

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 490**

Tuesday, January 19, 2021, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, OK

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Hutchinson, V.Chair Crall, Secretary Johnston Tisdale	Charney, Chair	S. Miller R. Jones Sparger	

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 14th day of January, 2021 at 8:52 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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

MINUTES

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the Minutes of December 15, 2020 (No. 489).

UNFINISHED BUSINESS

2857—Rick Clark

Action Requested:

Use Variance to allow storage of personal items (Use Unit 23 - Section 1223); Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E). **LOCATION:** 11802 East 140th Street North

Presentation:

The applicant has requested a continuance to February 16, 2021.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **CONTINUE** the request for a Use Variance to allow storage of personal items (Use Unit 23 - Section 1223); Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E) to the February 16, 2021 Board of Adjustment meeting; for the following property:

LTS 1 TO 12 INCL BLK 17, HIGHLAND PARK ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

2866—McKenzie K. Vermillion & Robert Hopper

Action Requested:

Special Exception to permit a Horticulture Nursery in an AG-R District (Section 310, Table 1). **LOCATION:** 13818 North 92nd East Avenue

Mr. Hutchinson informed the applicant that he would be recusing in this case, and if the case were to proceed today it would require an affirmative vote from all three Board members. Mr. Hutchinson asked the applicant if he would like to ask

for a continuance or proceed today. Mr. Hopper stated that he would like to have a continuance until February.

Presentation:

The applicant requests a continuance to February 16, 2021.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of TISDALE**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **CONTINUE** the request for a Special Exception to permit a Horticulture Nursery in an AG-R District (Section 310, Table 1); for the following property:

BEG 1160.63N & 329.71W SECR W/2 SE TH W659.41 N165.81 E659.4 S165.81 POB LESS W30 & E30 THEREOF FOR RD SEC 25 22 13 2.282ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2867—Michael Swaffer

Action Requested:

Variance of the side setback from 15 feet in an AG District (Section 330, Table 3).

LOCATION: 12815 North 143rd East Avenue

Presentation:

Michael Swaffer, 12815 North 143rd East Avenue, Tulsa, OK; stated he had a building installed before he realized he needed a permit; it is 8’-3” from the side property line.

Mr. Hutchinson asked Mr. Swaffer if the building was completed. Mr. Swaffer stated the building is not complete, but the main supports are in the ground but the foundation has not been poured.

Mr. Hutchinson asked Mr. Swaffer if there was an electric line that ran through his property near where the building is being placed. Mr. Swaffer answered affirmatively. Mr. Hutchinson asked Mr. Swaffer if the electrical company had a ten foot easement. Mr. Swaffer stated that it is possible, stating that he has another building on the property that has been there since the 1980s and it is five feet from the side property line.

Mr. Crall asked Mr. Swaffer to state his hardship for the Variance request and explain why it is necessary to place the building so close to the fence. Mr. Swaffer stated he

had placed the building in that spot before he was aware of the zoning regulations. Mr. Swaffer stated he called the City in advance and was told he did not need any permits. It was not until he called the electric company and the electric company asked him about the County permit.

Mr. Crall asked Mr. Swaffer to explain about the state of the building as it currently exists today. Mr. Swaffer stated there is no foundation or footings poured but he does not think he could move it.

Mr. Crall asked Mr. Swaffer if he has spoken with his neighbor about the building. Mr. Swaffer answered affirmatively stating that the neighbor has no issues.

Mr. Hutchinson stated that he has concerns about the electric lines that exist because the ten foot easement on either side of the power line is for safety measures; this is a high power electric line.

Mr. Hutchinson asked Mr. Swaffer where his septic field is located on the property. Mr. Swaffer stated that it is south of the house and the lateral lines are south and east of the house.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Johnston stated he can reluctantly support this request because from experience the electric company can charge a customer just about anything they want to to relocate lines. He thinks it would be more cost effective to move the building poles and be in compliance.

Mr. Tisdale stated if the Board were to approve this request the applicant could make that decision later.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a Variance of the side setback from 15 feet in an AG District (Section 330, Table 3), subject to conceptual plans 4.11 and 4.12 of the agenda packet. The Board has found the hardship to be that the property is open area and there are not any other buildings close to the subject site, therefore, reducing the setback does not adversely affect the concept of the setback. Finding that by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

S220 N1980 E/2 E/2 SE LESS W25 THEREOF FOR RD SEC 33 22 14 3.21AC (TR 9 PH 1), OF TULSA COUNTY, STATE OF OKLAHOMA

2868—Jerry Gordon

Action Requested:

Variance of the rear yard setback in an AG District to permit a pole barn (Section 330, Table 3). **LOCATION:** 1376 East 181st Street South

Presentation:

Jerry Gordon, 1356 East 181st Street South, Mounds, OK; stated he purchased the subject property a little over a year ago and there was an existing pole barn on the property. He was going to re-skin the barn so it would match the house and he called the County to inquire about permits and was told that no permit was required for the re-skinning. When he started the re-skinning process the pole barn fell apart. So he started reframing it and the County told him that he would need a permit because it was a rebuild. After he rebuilt the pole barn the County came back and told him he needed a Variance because of the 40-foot rear setback.

Mr. Hutchinson asked Mr. Gordon if the new barn was the exact same footprint as the previous barn. Mr. Gordon answered affirmatively.

Mr. Gordon stated there is no house within 1,000 feet in any direction of the pole barn. The property is out in the country and he had no idea about a 40-foot setback, and there are no utility easements there. The original pole barn was built in 2005.

