

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 352
Tuesday, September 15, 2009, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, September 29, 2009 at 8:29 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Charney called the meeting to order at 1:32 p.m.

MINUTES

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Tyndall, Walker, Osborne, Charney "aye"; no "nays"; "abstained"; Dillard "absent") to **APPROVE** the Minutes of August 18, 2009 (No. 351).

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

UNFINISHED BUSINESS

Case No. 2338

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310), located: 20813 West Coyote Trail.

Presentation:

This case was continued from August. The applicant, Nancy Anders was not present. Mr. Charney stated the Board would continue this case to the end of the

agenda to give the applicant time to arrive. Mr. Cuthbertson stated that staff made contact with the applicant twice in the last month to inform the applicant she needed to be present for this meeting.

Board Action:

This case is regarding the following described property:

BEG 548.98S & 137.97 SELY CRV RT & 84.33SE NWC NWNW TH NE404.52
SE302.09 SW404.52 NW302.09 POB SEC26 19 10, Tulsa County, State of
Oklahoma

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Case No. 2344

Action Requested:

Special Exception to permit a church (Use Unit 5) in an RE zoned district (Section 410), located: 13401 East 76th Street North.

Presentation:

Frank Plato, 3525 South Toledo Place, Tulsa, Oklahoma, 74135, stated he is one of the elders of the church. As he informed the Board at the last meeting, he repeated that the majority of the membership has moved into the Owasso area. They proposed to relocate to better serve the membership. They have services Sundays, 10:30 a.m., 11:30, and 6:00 p.m., and Wednesdays at 7:00 p.m. The Board asked the applicant to submit a site plan, which he did (Exhibit A-1). They have two special event conferences lasting one-week each per year in addition to normal church services. They do not have a kitchen, gymnasium or meeting facility for other activities. The existing building would be exclusively used by the church. They proposed to use the existing structure until the new one is built.

Comments and Questions:

Mr. Charney asked about the access drive of 25 ft. in width off of 76th Street North. Mr. Plato stated there are two existing driveways, on 134th East Avenue. In answer to other questions, Mr. Plato stated they average about 60 people in attendance on Sundays. They average 20 to 25 vehicles on Sundays. They proposed to complete the construction of the new building in less than a year, and remove the existing house. Mr. Cuthbertson expressed concern for the hard surface parking during the interim. Mr. Plato responded there are alternative parking spaces near Highway 169. They have plans for hard surface parking on the subject property when the building is completed.

Interested Parties:

Glennella Doss, Lansing Business Park, 720 East Marshall, Tulsa, Oklahoma, 74106, stated that she is the attorney working with Mr. Plato and the church. The applicant chose to go to the Board first before approaching the neighborhood about the project. She expressed an understanding that neighborhoods in

general, are supportive of churches, as offering community service and adding to the benefits of the neighborhood. She stated they know the importance of giving the neighborhood opportunity to participate. Ms. Doss noted that a new facility would also be an additional improvement to the aesthetics of the neighborhood.

Loretta Tittle, 13331 East 76th Street North, did not think the church would have room to grow at this location. She noted there is only room for approximately six cars to park at this time. She mentioned the flooding in this area. Mr. Charney assured her that even though the Board could not address the flooding issues that the County Engineer would at the time of review in the platting process, if the Board approves this application. She also mentioned her concern that North 134th East Avenue is very narrow. She was not against the church building a new structure, but she felt the location was not suitable. A petition was submitted to the Board in opposition to the application (Exhibit A-2).

Mr. Cuthbertson interjected that she would receive notice for any future preliminary plat for this application, if it comes to that point.

Applicant's Rebuttal:

Mr. Plato assured the Board that they plan to comply with the zoning code and the County Engineer.

Mr. Alberty reminded the Board that if the church planned to use another property for parking, they would need to come back to the Board for relief to allow such a scenario. Mr. Cuthbertson added that the applicant might choose to pave a parking lot on the subject property, based on the size of the sanctuary, according to the code and the permitting process. The Board might want the applicant to come back with a revised site plan if they were uncomfortable with such an intermediate step.

Board discussion ensued.

