

**TULSA COUNTY BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 494**

Tuesday, May 18, 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  
Johnston  
Tisdale

Hutchinson,  
V.Chair  
Crall, Secretary

S. Miller  
R. Jones  
Sparger  
J. Wertin

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13th day of May, 2021 at 8:54 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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Ms. Jones read the rules and procedures for the Board of Adjustment Public Hearing.

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**MINUTES**

On **MOTION** of **TISDALE**, the Board voted 3-0-0 (Charney, Johnston, Tisdale "aye"; no "nays"; none "abstaining"; Crall, Hutchinson "absent") to **APPROVE** the Minutes of April 20, 2021 (No. 493).

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

anyone would like to continue their case and if they understood. Everybody nodded in understanding and no one requested a continuance.

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## **UNFINISHED BUSINESS**

### **2881—Jake’s Fireworks – Jason Marietta**

#### **Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an RE District (Section 410); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** West of the NW/c of Highway 169 and East 106th Street North

#### **Presentation:**

**Jason Marietta**, Jake’s Fireworks, 1500 East 27th Terrace, Pittsburg, KS; stated he has had a fireworks stand on the property next to the subject property for about 20 years. That parcel was sold to a medical facility and he would like to move the stand to the subject property after speaking to that property owner. The new stand will have a larger lot and a larger driveway so traffic can easily enter and exit the property. Mr. Marietta stated that he did see a letter of opposition to the fireworks stand about fireworks being set off in the neighborhood, whether he is selling fireworks or not people will still set off fireworks in the neighborhood regardless if fireworks are purchased at his stand or not. He has never had a violation and never had a complaint, and he meets every mandated code and regulation set forth by Tulsa County and by Oklahoma Fire Marshal.

#### **Interested Parties:**

**Sherry Barbour**, Big Blast Fireworks, 18622 South 62nd East Avenue, Bixby, OK; stated she is a friendly competitor of Mr. Marietta. Ninety percent of the fireworks business is done in 10% of the time, so challenges with moving cars in and out is something always faced. The last two days of the season is the only time that a parking lot may be filled up. Ms. Barbour stated she has been by Mr. Marietta’s site several times and he handles everything very well and efficiently. She can see nothing but betterment for the new location.

Mr. Charney asked Mr. Marietta if his stand would be on the westerly or the easterly portion of the property because of the residential property nearby. Mr. Marietta stated that his stand will be as close to the highway as possible. He is going to remove a lot of the trees and do dirt work and place the new stand as close to the former site as possible. The landowner is the house closest to the stand and she is the person he is leasing the property from.

Mr. Charney asked Mr. Marietta to state his hours of operations and the period of time he would be operating the stand and describe the lighting for the stand. Mr. Marietta stated that typically the stand would open June 15th and close after July 5th. Early in

the season the hours would be 9:00 A.M. to 9:00 P.M. and as July 4th gets closer the hours would be 9:00 A.M. to 12:00 midnight. Mr. Marietta stated the lighting will be the typical lighting for a fireworks stand and there would be someone on site 24/7 while the stand is open.

Mr. Johnston asked Mr. Marietta if the lighting was contained within the tent or is there parking lot lighting. Mr. Marietta stated that occasionally there is a light tower with LED lights for the parking area.

**Tom Stewart**, 13111 East 105th Street North, Owasso, OK; stated his house is south of the subject property and his concerns are his property values. As long as there are fireworks being sold from that site who would want to purchase his property. Mr. Charney stated that the Board does not speak to such a question directly, but he would reiterate that if the application were approved that for an approximate 2-1/2-week period of time the stand would be open and the stand is not a permanent right to do so.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall, Hutchinson “absent”) to **APPROVE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in an RE District (Section 410); Variance of the all-weather surface material requirement for parking (Section 1340.D), subject to conceptual plan 2.10 of the agenda packet. The hours of operation to be 9:00 A.M. to 9:00 P.M. starting June 15th to July 5th, and 9:00 A.M. to 12:00 midnight July 3rd and July 4th. The approval is for one year, May 2022. The Board finds the hardship for the gravel parking area to be the short term of the request. Finding 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. 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:

**NE NE NW NW LESS .13AC FOR RD SEC 16 21 14 2.37ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

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**NEW APPLICATIONS**

## **2885—Sherry Barbour**

### **Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an RS District;  
Variance from the all-weather parking surface requirement (Section 1340.D).

