

**TULSA COUNTY BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 386  
Tuesday, July 17, 2012, 1:30 p.m.  
County Commission Room, Room 119  
County Administration Building  
500 South Denver Avenue

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

Charney, Chair  
Draper  
Dillard  
Osborne, Secretary  
Walker, Vice Chair

Back  
Sparger

West, Tulsa County

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 12<sup>th</sup> day of June, 2012 at 10:04 a.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.

Ms. Back explained the rules and procedures for the County Board of Adjustment Public Hearing.

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**MINUTES**

On **MOTION** of **WALKER**, the Board voted 3-0-2 (Dillard, Osborne, Walker "aye"; no "nays"; Charney, Draper "abstaining"; none "absent") to **APPROVE** the Minutes of June 19, 2012 (No. 385).

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**NEW APPLICATIONS**

**Case No. 2434—Stephen Schuller**

**Action Requested:**

Use Variance to permit auto crushing operation and accessory uses (not within enclosed buildings), and permitting existing buildings to be situated less than 100 feet from centerline of abutting secondary arterial street (Section 1670); Special Exception for modification or waiver of screening requirement along lot line abutting R-zoned District (Section 250.3). **Location:** 6834 - 7002 North Peoria Avenue

**Presentation:**

A continuance to the August 21, 2012 Board of Adjustment meeting has been requested due to mailing notice area did not include the north parcel of the subject property thus the 300'-0" radius was not complete. No presentation was made.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DRAPER**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** the request for a Use Variance to permit auto crushing operation and accessory uses (not within enclosed buildings), and permitting existing buildings to be situated less than 100 feet from centerline of abutting secondary arterial street (Section 1670); Special Exception for modification or waiver of screening requirement along lot line abutting R-zoned District (Section 250.3) to August 21, 2012; for the following property:

**NE/4 NE/4 SE/4 and N/2 SE/4 NE/4 SE/4 lying or situated East of Midland Valley Railroad Right of Way described in Quit-Claim Deed recorded in Book 6718/Page 2175, in Section 36, Township 21 North, Range 12 East, Tulsa County, Oklahoma (subject to adjacent highway/roadway dedications of record), OF TULSA COUNTY, STATE OF OKLAHOMA**

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## **UNFINISHED BUSINESS**

### **Case No. 2432—Hugh Gordon**

#### **Action Requested:**

Use Variance to allow a landscaping business (Use Unit 15) in the AG zone (Section 310, Table 1). Location: 1010 East 161<sup>st</sup> Street South

**Mr. Charney recused himself as active Chair at 1:35 P.M. Mr. Charney continued to conduct the meeting but announced he would not be commenting on the case nor casting a vote.**

#### **Presentation:**

**Hugh Gordon**, 1233 West 111<sup>th</sup> Street, Jenks, OK; stated he is requesting a use variance to allow a landscaping business on the subject property.

Mr. Draper asked Mr. Gordon if he had spoken to the neighbor to the west of the subject property, because his proposal is closer to that side of the property. Mr. Gordon stated that he has spoke to most of the surrounding neighbors, and they seem to be happy with the proposal. Mr. Draper asked Mr. Gordon if he was currently, or had been, operating out of the building on the subject property. Mr. Gordon stated that he was not.

Mr. Draper asked staff if the use variance runs for the current property owner or is it attached to the property. Mr. West stated the variance will go with the land. Ms. Back stated the use variance will be in perpetuity with the land.

Mr. Walker stated that he was reluctant to support this application in the last meeting. Mr. Gordon has erected a building that looks like a barn in a rural area, but there are bathrooms back to back. The applicant has stated his desire to use the building for more than just an agricultural use. Mr. Walker wonders who the contractor for the building was, because, he continued to say, a contractor knows exactly what he's supposed to do. Mr. Walker's concern is that eventually this building will become a large landscaping business, which he thinks is inappropriate for the agricultural area.

Mr. Dillard is in support of this application because the building is completed very nicely. There are no protestants present. The applicant has ten acres to allow this landscaping business with ample customer parking space, if allowed.

