

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 510**

Tuesday, August 16, 2022, 1:30 p.m.
Williams Tower 1
1 West 3rd Street, St. Francis Room
Tulsa, Oklahoma

Members Present	Members Absent	Staff Present	Others Present
Hutchinson, V. Chair Dunkerley Hicks	Charney, Chair Tisdale	S. Miller J. Hoyt S. Tauber	K. Edenborough, County Inspections N. Williams, Legal T. Tosh, Director of County Building Inspector

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 11th of August 9:08 am, 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.

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Mr. Hutchinson explained to the applicants and interested parties that there were only three board members present. He explained that if there happened to be only three board members, it would be necessary to receive an affirmative vote from all three board members to constitute a majority and if one board members vote 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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Mr. Hoyt read the rules and procedures for the Board of Adjustment Public Hearing.

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MINUTES

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hutchinson, Hicks, all “ayes”; no “nays”; no “abstains”, Charney and Tisdale “absent”) to **APPROVE** the Minutes of July 19, 2022 (Meeting No. 509).

UNFINISHED BUSINESS

2978 - Vadim Balev

Action Requested: Variance of the minimum land area per dwelling unit requirement from 2.1 acres and the minimum lot area requirement from two acres in an AG district; and a Variance of the rear and side setbacks in an AG district to permit a lot split (Section 330).

Location: 1406 East 163rd Place South

(Applicant requests a Continuance to 10-18-22)

Board Action:

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson, all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **CONTINUE** the Variance of the minimum land area per dwelling unit requirement from 2.1 acres and the minimum lot area requirement from 2 acres in an AG district; and a Variance of the rear and side setbacks in an AG district to permit a lot split (Section 330) to the October 18, 2022.

LT 1 LESS S277.20 THEREOF BLK 2, FAULKENBERRY ESTATES, Tulsa County, State of Oklahoma.

2984 - Brian Brady

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), Use Variance to allow Use Unit 23 in an RS district to permit outdoor storage (Section 410), a Variance from the all-weather parking surface requirement (Section 1340.D)

Location: 5723 S 35th West Ave

Presentation:

Brian Brady, 5723 South 35th West Avenue, Tulsa, Oklahoma, stated that he had bought this property for his own personal use and not commercial use.

Mr. Hicks asked about the neighbor that had been parking his semi-truck in front of the property. Mr. Brady stated that the owner parks it there when he is in town and has been for many years.

Mr. Hicks asked about the two access points into the property. One goes into a residential area, and one is off West 33rd Street. Mr. Brady stated that he has gated off the access into the residential area and will only use the one-off West 33rd Street.

Interested Parties:

John Petherick, 3618 South Hudson, Tulsa, Oklahoma, 74136, stated that he was concerned about is the cross section of 35th West Avenue and 57th West Street. The residential street is not built to hold heavy traffic and if he is coming off West 33rd that will have the ability to manage the heavier trucks.

Bonnie Reagle, 3333 W. 57th Street, Tulsa, Oklahoma, 74107, stated that she understood that they had thirty days to clean up the property and there are more trucks and cars there. She stated that she does not want it changed from residential to commercial.

Rebuttal:

Mr. Brady stated that he does enter on West 33rd Street. This is for storage use of his personal vehicles only. Nothing is changing from the past decade.

Comments and Questions:

Mr. Hicks stated that he was okay with this case, and he felt like the neighbors' concerns have been addressed. Mr. Brady had agreed to close off the gate to the residential street.

Mr. Dunkerley stated that he agreed that there was a better understanding between the neighbors' and Mr. Brady now.

Mr. Hutchinson agreed with the other board members.

Board Action:

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all "ayes", no "nays", no "abstentions", Charney 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 in the agenda packet along with the information received from the applicant today subject to the following conditions related to the building and only storage of personal property not for business use or commercial use finding the hardship to be that the property has used in this fashion for many years. He is putting in a larger building, but it is for his personal use.

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 listed below.

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a Variance to Use Variance to allow Use Unit 23 in an RS district to permit outdoor storage (Section 410), per the Conceptual Plan shown in the agenda packet along with the information received from the applicant today subject to the following conditions related to the building and only storage of personal property not for business use or commercial use, and that the entrance of drive that comes in through the residential street be closed off and will not be rented out to other individuals finding the hardship to be that the property has used in this fashion for many years.

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 listed below.

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a Variance from the all-weather parking surface requirement (Section 1340.D) per the Conceptual Plan in the agenda packet subject to the following conditions; related to the building and only storage of personal property not for business use or commercial use finding the hardship to be that the property has used in this fashion for many years.

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 listed below.

S90 W/2 LT 11 & ALL LT 14, CAMPBELL HILLS, Tulsa County, State of Oklahoma.

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NEW APPLICATIONS

2986 - Charles Stewart

Action Requested:

Variance to permit a 5ft fence in the front yard of subject property (Section 250.1)

Location: 703-705 North Willow Rd

Presentation:

Charles Stewart, 703 North Willow Road, Sand Springs, Oklahoma,74063, stated he is wanting to secure his yard with a five-foot fence to keep his dogs in and the neighbor out.

