was not what they were after, because as a mining site, we are absolutely limited by that DEQ regulation. He did not know the specifics of the landfill permit, but mining cannot use anything but what we talked about, DRC.

Mr. Hicks stated that Mr. Totten also notes in his Scope of Work item that you are also in the future planning to erect 260 by 80, commercial shop building on the northeast portion of the property. That really was just a question for our group, we are not addressing that this is just specific.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Charney stated that it is important to think it is a good use if all the Department of Mines regulations, all local, state, and federal are followed. It is a fairly well-regulated industry; these mining efforts have significant oversight. If they are followed, great.

Ms. Tosh stated that she had one observation, just that she wanted to caution on is that FEMA, provided adequate studies are made, FEMA can allow removal, but then when

you want to put it back, then that is a whole other matter because then you are placing things in the floodplain. She just wanted to make sure the approval is not okay in placing material back at this time, because we are not doing that, but because that will take a lot of effort and time to be able to approve that.

Mr. Charney thanked Ms. Tosh for the clarification.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all “ayes”; no “nays”; no “abstention” and Tisdale absent) to **APPROVE** a Special Exception to permit mining and dirt removal (Use Unit 24) in an AG district (Section 310), subject to the following conditions that an appropriate Department of Mines approval will be obtained and that all of the requirements associated with that are approved and the Department of Mines requirements be followed throughout the duration of the mining activity. In addition to all federal, state and local regulations surrounding the excavation, whether it is in the floodplain or out of the plane, all of the follows that the only material that were ever put back in would be the DRC dirt, rock, and concrete was mentioned by the applicant, and that only after appropriate approvals are obtained from the necessary federal jurisdiction or state jurisdiction or local jurisdiction regarding what material can be placed back in.

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:

**GOV LT 4 LESS BEG SWC SW NW NW TH N456 SE TO EL SW NW NW S144 W660
POB & LESS BEG SECR NW NW TH W408.04 NE474.2 NE109.8 S420 POB & LESS
W756 N40 FOR RD & LESS BEG NEC NW NW TH W513.4 S33 ELY191.92 S17
ELY125 SE74.32 ELY129.17 TO EL NW NW N80 POB SEC, Tulsa County, State of
Oklahoma**

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). Location: 4315 W 46th St S

Presentation:

Timothy Merrill, 4316 West 45th Street, Tulsa, Oklahoma, 74107, stated that he wanted to build a hobby shop on two acres that is behind my house. There is not a house present on that lot. So that is one of the Variances is to build a shop without a house on it, but it is connected to property.

Mr. Charney asked where your house is located. Are the other houses related to you or are they separate individuals?

Mr. Merrill stated that they are separate. He only has half an acre little sliver.

Mr. Charney stated that Mr. Merrill's house is on West 45th Street and is this how you get to it. Where do you access this hobby shop, off another street or on the same street as your house?

Mr. Merrill stated that South 45th has a gate and West 46th has a gate on that corner that allows me access. There is an easement on the south of the property for anybody who needs access to their property. It is not a paved road.

Mr. Hutchinson asked Mr. Merrill if he had considered a lot of combination.

Ms. Tosh stated that if he if it was just an accessory building to his house, then we would never have to worry about it being an independent, bought and sold structure or someone wanting to do a business if it was a lot combined to his house. That is what we have suggested in the past and like you said, then the street frontage issue goes away, and he can still use access. Either way.

Mr. Hutchinson stated that it just prevents him from selling the tract with the building.

Ms. Tosh stated it also kept him from selling it to someone else who then we have no, knowing what is going to go there. Obviously, it would be some type of business or something if no one lived there.

Mr. Hutchinson asked since your property adjoins this property, would you contemplate the lot combination.

Mr. Merrill stated that he did not know all the implications for it, but he has no interest in selling the property, individually or separately.

