

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 313
Tuesday, June 20, 2006, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Vice Chair	Hutson, Chair	Butler	West, Co. Inspector
Dillard, Secretary		Cuthbertson	
Tyndall			
Walker			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, June 15, 2006 at 3:53 p.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

MINUTES

On **MOTION** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** the Minutes of May 16, 2006 (No. 312).

UNFINISHED BUSINESS

Case No. 2208

Action Requested:

Variance of the maximum size permitted for an accessory building in an RS district from 750 to 2,832 sq. ft., located: 5633 S 89th AV W

Presentation:

The applicant was not present. Mr. Cuthbertson reminded the Board this case was heard last month. The application was advertised incorrectly and it was re-advertised correctly for this meeting.

Comments and Questions:

Mr. Charney summarized that the Board heard the case at the last meeting and this was simply a technical issue required it to be re-noticed on this agenda.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of the maximum size permitted for an accessory building in an RS district from 750 to 2,832 sq. ft., on the following described property:

S/2 NW NW SE LESS W 25 FOR ST SEC 36-19-11Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 2210

Action Requested:

Variance of the required 30 ft. of frontage on a public street to 0 ft. (Section 207), located: 408 West 41st Street North.

Presentation:

Andre Hornsby, 408 West 41st Street North, the applicant, submitted aerials and photographs (Exhibits A-1 and A-2). He indicated the neighbors are in support of the application. He pointed out the road from Cincinnati to his property has existed since at least 1950. There was never a legal easement for this road, yet all of the property owners along the road use it for access. He added that the County black-topped that road one year ago.

Comments and Questions:

Mr. Charney summarized that it appears to be an easement by use over time. Mr. Cuthbertson agreed, as it crosses three or four different properties. He added that Mr. Hornsby indicated that he has tried to get an easement but no one would agree to grant legal easement to any of the property owners at the back. The Board members discussed future issues for legal sale or transfer of property, and mortgage financing. Mr. Cuthbertson stated there is no right-of-way for 41st Street, but Tom Raines and Ray Jordan say the County has been maintaining it. He added that all indications point to it being a public road but there is no legal right-of-way.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of the required 30 ft. of frontage on a public street to 0 ft. (Section 207), to the limit of this Board's authority, finding no public dedicated street, (The Board wanted to make a statement for the record that there may be other ingress and egress issues, that he should possibly pursue or clear up on his own, on the following described property:

S1/2 LOT-6-SEC-14-20-12, Tulsa County, State of Oklahoma

Case No. 2211

Action Requested:

Special Exception to permit a helicopter pad for non-commercial personal use in an AG district, located: 26255 West 15th Street.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, represented Daniel Burke, the applicant. The helipad would be for personal use of the property owner. He intends to build his home there and it would not be for commercial use. He stated the helicopter would be used approximately five times per week. He described the lift off and landing times as brief as two to three minutes. He compared the decibels of a helicopter to other familiar equipment. Mr. Johnsen indicated the paths of entry and take off were a sufficient distance from the surrounding residential district.

Interested Parties:

John S. Orr, 27310 West 15th Street, Sand Springs, Oklahoma, stated he lived adjacent to the subject property to the west. He indicated it looked closer than 380' to the helipad site, and he noted that he had to increase the volume on his television when the helicopter landed. He was concerned for fire danger, as they are in a heavily wooded area. He heard that the applicant has had some mechanical trouble with the craft and he did not find a filed report of the incident. Mr. Orr also indicated the applicant did not have the proper license to fly a helicopter.

Ron Evans, 27104 West 15th Street, Sand Springs, Oklahoma, stated he lives to the east of the subject property. He submitted petitions of five of the seven closest residents in opposition (Exhibit B-1). He complained of the very loud noise of the helicopter. He was concerned for decreased property values and fire safety. He suggested the applicant fly his helicopter in and out of the airport that is eight miles away.

Jennifer Edie, 1745 South 271st West Avenue, Sand Springs, Oklahoma, stated most of her concerns have already been stated. They are on a dead end street and it is very quiet.

