

**BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 517**  
Tuesday, March 21, 2023, 1:30 p.m.  
Williams Tower 1  
1 West 3<sup>rd</sup> Street, St. Francis Room  
Tulsa, Oklahoma

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Charney, Chair	Tisdale	S. Miller	Nicholas Williams,
Hutchinson, V. Chair		S. Tauber	Legal
Hicks		J. Hoyt	
Houston			

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, March 15, at 11:35 p.m. as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

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Mr. Hoyt read the rules and procedures for the Board of Adjustment Public Hearing.

On **MOTION** of **Hutchinson**, the Board voted 4-0-0 (Charney, Hicks, Hutchinson, all “aye”; no “nays”; no “abstention”); to **APPROVE** the Minutes of February 21, 2023 (Meeting No. 516).

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**UNFINISHED BUSINESS**

**3034 - Ron Sterling**

**Action Requested:**

Variance to permit a detached accessory building in a side yard in an RE zoned district (420.2.A.2) **Location:** 26121 W 27th St S **(CD 2)**

**Presentation:**

Ron Sterling 2612 on West 27th. Sandy Springs, Oklahoma 74063 stated that he had bought a property that was started in 2018, right off Lake Keystone and we would be coming up here every weekend. Before buying, he did a lot of due diligence. He wanted to make sure there was not something wrong with it. He paid an independent building inspector to look at it to make sure it was structurally sound. Ms. Tosh stated that it was all permitted and all he had to do was renew the permits. When he went to finalize his permit, he ran into a Variance issues. They said that garage has been there for four

years is not allowed to be there. They said no that he had to have to get a Variance. He filled out the paperwork, sent the money in, did not read the fine print, and did not realize he was supposed to be here. He apologized for missing first two meetings. At this point, the garage has been there for four years. He knows all the neighbors, and no one seemed to have an issue with the building being there. It is a two-car garage. They said that he either had to attach it to the house or get a Variance.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Charney stated that he appreciated the background, sir. Currently, it looks as though we are not talking about the house. We are talking about the detached 20 by 30 garage and it is completed. What gave rise to this to the procedure of this case?

Mr. Sterling stated that he applied for a new building permit to finish the property because the house is not finished.

Mr. Charney stated it was the house that is partially completed.

Mr. Hutchinson asked if the original permit was it attached and then the original owner decided not to attach. And that is what brought all this up?

Ms. Tosh stated that she had several discussions explaining that but that is exactly what happened. It was it was an allowed use because it was attached, which the Code allows for it is an attached building, it can sit exactly where it sits. But at some point, they decided not to attach it because the house was lagging. It got convoluted, and we had to address the fact that it did not appear they were ever going to attach it. Then that gave rise to the need of the Variance because it was sitting in the side yard.

Mr. Charney stated that he thought he understood the status of the case and now how it arose. How far along was the house when you purchased it?

Mr. Sterling stated that the garage was finished, the house is framed, slabbed, and roughed-in plumbing. Citing everything except they have no power or mechanical.

Mr. Hicks stated that Mr. Sterling mentioned that he had acquainted yourself with the neighbors. Have you heard any comments positive or negative from your neighbors?

Mr. Sterling stated that they are all happy that he is finishing the house because it has been sitting there vacant it for four years.

**Board Action:**

On **MOTION** of **Hutchinson**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson, “aye”; no “nays”; no “abstains”; Tisdale “absent”) to **APPROVE** a Variance to permit a detached accessory building in a side yard in an RE zoned district (420.2.A.2), per the conceptual plan shown in our agenda packet on page 2.7. No follow up to this conditions of quality permits on the house itself will be met. Finding the hardship to be that this is a large tract of land is 1.25 acres zoned RE.

Finding by reason of extraordinary or exceptional conditions circumstances which are peculiar to the land structure and building all the legal enforcement of the terms of the code would result in unnecessary hardship that sets extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district. And the barriers to be granted would not cause substantial detriment to the public good or impair the purpose and spirit and to the code or the comprehensive plan for the following property:

**LT 8 BLK 1, LAKE SUBURBAN ESTATES, CITY OF SAND SPRINGS, COUNTY OF TULSA, STATE OF OKLAHOMA**

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## **NEW APPLICATIONS**

### **3045 - Halston McLaurin**

#### **Action Requested:**

Special Exception to permit a single-wide mobile home in an RS district (Section 410) and Variance to permit two dwelling units on a single lot of record in an RS district (Section 208). **Location:** 10735 W 54th St S **(CD 2)**

#### **Presentation:**

**Halston McLaurin**, 10715 West 54 Street, Sand Springs, Oklahoma, 74063, stated that the lot he wants to put his mobile home on was willed to him by his grandfather. His mother's house is on the same lot. But they had two houses at the same time. He tore down my grandfather's house and cleared a lot off to move me a mobile home out there. He has four children, and he is a single dad. This helps with having family close by with my kids His oldest is in ninth grade. He knows all the neighbors, most of the neighbors he is related to. They are all happy that he is doing this.

Mr. Charney stated that there were historically two residential units on this single lot. It looks from the aerial photograph, there was one site built home with a driveway right off the to the 54th Street and the other home was back off to the east of that. That is the where the new residents will be.

Mr. Hutchinson stated that he was assuming your house is going to face 54th Street. Will it have its own septic system?

Mr. McLaurin stated that he the septic and it was full of dirt. And I did go good estimate and dig it all up and stuff. But yes, it was septic.

Mr. Hutchinson stated that if it is approved on a single wide, it must have skirting, tie downs, and a concrete pad where you park, not the whole driveway.

Mr. Charney stated that if our Board were to approve your request for a single wide mobile home, we would make it contingent upon those that you meet those requirements that were just laid out.

#### **Interested Parties:**

No interested parties were present.

#### **Comments and Questions:**

Mr. Charney stated that he thought his family had the desire to take the old home down and put a new dwelling residence in place is an improvement.