Mr. Charney stated that from the Boards standpoint, it is important to know if we're going to let allow someone to build a big building in an RS district on a separate legal description than your home but adjacent to your home, sometimes we are hesitant to let a big building be built, unless it always goes with your home. Can you see the thinking sometimes from a proper planning perspective, not that we are wanting to ever tie your hands. We think that it is not uncommon, often the governing jurisdictions require many of those of us in the real estate business to have lots tied together or lots combined together to permit a certain sort of construction, so that they know that you can't just sell off a piece, they want it all together to let you so that's the thinking. It could be important, potentially, to our Board to know that your home would only be sold with this lot. And this land would only be sold with your home. Whenever we are granted that that is the thinking behind insurance.

Mr. Merrill stated that he completely understands. He does not have any interest in selling and combining them. But he would not sell half of the property when my house is on one. He would not live on the other because there is not a house on there. He understood the implications behind that. He did not know if there was a benefit to doing that.

Mr. Hutchinson stated that one of the benefits is that you would only have one tax bill. You can tell us if you have zero desire to sell one or the other. But after it is all done next month, you may decide to sell one. Then Tulsa County is in a little bit of a predicament because there is a building that was supposed to be a house there.

Mr. Merrill stated that there are four two acre lots on the south side. One has a house, and the other three are technically vacant. He owns the middle two-acre lot. That is the two acres that he is trying to put a shop on. He cannot put it on his property on the half acre where his house is because it gets soggy.

Mr. Charney stated that they had heard from Mr. Merrill, and it could be important to this Board. We do not know yet. You are saying no, thank you that you do not want to do that now. We might say no, thank you, we do not care to grant this there. We might he was not sure. He wanted to think through it with our team. We have nothing to hide here. We are trying to guard against a great big building in a residentially zoned district that does not have a house on that two-acre tract that you would have the ability to sell without your primary residence. It is no longer an accessory building. It is its own building. What is the total square footage of the new proposed building?

Mr. Merrill stated that it was 2800 square feet roughly 50' by 60'.

Mr. Hutchinson asked where the utilities were going to come from.

Mr. Merrill stated that power will come from that same corner where the gate is. He had an appointment with PSO to have the power put in. There is city sewage. Even though that entire neighborhood is septic, there is city sewage that runs over to Berryhill.

Mr. Charney asked if there was an existing manhole on this 2.14 acres.

Mr. Merrill stated that there are two manholes on there.

Mr. Charney asked if there are any plans for you to have a kitchen or a bathroom in this building. It will be a metal structure.

Mr. Merrill stated that there would be a bathroom and that no one would live in it.

Mr. Hicks asked if Mr. Merrill would be open if we were to approve it, and we had a restriction that said no commercial activity, no selling anything, no producing anything for resale.

Mr. Merrill stated that would be fine. He said his intention for this as a hobby shop or whatever we store my dad's 66 pickup. Now, that is a public record. He will be 70 in a year and my primary goal is to get that put in there and get it restored. It is currently in his backyard. He wants to get it in the shop and get it restored and give it back to his father for his birthday.

Mr. Houston asked if he had ever discussed this with any of your next-door neighbors.

Mr. Merrill stated that he has spoken with one neighbor. All the neighbors are more than five hundred feet from the structure.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that he could support the size of the building with a lot combination. He would feel much more comfortable, and he believes him when he says he has no intentions of selling. We also know that we do not know what tomorrow brings. He would just feel more comfortable in doing that. Also, if they can help staff down the road for somebody else wanting this.

Mr. Houston stated that he could support the accessory building with a lot combination.

Mr. Hicks stated that he agreed with both of you, gentlemen.

Mr. Charney agreed. He felt like it was a reasonable request. He wants a larger shop than the norm out from my backyard. He respects that. He thought that on average you say the size of it and how he is going to build it and seem fine to you. Given it as a separate parcel with frontage off another and not accessed through his drive. It is a separate parcel. He thought it was too difficult to administer from the County's perspective if they had a whole bunch of these that are not truly attached. He could only support it if it were a lot combination agreement, with a lot tie agreement in place. That is how he would support it. Otherwise, he thought he would be hesitant.