Jim Coleman, 610 North 256th West Avenue, Sand Springs, Oklahoma, stated he is a pilot and is not opposed to flying. He has an airplane at Pogue Airport. Mr. Coleman stated he is the developer in the area. He stated that Mr. Burke signed the restrictive covenants stating that no obnoxious or offensive activity will be carried out on the property.

Kenny Hardin, 1774 South 271st West Avenue, Sand Springs, Oklahoma, stated the same complaints listed above.

Applicant's Rebuttal:

Mr. Johnsen stated they understand the Board is interested in meeting the zoning code requirements and cannot consider the restrictive covenants. He stated that Mr. Burke has the proper license to fly the helicopter. Mr. Johnsen showed photographs (Exhibit B-2) to show the Board how Mr. Burke can approach the pad and remain clear of the residences. He also commented that they most likely have lawn mowers, leaf blowers and other loud equipment in the neighborhood.

Dan Burke, the applicant, stated he owns the helicopter and admitted they make some noise. In the future he may have a newer one that would be less noisy.

Board Action:

On **Motion of Tyndall**, the Board voted 2-2-0 (Walker, Tyndall, "aye"; Dillard, Charney "nays"; no "abstentions"; Hutson "absent") to **DENY** a Special Exception to permit a helicopter pad for non-commercial personal use in an AG district, on the following described property:

Part of the N/2 of Gov't lot 3 in Section 7, T-19-N, R-10-E; Tulsa County, State of Oklahoma; more particularly described as follows, to-wit: Beg. at NW/c of Gov't Lot 3, Sec 7, T-19-N, R-10-E, TH S 00°03'52"W, along the W LN of the SW/4 of Sec 7, 662.21 ft. to the SW/c of the N/2 of Gov't Lot 3, TH S 89°57'30"E 391.02 ft; TH N 00°01'48" E 661.83 ft. to PT on N LN of Lot 3; TH 89°54'10" W along said N LN 390.625 ft. to POB

Case No. 2212

Action Requested:

Special Exception to permit Use Unit 20 (Commercial Recreation), a Holiday Attraction in an AG district; and a Variance of the requirement of an all-weather paving surface for required parking (Section 1340.D), located: 1517 East 106th Street North.

Mr. Charney recused himself from this case. Mr. Dillard informed the applicant that it takes a vote of three to approve an application. If one person voted no he would lose his case. He offered Mr. Buss the opportunity to continue to the next meeting.

Presentation:

Robert Buss was present and asked for this case to be continued to the next hearing.

Interested Parties:

Comments were made from the audience, but no names were taken. One person was present to video tape the hearing of this application as a part of a documentary for the applicant and family. One interested party did not wish to be videotaped.

Manuel Marquez, stated he is a trained film-maker and requested to film the hearing of this application. He added that this film would be used as a documentary. He expressed his passion to cover this history and questioned the motives of interested parties.

Mr. Charney replied that the Board appreciated his passion. He added that the Board would consider his request and state their determination regarding a taping at the next hearing. He stated the date and time of the next hearing, July 18, 2006 at 1:30 p.m. in the same place. He informed them there would be no formal notice.

Board Action:

On **Motion of Dillard**, the Board voted 3-0-0 (Walker, Tyndall, Dillard, "aye"; no "nays"; Charney "abstained"; Hutson "absent) to **CONTINUE** to the next meeting on July 18, 2006, on the following described property:

E 1/2 SW SW SEC 7-21-13; W 1/2 SW SW SEC 7-21-13 Tulsa County, State of Oklahoma

Case No. 2213

Action Requested:

Special Exception to permit a communications tower in an AG district (Section 310), located: 8904 North 97th Avenue East.

Presentation:

Lou Reynolds represented Verizon Wireless. They have a lease agreement with the land owner, Mr. Stigall. He submitted exhibits (Exhibits C-1 through C-4). He referred to the letter from their engineer regarding compliance with the FCC regulations. He reviewed the coverage maps. They were not able to find a place of collocation in this particular area. He pointed out on a map the location of the site, which is more than 500 ft. from the east property line. They are over 200 ft.

from the north and south boundaries and 160 ft. from the west boundary. The tower would be 140 ft. tall. They did not ask for relief from the screening requirement. He mentioned there are electrical towers in the area also.