#### **Board Action:**

On **MOTION** of **Hicks**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson all “aye”; no “nays”; no “abstains”; Tisdale “absent”) to **APPROVE** the Special Exception to permit a single wide mobile home in our district and a Variance to permit two dwelling units on a single letter of record in an RS district (Section 208), subject to the following conditions that the mobile home be tied down, that it has skirting, that it has its own power and septic system, and that the area where the car is parked the hard surface like concrete or asphalt. Finding the hardship to be that a lot is large, and that there was to look to residential properties on the lot originally.

Finding this Special Exception and Variance to be in harmony with the spirit and intend to the codes 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 procured delay in structure or building involves the literal enforcement of the terms of the code resulting unnecessary hardship and that such extraordinary or exceptional conditions or circumstances do not apply generally to the other property in the same use district and its variants to be granted will not cause substantial detriment to the public use it for the purpose period for the comprehensive plan for the following property:

**10735 W 54 ST S, CITY OF SAND SPRINGS, COUNTY OF TULSA, STATE OF OKLAHOMA.**

**3048 - David Hopper**

**Action Requested:**

Special Exception to permit a single-wide a manufactured home in an RS District (Section 410). **Location:** 1531 E. 69th St N **(CD 1)**

**Presentation:**

**David Harper**, 1531 East 69th Street North, Tulsa, Oklahoma, 74126, stated that he would like to put a mobile home on his lot and that he had one there before, but it burned down.

Mr. Charney stated that this is a replacement of the one that had been there previously. Looks like you have talked with about every neighbor in the area here. It may be important to the board to hear that the neighbors are all in supportive. Given the nature of you replacing one that had been there for a long-standing period, it is helpful for us to know that.

Mr. Hutchinson stated that there are some requirements for a singlewide mobile home. Your car either must be parked on concrete or asphalt, not the whole driveway just where you park your car. Also, you need skirting, and tie downs.

Mr. Charney stated that there are certain out there certain preexisting situations out there where there had been gravel for a long time. It has been a code and we understand that we respect that, and no one would cite you for one of those old situations, but moving forward a result of putting a new one on we have determined it is better practice and the County's Code requires if we were to grant this it'd be on a hard surface only where you park your vehicle every night. Also, we would require it is tied into sanitary sewer or septic systems.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

On **MOTION** of **Charney**, the Board voted 4-0-0 (Charney, Hicks, Houston, Hutchinson all "aye"; no "nays"; no "abstains"; Tisdale "absent") to **APPROVE** a Special Exemption to permit a single-wide a manufactured home in an RS District (Section 410), per the Conceptual Plan shown on page 4.6 of the Agenda packet, subject to the conditions being that proper skirting and tie downs, as well as proper attachment to the sanitary sewer for the city of Tulsa, including as well a condition that hard surface area for parking your vehicle and nightly basis, finding the hardship to be the preexisting nature of the home on this oversized lot that is larger than a standard city size lot.

Finding that by reason of the preexisting conditions, as well as extraordinary conditions of the vote of the size of the lot that are peculiar to this land, that enforcement of the literal terms of the code would result in a hardship and the granting this variance granting the special exception when these variants would not be in it would not impair

the public good or violate the spirit or intent of the code or the Comprehensive Plan for the following property:

**1531 E 69 ST N, CITY OF TULSA, COUNTY OF TULSA, STATE OF OKLAHOMA.**

### **3049 - Dala McLain**

#### **Action Requested:**

Variance from the all-weather parking surface requirement (Section 1340.D).

**Location:** 4950 W 21st St S (CD 2)

#### **Presentation:**

**Dala and Darren McLain**, 6313 South 33rd West Avenue, Apartment 626, Tulsa, Oklahoma, 74132. The building address is 4950 West 21st Street South is three quarters of a mile east of Chandler Park, in the high industrial area. Majority of that whole area is gravel. Some of the businesses have a little concrete. What we are trying to do is open a to-go only food truck, not on wheels. It is a 14 by 14 building that is just the kitchen. You walk up to the window and pick up from the other window to take with you. If there are any handicap needs at all, we would bring it right to your car. There is existing gravel for many years and we just like we just put new surfaces on gravel over it and kind of keep it with the same concept of the area around us and the neighborhood.

Mr. Charney stated that you are leasing a lot from a gentleman who had previously had a gravel sort of parking surface on a vacant lot.

Mr. Hutchinson asked if they were concerned about the dust from the gravel as they pull in.

Mr. McLain stated that he had not seen any dust. There are big 18 wheelers pulling around. Now there might be a little dust off on their property, but that is not anywhere near theirs. Where our building is located there is a lot of grass around it. Mainly the parking.

Mr. Hicks stated he noticed in the site plan that it has like three parking spots and one of them is handicapped and there was a hatched area. Is that area going to be concreted?

Mr. McLain state that they were not going to do that. That was if we had to, but then that is going to mess up all the grass and everything.

#### **Interested Parties:**

No interested parties were present.

#### **Comments and Questions:**

Mr. Charney stated that he also wanted the record to reflect that we did receive a letter from the County Engineering Office of the Planning Office that says that the County wants us to keep in mind that there is a reason or the all-weather surface parking requirement that there are reasons why they often prefer that. He wanted the record to reflect we have all seen that.

Mr. Hicks stated that a lot of those businesses in that area that are gravel and right across the street and things like asphalt mixed with gravel you go to the east, and it has

gravel. Now to the west, that individual has hard surface pavement, but you go to next door pavement is gravel, next door to him he is gravel. He never thought about concern about the food quality so that sensitive to that but as far as outside of that.

Mr. McLain stated that everything is in to-go boxes that will be clipped down and sent out.

Mr. Charney stated that this is a temporary structure, and so to require, the hard surfacing whenever you have a temporary structure is sometimes felt a comfort level if there is no dust issue. Maybe we can take the necessary dust abatement issues, if any arise to keep it wet, it is important to us that there not be dust working for us as well. If we were to make a condition to that effect, would you understand and would you abide by it?

Mr. McLain stated that he would.

Mr. Hicks asked Staff if there has been an issue or concern that derive this response.

Ms. Tosh stated that she believed it is kind of just in line with what you all mentioned before, even where you hard surface on a residence. At some point, they're just trying to clean some things up and start doing what the code requires. But she didn't talk to Barry personally about that.