Interested Parties:

Joseph Lang, 502 West 6th Street, Tulsa, OK; stated he is in attendance today on behalf of Mr. Wade Brumley who owns the adjacent property to the west. Mr. Lang stated that he does not think there will be any issues, it was not entirely clear from the application about the Variance. It appeared that the Variance covered the entire property as opposed to the slab that that current pole barn sits on. Mr. Lang stated that he does not think there will be any problem as long as the Variance permit excludes the pond or restrict any draining of the pond, because that would affect the adjacent land owner who raises cattle.

Comments and Questions:

None.

Board Action:

On **MOTION** of **TISDALE**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a Variance of the rear yard setback in an AG District to permit a pole barn (Section 330, Table 3), subject to conceptual plan 5.8 of the agenda packet. The Board finds the

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

BEG 258.45S NEC GOV LT 4 TH S525.10 W511.67 NW799.95 TO PT ON NL GOV LT 4 E254.97 S78.80 SE189.08 SE164.30 E137.96 POB LESS N50 THEREOF FOR RD SEC 6 16 13 8.378ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2869—Elias Investments, LLC

Action Requested:

Variance of the side setback from 15 feet to 10 feet in an AG District (Section 330, Table 3). **LOCATION:** 10762 North Sheridan Road East

Presentation:

Edward Corey Elias, Elias Investments, 3113 West Elgin Street, Broken Arrow, OK; stated there is an existing barn and he would like to make it larger. The request is a five foot Variance request. Mr. Elias stated he has a signed letter from the next door neighbor stating that the neighbor has no issues with the project.

Mr. Hutchinson asked Mr. Elias if the air conditioners were east of the proposed addition. Mr. Elias answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a Variance of the side setback from 15 feet to 10 feet in an AG District (Section 330, Table 3), subject to conceptual plans 6.26 and 6.27 of the agenda packet. The Board finds the hardship to be the topography and existing lateral lines. 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 N/2 N/2 SE SE SEC 10 21 13 5ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2870—Michael and Amy Thayer

Action Requested:

Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30 feet in the AG District (Section 207). **LOCATION:** North and West of the NW/c of West 35th Street South & South 177th West Avenue

Presentation:

Amy and Michael Thayer, 3441 South 184th West Avenue, Sand Springs, OK; stated she owns two 8-acre parcels and one of the parcels is land locked. She would like to combine the two lots and then split off 2.25 acres for her daughter. There is only 30 feet of frontage for the entire 16.6 acres thus the Variance request. This request will create a flag lot and she has had the property surveyed to show the property after the combining and splitting. There is a common access easement that is in place for the utilities and the access.

Mr. Hutchinson asked Ms. Thayer if she had had an attorney look at the legal to make sure everything is done properly, because the Board wants to make sure that she will be able to sell in the future or that financing is in place. The bank will make that access to the utility easement is sufficient.

Ms. Thayer stated that there are other properties that are between 2 acres and 1 acre lots. None of the neighbors have an issue with her request.

Mr. Hutchinson asked Ms. Thayer if she would have any problems if the Board placed a restriction of no more lot splits without platting the property to avoid a wildcat subdivision. Ms. Thayer stated that only other split that has been discussed is concerning their three children, so she may want to split the property one more time for them.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a Variance of the minimum frontage requirement on a public street or dedicated right-of-

way from 30 feet in the AG District (Section 207), subject to conceptual plan 7.10 of the agenda packet. The approval has a condition that the property is not to be split any more without the platting process. The Board finds the hardship to be that the road dead ends at the subject property, and there is an agreement in place to share the final stage of the drive. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

PRT NE BEG 338E NWC NE TH E335 S1082.57 W323 NE96.48 NW30 N983.88 POB SEC 24 19 10 8.383ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2871—Peggy L. Warren

Action Requested:

Variance of the minimum lot area and the land area per dwelling unit in the AG District to permit two dwellings on one lot (Section 330, Table 3). **LOCATION:** 5603 East 96th Street North

Presentation:

Peggy Warren, 5603 East 96th Street North, Tulsa, OK; stated she would like to have her daughter live on the back second acre; the property is about 9/10 of an acre short of being able to do this by right. Ms. Warren stated she would live in the house and there would be a driveway laid to go to the back portion of the property; there is an existing base for the driveway. Ms. Warren stated that she would request the Board approve her request because her daughter is her help since her husband has passed away, and she does not like living alone.

Mr. Hutchinson asked Ms. Warren if she had visited with the neighbors to see if they had any issues with her request. Ms. Warren stated that she has not because of COVID. Ms. Warren stated the neighbors are at least 20 years older than her and it appears that both the husbands have passed. Ms. Warren stated she does not know how to reach out to the closest neighbor and she has an electric gate.

Ms. Warren stated that the neighbor on the north side and in the back has an easement for a road on both sides of his property.

Mr. Hutchinson asked Ms. Warren if the proposed driveway would be on the east side of her house and go around the existing barn. Ms. Warren answered affirmatively.

Mr. Hutchinson asked Ms. Warren if the double wide mobile home for her daughter would have its own water and electric meters and its own septic system. Ms. Warren

answered affirmatively. Mr. Hutchinson stated that if a mobile home is moved onto the property it has to be skirted, have tie downs and meet all the County and DEQ requirements.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a Variance of the minimum lot area and the land area per dwelling unit in the AG District to permit two dwellings on one lot (Section 330, Table 3), subject to conceptual plans 8.14 and 8.15 of the agenda packet. The Board has found the hardship to be the large tract of land and it does not appear that it will be crowded with the additional dwelling. 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:

S660 W200 E400 SE SW SEC 15 21 13 3.03 ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

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BOARD COMMENTS

None.

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There being no further business, the meeting adjourned at 2:42 p.m.

Date approved: _____

Chair

DRAFT