Mr. Hicks asked what kind of dogs and how many. Mr. Stewart stated he has a Blood Hound and two Labradors.

Interested Parties:

No interested parties were present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0(Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a Variance to permit a 5ft fence in the front yard of subject property (Section 250.1) per the Conceptual Plans shown in the Agenda packet finding the hardship to be adding 12 additional inches to the fence to keep his animals in his yard.

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

LT 21 & S60 LT 22 BLK 7, CHARLES PAGE HOME ACRES SUB NO 1 AND N40 LT 22 & ALL LT 23 BLK 7, CHARLES PAGE HOME ACRES SUB NO 1, Tulsa County, State of Oklahoma.

2987 - CRB Companies

Action Requested: Special Exception to permit a 140 ft. Wireless Communications Tower (Use Unit 4 - Public Protection and Utility Facilities) in an AG district (Section 1204.3)

Location: 7847 N 71st E Ave

(Applicant requests a continuance to 9-20-22)

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **CONTINUE** a Special Exception to permit a 140 ft. Wireless Communications Tower (Use Unit 4 - Public Protection and Utility Facilities) in an AG district (Section 1204.3) to September 20, 2022.

2988 - Tradition Homes LLC

Action Requested: Variance of the minimum land area per dwelling unit requirement from 2.1 acres to allow for two dwelling units on a 3.17-acre lot (Sec. 330) **Location:** 11974 S 121st E Ave

Presentation:

Corbin Smith, 9959 East 51st Street, Tulsa, Oklahoma, 74146, stated that he is the property owner of the location, and his family has been living in smaller, temporary, residence structure and they want to use it a shop and home office and build a new home for his family.

Mr. Hutchinson asked what he wanted to do with the property and if he wanted to split the lot. Mr. Smith stated that he did not want to split the lot, he only wanted to put two structures on the same property. Many of the homes in the area have secondary structures on them.

Mr. Hutchinson asked if Mr. Smith was planning to rent out the second dwelling. Mr. Smith stated that they are not going to rent it. It will be for personal use only. The new structure will blend with the older structure.

Mr. Hicks asked if they were planning to conduct any business or have any public coming to the shop or office area. Mr. Smith stated that he was not.

Interested Parties:

No interested parties were present.

Comments and Questions:

None

Board Action:

On **MOTION** of **DUNKERLEY**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a Variance of the minimum land area per dwelling unit requirement from 2.1 acres to allow for 2 dwelling units on a 3.17-acre lot (Sec. 330) per the Conceptual Plans in the Agenda packet.

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 SE SW 2637.44E & 606.87N SWC SW TH W577.50 N240 E577.50 S240 POB LESS E33 FOR RD SEC 32 18 14 3.17ACS, Tulsa County, State of Oklahoma

2989 - Tradition Homes LLC

Action Requested:

Variance to allow two dwelling units on a single lot of record in an AG-R district (Section 208) **Location:** 17010 S Harvard Ave

Presentation:

Corbin Smith, 9959 East 51st Street, Tulsa, Oklahoma, 74146, stated that this is a residential zoning, but must have a Variance for two structures. The neighborhood covenants of Woodward Acres approved it. The façade will match the other structure.

Mr. Hutchinson asked about the square footage of the existing residence. Mr. Smith stated that it is 732 square feet.

Mr. Hicks asked if this would be for private use or commercial. Mr. Smith stated that it was private, and no public would be coming to the buildings.

Interested Parties:

No interested parties were present.

Comments and Questions:

None

Board Action:

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a Variance to allow two dwelling units on a single lot of record in an AG-R district (Section 208) per the Conceptual Plans shown in the Agenda packet. Finding the hardship to be that the property is out in a rural area. The two homes will match each other in similar type.

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 8 BLOCK 1, WOODWARD ACRES, Tulsa County, State of Oklahoma.

2990 - Nathan Hardage

Action Requested: Special Exception to permit a permanent mobile home in an AG district (Sec 310) **Location:** 15061 E 181st South

Presentation:

Applicant wished to withdraw his case.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all "ayes", no "nays", no "abstentions", Charney and Tisdale "absent") to **WITHDRAW** Special Exception to permit a permanent mobile home in an AG district (Sec 310).

PRT E/2 SW BEG 661.55W SECR SW TH W331.53 N657.93 E331.74 S658.21 TO POB SEC 34 17 14 5.010ACS, Tulsa County, State of Oklahoma.

2991 - John Patrick Watkins

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:** 1341 South 271st W Ave.

Presentation:

John Patrick Watkins, 1341 South 271 West Avenue, Sand Springs, Oklahoma, 74063, stated that he wants to build a larger shop to store his personal vehicles. He plans to pour concrete around the building. The building will be 30-feet by 40-feet. They are building a swimming pool in the back yard as well. It will be wood framed and skimmed with corrugated metal.