Comments and Questions:

Mr. Charney asked for a little more clarification of the site location. Mr. Reynolds pointed out it would be to the south and west and shielded by a pond dam and trees. Mr. Cuthbertson reminded the Board of the factors in the zoning code that the Board needs to consider and find in the motion.

Interested Parties:

Herbert Fennell, 9411 North Memorial, stated he owns the property abutting the back of the property. He asked for an explanation of the shield on the north side of the tower and what it would mean. His daughter expressed concern that the tower would be visible from her front door. He referred to the applicant's comments on the tower fitting in with the electric towers, but he felt it just makes the presence of the tower worse. Mr. Fennell complained that it would decrease the value of some property he is planning to sell. He stated there is a better place for the tower.

Applicant's Rebuttal:

Mr. Reynolds responded that the tower would be screened by a six to eight foot high, wooden fence on one side of it and they would be glad to screen it on the west side as well. He added that it has been found that towers do not devalue the property in urban areas. They have houses built up right next to them. In the Katrina Hurricane, no cell towers were blown down. To collocate on one of the closest towers will not work for Verizon.

Board Action:

On **Motion** of **Walker**, the Board voted 3-1-0 (Walker, Tyndall, Dillard, "aye"; Charney "nay"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a communications tower in an AG district (Section 310), with condition for screening on all four sides, finding all the factors required by the code are met, on the following described property:

SE NE SE LESS N205 S230 E474 THEREOF & LESS S25 THEREOF SEC 24
21 13, Tulsa County, State of Oklahoma

Case No. 2214

Action Requested:

Special Exception to permit a mobile home in an RS district, located: 5942 West 23rd Street South.

Presentation:

Homer Jackson, 4300 West Sunburst Street, Sand Springs, Oklahoma, proposed to move a mobile home on the subject property, to reside there as a permanent residence. He submitted photographs (Exhibit D-1).

Comments and Questions:

Mr. Dillard reminded the applicant that tie downs, skirting, and paved parking are required. Mr. Jackson replied that tie downs are already in place and they will bring the skirting with the mobile. Mr. Jackson added that the parking is graveled right now.

Interested Parties:

Hershell Eason, 12450 South Elwood Avenue, Jenks, Oklahoma, also submitted photographs included in (Exhibit D-1). He noted that no one has paved driveways in this area.

Comments and Questions:

Mr. Cuthbertson stated that the new use required compliance with the zoning code for paved parking.

Board Action:

On **Motion of Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a mobile home in an RS district, subject to paved parking, skirting, tie downs and DEQ approval, on the following described property:

N/2 Lot 5, Block 6, SECOND WEST TULSA VIEW ACRES SUBTulsa County,
State of Oklahoma

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Case No. 2215

Action Requested:

Variance of the maximum permitted square footage for a detached accessory building from 750 sq. ft. to 2036 sq. ft.(Section 240.2.E); and a Variance of the all-weathered surface for off-street parking to allow gravel (Section 1340.D) were withdrawn per the applicant, located: 7240 West 26th Street South.

Presentation:

A partial refund request was made per staff recommendation.

Board Action:

On **Motion of Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Refund request for \$200.00 of unused fees, per staff recommendation, on the following described property:

W/2 of the SW/4 NW/4 SE/4 of Section 18, T-19-N, R-12-E; and the W/2 E/2 SW/4 NW/4 SE/4 of Section 18, T-19-N, R-12-E, Tulsa County, State of Oklahoma

Case No. 2216

Action Requested:

Special Exception to permit a Mobile Home in an RS district (Section 410), located: 1812 East 76th Street North.

Presentation:

James Lay, stated he is the son of Paul Lay, and they proposed to place a used mobile home on the subject property. He submitted a statement from his father (Exhibit E-3). He has been improving the property and had plans for more improvements. He stated he has removed five, thirty-yard dumpsters of trash and five, twelve-foot trailers of steel. He stated he has contacted the neighbors and they all indicated support (Exhibit E-1). There are tie downs and skirting for the mobile. He submitted photographs (Exhibit E-2).

Comments and Questions:

The Board discussed with staff and Mr. West, County Inspections regarding the existing structure without a bathroom and utilities. Mr. West stated they could remove kitchen and bathroom facilities and make it an accessory building but that is not allowed in the front yard in RS zoning.