Mr. Charney asked Mr. Merrill to come to the podium. He recognized the fact that Mr. Merrill had not given this any thought as to what that could mean to you about the benefits or the potential detriments if you may see some of having them tied together. You have heard our discussion, if you want it, we continue this to our next meeting agenda, and you thought about it. If you need that time, you may know right now, but because he needed to think about it, talk to some people maybe want to seek counsel. If you do not know now and you would like 30 days, he would see if the Board were inclined to continue this at our next meeting. You would be the first up likely on that one. It was a continued matter. You could say you understand the need for a lot combination or you are supportive, and we can take our vote then. If you say, nope, he did not want to do that, and we can take our vote now.

Mr. Merrill stated that he would like to continue to the next meeting.

Mr. Charney stated that he thought it was fair to someone when you are asking for a significant combination, and he wanted Mr. Merrill to feel like you were not railroaded into it by certain by some dudes up here that you do not know. We have seen quite a few things over the years. He still wanted him to feel like it was wise.

Mr. Hicks asked if that puts him at a time constraint issue.

Mr. Charney stated that if we continue it, it depends upon the nature of our action today. If we continue this on our next agenda. Anyone who was here and interested would know that, and he did not think it would require re-notice, refiling in his opinion.

Mr. Hoyt stated that there are three individual variances, so you can approve or deny individually.

Mr. Charney thought they would bring them all together.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all “ayes”; no “nays”; no “abstention” and Tisdale absent) to **CONTINUE** the 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) to the next County Board of Adjustment meeting on September 19, 2023.

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

CBOA 3092 - Patrick Starkey

Action Requested:

Special Exception to permit a manufactured home in the RS district (Section 410)

Location: 737 E 63rd St N

Presentation:

Patrick Starkey, 737 1/2 East 63rd Street North, Tulsa, Oklahoma, 74126, stated that he wants to move the modular home onto this property recently, basically, me and my girlfriend have been working some things out we have been together for years looking for to move into a stable home and we are looking to get all the tie downs skirtings we are looking to do gravel for the actual roadway. That way it is easier to expand on because he wanted to touch up the gravel a little bit for the future.

Mr. Charney stated that if we were to grant this, you would have to have a hard surface parking place get for the vehicles, however many vehicles are they would need a hard surface, concrete or asphalt parking overnight parking spot.

Mr. Charney asked if this is serviced by sanitary sewer or by septic system?

Mr. Starkey stated that they are going to do an aerobic system.

Mr. Charney asked is there another dwelling unit on this 4.86-acre lot. We are going to be on the defensive side of the property.

Mr. Starkey stated that there is on the 4.86-acre lot.

Mr. Charney stated that there were a couple of things that he would like to recite for the applicant and other interested parties here. It sounds as though our Board is inclined to look at this Special Exception to permit a single wide on the tract. If you were to meet the requirements, this is the sort of case where very frequently, if not most of the time, we would grant it. There is one nuance to this application that just came up, and that is where there is already an existing dwelling unit on the 4.86-acres, there are two things that you are going to need. We only put one of them in the packet. The two things you need is permission to have two dwelling units on the same 4.86-acres, and then permission to get your singlewide moved on.

Mr. Charney stated that it is going to be important for the staff and when we looked at the aerial here, we did not even notice another dwelling unit. The Staff just has informed us that there would have to be an additional notice that is placed out to the world that says two things are going to be decided. It is two dwelling units are permitted and one of them can be a manufactured home. We have not advertised it appropriately to do that to get that second component noticed and whether we can do it at our next scheduled meeting or not, whether there is a way to expedite it. He wanted Mr. Starkey to hear the unusual nature of what bubbled up and we are here to help you. We are trying to help you, but we want to do it the right way. So that if you ever want to sell this or work on this, that you got it buttoned up clean and neat and there are no issues out there.