Mr. Hicks asked if he had received any feedback from his neighbors. Mr. Watkins stated that four neighbors have expressed their agreement with his project plans.

Interested Parties:

Kelly Coleman, 1334 South 271st West Avenue, Sand Springs, Oklahoma, 74063, stated that he is the property owner to the north of Mr. Watkins property. He stated that he does not have an issue with the Variance, however, he is concerned with the drainage and topology of his lot. The construction has begun and there was an existing drainage pipe that points directly at Mr. Coleman's driveway. This is causing issues and he has had to replace dirt. He is concerned that if the drainage issues are not corrected,

it will amplify existing conditions. No silt fencing is in place. Drainage being diverted out to the right-of-way would take care of these issues.

Rebuttal:

John Patrick Watkins, 1341 South 271 West Avenue, Sand Springs, Oklahoma, 74063, stated that he would work with Mr. Coleman to take care of the drainage problems. The guttering is in the plans as they were submitted.

Comments and Questions:

Mr. Dunkerley stated that he felt like it was good.

Mr. Hicks asked if the drainage monitored through inspections.

Ms. Tosh stated that if it creates more impervious surface than 20% of the entire lot then we are required to ask for a hydrology study as back up or if there is an obvious problem like this and we could ask for it. Permits were issued so he does have a swimming pool permit. If the walls are over a certain height, he must have a permit.

Mr. Hicks asked that if the Variance passes and he gets a permit for the building, then that is when you require the silt fence.

Ms. Tosh stated that a silt fence is a state requirement. Inspectors cannot inspect if there is not a silt fence up.

Board Actions:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney 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 Plans shown in the Agenda packet, subject to the following conditions that the building will have guttering, will install a silt fence during construction, and the drainage issues addressed with the neighbors to the north, fining the hardship this is a small portion of the overall lot.

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

LT 10 BLK 1, BLACKJACK COVE ESTATES, Tulsa County, State of Oklahoma.

2992 - Liliana Garcia

Action Requested:

Variance to reduce the required side yard in the RMH District from 5-feet to 2-feet (Sec. 430.2.A) **Location:** 1910 E. 62nd St. N.

Presentation:

Liliana Garcia, 1910 East 62nd Street North, Tulsa, Oklahoma, 74130, stated through her translator that the family is adding to their single-wide mobile home for their mother to live with them with more space added. The addition is 7-feet which leaves 2-feet from the fence from the neighbors lot. We have spoken with the neighbors, and they stated that they did not have a problem with the addition. It will have a crawl space under it like the mobile home.

Mr. Hutchinson asked that the mobile home is 14-feet wide so the addition is going to be 7-foot wide by 62-feet and wanted to know if there was a way to move it over so it would not go past the 5-foot setback. Ms. Garcia stated that the construction has already been started and we stopped when we found out that we had to do this, and it would be difficult to either move the mobile home and the whole construction or the whole addition.

Mr. Hutchinson asked when Ms. Garcia stated that construction had already begun, what part of the construction has been done. Ms. Garcia stated that the structure.

Mr. Hutchinson asked if the footing or stem wall had been put in and Ms. Garcia stated that it had not been done yet. Mr. Hutchinson asked if they were going to skirt it like a mobile home. Ms. Garcia stated that it will be same with support like the mobile home, but with piers.

Mr. Hicks stated that on Google Maps and asked if is completed. Ms. Garcia stated that it is not. It has brick in front around the base.

Mr. Hutchinson asked if there are any easements on the side. Ms. Garcia stated that there are no utility easements on this side.

Ms. Tosh stated a single-wide is not required to have footings of any kind. They can sit on the ground. The inspectors found this and put a stop work order which started this process. When they turned in the permit, it was too close to the building on the side.

Mr. Hutchinson asked Ms. Tosh what kind of problems arise when there is a structure so close to the property line. Ms. Tosh stated it is usually neighbors complaining and there could be easements there. Subdivisions will have easements on the fence lines, but this has already been started so they will have to address that if it ever comes up.

Mr. Hutchinson stated that if ONG has a gas line under this structure, they may make them take it down. Her office does not enforce easements as their office cannot know of all the easements on any given piece of property. We do address building lines.

Mr. Hicks asked if there is anyone living to the west. Ms. Garcia stated that they have no problem with it.

Mr. Hutchinson asked if there was a fence and Ms. Garcia stated that there was.

Mr. Hutchinson asked if Ms. Garcia understood about the utility easement and if this passed and there was a utility easement there, she would be responsible to deal with the utility company and adjust.

Mr. Hicks asked if the area between the fence and the new building is grass or just ground. Ms. Garcia stated that it is ground. There is enough space to mow the grass if needed.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Dunkerley stated that it sounded like it was already done and if they understand the utility easement could be a problem in the future then he thinks it will be fine.

Mr. Hutchinson stated that he does not like buildings this close to a fence line, but the construction has already been started. We could put in the Motion that is for this specific structure only.

Ms. Tosh stated that it could be for the duration of this mobile home. A new mobile would have to apply for a new permit and then they would make them meet the regular requirements.