Interested Parties:

Bobby Holt Thomas, 2541 East 56th Place, stated the applicant has made vast improvements on the property. He was in support of the application.

Mr. Dillard reminded the applicant that he would need to pave the parking area, which Mr. Lay acknowledged.

Board Action:

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a Mobile Home in an RS district (Section 410), subject to skirting, tie downs, paved parking and DEQ approval, on the following described property:

BEG 387E NWC NE TH S329.47 E140.32 N329.40 W140.81 POB LESS N16.5 THEREOF FOR RD SEC 31 21 13, Tulsa County, State of Oklahoma

Case No. 2217

Action Requested:

Special Exception to permit a manufactured home in an RS District, located: 10717 West 57th Street South.

Mr. Cuthbertson brought to the attention of the Board members that a property owner, Lee Lover, from Riverside, California made a phone call in support of the application.

Presentation:

Jessie Pickens, 10717 West 57th Street South, Sand Springs, Oklahoma, proposed to clear the land and place a new single-wide mobile home. He stated there is water to the property.

Comments and Questions:

Mr. Walker noted this request is not out of character for the area. Mr. Charney stated it would be in harmony with the neighborhood and not injurious to it.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a manufactured home in an RS District, subject to paved parking, skirting, tie downs, and DEQ approval, on the following described property:

W 185 ft. of Lot 1, Block 1, BUFORD-COLONY Tulsa County, State of Oklahoma

Case No. 2218

Action Requested:

Special Exception to permit a manufactured home in an RS district (Section 410); a Variance of the side yard setback, abutting a street, from 25' to 5' (Section 430.1). , located: 5911 South 72nd West Avenue.

Presentation:

Ron Bledsaw, 5911 South 72nd West Avenue, stated the mobile was already on site before he discovered the need for building permits and this relief. They have lived there for thirteen years. They have made a lot of improvements on the property. They contacted the neighbors and found they were in support. They would like to use the stick-built house on the property as a storage/accessory building. Letters were submitted to the Board (Exhibit F-1).

Comments and Questions:

Mr. Charney asked about the condition of the existing house structure. Mr. Bledsaw stated it is cleaned up and ready to put his equipment into the structure. He also asked why they needed 5 ft. from the property line. Mr. West replied that in the RS zoning it is required to have 5 ft. from either side of the property line, and this is on the corner so he needs a setback from both streets. Mr. Dillard asked if the mobile home is tied down, and skirted. Mr. Bledsaw replied that it is tied down but not skirted yet, but it will be after they get the utilities hooked up. Mr. Charney stated it is important to the inspectors and the Board that all of the debris and equipment be cleaned up or put in the shop and neatly maintained and mowed. Mr. Dillard stated the parking will also have to be paved. He stated there is no paving around there. Mr. Cuthbertson stated that he has established a new use and the zoning code requires the paved parking.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a manufactured home in an RS district (Section 410), subject to tie downs, skirting, paved parking and DEQ approval.

On **Motion of Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of the side yard setback, abutting a street, from 25' to 5' (Section 430.1), no dwelling in the stick-built structure; for personal use only and no commercial use; and allow sixty days from the date of this hearing to clean equipment and debris, on the following described property:

W75 LTS 12 THRU 20 BLK 67, TANEHA Tulsa County, State of Oklahoma

Case No. 2219

Action Requested:

Special Exception to permit a mobile home in an RS district, Section 410, located: 1532 East 73rd Street North.

Presentation:

Glenda Larson, 1532 East 33rd Street North, Turley, proposed to move a single-wide mobile home onto the subject property. She has utilities to the property. There is a mobile home across the street. They plan to tear down the existing structure, which would take about 1 ½ months. Photographs were submitted (Exhibit G-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a mobile home in an RS district, subject to skirting, tie downs, paved parking, and DEQ approval, and 90 days from today's date to demolish the existing house, leaving no debris, on the following described property:

W/2 of Lot 2, Block 6, GOLDEN HILL ADDN, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 3:47 p.m.

Date approved: 7-18-06

David E. Charney
Acting-Chair
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