**LOCATION:** 524 North 49th Avenue West

### **Presentation:**

**Sherry Barbour**, Big Blast Fireworks, 18622 South 62nd East Avenue, Bixby, OK; stated that 49th and Edison has been a fireworks location for over 40 years. It was operated by a larger competitor at one time and Big Blast has been at the subject location for over 20 years. The last time she came before the Board she was approved for two years and coming to the Board every two years can be very laborious because Big Blast is a small company and local, so she would ask the Board to approve the stand for more than two years. There has been opposition from a neighbor on the last request regarding the car lights, and that has been addressed by installing privacy panels between each of the stands. There will be someone on the subject site 24/7 for security. This year the stand will be operated by a non-profit school and stated that there is a manual provided the operators and they are asked to abide by that manual. She also gives the neighbors her personal cell phone number and tells them that if there is a problem to call her. Big Blast Fireworks is very serious about being good neighbors. The lights on the back of the stands are turned off when the people leave the stand at the end of the day. The hours of operation would be 10:00 A.M. to 9:00 P. M. from June 15th to July 5th and on July 3rd and July 4th the hours would be 10:00 A.M. to 12:00 midnight.

Mr. Charney asked Ms. Barbour how many buildings are placed on the subject property. Ms. Barbour stated there are three stands, and there is a privacy panel placed between stand 1 and stand 2, a privacy panel placed between stand 2 and stand 3 and another privacy panel is placed at the end of stand 3.

Mr. Charney asked Ms. Barbour if she has received any complaints since the last hearing a couple of years ago. Ms. Barbour answered no. Ms. Barbour stated that there was an altercation by the land owner during the time which the stand was open, but she has no control over that.

### **Interested Parties:**

**Tina Jones**, 4904 West Edison Street, Tulsa, OK; stated there are several things that need to be addressed. Ms. Jones stated that she has a No Trespassing sign on her fence and Ms. Barbour took it upon herself to come into her yard anyway to deliver flowers, she does not want her stuff. Ms. Jones stated there is no gravel at the stand site. There was an altercation that happened on the first day within the first hour that the stand opened and it was because of the fireworks stand and the land owner that it happened. The porta-potty is placed behind the stands and when she sits at her kitchen table she can see people going to the bathroom. The lights on the rear of the stands are not turned off at night. In 2019 the landowner came to her house threatening and her

husband called the police. Ms. Jones stated that she plans to erect a wooden privacy fence around her property and she is concerned that the fireworks stand is too close to her property.

Mr. Charney stated that if the Board were to approve this request it would be pursuant to a site plan that has been submitted and must be honored by the applicant. The site plan submitted shows the stand being no closer than 40 feet to the property located to the west.

Mr. Johnston asked Ms. Jones if she had a fence currently between her property and the fireworks stand. Ms. Jones answered affirmatively stating that it is a four foot chainlink fence that goes all the way around her property.

Mr. Tisdale asked Ms. Jones how long she has lived in her house. Ms. Jones stated that she moved into the house in the fall of 2007.

Mr. Tisdale asked Ms. Jones if 2019 was the first time there was a problem. Ms. Jones stated she has had a problem all along with the lights, the smoking and several other things.

**Rebuttal:**

**Sherry Barbour** came forward.

Mr. Charney asked Ms. Barbour if she thought it was okay now and he understands that Big Blast Fireworks are not the owners of the property but what he is hearing is problematic. Mr. Charney stated the Board hears a lot of fireworks stand cases but he does not remember ever hearing a case where the landowner is actively involved in the enforcement of activity on the site. That causes him concern.

Ms. Barbour stated the land is owned by a Cherokee man and the police action went to the Court and then to Cherokee Court. The altercation did not begin at the stand but it ended at the stand. The landowner has a problem 365 days a year; he was hit in the head about four years ago and his ability to function at a normal level are not equal, so she deals with the landowner's sister. Big Blast never makes it the responsibility or pass any responsibility of the stand's activity to the owner, but his drunken stupor is his personal challenge not hers. The altercation is a matter of police record and it was very grievous what the landowner did and it is not condoned by Big Blast.

Mr. Charney stated that the Board is not saying they are holding Big Blast Fireworks responsible for the misconduct of the landowner, but it may be a factor that a leasor may have a history of not acting appropriately and that is a factor that the Board can take into consideration in approving a request. It is a factor that may be relevant to the case, but the Board is not ascribing blame to Big Blast.

Ms. Barbour stated she does not know where the port-a-johns were placed last year and she apologizes if that was a factor. Ms. Barbour stated that the port-a-john can be placed under the tree which is north and west of the stands.