Mr. Osborne stated that in the last meeting Mr. Gordon informed the Board that at the rear of the barn there is an area fenced off to allow for horses and cattle. Mr. Gordon

stated that was correct. Mr. Osborne asked Mr. Gordon if he would be growing any plants for selling. Mr. Gordon stated that plants would be stored on the property to be used in contracted landscaping jobs.

Mr. Gordon stated that he will be the only person on the subject property most of the time. From time to time, there will be an occasional employee, or more, on the subject property to pick up plants or accessories necessary to complete a job. The jobs are landscaping jobs so they are performed and completed on the customer's property, but Mr. Gordon stated he would be doing paperwork from the subject property. He plans to always have a business location within the city of Tulsa because of the mere expense of driving from the subject property to different sites, i.e., Owasso, Sand Springs, Catoosa, etc., is cost prohibitive.

**Interested Parties:**

None.

**Comments and Questions:**

Mr. Walker stated he is still opposed to the application.

Mr. Draper stated he is not completely opposed to the application but he is opposed to an unrestricted use variance. He would like to see at least a time limitation placed on an approval, though a time limitation would allow an adjacent property owner, the ability to stop everything this applicant has invested; and a business owner may not be able to sell to a subsequent buyer due to a condition of needing to return to the Board of Adjustment.

Mr. Osborne concurred with Mr. Draper. The proper use of the land and the effects on the surrounding area is a concern, because the use variance is in perpetuity. There is a double-edged sword in this type of request, because there is a potential impact to the applicant, but at the same time the applicant knows it is not an approval for free reign which helps protect his neighbors. Mr. West, our County Inspector, is there to also ensure that the conditions the Board has issued are being met.

Mr. Osborne asked staff at what point does a property become a business versus using their personal property for the storage of assets that may be a part of a business they own. Mr. West stated that a person storing personal equipment that is being used for personal maintenance of the ten-acre tract is considered personal use. While a person storing equipment that is used elsewhere is rated as business activity or business use. As for storage, if there are trees stored on the property that are to be taken to another place that is business use, but if the person is storing the trees and they are then planted on the ten-acre tract that is personal use.

Mr. Dillard stated that the applicant's inventory is going to be the same as agriculture, because it is flowers, it is trees, it is shrubs. That is agriculture. The only question seems to be is where the equipment will be parked or stored, or if there are employees on the subject property.

Mr. West stated that is why he recommended Mr. Gordon come before the Board with a use variance request. That way if Mr. Gordon parks or stores his truck or equipment on the property, which is a business related use, he will have permission to do so.

**Board Action:**

On **MOTION** of **DRAPER**, to **APPROVE** the request for a Use Variance to allow a landscaping business (Use Unit 15) in the AG zone (Section 310, Table 1) with a time limitation of five years, or upon the sale to a subsequent purchaser. At that time the applicant or purchaser is to bring the variance back before the Board of Adjustment for review to address any additional restrictions, or the modifications of the restrictions that may be implemented today, July 17, 2012. The subject property is to be used by the applicant for the storing of landscaping equipment that is used offsite and landscaping inventory only, and the owner may have a desk to conduct paperwork business. No more than three employees to be allowed to be working on the subject property at any time. With the hardship being the subject property is narrow and long, the electrical and natural gas utility easements, and the nature of the business being semi-agricultural in business. There was no second, the motion failed.

On **MOTION** of **WALKER**, to **DENY** the request for a Use Variance to allow a landscaping business (Use Unit 15) in the AG zone (Section 310, Table 1) there was no second, the motion failed.

On **MOTION** of **DILLARD**, the Board voted 3-1-1 (Dillard, Draper, Osborne "aye"; Walker "nay"; Charney "abstaining"; none "absent") to **APPROVE** the request for a Use Variance to allow a landscaping business (Use Unit 15) in the AG zone (Section 310, Table 1) with no time limitations or restrictions. With the hardship being the subject property is narrow and long, the electrical and natural gas utility easements, and the nature of the business being semi-agricultural in business; for the following property:

**E/2 E/2 NW NE SEC 25 17 12 10 ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Charney resumed his position as active Chair at 2:35 P.M.**

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**NEW BUSINESS**

None.

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**OTHER BUSINESS**

None.

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**BOARD COMMENTS**

None.

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There being no further business, the meeting adjourned at 2:38 p.m.

Date approved: 7-17-2012

  
Chair