

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 480**

Tuesday, March 17, 2020, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, OK

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Hutchinson, V.Chair	Charney, Chair	Miller	Walden,
Crall, Secretary		R. Jones	County Inspector
Dillard		Sparger	
Johnston		J. Wartin	

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 12th day of March, 2020 at 9:23 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

MINUTES

On **MOTION** of **CRALL**, the Board voted 3-0-1 (Crall, Hutchinson, Johnston "aye"; no "nays"; Dillard "abstaining"; Charney "absent") to **APPROVE** the Minutes of February 18, 2020 (No. 479).

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

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

2798—Hanford Jenkins

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1). **LOCATION:** 560 East 62nd Street North

Presentation:

Hanford Jenkins, 560 East 62nd Street North, Tulsa, OK; stated he would like to have a 35'-0" x 100'-0" building to grow medical marijuana and he now has a new site plan as the Board requested in January.

Mr. Hutchinson asked Mr. Jenkins if he was going to raze the existing house. Mr. Jenkins answered affirmatively. Mr. Hutchinson asked Mr. Jenkins if he had plans to rebuild the house. Mr. Jenkins answered no.

Mr. Hutchinson asked Mr. Jenkins how many plants he wanted to cultivate. Mr. Jenkins stated that he would like to have between 150 to 250 plants, or whatever the building can hold.

Mr. Crall asked Mr. Jenkins if the building was a grow house and not a dispensary. Mr. Jenkins answered affirmatively.

Mr. Hutchinson asked Ms. Jones if the subject property was zoned residential. Ms. Jones answered affirmatively; it is zoned RS.

Mr. Hutchinson asked Ms. Jones if a house had to be on the lot before an accessory building can be built in RS zoning. Ms. Jones stated that she discussed with Ms. Tosh about the fact that Mr. Jenkins is asking for an agricultural use, the use itself would be okay without having a house on the property.

Mr. Hutchinson asked Mr. Jenkins if he was going to remove all the other structures that are on the property. Mr. Jenkins answered affirmatively.

Mr. Hutchinson asked Mr. Jenkins where is the closest house to the subject property? Mr. Jenkins stated there are about five houses in the area, but he is not sure of the distance.

Mr. Johnston asked Mr. Jenkins if he had spoke with his neighbors about his proposal. Mr. Jenkins answered affirmatively.

Mr. Hutchinson asked Mr. Jenkins if his statement in January regarding employees that would all be family and that there would be three or four was still in the plans. Mr. Jenkins answered affirmatively.

Mr. Johnston asked Mr. Jenkins what type of construction would the building be? Mr. Jenkins stated that it will be a tan metal building.

Mr. Dillard stated he could support this request. He looks at the neighborhood as it is now and the condition of the property, this new building will be a considerable improvement of those conditions. He would rather have a grow building that looks nice than a fallen down structure that does not look nice, and there are no neighbors here contesting Mr. Jenkins proposal. If Mr. Jenkins were growing tomatoes or growing okra no one would care, and he is growing his product inside. Mr. Dillard stated that Mr. Jenkins must comply with State and City requirements before he can obtain a license.

Mr. Johnston asked Mr. Jenkins how tall the building would be. Mr. Jenkins stated that he will need to have lights in the building so the height would depend on how low or how high those lights need to be in relation to the plants. Mr. Johnston asked Mr. Jenkins if the vertical wall would be about eight feet tall before the roofing starts. Mr. Jenkins answered affirmatively and stated he does not want the building to be too high.

Mr. Dillard asked Mr. Jenkins who his builder is going to be. Mr. Jenkins stated he does not know; he has not spoken with anyone because he was waiting on the Board's decision. Mr. Dillard stated he does not mind having a grow house on the subject property, but he needs to know what is going to be built. The site plan is a nice plan, but it needs to have more information showing where the windows and doors are located, the height of the walls, the pitch of the roof, etc.

Mr. Johnston stated he is concerned about the overall size of the proposed building in a residential area. Because this is in a residential area, he would like to have a limitation on the eave height making the building more in character to a house and residential materials used on the building on the street side instead of an all metal building.

Mr. Johnston asked Mr. Jenkins if there would be lights down the middle of the building or would there be several rows of lights. Mr. Jenkins stated there would be several rows of lights in the grow area.

Mr. Crall suggested to Mr. Jenkins to get a bid from a company that is knowledgeable in building these structures. That company would provide dimensions and the plan can be brought back to the Board; it is not the Board's responsibility to tell Mr. Jenkins the size of building he needs. Mr. Crall stated he is concerned that things have changed since the January presentation. A bid does not cost anything.