Mr. Charney asked Ms. Barbour if she had put down gravel last year. Ms. Barbour answered no stating that gravel was laid down the last year that Terry West was in the office. Ms. Barbour stated that Google shows the gravel base for the parking lot area but if gravel is an issue she will bring in more gravel, bring in small gravel because this is the landowner's yard that he mows. The small gravel assimilates into the ground and produces a very hard base.

Mr. Tisdale stated that the Board has to be sensitive to any issues that may arise, he asked Ms. Barbour how she plans to address the escalation between the landowners. Ms. Barbour stated she is willing to address any challenges. The season opens June 15th and the stands are not occupied until June 24th. Ms. Barbour stated that state law requires the stand to be a minimum of 30 feet from any third party's fence line, the stand is 40 feet away. Safety wise the stand is about where it needs to be, regulation wise the stand is where it is supposed to be. If there is an issue she would be happy to give Ms. Jones her phone number again, and as far as trespassing she did not realize that going to someone's front door was considered trespassing. Ms. Barbour stated that if Ms. Jones wants to erect a privacy fence that is up to her and she would not mind compensating Ms. Jones for a portion of that fence.

Mr. Johnston stated that the comment Ms. Barbour made regarding the privacy fence interests him. The property is zoned RS which would not require a privacy fence, but for the ten days if Ms. Barbour could make an agreement about the privacy fence might help. Ms. Barbour stated that she has done that, there are privacy panels up now. Mr. Johnston stated he is concerned about someone climbing over a four foot chainlink fence as opposed to a privacy fence which is more of a security rather than a privacy issue. Ms. Barbour stated that Ms. Jones fence line is about four feet above where the stands sit because of the topography and she thinks a privacy fence is overkill because Ms. Jones has cameras.

Mr. Charney stated he recalls some special accommodations that were requested of Big Blast at the last hearing and they were done, and the majority of the complaints from the interested party center on an unstable landlord who is triggered by problems of people on his land and that is a factor in granting a Special Exception to Big Blast.

**Tina Jones** came forward.

Mr. Tisdale asked Ms. Jones what her relationship with her neighbor is like for the rest of the year and if she interacts with him. Ms. Jones stated that she has never interacted with him but she would visit with the wife over the fence before she passed. When the wife passed away the drinking became worse and he has been to her house, he is not allowed in her yard. Ms. Jones stated she does not want to talk to him and does not want to have anything to do with him. Ms. Jones stated there was never a

problem until Big Blast told the landowner to take care of the problem and that is when he started banging on her house, looking in the windows and yelling. She does not want anyone to pay for her fence, she will pay for her own fence. Ms. Jones stated there has never been a load of gravel placed on the ground since she moved into her house in 2007.

**Comments and Questions:**

Mr. Charney stated that he does not have a problem with the use, but he does place some responsibility on a leasee that is asking for a Special Exception.

Mr. Tisdale agreed with Mr. Charney.

Mr. Johnston stated that there should be an agreement between the landowner and the leasee that there will be disruptions or the authorities will be called, but the Board cannot manage that.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall, Hutchinson “absent”) to **APPROVE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in an RS District; Variance from the all-weather parking surface requirement (Section 1340.D), subject to conceptual plan 3.16 of the agenda packet. The portable bathrooms are not to be located behind the stands. There is to be privacy panel screening between the stands to shield the car lights from the neighboring property. The gravel parking lot is to be as required by the County. The hours of operation are to be June 15th to July 5th, 10:00 A.M. to 9:00 P.M. except for July 3rd and July 4th the hours are to be 10:00 A.M. to 12:00 midnight. There is a time limit of one year on the approval, May 2022. Finding 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. 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:

**TR.13 BG.24.75 S.& 1200 E.NW COR. LT 1 OR NE NE TH. S.330E.98.4 N.330 W.99. 25 TO BG.SEC.5-19-12, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2886—Irene Taliaferro**

**Action Requested:**

Variance of the minimum land area per dwelling unit in the AG District to permit two dwelling units on one lot of record (Section 330). **LOCATION:** 6588 North 129th East Avenue

**Presentation:**

**Irene Taliaferro**, 3928 South Madison Avenue, Tulsa, OK; stated her parents purchased the subject property in 1974 and it is 2.8 acres. There is an existing house on the property and her parents have both passed away, she would like to retire to the property. The existing house is occupied by her daughter and she does not want to raze it. There is sufficient room on the property to have another house on the property. She has spoken to all the utility companies and there are no barriers to adding another residence to the property.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall, Hutchinson “absent”) to **APPROVE** the request for a Variance of the minimum land area per dwelling unit in the AG District to permit two dwelling units on one lot of record (Section 330), subject to conceptual plan 4.11 of the agenda packet. The Board finds the hardship to be that the property is a large parcel located at the intersection of two arterial streets with a stand of trees that permits the appropriate spacing of the dwellings. 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 NEC NE TH S360 W366.76 N360 E366.76 POB LESS E25 THEREOF FOR RD SEC 5 20 14 2.824ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2887—Natalie Jackson**