Board Action:

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a Variance to reduce the required side yard in the RMH District from 5-feet to 2-feet (Sec. 430.2.A) per the Conception Plan shown in the Agenda packet subject to the setback allowance is only allowed for this particular mobile home, should another mobile home be moved in, a new application would be required should they desire to keep that there and that the applicant understands that any utility easement is their responsibility. Finding the hardship to be that is in place now, the neighbor agrees with the arrangement.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the

same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 8 BLK 5, SCOTTSDALE ADDN, Tulsa County, State of Oklahoma.

2993 - Kevin White

Action Requested: Variance from the all-weather parking surface requirement (Section 1340.D). **Location:** 11418 W 59th St S

Presentation:

Kevin White, 25091 West 111th Street South, Sapulpa, Oklahoma, 74066, stated that he is asking to have a Variance to the all-weather parking surface requirement. Their parking is north of the business, and they would like to have a hard surface to access it to extend their parking and storage for their business.

Mr. Hutchinson asked if the business is to the south of the parking lot and if their parking area now is gravel. Mr. White stated that it was.

Mr. Hutchinson asked if they want to gravel the whole two and a half acres for storage of their trailers. Mr. White stated that they are asking for under 20% of the area so they do not have to have any hydrology done to the property.

Interested Parties:

No interested parties were present.

Comments and Questions:

The Board members agreed that they did not have any issues with this request.

Board Action:

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a Variance from the all-weather parking surface requirement (Section 1340.D) per the Conceptual Plan shown in the Agenda packet, finding the hardship that they are going to maintain under 20% strips of gravel area as shown in our packet.

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

LT 2 BLK 1, PRATTVILLE INDUSTRIAL PARK SOUTH, Tulsa County, State of Oklahoma.

2994 - Alissa Browning

Action Requested: Variance of the minimum lot area and land area required in an AG district to permit a lot split (Sec 330) **Location:** 17950 N Peoria Ave

Presentation:

Alissa Browning, 4008 East 96th Street, Sperry, Oklahoma 74073, stated that her family has land off Peoria Avenue in Skiatook and are proposing to purchase a half-acre on the northeast side of the lot for a home. They have discussed this with their neighbors, and they all agree that it will be fine.

Mr. Hutchinson asked if they were proposing to build a home there and Ms. Browning stated that they plan to put a manufactured home there.

Mr. Hutchinson asked if they would have their own septic and utilities and Ms. Browning stated that they would.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that the access is on Peoria so there are no issues with ingress and egress.

Mr. Hutchinson asked Ms. Browning to come back up to address the road access agreement. He asked her if she knows if an additional 25-feet is included in the lot split. Ms. Browning stated that her stepfather spoke with the surveyor about and that was included in the plan.

Ms. Miller stated that may be the reason there is no jog on the survey because it is already included.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all “ayes”, no “nays”, no “abstentions”, Charney and Tisdale “absent”) to **APPROVE** a **Variance** of the minimum lot area and land area required in an AG district to permit a lot split (Sec 330) per the Conceptional Plans shown in the Agenda packet subject to the following conditions that the 25-foot has already been given to the county finding the hardship to be the original tract is almost ten-acres.

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:

S/2 NE NE SE & S/2 NW NE SE LESS BEG SECR S/2 NE NE SE TH W50 N120 E50 S120 POB SEC 1 22 12 9.87ACS, Tulsa County, State of Oklahoma.

2995 – Joseph Farris

Special Exception to permit Use Unit 24, Mining and Mineral Processing, for the continued use of a mining and mineral processing business (Section 1224) in an AG district (Sec. 310, Table 1). **Location:** NW/c of North 145th E. Ave. & E. 66th Street North

Presentation:

Joseph Farris, 2 West 2nd Street, Suite #900, Tulsa, Oklahoma, 74103, and home address is 1335 35th Place, Tulsa, Oklahoma, stated Mr. Kirk Van Valkenburgh may help me with the presentation. Mr. Farris stated that he represents the applicants most of whom are here with us today, Mr. Travis Cummings, who is the sole owner of Cummings Land and Cattle Company and his children, Mr. Dean Cummings, Ms. Michelle Hardy, and Ms. Diane Stalcup. Anchor Mining is also an applicant, but there is a problem with the area submitted as part of the application. They are shown as one of the applicants, but in the application the tract of land that Anchor owns got left off. He spoke with Jim Rea, the Assistant District Attorney, about this to see if we could orally amend the application to include the tract of Anchor. He pointed out the existing quarry that Anchor owns. The part of the quarry from 145th East Avenue is in Rogers County. Another portion that is shaded in green is an area that was granted a Special Exception and being mined. Another area belongs to Travis Cummings and his Cattle Company, and he showed other areas belonging to them as well. In the application where Anchor was shown as an applicant the property somehow got left off the legal description. Mr. Farris asked to amend the application to include this area. He said that everyone that received notice would have been about the other tracts as well.