Mr. Charney stated that he was respectful of the County's position. He would want them to know that our Board agrees with the basic premise and understands it. Sometimes we try and balance the intensity of the use, the temporary nature of the use, and kind of balance all that put it in a mixing bowl of trying to figure out what is the wise and fair and just result. Please let them know we appreciate the input and welcome to continue.

**Board Action:**

On **MOTION** of **Hicks**, the Board voted, 4-0-0 (Charney, Hicks, Houston, Hutchinson all "aye"; no "nays"; no "abstains"; Tisdale "absent") to **APPROVE** a Variance from the all-weather parking surface requirement (Section 1340.D). per the Conceptual Plan shown on pages 5.7 and 5.8 of the Agenda packet, with no conditioning, additional conditions, other than that, if complaints arise about heavy dust or problems arise from that, that the applicant would address that from whatever measures need to be whether it is wetting or replacing it with less dusty material. The hardship being that in the area where this property located is real heavy industrial, there are large, adjacent gravel lots next to it and it is harmonious to the area that is there.

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:

**4950 W 21 ST S, CITY OF TULSA, COUNTY OF TULSA, STATE OF OKLAHOMA.**

### 3050 - Kim Barber

#### **Action Requested:**

Modification of a previously approved Special Exception (CBOA-2698) to extend the time limitation for fireworks sales (Section 310). **Location:** 18574 E. 101st St S (CD 3)

#### **Presentation:**

Vance Barber, 7675 Franco Road, Tulsa, Oklahoma, 74131, stated that he wanted to renew a previously approved special exemption for fireworks in two different locations.

Mr. Charney asked how long you have been operating in the one that's before us here today on 101st Street.

Mr. Barber stated he had been there approximately 12 years.

Mr. Charney stated that this is just your previous approval period that has lapsed, and that was five years ago. Has it operated well during this interim period? Have there been any issues or problems? What were the previous hours of operation?

Mr. Barber stated that there have not been any problems during the past five years and that they open at 8:00 a.m. and close by 9:00 p.m. on normal evenings. Then on the July 3rd and 4th, when business is a little bit busier, we are usually open until about 10:00 p.m.

#### **Interested Parties:**

No interested parties were present.

#### **Comments and Questions:**

Mr. Charney asked the Board and historically, we have been comfortable doing these daunting for five-year terms to make sure nothing around the area develops in a way to maybe make it less than ideal. Given that there has been no complaints and it has been there.

Mr. Hicks stated that he did notice that the previous Approval the Board allowed them to open till midnight from July 1 to July 4.

Mr. Barber stated that sometimes if we are finished on the 4th, it takes a while to get everything broken down and then occasionally, we have somebody coming up later wanting to buy something as we are packing.

#### **Board Action:**

On **MOTION** of **Hutchinson**, the Board voted, 4-0-0 (Charney, Hicks, Houston, Hutchinson all "aye"; no "nays"; no "abstains"; Tisdale "absent") to **APPROVE** a Modification of a previously approved Special Exception (CBOA-2698) to extend the time limitation for fireworks sales (Section 310) for another five years, per the conceptual plans shown on page 6.7 in the Agenda packet, with the condition of the

hours being from 8:00 a.m. to 9:00 p.m. and then from July 1st, before the midnight if they so desire.

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:

**18574 E 101 ST S, CITY OF TULSA, COUNTY OF TULSA, STATE OF OKLAHOMA.**

**3051 - Kim Barber**

**Action Requested:**

Modification of a previously approved Special Exception (CBOA-2699) to extend the time limitation for fireworks sales (Section 310). **Location: 1065 W. 4<sup>th</sup> St. N (CD 1)**

**Presentation:**

**Vance Barber**, 7675 Franco Road, Tulsa, Oklahoma 74131, stated that he wanted to renew a previously approved Special Exemption for fireworks in two different locations. It is the exact same thing just a different location. This one is in Sand Springs. It has operated fine, and we have had no complaints from neighbors.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

None

**Board Action:**

On **MOTION** of **Hutchinson**, the Board voted, 4-0-0 (Charney, Hicks, Houston, Hutchinson all “aye”; no “nays”; no “abstains”; Tisdale “absent”) to **APPROVE** a Modification of a previously approved Special Exception (CBOA-2698) to extend the time limitation for fireworks sales (Section 310) for another five years, per the conceptual plans shown on page 6.7 in the Agenda packet, with the condition of the hours being from 8:00 a.m. to 9:00 p.m. and then from July 1st, before the midnight if they so desire.

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:

**1065 W 4 ST N, CITY OF SAND SPRINGS, COUNTY OF TULSA, STATE OF OKLAHOMA.**

**3052 – Jeremy Stoughton**

**Action requested:**

Variance of the minimum lot area and land area required and Variance of the minimum lot width from 150' in the AG district to permit a lot split (Sec 330)

Variance of the street frontage requirement in an AG district from 30 Ft to 9 ft (Section 207). **Location:** 6912 E 176<sup>th</sup> St. N **(CD 1) WITHDRAWN BY APPLICANT**

### **3053 - Nathan Cross**

#### **Action Requested:**

Use Variance to permit parking and storage of personal and work vehicles in an RS district, Use Unit 23 (Section 410) **Location:** 5723 S 35th W Ave **(CD 2)**

