BOARD OF ADJUSTMENT
CASE REPORT

TRS: 129
CZM: 21

Case Number: CB0A-2798

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/17/2020 1:30 PM

APPLICANT: 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 E 62 ST N

ZONED: RS

AREA: North Tulsa County

PRESENT USE: Vacant Residential

TRACT SIZE: 0.39 acres

LEGAL DESCRIPTION: E 85.2 LOT 7 BLK 1, FAIRVIEW HGTS ADDN

RELEVANT PREVIOUS ACTIONS:

Subject Property:

BOA-4458 October 1964: The Board of Adjustment approved the operation of a home beauty shop, on the subject property.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a single-family residential neighborhood with large lots. The property is surrounded by RS zoning in all directions.

STAFF COMMENTS:

New Comments (03/17/2020):

The case was continued from 1/21/2020 to 03/17/2020 to give the applicant more time to consult with Tulsa County Permit Department and develop a clearer vision of his plan for the property. It was suggested that the applicant submit a more detailed site plan.

Staff of Tulsa Planning Department and Tulsa County Permit Department has concluded that if the Agricultural Use is approved by the Board, the new structure would not need to be considered an accessory building to a residential property. If approved, the new structure could stand alone such as any building could on AG zoned parcels. However, the Board has the ability to limit the size of the structure as a condition of the approval.

The applicant has met with both offices and has submitted a new site plan. According to the site plan, the existing structures will be removed and a new structure will be erected on the property. The size of the new building will be 35’ x 100’ (3,500 sq. ft). The site plan calls for a concrete or gravel surface. Staff has discussed the need for variance with the applicant if he decides to pursue gravel parking. The applicant stated that he will choose to use concrete if approved.
Original Comments (1/21/2020):

The applicant is before the Board requesting a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery, in a Residential District (Section 410, Table 1). The applicant would like to have a grow facility for medical marijuana on the property.

A Use Variance is required as Agriculture is not a use permitted in an RS zoned district because of the potential adverse effects on neighboring properties. A horticulture nursery must be found to be compatible with and non-injurious to the surrounding area.

The applicant supplied the following statement: “I want the building to be put on my land because of the area and the property is like the country and I feel it is safe there.”

According to the submitted site plan, all buildings will be removed, and a structure will be built to house the horticulture nursery. Growing will occur indoors. The site plan does not specify the size or design of the structure. Staff has not been able to contact the applicant for more specific details.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed use of the land is compatible with and non-injurious to the surrounding area.

Sample Motion:

“Move to _______ (approve/deny) a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery, in a Residential District (Section 410, Table 1).

Approved per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: ________________________________.

Finding the hardship to be _______.

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.”
the fact that the Comprehensive Plans shows plans for the area to be residential; for the
following property:

N 1/2 NE SW SEC 28-21-14, OF TULSA COUNTY, STATE OF OKLAHOMA

Board Action:
On MOTION of HUTCHINSON, the Board voted 4-0-0 (Charney, Dillard, Hutchinson,
Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to DENY the request for a
Variance from the all-weather parking surface requirement (Section 1340.D); 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) finding there is not enough information given the
denial of the requested Special Exception; for the following property:

N 1/2 NE SW SEC 28-21-14, OF TULSA COUNTY, STATE OF OKLAHOMA

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, 245 East 59th Street North, Tulsa, OK; stated he would like to have a
cannabis grow house. He has been in the area all of his life and his Grandmother still
lives there. He has tried to contact the area residents and has been able to speak with a
few of them. There will be no traffic.

Mr. Charney asked Mr. Jenkins if he would have any employees at the facility. Mr.
Jenkins stated that there would be three or four family members.

Mr. Charney asked Mr. Jenkins if there was an existing structure or if he would be building
a structure on the subject property. Mr. Jenkins stated that he will build a new structure.

Mr. Hutchinson asked Mr. Jenkins what the square footage of the new structure would
be. Mr. Jenkins stated that he would like to have about a 30'-0" x 40'-0" structure. Mr.
Jenkins stated he erect a fence around the building and would like to have a parking area.

Mr. Hutchinson asked Mr. Jenkins how many plants he is planning to grow. Mr. Jenkins
stated that he would like to have 150 plants or more.

Mr. Hutchinson asked staff if there was a building requirement for the subject property.
Ms. Tosh answered affirmatively. Ms. Tosh stated the proposed building can only be 750
square feet without a house. Ms. Tosh stated that there is another issue on the property
if the house is razed the proposed building would not be an accessory building.
Mr. Charney stated that an accessory building that is not a house has a size limit in the subject neighborhood, and that is 750 square feet. That is a pre-determined size limit unless a Special Exception is requested.