Ms. Miller stated this happens occasionally when legal descriptions do not match up with the intended land area. It has not met notification requirements if it was not included in the area that was noticed both in the mailing and the newspaper.

Mr. Farris stated would like to proceed with area is noticed .

Ms. Miller stated that is what she would suggest as well.

Mr. Farris stated the land running along the Coulter Manufacturing Company is the area is that we seek the Special Exception for. He showed two houses that Anchor has purchased, and another three homes close to the quarry are also owned by Anchor. The sewer extension that was constructed, Anchor donated five acres to the City of Owasso so that it could serve the elementary school and Stone Canyon.

Mr. Hutchinson asked if the land that Anchor owns west of the Coulter property is not discussion. Mr. Farris stated that it is not, because they bought those homes for additional buffer. Ninety percent of the trucks travel to the heavy traffic way. About 10% of the traffic takes 66th Street North. The Greenhill Quarry is going to be much larger

and in operation much longer. If this Special Exception is granted, the hours of operation will remain the same for Anchor. The loads that come out will remain the same. There is no scale up increase of operations. This would extend the life of the quarry by giving it additional areas to mine. The blast to sheer off the limestone will remain the same. The only thing that will happen in the Tulsa County area is that there will be additional mining, the rock will be hauled back to the rock crusher, crushed, and then trucked out. There are a lot of eyes on us. The Department of Mines have monthly inspections and have strict regulations. The Department of Environmental Quality checks from time to time. The ATF have strict blasting rules under the guidance of the Oklahoma Department of Mines, and they do inspections as well. Citizens complain if noise or dust gets to be too much and file a complaint. Since Anchor has moved into Tulsa County, there have been no complaints. Not one sustained complaint of damage has been made since we have been in operations. In the exhibits 1-4 of materials that I submitted, attached is a seismology report. We have seismology readings taken with every shot, so we can make sure if a complaint comes in, we can show the Oklahoma Department of Mines the specific readings of the seismologist that show we are within the guidelines. Exhibit six in the materials is an aerial photo of the area. The area around the quarry when it was built in 1976 was uninhabited and now there are several expensive housing developments. The quarry has not inhibited growth in the area at all. The topography and geology of the area has outcroppings of limestone and sometimes it is as little as 3-feet from the surface. Limestone is a ubiquitous material. The character of this area is quarry centric. The mining company was here by this Board before and was denied and we appealed. Judge Morrissey overruled the Board and found that Board's findings were arbitrary and capricious considering the circumstances the Special Exception should be granted. That is just the background. He was happy to answer any questions.

Mr. Hutchinson asked how many more years of mining you anticipate there to be. Mr. Farris stated that 10-15 years minimum, but it depends on the depth of the limestone and that has not been determined.

Mr. Hutchinson stated that he assumed they have not taken core samples. Mr. Farris stated that the samples are very superficial and not what you would call a core sample. We have reason to believe this same depth and quality of limestone extends into the area we are wanting.

Mr. Hutchinson asked how many more years were left with the existing quarry. Mr. Farris stated that it depends, we still have more in a couple of places, but if the Special Exception is not granted, they may have 10-15 years left.

Mr. Hutchinson stated that before the Board had asked for any plans of expanding and there was not any at that time and asked if he anticipated any more expansion. Mr. Farris stated that they do not and that is why they bought these homes not to expand, but to provide buffering between the quarry and the neighborhoods.

Mr. Hutchinson asked what the plans are after all the mining is completed. Mr. Farris stated that it become a lake. Limestone is a great filter, but we do not know if it will take pumping water in, or natural rainfall will fill it.

Mr. Hicks asked if Mr. Farris could elaborate on Exhibit 5 and what the difference between the blue shading and the green shading except for the blue shading in the corner because it is not part of this. Mr. Farris stated that it was Cummings Land and Cattle in two different areas and land their children own in 5-acre tracts. The entire green area has previously been approved. Mr. Hicks asked if this request is only for the blue areas. Mr. Farris confirmed.

Mr. Hutchinson asked if they had been in touch with the Coulter Company. Mr. Farris stated that they had because Mr. Cummings operation encroaches on Mr. Coulter's land with the bump he was pointing to on the map. We want to be good neighbors and do not want to disrupt their operations.

Interested Parties:

Brian Dempster, 200 South Main, Owasso, Oklahoma, 74055, stated that he represented the City of Owasso and that he is the Community Development Director. In 2014, we overhauled our land use master plan. It is now called the GrOwasso 2030 Plan Land Use Master Plan. While the subject property does lie outside our city limits, it does lie within our fence line. We do have serious concerns about the negative impact that it would have on City of Owasso community. We do experience impacts from the quarry even in town sometimes. We get phone calls about it.

