

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 402
Tuesday, November 19, 2013, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
County Commission Room, Room 119
500 South Denver

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair	Dillard	Miller	West, Co. Inspector
Osborne, Secretary		Bates	
Walker, Vice Chair		Sparger	

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 14th day of November, 2013 at 9:26 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.

MINUTES

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Charney, Osborne, Walker "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the Minutes of October 19, 2013 (No. 401).

Mr. Charney explained to the applicants that there were only three board members present at this meeting. One Board member position has been vacated and the other Board member is recovering from surgery. If an applicant 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 all three board members to constitute a majority and if one board member voted no today the application would be denied. Mr. Charney asked the applicants if they understood and asked the applicants what they would like to do. None of the applicants requested to have their cases continued to the next Board of Adjustment meeting and all nodded consent showing they understood Mr. Charney.

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

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

2482—Scissortail Farms

Action Requested:

Use Variance to allow retail sales (Use Unit 13) in an AG District for produce and gift shop items (Section 310, Table 1). **LOCATION:** 8450 West 51st Street

Presentation:

Rob Walenta, 1407 South Urbana Avenue, Tulsa, OK; stated the land is zoned agricultural and he plans to continue to using the land as agricultural. He plans to produce wholesale with a small amount of produce to be sold on the site if possible.

Mr. Charney asked if the principal purpose of the land is to grow produce on the site. Mr. Walenta answered affirmatively.

Mr. Walker asked what type of product is to be offered. Mr. Walenta stated it would be Romaines, Butternuts, Basil and similar produce. Mr. Walker asked what type of other items would offered for sale. Mr. Walenta stated the other items would be promotional type items, i.e., a t-shirt or coffee mug.

Mr. Charney asked if the t-shirts or mugs were to promote only his business, or if the promotional products were third party offerings. Mr. Walenta stated that the promotional products would be strictly for Scissortail Farms.

Mr. Osborne asked if he would be bringing additional fruits or vegetables onto the site to sell. Mr. Walenta answered that everything he will be offering for sale will be grown on his property.

Mr. Charney asked where the public would be parking and the access to the parking area. Mr. Walenta stated the wholesale production will take place on the loading dock

on the east side of the site. On the west side of the front metal building will be the parking lot for employees and any potential customers.

Mr. Osborne asked what type surface is on the parking lot. Mr. Walenta stated that it is concrete.

Mr. Osborne asked Mr. Walenta about the product that isn't sold on the site. Mr. Walenta stated that he is going to contract as much as possible, but it is a commodity that has been available. Mr. Osborne asked if the wholesale customers were from a local base. Mr. Walenta stated that it is regional but primarily they are based in Tulsa.

Mr. Osborne asked Mr. Walenta about the produce growing process. Mr. Walenta stated that he grows his produce through a hydroponic system, and recirculates all the water so the only loss is through evaporation. This system requires much less land than a typical production.

Interested Parties:

Ora Hart, 5106 South 85th West Avenue, Tulsa, OK; stated she lives directly across the street from the subject property on the 85th side, and has lived there for 36 years. She stated the farm is already in existence and operating. They have been pounding and tearing the ground up for months. Her husband has COPD and this operation is a hazard for West 51st Street. There are a lot of wrecks on West 51st Street. The 85th Street is all residential and many residents have lived there for many years, longer than she and her husband have lived there. She wants the Board to know that she opposes this request.

Mr. Charney stated there is an existing AG zoning on the property which allows the farming, the pounding and the dirt. Ms. Hart stated that she understands that, but the area that Mr. Walenta said is to be utilized as employee parking is on her side of the street.

Mr. Walker asked Ms. Hart if she was the corner house. Ms. Hart stated that she was not the corner house, but she is in a double wide mobile home which is the second mailbox.

Mr. Charney asked Ms. Hart if her house fronted 85th West Avenue. Ms. Hart answered that it does and she is directly across the street from the subject property. Her concern is if the retail is allowed who is to say what else be there.