#### **Presentation:**

**Nathan Cross**, Two West Second Street, Suite 700, Tulsa, Oklahoma, 74103, stated that he thought the Board would be forgiven if they were confused as to why we are back. On this case, you heard this exact same case with these exact same facts. In August of last year, you approved the Variances. The story that my client told at that time, the story that this use has been going on. And by use, he meant storage of vehicles that had been going on for decades on this property. His client had been paying someone to store his personally owned commercial trucks, work trucks, owned the property, my client bought the property from that person, with the intent of continuing to do that not in any way, leasing out spaces to anyone else, to do the same for his own personal vehicles for overnight use. At that time, that he got here, he had gotten ahead of himself, he had torn down the house on the property that was known when the relief was granted last time. He constructed a building on the property and that was known when relief was granted last time. What has happened since then, is that my client has been at every turn rejected in some fashion by the county for permitting, and based on the packet that I think you've received that I got a copy of it appears that the County Staff believes from looking at the half built interior of a building that again, was already constructed, the last time we had this discussion. And a request for plumbing has ascertained that somehow something of a commercial nature that was not part of the previous discussion is now going on the property. He was here to tell you that is not true. He was doing exactly what he said he was going to do the last time he was here. He is here asking for another Use Variance in the interest of further clarifying what that use is. But it is not commercial. My client does not load anything. He does not store anything except the vehicles and occasionally, equipment on the back of a trailer on this property overnight and on weekends. His business is going to customers property, having the customer load the equipment on his trailer, driving it to a job site and then having the customer unload the equipment, he does not even own the equipment, and he did not sell the equipment. He stores the trucks here overnight. That is all he does. He would take any questions you might have.

Mr. Charney asked if he represented this client at the first hearing.

Mr. Cross stated that he did not.

Mr. Charney asked if there was a position that someone is taking that this was originally for personal use the way it was the way that it was discussed with this Board and that now it appears that there is more of a commercial use that he led on. Is that what is underlying?

Mr. Cross stated that he thought that might be the case. But the Minutes of the previous Board meetings when this was talked about do not reflect that. Everything he just said was said previously.

Mr. Hutchinson stated that we did say in the previous meeting, did not want any commercial activity.

Mr. Cross stated that he did, and he is not doing any commercial activity. He is doing exactly what he said he was going to do previously. The building is for his own personal use. It is not for working on his trucks. It is not for having an office to do any of his business as conducted elsewhere. It is for storing the trucks overnight and on the weekends like he has always done.

Mr. Hutchinson stated that looking at the framing of the inside looks me like it is a commercial frame like maybe office window.

Mr. Cross stated he did not know what you call commercial framing.

Mr. Hutchinson stated that it is where you look out into the shop because if he was not mistaken, he had mentioned that he was most towards Rat Rod and stuff like that.

Mr. Cross stated that he is going to work on it, there is a proposal for a bathroom, there is a proposal for other rooms, but he did not know that they are offices. To him it stretches the review process to say you can look at studs and say this is a commercial use.

Mr. Hutchinson stated that it looks to him like there are offices. Looks like one of them is an office.

Mr. Cross stated that if he finishes the building and starts conducting business, then we have a problem. But at this stage, we do not have that problem. All he has is studs.

Mr. Charney stated that he wanted to give your argument its due. He was trying to recall the last conversation which he cannot vividly recall, he was sure generally, could an argument being made that he is conducting business out there. His business is to move stuff. And sure, he does not move the stuff on the site. He takes his trailers elsewhere and loads them, moves the stuff to the next place and brings his trailers back, but that he's still operating a business, and this is where it is. That is where his tools of the trade are kept. But he did not know if we should be constrained to say that if he does not manufacture on site, he does not load on site, can it still smell and feel it tastes like a commercial use? I like your to help me with that, please. He respected Mr. Cross's legal background. But he wanted him to hear a little bit of what is bubbling up and maybe you can see at least the legitimacy of the question.

Mr. Cross stated that he understood that. He did not believe so. His position was that he came here previously, he told this Board, that he was going to store his personal

vehicles there and storage trucks there when they were not an operation. That is exactly what he is doing. He already has the relief in his opinion. He thought that his client's job is he parks those trucks somewhere at night. He is not making money while they are parked. He parks those trucks somewhere when they are not in use. That is where he parks it was where he has been parking them for several years, he spent seven years prior to this paying the person there who was running, he thought it was scaled commercial enterprise where he had rented it out to a bunch of people. It is a parking lot.

Mr. Charney stated that one of the things that he needed to think through and just think out loud with you, is there are times whenever we had a lawn care business, and they say we are just going to store our stuff here, and we bring it home here every night, all the lawns we mow are over on the other side of town, then we come back here, and kind of felt that that is operating a business or a commercial use out of the structure that they are in.

Mr. Cross stated that if he were doing a kind of mechanic work on it, which he is not, he hires professional mechanics to work on it, he does not know how to do it at that level. If he were he during the phone, out of the property, if he were scheduling routes out of the property, if he were meeting employees at the property for meetings in the morning, he could see all of that. But that is not what he is doing. It is the lot where they park the trucks. Normally, he is not emotional and things, this Board does not see me that often does some Staff here can tell you. He was frustrated, because at the heart of it, this story was already told. He did not know where the disconnect is, but he was not telling you a different story than was told previously. My client thought he got the relief that he needed previously.

Mr. Hutchinson asked if the applicant was just using it for storage, why install what looks to be commercial generator, and stuff for the building.

Mr. Cross stated that it was because he does not have electricity. Part of this that if you put yourself in the property owners shoes, and they pay a fee, and they come down here, and they go through a process, which takes a couple of different meetings, and then they have discussion with County officials on how they can use their own property. At the end of the day, he thought part of what has happened here is that the County has made their own interpretation about this property. And there has been some interpersonal issues that have my client is frustrated. He thinks they got the relief they need. He believes he is in the right. But he cannot get electrical permanent. He got one from the city. He did not do that intentionally. He hired electrician, electrician thought it was in the City. The City came out and permitted it, and then they took it away. The County shut him down because he is in the County.

Mr. Hutchinson asked if Staff could give us chronology of how this played out.

Ms. Tosh stated that they had an inspector here that could give the history of that.