Mr. Hutchinson asked what negative impacts Mr. Dempster was talking about vibration from the blast or trucks. Mr. Dempster stated it was from the blast. There is not much noise inside the city limits, it is the blasting. The proposed expansion does not conform to our land use plan because that is called out for residential use. The industrial that we called out for land use plan was existing quarry, but we do oppose any expansion of the quarry because it has a negative affect on that area and areas closer to town. We have one development that pulled out of two hundred homes that was near that area. We feel that expanding the quarry will make it increasingly difficult to develop this area. We additionally spent about 6.1 million dollars on a sanitary sewer line running out to the elementary school in Stone Canyon. That is in a payback area. The area that they want to expand in was included in that payback area, so we will lose that area and proceeds. While Owasso is in favor of development, we believe in this case that the negative impacts associated with the expansion of the quarry outweigh the potential benefits. This does not go with our current land use and our land use before we overhauled it called out residential in that area.

Mr. Hutchinson asked when the city spent the 6.1 million to expand the sewer out to the elementary the City of Owasso had plans, whether 5 years or 15 years down the road and this land was part of the pay back. Mr. Dempster stated that they had included all the area that would use that sewer in the acreage and then there is a payback, and it is based on the acreage of land as it develops or plats, we get the payback. Mr.

Hutchinson asked if Mr. Dempster how far south your payback analysis went from where the existing sewer line goes across. Mr. Dempster stated that it goes all the way back to the City of Owasso. Mr. Hutchinson asked if it goes past 66th Street North or did it go down to 66th Street North. Mr. Dempster stated that it goes down to 66th Street North.

Tommy Coulter, 13711 East 66th Street North, Owasso, Oklahoma, 74055, stated that he was representing his family property. Their property is surrounded by the blue in the map. He was here in 2015 opposing the same thing, talking about our family's property, talking about the rock quarry, and talking about rezoning, for the green area. At that time, it was decided that not to allow those zoning changes to occur, subsequently it was taken to court and overturned by a judge. Mr. Coulter stated the presentation from Mr. Farris was well done, well spoken, well thought out, a lot of time and effort put behind it. It is very important to the well being of their business to be able to expand. We have a family-owned commercial window company that operates on this property. We have light fabrication and storage of light duty trucks and trailers to support all the construction that we do on site. His family moved here in 1990. Shortly after, the business was moved. Their business expanded over the years much like the rock quarry. We have applied for permits and we are currently as legal non-conforming use with Tulsa County. In addition, we built a large mixed-use development in downtown Owasso, and we own two restaurants there and we are currently one of the largest employers in Owasso. We have over 150 employees. My kids have gone to school there and I went to Owasso High School. I am strongly against this. My parents live in the house in the center of their property. We have never complained about the rock quarry. It is noisy and there is a lot of dust that comes from it. The blasting is loud and can be invasive at times. It has knocked pictures off the wall and caused cracks in finishes, dry wall, and paint. They were in operation when we moved in. When that quarry was opened in the 1970's, there was a known quantity of cubic yards of material in the ground that they expected they could mine and they expected those cost to would be and they knew what they could sell it for. He stated he is not angry about their effort to expand, but in 2015, we were told if they could not expand, they would go out of business. They stated that they had at the most seven years of mining. Now they have added this area of mining in this northwest corner, and they had the option to move south into Greenhill's property. With this expansion, the value of our property will decline by a large amount. He felt that if this is turned down today, that he will have to gear up a fight in court. He stated that he will fight this as hard as he can.

Mr. Farris stated that in response to Mr. Dempster, he would point out once again that the quarry has not had a negative impact on growth and with all the developments that have gone up around it, I would have to disagree. If Mr. Dempster was correct then why has Stone Canyon gone in, Hawk's Landing, and Stone Creek. We do not know why one development pulled out, was it because of flood plain issues, the limestone so close to the surface, or financing. We do not know why that group pulled out, but they need to show proof that it was the quarry. The sewer area and the payback area, we donated five acres of land to them for this purpose. The reason it cannot service the rest of Stone Creek is because of the limestone, so they had to go septic because the

limestone is so close to the surface. We understand that Mr. Coulter does not want us there, but we were there first. Your operation expanded and our operation expanded which is good business. I may not like what a neighbor is doing, but I can not prevent them from doing it if it is legal. The property that Mr. Coulter pointed out to the south is under contract with Greenhill Mining. Once again, we would submit to you that we have shown a compelling case for the grant of the Special Exception. The proof is that neighborhoods have continued to encroach on us, and people would not continue to buy especially these expensive homes if we were such a noxious use. You must get right up to the edge of the quarry to see it. It is not like a landfill that you can see and smell. The shots and blast that he was talking about, we have done the math and if you put all the shots together and did them one after another, it would take one millionth of the time in a year. The shots last less than a second. The shots are scientifically calibrated to interfere with one another to minimize the vibration and the noise. They go off within a split second of each other and cancel each other out with the vibration so that the vibration does not expand as far through the strata as it would otherwise. Everything that can be done to minimize the impact to the neighborhood. We must have limestone. It is not a noxious substance such as petroleum products that can be dangerous and catch on fire. It is used in many applications. Tulsa water is noted for its quality because it runs over a limestone bed. The Cummings family wants to monetize this limestone that they have in their property. Anchor has tried to impact by buying surrounding land so it can be the best neighbor possible. We respectfully request that the Board grant this Special Exception for the Cummings family.