Rebuttal:

Mr. Walenta came forward.

Mr. Charney asked Mr. Walenta to express his thoughts to the Board and the audience. Mr. Walenta stated that the maps presented to the Board in their agenda packets clearly shows lot lines and proves that will not be any expansion to the west.

Mr. Walker asked Mr. Walenta what type of traffic does he expect for his business, will there be ten trucks a day or a hundred trucks a day. Mr. Walenta stated currently there are two to four trucks twice a week, but that could grow over time.

Mr. Walker asked Mr. Walenta to explain the gift shop. Mr. Walenta stated there is an approximate 10,000 square foot building and it is broken up into a packaging area, a shipping area, a boiler and irrigation room, and offices. The gift shop would be part of the office area so it would not be a true gift shop.

Mr. Osborne asked Mr. Walenta asked about the public visiting the site. Mr. Walenta said some people will come to see the operation and want to know the farmer.

Comments and Questions:

None.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Charney, Osborne, Walker "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the request for a Use Variance to allow retail sales (Use Unit 13) in an AG District for produce and gift shop items (Section 310, Table 1). This approval is subject to the gift shop items being sold are limited to advertising specialties designed to promote the individual subject business. The only produce to be sold is that which is grown on the subject property. The unique configuration of Skyline Drive dumping into the subject property creates a hardship. This request does not cause any detriment to the public good and is not in conflict with the purpose, spirit or intent of the code; for the following property:

**A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER (N/2 NW/4 NE/4 NE/4) AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER (NW/4 NE/4 NE/4 NE/4) OF SECTION THIRTY-SIX (36), TOWNSHIP NINETEEN (19) NORTH, RANGE ELEVEN (11) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 36, THENCE S 89°40'58" W ALONG THE NORTH LINE OF SAID SECTION 36 A DISTANCE OF 672.53 FEET TO THE POINT OF BEGINNING, THENCE S 89°40'58" W ALONG THE NORTH LINE OF SAID SECTION 38 A DISTANCE OF 642.02 FEET TO THE NORTHWEST CORNER OF SAID N/2 NW/4 NE/4 NE/4, THENCE S 00°34'00" E A DISTANCE OF 330.19 FEET TO THE SOUTH WEST CORNER OF SAID N/2 NW/4 NE/4 NE/4, THENCE N 89°41'11" E A DISTANCE OF 986.09 FEET TO THE SOUTHEAST CORNER OF SAID NW/4 NE/4 NE/4 NE/4, THENCE N 00°35'49" W A DISTANCE OF 305.50 FEET, THENCE S 89°40'58" W A DISTANCE OF 344.15 FEET, THENCE DUE NORTH 24.75 FEET TO THE POINT OF BEGINNING.
AND**

A PART OF THE SOUTH 1320 FEET OF THE EAST 839.29 FEET OF THE SOUTHEAST QUARTER (SE/4) OF THE SOUTHEAST QUARTER (SE/4) OF SECTION TWENTY-FIVE (25), TOWNSHIP NINETEEN (19) NORTH. RANGE ELEVEN (11) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF THE SE/4 OF SAID SECTION 25; THENCE S 89°50' 48" W ALONG THE SOUTH LINE OF SAID SECTION 25 A DISTANCE OF 672.53 FEET TO THE POINT OF BEGINNING; THENCE DUE NORTH A DISTANCE OF 37.49 FEET TO A POINT IN THE CENTERLINE OF WEST 51ST STREET; THENCE S 70°58'34" W DISTANCE OF 0.00 FEET; THENCE WESTERLY ALONG SAID CENTERLINE ON A CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 13°54'13" AND A RADIUS OF 650.00 FEET, FOR AN ARC DISTANCE OF 157.73 FEET; THENCE S 84°52'48" W ALONG SAID CENTERLINE A DISTANCE OF 8.93 FEET; THENCE DUE SOUTH A DISTANCE OF 4.69 FEET TO THE SOUTH LINE OF SAID SECTION 25; THENCE N 89°40'58" E ALONG SAID SOUTH LINE A DISTANCE OF 162.76 FEET TO THE POINT OF BEGINNING, OF TULSA COUNTY, STATE OF OKLAHOMA