**William Rutten**, 11910 South Quanah Avenue, Jenks, Oklahoma, 74037, stated that he is a Tulsa County Zoning Building Inspector. He was the initial building inspector on this project. His initial instance with the property was that he was called out there for more of a courtesy visit that was after like first Variance and the building was already built. We had a gentleman working with Mullen Plumbing, that was getting me out there to go over what needed to be done, to get the right inspections, and get it all correct. We talked about that. And then there was an electrical inspection for the getting a meter released to a building to get power to it. And there were issues with that that failed. After that we found out that it had power to find out from the city. That separate permit had been pulled through the City. He thought it was through Murray Electric and they had been given power. We contacted the City to ask if any of the things that had been wrong on our inspection had been corrected and we were told by the City that an inspector never went into the building that it was passed based on the outside. We called the electric company and said, we never passed it, we did not pull the power. And they did. Then went out there for a top out inspection. And it failed for a couple of various reasons. That is when he started noticing the commercial vehicles on the lot. Whether you were kind of talking about kind of the look and smell of what could be a commercial business. We went back and looked at permitting and realized it was permanent as a residential accessory building, and we looked at the minutes from CBOA. We realized that all the Variances were approved with personal use only no business, no commercial use. So that is when there was some discussion back and forth there. Then we ended up pulling the permits because it was not for residential use is kind of what we determined after looking at it. That is when we got the first Stop Work order for the property on 10-07-22. Then a few months later, we were out with the deputy Gonzales, Kerrick Edenborough and he to look at some of the properties. We were near this one, so we stopped by because it had been a while since we talked to them that was on the 12-14-22, and there had been more work done on the property. Business vehicles were still there, but more work on the structure on the that was when we noticed the there was a propane tank and there was a commercial diesel tank. We gave him a second Stop Work order at that time. We pulled his permits because no inspections been done. We told them, they need to come back to CBOA for a Variance for that. On 12-29-22, he just drove by because he was in the area. That is when he noticed the diesel generator had been installed. We then sent a Letter of Violation to remind them of what was going on. Yesterday, the deputy and he went out there and we looked at some of the license plates. It had come up on the original meeting that all of them were registered to his person. They were registered to the company. There were two vehicles on site that had the Bullseye logo on it and both of those registered to Bullseye Hot Shot. There were three semi's on the lot that are registered to another individual and one to another individual. We were verifying that there were non-personal vehicles on site was what we were looking at there. That is where he had the pictures up close to the tanks, and the generator. And there is a handful of various issues that would afford not to pass inspection just on the outside.

Mr. Hutchinson stated that no inspections had been completed.

Mr. Rutten stated that there has never been a pass inspection on site. There were two inspections called in, completed, and they both failed.

Mr. Hutchinson stated that if he read this correctly on the 10-07-22, you issued the first Stop Work order. Then you came back on 14<sup>th</sup> and he had installed a propane tank, HVAC, and those require permits.

Mr. Rutten stated that those required permits, the propane tank required permits, there was never a gas permit pulled off property. All of that required for an inspection. He has not been back inside the building since the 10-06-2022 when he took the pictures of the inside. Mostly it is just my pictures of driving by when he was in the area. A few times we have gone on to the actual lot. He was not on any of the phone calls. Those were mostly with Office Staff. That was back when he was an inspector. He is in the office more now. The only other comment we had was the street that he thought the first time we told him to use that entrance off 33rd. That is not a county road. That is a City of Tulsa easement for the pump station out there. So, to use that road permanently, would require a permanent easement from the City. It is addressed off 35<sup>th</sup>, which is that back entrance that is gated off that goes through the neighborhood.

Mr. Hutchinson stated that is the one just south of the storage building between it and the pop station.

Mr. Rutten stated that is the City easement.

**Interested Parties:**

**Leslie Davis**, 3333 West 57th Street, Tulsa, Oklahoma, 75107 stated that her mother lives right across the street from them also on 57th Street. Jessica Keith is here as well. And then we also had Mike Brewer noticed his disapproval of it. What she was thinking is he was saying a year ago we are at the same point. Well within a year, we used to see the guys email address was something hotshot company and we used to see a line of trucks coming in there and leaving at one time. This is an RS3 district, she did not think there was one piece of grass on the property. It is a big parking lot and that is exactly what it is. There are several semi-trucks. You would be hard pressed to make anybody think that was a home, or not a commercial. She counted four or five semi's just the other day, parked. They were parked. But it is hard to see because it is blocked off down that road. We have always known that he really did not have a right to come in there. But we did not want them to come down 57th Street by mom's house. She just wondered how many vehicles one person can call personal before it becomes a business. We are just seeing so many things that start out as a business and then they start expanding and expanding and then it is this nothing like what you thought it was going to be at the beginning. This has changed from what he was doing seven years ago. We knew it. We turned a blind eye to it. But things are changing over there. And we have concerns. Her mom has lived there for 62 years, and she has lived there quite a few years too. But anyway, that was her concerns is that we are worried about is what it can turn into. She thought anybody would look and go out there and say, it looks

commercial. And it is a big parking lot with trucks in it. And if you are driving by in a big industrial building, she thought you would say there is a trucking company.

Mr. Charney thanked her for taking the time to speak with us. He appreciated it. Thank you and other than your mother because you spoke eloquently on her behalf.

**Richard Gonzales**, 303 West 1<sup>st</sup> Street, Tulsa, Oklahoma, 74103, stated that he is a Sheriff's Deputy with Tulsa County Sheriff's Office. His current assignment is that he is assigned by the Sheriff's Office to zoning inspections, as well as he investigates all the elder abuse cases for Tulsa County Sheriff's Office. Under your leadership, Mr. Charney at Tulsa Tech he served as Director of Safety and Security.

Mr. Charney thanked him for giving that time and appreciate the good work that you all do for us.

Mr. Gonzales stated that he to clarify a couple things. The first thing is when he accompanies zoning and inspections to a property, one of the statutes that can be violated on areas that where cars could be stored is State Statute, Title 4711, 51.6. You cannot have a vehicle that is on the property with the tags that are due to state. One of the things that he does in that capacity is make sure that the tags are paid up to state. That the taxes are paid. In that scope of the work that he does, two of the tags were registered to a Bullseye Hotshot. Which he wanted to clarify that while we would be conducting that type of investigation, so as you know from my previous time here as we work in environmental crimes at the Sheriff's Office as well. The other thing that he wanted to make sure that everyone knew, Mr. Rutten was not there at the time. When he was waiting for him to arrive to do what he needs to do on site, he did see a vehicle leave with Bullseye Hotshot on the side of it with cargo in the back of the trailer. Whether that cargo came from somewhere else or originated from there, he did not know. But it left with cargo (a long the pipe) on a trailer that it was with the company logo on the side. He wanted to make sure that you know those trucks just do not stay there and then go somewhere else. There actually is cargo that comes from that site that he did witness.