Mr. Hutchinson ask Mr. Farris if he or anyone at Anchor sat down with Mr. Coulter or the City of Owasso to discuss any of the things such as how the city figured their payback on the sewer or how the Coulter's are feeling the impact of certain vibrations that have knocked pictures off the wall and would you be receptive to it. Mr. Farris stated that they have never had a claim. Mr. Hutchinson stated that he understood that. Mr. Snyder, one of the principal's with Anchor has talked with Mr. Coulter and Mr. Cummings has talked with them about the bump out. Over the years there has been a lot of input from the City of Owasso and lots of dialogue with the city.

Mr. Hicks stated that Mr. Farris had mentioned that the hours of operation were going to stay the same and what are those hours. Mr. Farris stated that production can start at 6:00 AM (they load the trucks), but haul outs cannot start until 7:00 AM and they go until 4:30 on the haul outs. There is a wetting area to keep the dust down.

Mr. Dunkerley asked if there were any plans to have additional access onto 66th Street North. Mr. Farris stated not that he was aware of. The entrance and exit will be the same. The stone will be blasted, hauled to the crusher, and then hauled out as it is now.

Mr. Hicks asked if there is a buffer requirement between property and where mining takes place. Mr. Farris stated that it is in the regulations and Mr. Snyder stated that it is 100-feet.

Mr. Hutchinson stated that at times we continue cases for a month or longer to give an applicant time to visit with other parties. Would you/Anchor be receptive to visiting with Mr. Coulter family and the City of Owasso. Mr. Farris stated that they would always be open to visiting with the other parties. Mr. Hutchinson stated that it does not always work, but if agreements can be sought sometimes talking helps.

Mr. Hicks stated that he would like to have time to read the binder with mining engineering information in it, and he would like to go over it. Mr. Farris stated that he would like to highlight a couple of things. On the last page of Exhibit 1, there are a couple of paragraphs that describe how the blast are timed to interfere with one another. On Exhibit 3 at 4.11 behind that is the section on blasting and routine inspections. Then behind tab two are the noise surveys where it points out the difference in the quarry noises and airplanes, motorcycles and things of that nature are at much higher decibels and last longer than the blasts. You will also see the inspections reports.

Mr. Dempster stated that the sewer area is covered in the payback area. It is over \$1,300 an acre worth of payback for that area is. We would be happy to meet with Anchor anytime. We have always had a good relationship with them. We are opposed any further expansion to the west that is encroaching closer to our city limits. Mr. Farris brought up Hawk's Landing and they are having a difficult time selling lots in there and the quarry does affect the area. We are opposed to them expanding to the west. We were under the impression in 2015 that it was the last time and here we are back again. When we were planning our land use plan, we understand that they would not be expanding any further.

Mr. Dunkerley asked about the sewer lines would service other areas. Mr. Dempster stated that they do not have to, but once they plat a piece of property in that area, they must pay the per acre back fee regardless of if they tie into it or not.

Mr. Hutchinson stated that if someone developed a ten-acre tract they then must pay the \$1,300 per acre pay back regardless of whether they put in the sewer or not. Mr. Dempster agree and only if they annex into the city limits. If they are in the county and they want to tie into that sewer, then they to make that payback amount to the city.

Mr. Hicks asked for another clarification on communication with the applicant and their operations when you talked about planning the city. Understanding is one thing, but when you are talking about planning the city are there any agreements, documents, or anything that show this. Mr. Dempster stated that there have been many meetings and a lot of things have changed since a lot of those meetings. With all the areas of growth, that area is hampered the most and it is due to the mines being there.

Mr. Coulter stated that he had a couple of comments. First, to Mr. Cummings, it was brought up a couple of times to recap that the little bump out area is 30-feet by 150-feet wide. Mr. Cummings let us move the fence line back so we would have adequate room to drive behind that building which we truly appreciated. He has been a great neighbor.

There is nothing personal going on. Mr. Cummings is doing this for his family. My only request is can we steer this ship south where there is a lot of area that is already zoned mining and not next to our home and business.

Mr. Hutchinson stated that he would like to see the applicant meet with the other parties, plus give us a chance to look through this report. Mr. Hicks stated that if it were continued, they could include the additional tract they are talking about as well.

Mr. Dunkerley stated that there may be some encroachment, or buffer areas that might lead to a compromise that you want to give that opening to. Mr. Hutchinson stated that he did not know if there was a compromise, but when you have three parties like this that are all open minded and business minded that could produce something to agree on or agree to disagree.

Mr. Hutchinson asked if the applicant would have any issues with meeting with the other parties if the Board voted to continue this until the next meeting. Mr. Farris stated that they would need sixty days and could amend their application to added in the Anchor section to it.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HICKS**, the Board voted 3-0-0 (Dunkerley, Hicks, Hutchinson all "ayes", no "nays", no "abstentions", Charney and Tisdale "absent") to **CONTINUE Special Exception** to permit Use Unit 24, Mining and Mineral Processing, for the continued use of a mining and mineral processing business (Section 1224) in an AG district (Sec. 310, Table 1) until October 18, 2022.