Board Action:

On **Motion of Walker**, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Special Exception to permit a church (Use Unit 5) in an RE zoned district (Section 410), with conditions to construct a curb cut to access the property from 76th Street North for interim and future use; parking on hard surface only; temporary use of the existing structure for one year; per site plan submitted September 15, 2009, finding it is located in such a way that it should not be injurious to the internal neighborhood, on the following described property:

LT 7 BLK 2, GRACELAND ACRES, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No.2346

Action Requested:

Variance of the 15 ft. side yard requirement in an AG-R district to 12 ft. (Section 330); to permit a dwelling, located: 4909 East 211th Street South.

Presentation:

Chris Fremen, P.O. Box 52, Bixby, Oklahoma, 74008, proposed to continue a building process on his property. The building was set 12 feet from the property line by error. He referred to the homeowner's association covenants rather than the zoning code. He thought he was leaving extra distance but because of the discrepancy between the covenants and Code he encroached on the building line.

Comments and Questions:

In response to questions from the Board, Mr. Fremen explained that he was building a pole barn structure to live in while he built a residence. The existing structure would be used for personal workshop after the permanent home is built. The plans include a bathroom and kitchen facility for livability. He described the clean up and improvement of the property since he purchased it. He stated that the neighbor on the east is in support. Mr. Charney noted the narrow building envelope on this corner lot, with larger setbacks on two sides of the lot.

Mr. West was concerned that two dwellings on the lot of record on 1.3 acres would be in violation of the zoning code when he wants to build the permanent home.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of Charney, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Variance of the 15 ft. side yard requirement in an AG-R district to 12 ft. (Section 330); to permit a dwelling, finding the unique nature of this corner lot to an arterial street, with a more narrow building envelope; on the following described property:

LT 10 BLK 2, TIMBERBROOK, Tulsa County, State of Oklahoma

Case No. 2321-A

Action Requested:

Amendment to a condition of a previously approved Special Exception for a fireworks stand in the AG district; to extend the time limitation beyond one year, located: 17734 East 121st Street South.

Mr. Cuthbertson reminded the Board that this is the same applicant that was approved in April. The neighbors were concerned and the Board gave approval for a one year trial period.

Presentation:

Justin Marietta, 2311 A West 4th Street, Pittsburg, Kansas, 66762, submitted a letter (Exhibit B-1) from the operator of the stand stating the neighbors' that were previously opposed, after seeing how it was operated this year, are now in support.

Comments and Questions:

Mr. Charney asked if the applicant would agree to the conditions in the previously approved application with an extension of time.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Charney**, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Amendment to a condition of a previously approved Special Exception for a fireworks stand in the AG district; to extend the time limitation beyond one year, to approve for five years from September 15, 2009; with conditions for the hours of operation from June 22nd to July 1st to be 9:00 a.m. to 9:00 p.m., and July 2nd through July 4th from 9:00 a.m. to 10:00 p.m.; to keep all trash and debris cleared on the site, keep grass mowed, all in a neat manner; and to strictly enforce safety measures in the 500 ft. radius, not allowing the use of fireworks within the 500 ft. radius; on the following described property:

N273.58 W990.15 LT 4 SEC 1 17 14, Tulsa County, State of Oklahoma

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Case No. 2338

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310), located: 20813 West Coyote Trail.

Presentation:

The applicant, Nancy Anders was not present.

Board Action:

On **Motion of Charney**, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **DENY** without prejudice, due to failure of the applicant to present, regarding the following described property:

BEG 548.98S & 137.97 SELY CRV RT & 84.33SE NWC NWNW TH NE404.52
SE302.09 SW404.52 NW302.09 POB SEC26 19 10, Tulsa County, State of
Oklahoma

Mr. Cuthbertson gave a brief description of the responsibilities of the offices.

On **Motion** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **Elect** David Charney as Chair of the Tulsa County Board of Adjustment.

On **Motion** of **Charney**, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **Elect** Roland Walker as Vice Chair of the Tulsa County Board of Adjustment.

On **Motion** of **Charney**, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **Elect** Bryan Osborne as Secretary of the Tulsa County Board of Adjustment.

There being no further business, the meeting adjourned at 2:34 p.m.

Date approved: 10/20/09
David E. Charney
Chair