2483—Larry Nimrod

Action Requested:

Variance of the required street frontage from 30 feet to 0 feet in an AG district (Section 207). **LOCATION:** 20464 South Garnett Road

Presentation:

Larry Nimrod, P. O. Box 310, Disney, OK; stated he owns the subject property. He filed an easement with the County in 2005, and since that time he has decided he would like to build a little shop. In speaking with Mr. West he was informed he could not build a shop because there was not 30 feet bordering Garnett Road. He would like to install a small bathroom with a shower, sink and toilet because when he does come to Tulsa he chops wood, harvest landscape rock and sometimes a little hunting.

Mr. Charney asked Mr. Nimrod if he had any plans to make this a residence in the future. Mr. Nimrod answered no, because he retired to and lives in the Grand Lake area about six years ago.

Mr. Walker asked Mr. Nimrod why he needed the shop if all he was going to do is cut a little wood. Mr. Nimrod stated he has through the years acquired a lot of stuff. Even though he had a huge garage sale before he moved to the lake, over the past six years he has accumulated a lot of stuff that he does not want to part with and he needs a place to store all of it.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Osborne, Walker "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the request for a Variance of the required street frontage from 30 feet to 0 feet in an AG district (Section 207). The hardship is that the subject property is landlocked and is not fronted by a public or dedicated street. This approval is subject to the applicant is not to use the proposed building as his residence or for any commercial use; for the following property:

W/2 N/2 SE NE SEC 18 16 14 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2484—Dan Stockton

Action Requested:

Special Exception to permit Use Unit 20 in an AG district for an outdoor laser tag field (Section 310). **LOCATION:** 14218 East 126th Street North

Presentation:

Dan Stockton, 1142 North 171st East Avenue, Tulsa, OK; stated that for the past two or three years he has operated a mobile laser tag unit. He goes to birthday parties, corporate events, church functions, sports parties, etc. He would like to have an outdoor laser tag facility for people that do not have a place for the mobile laser tag unit to come to them. When he found the subject property he thought it would be the ideal place for the laser tag operation allowing kids to play outside. There is a house on the property but he does not anticipate using the house, but he might use the garage. The property is approximately five acres and he plans on dividing it into three different type fields. A laser tag session would be two hours long which include about 20 minutes of safety instruction. There would be no more than 20 children per session, which would range from elementary to junior high school age. This is a family owned business which is operated by him, his wife and their two daughters. The business would be open primarily on weekends from noon to dusk. He has participated in laser tag since the early 1980s so he does have experience with the game.

Mr. Walker asked Mr. Stockton if he was looking to use the full five acres. Mr. Stockton stated that he proposes to have a 20 foot access on the east side of the property with another 20 feet on the other end for access.

Mr. Walker stated that he is struggling with the AG zoning. Mr. Stockton stated he did not want to change the AG zoning. Use Unit 20 was suggested by Mr. West for this request.

Interested Parties:

Donna Luffer, 14215 East 126th Street North, Collinsville, OK; stated she had visited with several of the neighbors with a petition and she collected several signatures, which she handed to the Board. Her property on 143rd lines up with the subject properties driveway. She has lived there for 36 years and she moved to the area because it is agriculture. Most everybody has two or two and a half acres, and most of the residents are over 60 years of age. She likes the quiet and does not want the noise level the proposed laser tag business would bring. She and the residents do not want paintball or laser tag in the neighborhood because it will ruin the peaceful neighborhood.