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-three (33), Township Twenty- one (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: commencing at the Southeast corner of said Southeast Quarter; thence S 89°54'45"W along the South line of said Southeast Quarter a distance of 1,108.07 feet to the point of beginning; Thence continuing S 89°54'45"W a distance of 210.00 feet; thence N 0°02'05" E a distance of 1,039.97 feet; Thence N 89°55 '00"E a distance of 210 feet; Thence S 0°02'05"E a distance of 1,039.93 feet to the point of beginning.

AND

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-three (33), Township Twenty- one (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof, being more particularly described as follows:

Commencing at the Southeast corner of said SE/4; Thence S 89°54'45" W along the South line of said SE/4 a distance of 1,318.07 feet to the point of beginning; Thence continuing S 89°54'45" W a distance of 210.00 feet; Thence N 0°02'05" E a distance of 1,039.98 feet; Thence N 89°55'00" E a distance of 210.00 feet; Thence S 0°02'05" E a distance of 1,039.97 feet to the Point of Beginning.

AND

A tract of land in the Southeast Quarter (SE/4) of Section 33, Township 21 North, Range 14 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: Commencing at the Southeast corner of said SE/4; thence S 89°54'45" W along the South line of said SE/4 a distance of 898.07 feet to the point of beginning; thence S 89°54'45" W a distance of 210.0 feet; thence N 00°02'05" E a distance of 1,039.95 feet; thence N 89°55'00" E a distance of 210.0 feet; Thence S 00°02'05" E a distance of 1,039.93 feet to the point of beginning, according to the Recorded Plat thereof.

AND

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-Three (33), Township Twenty- One (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State

of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows to-wit: Commencing at the South East corner of said Section 33: Thence S 88°39'38" W a distance of 867.26 feet to the point of beginning; thence S 88°39'38" W a distance of 30.00 feet; thence N 01°12'47" W a distance of 1,039.93 feet; thence S 88°40'08" W a distance of 1,752.65 feet; thence N 01°11'27" W a distance of 937.75 feet; thence N 88°38'00" E a distance of 1,323.32 feet; thence N 01°14'57" W a distance of 659.51 feet; thence N 88°37'30" E a distance of 1,322.65 feet; thence S 01°19'02" E a distance of 1,696.75 feet; thence S 88°54'16" W a distance of 669.31 feet; thence S 01°11'45" E a distance of 34.24 feet; thence S 88°39'51" W a distance of 197.03 feet; thence S 01°12'46" E a distance of 910.77 feet; said tract containing 3,478,925.45 square feet or 79.87 acres more or less.

AND

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-Three (33), Township Twenty- one (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: Commencing at the Southeast corner of said Southeast Quarter; thence S 89°54'45" W along the South line of said Southeast Quarter a distance of 1,528.07 feet to the point of beginning; thence continuing S 89°54'45" W a distance of

210.00 feet; thence N 0°02'05" E a distance of 1,040.00 feet; thence N 89°55'00" E a distance of 210.00 feet; thence S 0°02'05" E a distance of 1,039.98 feet to the point of beginning.

LESS & EXCEPT: (Tract described in that certain original Mining Agreement between Cummins Land & Cattle Co., L.L.C. and Anchor Stone Co. dated May 14, 2013):

A tract of land that is part of the Southeast Quarter (SE/4) of Section 33, Township 21 North, Range 14 East, of the Indian Base and Meridian in Tulsa County, Oklahoma, and more particularly described as follows:

Beginning at the Northeast corner of said Southeast Quarter (SE/4); Thence S 00°00'30" E and along the East line of said Southeast Quarter (SE/4) a distance of 1172.47 feet; thence N 89°29'52" W a distance of 1035.24 feet; thence S 00°34'19" W a distance of 407.68 feet; thence N 89°50'50" W a distance of 99.79 feet; thence S 01°21'52" W a distance of 28.51 feet; thence N 89°59'13" W a distance of 596.09 feet; thence N 00°23'28" E a distance of 937.68 feet to a point on the north line of the South Half of the Northwest Quarter of the Southeast Quarter (S/2 NW/4 SE/4); thence N 89°56'07" E and along said North line a distance of 405.85 feet to a point on the West line of the East Half of the Southeast Quarter (E/2 SE/4); thence N 00°02'37" E and along said West line a distance of 659.67 feet to a point on the North line of the Southeast Quarter (SE/4); thence N 89°55'04" E and along said North line a distance of 1322.90 feet to the point of beginning. Said tract contains 2,048,703.32 square feet / 47.032 acres.

The bearing base for said tract is S 00°00'30" E along the East line of the Southeast Quarter (SE/4) of Section 33, Township 21 north, Range 14 East of the Indian Base and Meridian in Tulsa County, Oklahoma.

OTHER BUSINESS

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 3:40 p.m.

Date approved: *David E. Alamo*
 10/18/22 Chair