Mr. Charney asked Staff about the mechanism by which to add this to the notification.

Mr. Hoyt stated that we would have to add the Variance for two dwelling units and then advertise it on the next notice going out. The next notice is the cutoff for the September meeting is not until this Thursday. We have time to include it with that.

Mr. Charney stated that the good news is there are not two meetings away. The bad news is there is going to be a delay. The good news is it is only going to be 30 days or September 19. Now if that messes you up, he can only offer the apologies of our County we did it was we want you to know that it was because it appeared to the eye that there were no other dwelling units on it.

Patrick Starkey Sr., same address as the notice, stated that there are extreme circumstances going on. They have a young son that is in a trailer house right now that has mold in it. We are attempting to get that boy out of there and that is our primary focus.

Mr. Charney stated that he appreciates the extra context and understands. He did not think that this Board had the power to permit it without notice.

Mr. Hicks stated that if we approved it now, they must stop you midstream, because it would show them say there are two dwellings.

Mr. Charney stated that he cared about the reason you wanted to do it, but he would want you to know, he thought the most important thing was to get your son in a healthy enough place. Secondly, let us get this done right for you and your family to where you do not have any hiccups in this for the next many years. You will be second on the list at the next meeting, so it would be quick.

Interested Parties:

No interested parties were present.

Comments and Questions:

The Board members agreed that continuing the case would be best.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all "ayes"; no "nays"; no "abstention" and Tisdale absent) to **CONTINUE** a Special Exception to permit a manufactured home in the RS district (Section 410) subject to adding a Variance for a second dwelling unit and permission for a singlewide manufactured home to be heard at the next County Board of Adjustment meeting of September 19, 2023.

W/2 LT 8 & ALL LTS 9 & 10 BLK 9, NORTH TURLEY ADDN, NORTH TURLEY 2ND ADDN, Tulsa County, State of Oklahoma.

CBOA 3093 - Doug Morrison

Action Requested:

Special Exception to permit Use Unit 17, Automobile and Allied Activities in a CS zone (Section 710). Location: 4300 S 65th W Ave

Presentation:

Chance Delancey 5932 East 76th Place, Tulsa, Oklahoma, 74136, stated that he was there on behalf of his client, Doug Morrison who is interested in purchasing a property located at 4300 South 65 Avenue West. Mr. Morrison would like to do before he purchases a property is get a Special Exception for his CS zoning to allow him to put a metal building with architectural features on it. The intent of this building is simply more or less to house his car collection and allow him to go out there and work on the cars and on occasion, he will flip one of these cars. It is not going to be a car sales area and that; he is not going to have used cars out there. This is for his personal collection for him to go out there and work on these things. We are kind of on the fence on needing a Special Exemption because Chapter 15 section 15.02 and allows the CS zoning for personal vehicle repair and maintenance. That is a permitted activity. On occasion he will sell those cars. He is just wanting to cross his T's dot his I's, making sure there will not be any issues if he goes through with the purchase of this. He has spoken with his neighbors. He has taken the exhibits provided to you around all the neighbors and all approved and he has even got a text on his phone from the neighbor directly like north of him that said you he is more than happy to have this type of activity there to prevent anything that would be less desirable.

Mr. Charney asked if the present zoning was CS.

Mr. Delancy stated that was correct and they were just waiting for the Special Exception for personal vehicle sales. He sold maybe two last year. That is what he anticipates for the coming year as well. Personal vehicle and repair maintenance are permitted. It is simple: once you become sales and rentals and there will be no rentals out of this. He just wants to be on board with everything.

Mr. Charney asked how many rough square feet the building is.

Mr. Delancey stated that it was 3200 square feet. Mr. Morrison has gone and spoken to all the neighbors. He is taking the exhibits that you have explained specifically what he is going to do. He has gotten the support of all neighbors.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Charney stated that he thought that given that it is a nicely designed building in a CS district, is not an RS district, it almost looks RS. It is a CS district and combined with getting approvals of the neighborhood all around them.