Johnny Yeary, 14000 East 126th Street North, Collinsville, OK; stated he lives three houses west of the subject property, and has lived there since 1985. He owns approximately 11 acres and has cattle on a portion of the acreage along with a neighboring piece of land. This neighborhood is a quiet neighborhood and he wants to keep it that way. The subject property is surrounded by residential. Mr. Yeary stated that whether people are shooting BBs, paintballs or lasers at one another this is a promotion of violence. There is enough violence in society without promoting more violence in children. He would not let his children participate in anything like this. Parents and society needs to be teaching children something other violence. Even if this supposed to be fun the concept is still promoting violence. If someone is contemplating the purchase of property consideration and study should be given to that property before the purchase. He opposes this request.

Mr. Walker asked Mr. Yeary if he had cattle right next to the subject property. Mr. Yeary answered affirmatively.

Dwytha Hines, 14301 East 126th Street North, Collinsville, OK; stated her concerns are the increase in traffic, the increased noise levels, the possibility of increased crime, concerned about the litter that will be created, and the traveling distance of the paintballs or lasers once they are shot. Another concern is the septic tank system and lateral lines. Most residents in the area work five days a week, and he is proposing to have this business open on the weekend when people want a quiet weekend. The area neighbors like the quiet neighborhood. That is why people move to the country, because it is quiet and peaceful.

Rebuttal:

Mr. Stockton returned to the podium. He stated that he appreciates the neighbors concerns and he does care for the neighborhood. There will be no paintball shooting on the property. He knows what paintball is and he knows there is a hazard to cattle with paintball, but his proposal is for laser tag. The taggers that he uses are computerized TV remotes. When he goes to a site for a laser tag function he will take that same tagger, turn it toward his own face and look into it to demonstrate to the parents that the

unit is not shooting any projectile. The tagger is not going to hurt anyone. There is nothing more dangerous coming from the tagger than what emits from the home TV remote, because it is the exact same philosophy. There is a certain amount of noise to any activity, and he can turn the taggers off so there would be no noise emitted. His company has held parties at Google in Pryor, for Blue Cross Blue Shield, birthday parties as far as southern Kansas, and six to eight churches a month. Laser tag is a competitive outdoor sport. He does not own the subject property but has contacted a real estate agent about the purchase of the land. The laser tag business has grown, it is time to expand and he thought this was a good opportunity for the expansion.

Comments and Questions:

Mr. Charney stated that he struggles with the fact that the property is AG zoned, the configuration of the subject property being long and skinny piece of land, and concern over the residents living so close to the subject property. For that reason he cannot support this request.

Mr. Osborne stated that he does not have any issue with the activity but he does see this request as a detrimental impact to the neighborhood.

Mr. Walker stated that this is not an appropriate use in agricultural zoning.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Charney, Osborne, Walker “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **DENY** the request for a Special Exception to permit Use Unit 20 in an AG district for an outdoor laser tag field (Section 310) finding this request would be injurious to the neighborhood; for the following property:

W/2 NE NE LESS W495 THEREOF & LESS N16.5 THEREOF FOR RD SEC 4 21 14 4.94AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2485—Cornelius Energy Partners, LLC

Action Requested:

Variance of the frontage requirement on an arterial street from 200 feet to 142 feet for a Lot-Split and from 200 feet to 172.14 feet for a Lot-Combination (Section 903, Table 1). **LOCATION:** 3437 West 21st Street South

Presentation:

Staff is requesting a continuance to December 17, 2013 to allow for re-advertisement of the case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Charney, Osborne, Walker "aye"; no "nays"; no "abstentions"; Dillard "absent") to **CONTINUE** the request for a Variance of the frontage requirement on an arterial street from 200 feet to 142 feet for a Lot-Split and from 200 feet to 172.14 feet for a Lot-Combination (Section 903, Table 1) to the County Board of Adjustment meeting on December 17, 2013; for the following property:

THAT PT. W. 104.33'E. 437.86' SE SE SE LYING S. OF S.L.S.F. RR LESS S.50' FOR ST. SEC-9-19-12, BG. 33.75' N & 437.99' W. SE COR TH. W. 208.74'N.427' TO RY. ELY 209.1'S TO POB SEC-9-19-12, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:23 p.m.

Date approved: 2/18/14

David E. Charney
Chair