**Action Requested:**

Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in a CS District (Section 1225). **LOCATION:** 7425 North Peoria Avenue East

**Presentation:**

The applicant was not present.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall, Hutchinson “absent”) to **CONTINUE** the request for a Use Variance to allow Use Unit 25, Light Manufacturing Industry, to permit a medical marijuana processing facility in a CS District (Section 1225) to the June 15, 2021 Board of Adjustment meeting; for the following property:

**LOT 6 BLK 3, GOLDEN HILL ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2888—Ryan Strode**

**Action Requested:**

Modification to a previously approved site plan (CBOA-2497) for a church (Use Unit 5) in an AG District (Section 310, Table 1). **LOCATION:** 12100 East 171st Street North

**Presentation:**

**Ryan Strode**, Strode Design, 4329 East 56th Place, Tulsa, OK; stated he is part of the architectural team hired by the church to design a concept for building on the subject property. The church has outgrown the building that was erected three years ago and they want to be able to grow the congregation and have gatherings. There is an existing 7,400 square foot one-story building and there are 65 existing parking spaces. The church owns 36 acres on the subject parcel and own 302 acres in the contiguous area. What is proposed is to build a new building about 20,000 square feet and the parking lot would need an additional 220 spaces. The last hearing granted the church an exception to have less parking spaces and the church would like to receive that same exception this time because the subject building will be at capacity only once or twice a year. The first building, by Code, required about 90 parking spaces and it was agreed to have 65

parking spaces, and this building would be comfortable with 160 parking spaces out of the 220 parking spaces required.

**Interested Parties:**

**Loren Webber**, 15225 South Peoria Avenue, Bixby, OK; stated the parking the church has now has never been a problem for the congregation. The church has about 150 people that attend services on a weekly basis, but twice a year the church has a ministry twice a year with about 250 people that visit the church; the church has capped that attendance because of the space. The church would like to be able have about 650 attendees in the sanctuary at the separate ministry those two times a year. At the previous meeting there were plans presented that showed three buildings which would be what the church is attempting to do now, one of those buildings being for storage, but the church only built one of the three.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall, Hutchinson “absent”) to **APPROVE** the request for a **Modification** to a previously approved site plan (CBOA-2497) for a church (Use Unit 5) in an AG District (Section 310, Table 1), subject to conceptual plan. The building is to be 20,680 square feet. The parking lot can be reduced by 75% of the parking requirements allowed by Code. Finding the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code; for the following property:

**LOT 1 BLOCK 1, BLUEFLAME 47 ADDITION, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2889—Mary Huckabee**

**Action Requested:**

Variance of the minimum frontage requirement on a public street from 30 feet to 0 feet in an AG District (Section 207). **LOCATION:** 14644 South Lewis Avenue East

**Presentation:**

**Mary Huckabee**, 4100 First Place Tower, 15 East 5th Street, Tulsa, OK; stated the Variance request is to allow the placement of a mobile home on the subject property, situated immediately south of the indoor arena on the property. There is an existing single family house on the property, and because of the shape of the lot it does not have frontage. It is accessed by a private access easement with a neighboring property owner. The mobile will be situated about 73 feet from the southern property line and placed on a concrete pad. There have been no negative comments from the neighbors. Ms. Huckabee stated the current property owner that is requesting the Variance has

been the owner for quite awhile and there have been no issues with the access easement or the maintenance of that easement.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Crall, Hutchinson “absent”) to **APPROVE** the request for a Variance of the minimum frontage requirement on a public street from 30 feet to 0 feet in an AG District (Section 207). The Board has found the hardship to be the unique configuration of the land as it is located off a publicly dedicated roadway and the only way to access the subject property is through a privately dedicated negotiated easement from the dedicated street back to the property. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**PRT NE SE BEG NWC W/2 NE SE TH E661.88 S329.05 E257.13 S269.05 W919.07  
N598.1 POB SEC 18 17 13 10.68AC, OF TULSA COUNTY, STATE OF OKLAHOMA**

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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 3:09 p.m.

Date approved: \_\_\_\_\_

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Chair

DRAFT