Mr. Hutchinson explained to Mr. Jenkins the reason the Board is asking about the dimensions and the height of the proposed building is because they do not want the building to look out of place in the neighborhood. If the Board were to approve this and

a two-story metal building is erected, it would be out of character for the neighborhood. Mr. Hutchinson stated the Board would like to see a presentation of what the building is actually going to be in height, the pitch of the roof, the interior layout, the outside look of the building, etc., so a vote can be on the building and not a blanket vote of a building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Charney “absent”) to **CONTINUE** the request for a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1) to the April 21, 2020 Board of Adjustment meeting to allow the applicant to present more detailed drawings and information on the project; for the following property:

E 85.2 LOT 7 BLK 1, FAIRVIEW HGTS ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

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NEW APPLICATIONS

2805—Align Design – Kyle Gibson

Action Requested:

Variance of the required side yard setback from 15 feet in the AG District (Section 330, Table 3); Use Variance to allow Use Unit 25 for Industrial Light uses (Section 1225). **LOCATION:** 6312 East 106th Street North

Presentation:

Kyle Gibson, 551 South Quaker Avenue, Tulsa, OK; stated his client has acquired three letters of approval from his neighbors, one from the east, one from the west and one from the southeast corner of 106th Street North and Sheridan. The neighbor to the west is the neighbor that is closest to the encroachment. The existing building was constructed to not impede with existing agriculture activities, as well as being built too closely to the pond. The existing accessory building is the structure that encroaches on the setback.

Mr. Hutchinson asked staff if the setback used to be five feet years ago? Mr. Walden stated that the setback used to be 15 feet total, five feet on one side and ten feet on the other side. There are quite a few properties in Tulsa County that are closer than the five feet.

Mr. Gibson stated he does not have a rendering of the building, but it is hardy flat siding, shingle roof, 10-foot side walls, 16-foot ridge line and it looks like a house; matches the neighborhood. There is another building that is 13 feet to the east of the subject structure. The first building will be used as a dry room and the second building will be used for trimming and processing of the plants. There will be no solvents, CO2 or butane used. There will be ice baths and a sieve used in the processing, and that will be compacted into hash and it will be sold commercially.

Mr. Hutchinson asked Mr. Gibson if the trimming and cutting is what he means when he says processing? Mr. Gibson answered affirmatively and there would be storage while waiting for transport to a commercial entity.

Mr. Hutchinson asked Mr. Gibson what type of equipment will be used in the processing. Mr. Gibson stated that there will be tables, scissors, small electric lights, the sieve tray for collecting product but there will be no heavy equipment and no hazardous chemicals.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a Variance of the required side yard setback from 15 feet in the AG District (Section 330, Table 3); Use Variance to allow Use Unit 25 for Industrial Light uses (Section 1225), subject to conceptual plan 3.26 of the agenda packet. The Board has found the hardship to be that the building exists and a pond that is very close by that is used by wildlife for nesting. Finding that by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**PRT NE NE NE BEG 460W NEC THEREOF TH S659.83 W200.13 N659.84 E200.01
POB SEC 15 21 13 3.031ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

2806—Nick Brown

Action Requested:

Variance of the minimum frontage requirement on a public street/dedicated right-of-way from 30 feet to 0 feet in the AG District (Section 207). **LOCATION:** 9525 South 33rd West Avenue

Presentation:

Nick Brown, 9525 South 33rd West Avenue, Tulsa, OK; stated the subject property is landlocked and the property owner is the same as the property owner to the west. The property to the west has a legal description on the deed stating there is an easement written into the legal description of that property giving easement for ingress and egress to go from 33rd West Avenue onto the property. The place where he would like to place the manufactured home had a house in that location until a few years ago; it was removed. There is an existing septic system for the mobile home to utilize.

Mr. Dillard asked Mr. Brown if he was the person who will be occupying the mobile home. Mr. Brown answered affirmatively.

Mr. Crall asked Mr. Brown to explain where the drive is located because he cannot see it on the aerial map. Mr. Brown stated the drive cannot be seen because of a row of cedar trees but it is on the southern border of the property.

Mr. Hutchinson informed Mr. Brown that if the Board approves his request, he will need to follow all regulations stipulated by the County, and it would be necessary to have a concrete or asphalt parking pad. The DEQ will require skirting, tie downs, etc. for the mobile home. Mr. Brown stated that he is purchasing the mobile home from Clayton Homes and he has been helping him with the permit process.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On MOTION of JOHNSTON, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Charney “absent”) to APPROVE the request for a Variance of the minimum frontage requirement on a public street/dedicated right-of-way from 30 feet to 0 feet in the AG District (Section 207). The Board finds the hardship to be the fact that the subject property is landlocked and there is an easement to the subject property. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment

to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

BEG 485E SWC NW TH N388.71 E275 SWLY CL NICKEL CREEK 180 SWLY 210.43 SW26.1 W227.62 TO POB SEC 22 18 12 2.425ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:25 p.m.

Date approved: _____

Chair