Mr. Charney stated that it is helpful for us to hear Mr. Gonzales. Thank you for clarifying those points and for speaking to us.

**Rebuttal:**

Mr. Cross stated that he would take the last comment first. Deputy Gonzalez said he does not know where that cargo came from, and he does not know. We could go out there today, and you are not going to find equipment laying on the side. The equipment belongs to my clients customers. They loaded it. They are responsible for loading it. He is responsible for transporting it. His company is and he is responsible for dropping it, at which point the customer takes possession of it. In other words, that is all he does. To insinuate that it comes from the site because it was exiting the site is not any more accurate than to insinuate that it comes from somewhere else. There is no evidence one way or the other, to where it comes from. He does not own the equipment. His

customer does not want him to take the liability of handling the equipment. It is their equipment. He only transports it from their location to the job site. That's all he does. Occasionally, they will store the truck overnight, or the trailer overnight, maybe the truck too, or on the weekends. But he thought that is rare, but it does happen.

The point he was making when he first got up here is we can discuss the distinction between commercial use and personal use. But the way he sees this case, the way he read this case, is that a factual scenario was laid before this Board previously. That factual scenario is no different today than it was that then. If we are going to say that because a truck is tagged to Bullseye Hotshot Incorporated, that means its business. Well, what if he tagged that in his personal name? Does that change anything? He does not know. He does not know that it does not, or he does not know that it does. His client came here, his client told you the same story that he is telling you right now. And got relief, he thought he had all the relief he needed. This has gone on, because of he thinks there are likely people, folks at Staff who understandably believe that they have been marginalized in this process, because he has maybe flaunted the rules in their opinion. But you must understand that, from his perspective, he thinks he got the relief he needed. He thinks he is doing what he is allowed to do, because he came in here and he told you a story. His client told you the same story he is telling you today. And he got relief. He and his client do not understand the distinction that is being made here between what we are talking about today and what we were talking about in August.

Mr. Hicks asked that related specifically to the building, his understanding is that he is wanting to put the plumbing in it what is the service for.

Mr. Cross stated that it was for a bathroom with a shower.

Mr. Hicks stated that he did not know if Staff is that residential deal is now a dwelling unit. We have had other instances where people historic building second, they put a bathroom in areas now it could be a dwelling unit.

Mr. Hutchinson asked if he went into detail. He understands he thought he was in the right. Being in the right if he so desired or he so thought, could you address why his continuing to do work after he has at the Stop Work orders issued and he defied them and continued to installing stuff that typically needs inspections.

Mr. Cross stated that he thought that there was some frustration on his part, he thought there still was. He thought that his client hoped for a period that he could work this out with the County. He and his client certainly did not understand it. He was trying to move forward and use the property the way he intended to use it, which currently is in that building is storing his personal stuff and working on his boat and hotrod. They have been there for a while. So, my client has been frustrated by the whole thing. And he thinks understandably, so. He did not know that it is any one person's fault that frustrations may be boiled over into where they have between Staff and my client. But to address your question, it is because he thinks he is in the right.

Mr. Hutchinson stated that even if he was in the right there is still another that is a totally different layer of getting inspections.

Mr. Cross stated that he thought well that his client held out hope for a long period of time that this could be worked out. When he got hired, he thought it could be worked out.

Mr. Hutchinson asked if Mr. Cross had been to the site and does it look commercial to you.

Mr. Cross stated that it looks exactly as described. He was not dodging the question. He does not know what commercial looks like. But it looks exactly just as described the last time this Board heard about it has got a 40 by 60 metal building and it is all gravel. He understood that it has been gravel for decades.

Mr. Hutchinson stated that when he drove by it sure looked commercial because of the propane tank, and the generators. He said he installed because he could not get electrical.

Mr. Cross stated that he did not know how the story he was telling today is different than the story that he told last time. He is not doing anything different on the property that he told you he was going to do on the property when he received his approval last time.

Mr. Hicks asked as far as the number of vehicles, he knew previously just looking at the Minutes he kind of gave a range of number of vehicles he would store on the gravel. Has that number changes? It sounds like there are more there now than what he had indicated previously.

Mr. Cross stated that he did not know what he indicated previously. Do you mind if I ask him? He said he has got four trucks and two semis that he stores on site periodically when they are not out and then his personal vehicle goes home with him.

**Comments and Questions:**

Mr. Charney stated that we will temporarily close the public comment portion of this. He would Staff about the transcription of the minutes of the previous meeting, those have been read by Staff and after reading those, Staff determined that what was occurring out there right now is occurring, it needed additional approval. Is that a fair summary of the Staff?

Ms. Miller stated that she has her Staff and Teresa Tosh has her Staff from the County. I think truces as well, first Staff that has really been working.

Ms. Tosh stated that their main concern was not only the request that is before the Board right now, but it is also not what we left the Stop Work orders for and each conversation, and each visit that we have been out there and then even been denied entry into the building or to the site. It has been because of the commercial activity,

which is not being addressed today. It is just the outside storage if she was understanding that right. So that is kind of convoluted and that too, and then also that entry from 33rd, that it is not really a public street, that kind of muddies the water too. She hoped that answered your question.

Mr. Cross stated that frankly, the 33rd Street entrance is between us and the City of Tulsa, this is a conforming lot. It has an entrance off a public street, we have stipulated in previous Approval that we would not use that entrance. If the City of Tulsa were to block us from using 33rd, then that would be our problem.

Mr. Hutchinson stated that he was not familiar with the streets. Is 33<sup>rd</sup> the one in between the pump house and ministorage or is that the one to the north?

Mr. Cross showed Mr. Hutchinson on a map where 33<sup>rd</sup> was.

Ms. Tosh stated that 35th is his legal entry that he is entitled to. But neighbors complained about that. So, the Board last time said, we would rather he use this not knowing that that wasn't a public street.