Mr. Hutchinson stated that Mr. Morrison may sell one or two a year, but it is not like a car lot.

Mr. Charney asked Mr. Delancey if there were any restrictions that all the storage of the vehicles be internal to the building. Is that possible? Is that likely? Is that appropriate?

Mr. Delancey stated that he would say his only question is if the vehicles are clean and running, I'm assuming probably two to be parked outside, but we're talking to clean running drivable vehicles, not ones that are towed in and dropped off and sitting on blocks or flat tires with anything being worked on and not running or inoperable or leaking will be inside of the facility. He needs to be able to reserve to be able to park a couple of outside that are running, but this is a satellite facility for him. He is not living in this location. His best interest is to keep them all parked inside so that he does not have vehicles outside. He did not want to restrict not having the ability to have clean running vehicles on the exterior.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all "ayes"; no "nays"; no "abstention" and Tisdale absent) to **APPROVE** a Special Exception to permit Use Unit 17, Automobile and Allied Activities in a CS zone (Section 710), subject to the following conditions that no broken down or inoperable vehicles would be on the outside.

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:

LT 1 LESS S208 BLK 1, COUNTRY CORNER CENTER, Tulsa County, State of Oklahoma

CBOA 3094 - Michaela Givens

Action Requested:

Variance of the side setback from 15' to 5' (Section 330). Location: 2686 E 116th St N

Presentation:

Michaela Givens, 2686 East 116 Street North, Skiatook, Oklahoma, 74070, stated that they bought the place and we have slowly been making improvements. At some point, we planned to build a metal building. We live in an AG zone, and we did not realize that there were certain restrictions. When we bought the property, we went ahead and finished it off with pipe fencing and barbed wire fencing because we do have farm animals. Because the property is long and narrow, and where the house sits in the middle, she was requesting to be able to build their metal building closer to the fence line than that for which the county allows. And the reason being, otherwise, we are not going to have access to drive with the way that we have built the pipe fence, we are not going to have access to drive in between the residence and the building to get back into the pasture. She had spoken with all our neighbors who have a great relationship with all their neighbors, and the neighbors that this would affect where we butt up to, she has an email from them saying that they have absolutely no issues with it whatsoever.

Mr. Charney stated this is the neighbor to your West. You are requesting a five-foot setback, rather than the standard has said no problems. The reason that you needed to be only five feet is to maintain the width necessary for your driveway.

Ms. Givens stated that the reason she would want the shop closer to the west side of their house if they can drive in between the house where the chain link fences in the house and the building to have access to our property.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Charney stated that he thought was a reasonable request, given the long skinny nature of the track, the location of the house, and the pipe fence that is in the ground. All things considered, it makes sense and the statement from our applicant that the neighbor closest to the five-yard setback, has consented and has no issue.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, all "ayes"; no "nays"; no "abstention" and Tisdale absent) to **APPROVE** a Variance of the side setback from 15' to 5' (Section 330), per the Conceptual Plan shown on page 13.8 in the Agenda packet.

Finding the hardship to be as a very long narrow tract of land with existing structures in place both in terms of the house of porch and some constraining pipe fencing that compel the reduced setback to have a proper flow on the subject site. And given those unique characteristics of the track, that hardship is in existence, and we would find them by reasonable circumstances which are peculiar to this land and call collateral enforcement of the code would result in an unnecessary hardship.

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 742.10W NEC NE NW TH S1321.53 W206.52 N1321.56 E206.22 POB LESS
N16.5 THEREOF FOR RD SEC 8 21 13 6.183ACS, Tulsa County, State of Oklahoma**

OTHER BUSINESS

None

NEW BUSINESS

None

BOARD MEMBER COMMENTS

There being no further business, the meeting adjourned at 3:11 p.m.

Date approved: 10/17/23

David E. Crowley
Chair