Mr. Charney asked Mr. Jenkins if there was a house on the property currently. Mr. Jenkins stated there is a burned-out house on the property that cannot be used, and he plans to raze that structure.

Mr. Charney stated that he does not think Mr. Jenkins can obtain a building permit because it is a residential use. Mr. Charney thinks Mr. Jenkins would need to build a residence and then have a 750 square foot building adjacent to that house, or it could be attached to the house. The building cannot be built without a house.

Ms. Tosh stated the primary use on the subject property has to be residential.

Mr. Jenkins stated the subject property has two houses on it, the burned-out house and one on the rear of the property.

Ms. Tosh stated that creates another issue.

Mr. Charney stated that he wants to give Mr. Jenkins' application a hearing, but he wants Mr. Jenkins to know regardless of what is decided today he would encourage Mr. Jenkins to make an appointment with staff and talk through all the procedures required to build the requested structure.

**Interested Parties:**
There were no interested parties present.

**Comments and Questions:**
None.

**Board Action:**
On MOTION of CHARNEY, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “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 March 17, 2020 Board of Adjustment meeting; for the following property:

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

PRESENT: Avery, Acting Chairman; Ingle; Kruse; Sublett.

This being the date set down for public hearing on the application of Kenneth Potter, after having filed a 100% petition of an affected area created by the Board, for permission to operate a home beauty shop on Lot 21, Block 14, Boman Acres Third Addition, a U-1-C District. There appeared Mr. and Mrs. Kenneth Potter. There also appeared several protesters.

Mr. George Briedenbach, spokesman for the protesters, filed a petition bearing some 95 signatures of persons living in Boman Acres Third Addition, which read as follows:

PETITION TO THE BOARD OF ADJUSTMENT
TULSA, OKLAHOMA

We, the undersigned property owners at the addresses indicated, oppose the installation of any advertised or unadvertised business establishment within the confines of Boman Acres Third Addition. This opposition is based on the restrictions, limitations, and reservations of the deed of dedication as recorded.

After considerable discussion among the Board Members it was,

MOVED by Ingle ( ) that this application be approved.

MOTION died for lack of a second and application denied.

This being the date set down for public hearing on the application of Bernice Torix, after having filed a 100% petition of an affected area created by the Board, for permission to operate a home beauty shop on the East 85.2 feet of Lot 7, Block 1, Fairview Heights Addition to Turley, Oklahoma. There appeared Bernice Torix, No protest was offered.
MOVED by Sublett (Ingle) that this application be approved.
All members voting yea. Carried.

This being the date set down for public hearing on the application of Lea Rauchwerger for permission to operate a children's day nursery in a U-1-C District on Lot 20, Block 1, Pilcher Summit Addition. There appeared Lea Rauchwerger. No protest was offered.

MOVED by Ingle (Sublett) that this application be approved.
All members voting yea. Carried.

This being the date set down for public hearing on the application of the Free Holiness Church for permission to erect a church on Lot 1, Block 1, Hall Gardens Addition to the City of Sand Springs, Oklahoma. There appeared Mr. Clarence S. Gilbert. No protest was offered.

MOVED by Sublett (Kruse) that this application be approved.
All members voting yea. Carried.

This being the date set down for public hearing on the application of Mrs. Loretta Pogue for permission to operate a children's day nursery on Lot 16, Block 7, Briarwood Addition. There appeared Mrs. Loretta Pogue. No protest was offered.

MOVED by Kruse (Ingle) that this application be approved.
All members voting yea. Carried.

This being the date set down for public hearing on the application of Sammie Peters, after having filed an 84% plus petition, of an affected area created by the Board, for permission to operate a home beauty shop on Lot 19, Block 22, Maplewood Extended Addition a U-1-C District. There appeared Sammie Peters. No protest was offered.

MOVED by Sublett (Kruse) that this application be approved.
All members voting yea. Carried.
Subject Tract: CBOA-2798

Note: Graphic overlays may not precisely align with physical features on the ground.
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Looking east along E. 62nd St. N. – subject property is on the right

Looking southeast from E. 62nd St. N.
Looking south into subject property from E. 62nd St. N.
- Larger than 750 SF
- Purpose is to grow
- What about processing?
New Site Plan

Note 1: 8'-10' high, chain linked fence