Mr. Hutchinson stated that the City of Tulsa owns that, yes, it is just an easement. And then you are saying it is between your client and the city of Tulsa where he accesses his property.

Mr. Cross stated that he would further tell you that the assumption that in some way we could not work with the City of Tulsa. And that is also a fallacy.

Mr. Hutchinson stated that he did not know about he had heard that. He just wanted to make sure he had the streets.

Mr. Cross stated that it is a conforming lot. It has public street access; we have just agreed not to use it. And if we were blocked from using the 33<sup>rd</sup> Street entrance, then we have other problems. He did not want to belabor this. And he knew the Board was in somewhat of a discussion. When Staff talks about us not being here for the issue that they are talking that goes right to the heart of the whole discussion, we are saying it is not commercial activity. It is outdoor storage, as is allowed by Use Unit 23. That is the request in front of me. That is the request you have already approved. But we are back here to somehow refine it. We will stipulate within the Use Unit 23, that we will only do things within that man uses that are consistent with what we have talked about today. We are not asking for a commercial to use it as a commercial.

Mr. Charney stated they were back to discussing amongst themselves. Any other thoughts that we can speak from amongst ourselves about what we recall from last time or frankly and relief that is requested is in front of us today.

Mr. Hicks stated that he had a few things. First, this one, he was wondering why it was here again. He went back and he had remembered a lot of stuff. But then he just kind of

separated his memory and just went straight to the notes, because that is there. And just a couple of things, he wanted to point out. When he came here twice, it was under the same 2984. When he came the first time, he said he will still have trucks a couple of one times in a trailer, we do not operate our office there, or is it an income producing property. And then he talked about the building, putting personal stuff, only using it for personal storage. And then when the applicant came back, per the notes in the presentation he says he stated that he bought the property for his own personal use, and not for commercial use. And then further through the discussion point in a rebuttal, the applicant does state that this is for storage use of his personal vehicles, nothing has changed from the past decade. My memory of the deal was that the building, there's two things is a building that he remembered and then there is the yard. The building was for storage. So, he views that in my mind that storage is an open building that he pulls vehicles in, and that there's not an office or not plumbing, it was just for storage to work on his vehicles. He looks at the yard and he think about my memory and reading the notes that he was going to maintain and use that for his nightly drop off of his company vehicles.

Now, there is a question here, what was commercial and what was noncommercial? And you brought up a good point in your thought about that landscape guy? Both vehicles in his in his yard at his house was and now commercial business or not? He was not prepared to debate that or not. But he believed his understanding was that he was going to bring a couple of hotshot trucks there in the evening, leave them overnight, he will get them in the morning, go run his business, park them there in the weekend. But it was just going to be a couple of sounds like there's more than a couple now. So, it sounds like because he read the meeting notes, it touched on both things. The he goes and read the Motion and he did the Motion. He read the motion specific to the yard. It states this is not, for business, nor for commercial use that leave that was based off his initial presentation during his second presentation. So, the minutes are confusing themselves.

Mr. Hutchinson stated that he was of the same opinions as Mr. Hicks in that the picture right here it shows there are five semis right here. In that one picture he can understand where there is confusion on commercial versus noncommercial. My question is, if he went and had this rezoned, and it clears up some to mud, but you still have the issue of all the work that has been done about inspections, which he can understand being upset when an individual will say at the County, but he is not going to defy them and throw more and more and more to make it worse. You said he could do this, so he is going to do this. That is just making it a little bit worse. And because their job is to make sure the stuff is installed properly. A lot of us do different things. We must have inspections. We rely on the inspectors to do what is right. If the inspector gave me something that he disagreed with, and he would say hey, he disagrees because of this. He was sure he would show him a code, or he was correct, and it is still wrong that would still fix it. He did not like the fact that you continually clarify that Stop Orders and that this really, really is spilling more and more mud into the water. That is where he had an issue and then whenever he drove by, in my opinion it looked commercial, and he remembered we did not want commercial activity going on. My opinion and maybe it is

wrong, that whenever he voted that, use it for personal storage and have a couple of trucks there. He remembered the Rat Rod incident. You know, you park your rat rod in there and you know show up every now and then. He can understand you put your truck in there one ton to park it up in your car and go home. When he drove by it did not look to me like that's what's happening. He personally has an issue, he would rather see him get zoned commercial go through the inspection process, make sure everything is done properly.

Mr. Charney asked if the matter before us that you action requested in the previous application, was it also entitled to that identically entitled a Use Variance permit parking or was it styled different? We will know if this is the same matter before us today as then.

Mr. Hicks stated that looks a bit different. He read the Minutes differently.

Mr. Charney stated that the matter that is before us today is we have got a Variance request before us today to permit parking and storage of personal and work vehicles in an RS district. He wants the Board to just keep that in mind that is the actions before us today that we must address. Can Staff help me at all with was it in your mind with was this is this the same application that came to us before is a different application.

Ms. Miller stated that when she looked at the case last time here as well, it was outdoor storage. The presentation started off with the applicant saying he bought this property for his own personal use and not commercial use. It was the assumption of the Staff that it was not a commercial use. It was not for work vehicles. It was just for personal use, like you said and for others.

Ms. Tosh stated that she read the minutes too and it did get a little confusing because there would be there was mentioned NOT FOR COMMERCIAL USE but looks like you, read them very carefully and they would say but occasionally work truck might be there. And then there was some discussion as to how many and but then when there was never commercial activity there and that was agreed upon and all the handing down of the decrees the Motions said that over and over NOT FOR COMMERCIAL USE provided there is no commercial use there. Now to what is before us today is to allow the work or the commercial tracks. That is the way she saw it.

Mr. Hicks asked if it was to allow for commercial use or allow for just parking of commercial vehicles. Because the way he read is to allow for parking of personal and commercial vehicles. Does that mean it is now commercial use.

Ms. Tosh stated that the way she saw it was once you start parking commercial trucks for commercial use creative commercial use.

Mr. Charney stated that he appreciated this input for clarification. This is an unusual and complex procedural posture we find ourselves in.

Mr. Houston asked if that changes anything from a perspective of the inspectors coming out and giving Stop Orders because of the work has been done on the building.

Mr. Charney stated that was good question. He thought that the land use planning would be separate from the permits required. He was not certain, but he believed that I might ask our council to weigh in on that issue as well.

Mr. Williams stated that the way that he understood this request, it is not pertaining to the building itself, it is strictly for the purpose of storing the vehicles.

Mr. Charney stated that if there were still permitting deficiencies, that is different matter, separate department until have enforcement mechanisms there.

Ms. Tosh stated that she would add one other thing having to do with without arguing with interpretation that Mr. Cross has about that frontage is anytime we permit something, we do require it they have legal access, they have a written filed easement as a condition to the Approval. We've done that many, many times in the past, we do not consider that their problem between them and someone else. We required that. And the fact that the trucks have no way the semis can get in on that other road. And that's why the Board said to use that, and she would take the brunt of that, too, that she did not realize that was not a public at that time.

Mr. Cross asked Mr. Chairman, you are in discussion. I do not want to cut Miss tall Shaw. If you're done, are you done? He was not aware of anywhere in the code that that is a requirement. We have legal access. She is telling you that they require that he did not know what the basis is for them to be able to requirement. They can require a lot of things. There must be a basis for it some more.

Mr. Charney stated that he appreciated his comments. He wanted him to know historically, he thought that where Ms. Tosh was coming from was probably in good faith. Many times, we require before we conditioned the granting of certain relief, certainly up on up on a publicly recorded document, providing ingress and egress that we to the best of our ability can ascertain provides. He thought that was where she was coming from.

Mr. Cross stated he would certainly understand that in the case where a property is land locked and does not have street access. This is a conforming lot as it sits. And again, we if the City is also to stop us from using it, then we would have other problems.

Mr. Charney stated that he thought that though, we want to make certain that we got our questions answered to your satisfaction, and he is going to paraphrase to the best of my ability that regardless of how we vote here, there may or may not be permitting issues that that still must be satisfied. There they're there. Very often we will grant some land usage, land use planning concept, and with permitting requirements, still needing to be satisfied after the approval of a land use approach. It would lay the foundation but then move forward. He thought it was then the issue of permitting them to be right again. He

was going to have to see right now we have Stop Work orders in effect because we believe that no permitting was done.

Ms. Tosh stated that the Stop Work orders were in regard for the business, commercial use, allowing for the parking of the outdoor parking does not sever our responsibility of the commercial use that is going on there when it was not approved.

Mr. Houston stated that they are approving it for the parking of the trucks. That does not deal with a separate issue.

Mr. Cross stated that they would love to get a permit. They would love to get an inspection. If they keep getting stopped, because there's an interpretation that this is a commercial use. That is where we are.

Mr. Charney stated that what is before us is this request for the storage of personal and work vehicles. As he recalled, a general discussion that made me feel comfortable that there was not a commercial use on the site. Until he reread the minutes with great care, he could not get my opinion on precisely what was said, or even what he might have said or meant. He tries and do that every evening when he gets home for dinner, and he cannot even do that. He certainly did not know what he did a year ago. But he did remember the general theme being one of we did not feel that commercial use was going to be there at this point. Whenever he sees the idea work of vehicles, he did not know that he could bubble up a Motion. He guessed he should leave it at that the Chair would entertain a Motion if anyone cared to make one to approve the Variance as requested. If we choose to, we can vote on the that up or down. Then if there was still an interpretation issue that may be beyond us. He might seek our counsels opinion on that. But whether what is occurring today is commercial or non-commercial, that may be an issue that a third party, arbiter or third party must decide. What is before us today is this. And if someone wishes to make a motion on this, to permit the storage of personal and work vehicles, he guessed the word work, he viewed that as commercial in his brain. He did not know exactly how each person does. He was going to let everyone have the freedom to make a Motion. Our applicant and his counsel deserve us deserve the action in this board to either make a motion to approve or deny, so that they can go their respective way and try and determine what's best to do.

Mr. Houston asked if they could put as a condition of a certain number of vehicles.

Mr. Charney stated that was certainly possible. If we care to make a motion, and we were to condition, that motion on certain items, such as the number of this or number of that we do that with frequency that someone cares to do that. They should feel free to do that. And that is not uncommon for us to. He was curious if anyone would care to make a Motion to either approve the Variance as requested, approve the Variance as requested with conditions, or a Motion to deny the Variance as requested. Those are our choices.

Mr. Charney asked if anybody care to make a Motion. (No one answered.) He thought.

that then it would be incumbent upon the chair to make a Motion. We are going to recite the Motion. And then we can see if it dies for lack of second or if it is seconded how we would vote from that point forward.

Mr. Hicks stated that he did not like the semi's that are parking there. That was a concern for the neighbors previously. The applicant originally told us there would not be semi's parking there.

Mr. Charney stated that he appreciated the comments. He understood the frustration of counsel regarding review of previous minutes. He would like to think that we generally do a pretty good job with those we may not always we do our darndest to try. He understood the frustration of the applicant and counsel to and his counsel to be frustrated with that. He could only decide in good faith to members of our community, and our Staff that we felt as though there was a granting that was not commercial in nature. That was what was in his mind. So, with that he was going to leave the comments alone. Anybody else care to make any more and he was going to go ahead and call the question.

**Board Action:**

On **MOTION** of **Charney**, the Board voted, 4-0-0 (Charney, Hicks, Houston, Hutchinson all "aye"; no "nays"; no "abstains"; Tisdale "absent") to **DENY** the Use Variance to permit parking and storage of personal and work vehicles in an RS district, Use Unit 23 (Section 410), on the following property:

**5723 S 35 AV W, CITY OF TULSA, COUNTY OF TULSA, STATE OF OKLAHOMA.**

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**OTHER BUSINESS**

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**NEW BUSINESS**

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**BOARD MEMBER COMMENTS**

Mr. Bond asked if we could discuss appointing a new secretary at the next meeting.

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There being no further business, the meeting adjourned at 1:57 p.m.

Date approved: 3/28/23

Adam Bond  
Chair