

**TULSA COUNTY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 420**  
Tuesday May 19, 2015, 1:30 p.m.  
Ray Jordan Tulsa County Administration Building  
500 South Denver, Room 338  
Tulsa, Oklahoma

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

Charney, Chair  
Crall  
Dillard, Secretary  
Hutchinson  
Walker, Vice Chair

Miller  
Moye  
Sparger

West, Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 14<sup>th</sup> day of May, 2015 at 9:34 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. Nikita Moye read the rules and procedures for the County Board of Adjustment Public Hearing.

\*\*\*\*\*

**MINUTES**

On **MOTION** of **WALKER**, the Board voted 4-0-1 (Charney, Crall, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the Minutes of April 21, 2015 (No. 419).

\*\*\*\*\*

**Mr. Dillard entered the meeting at 1:36 P.M.**

\*\*\*\*\*

**UNFINISHED BUSINESS**

**2525—Alexander Pflamer**

**Action Requested:**

Special Exception to permit weddings and other events (Use Unit 2) in an AG District (Section 310, Table 1). **LOCATION:** West of the SW/c of West 31<sup>st</sup> Street South and South 137<sup>th</sup> West Avenue, Sand Springs

**Presentation:**

**Kevin Coutant**, 2 West 2<sup>nd</sup> Street, Suite 700, Tulsa, OK; came forward and requested another continuance for this case. Last month a continuance was requested because the neighbors had retained counsel, Mr. Nathan Cross. A resolution is being worked on and progress is being made.

**Interested Parties:**

**Nathan Cross**, 502 West 6<sup>th</sup> Street, Tulsa, OK; stated he represents Dan and Natalie Hobson who are the immediate adjacent property owners. His clients join in this request for continuance. Significant progress has been made over the last 24 hours and his clients have agreed to a timeline and hopefully would make this the last request for continuance.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to **CONTINUE** the request for Special Exception to permit weddings and other events (Use Unit 2) in an AG District (Section 310, Table 1) to the Board of Adjustment meeting on June 16, 2015; for the following property:

**NW NW & N/2 N/2 N/2 SW NW LESS N50 THEREOF FOR RD SEC 21 19 11  
43.48ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

Mr. Walker stated that even though there are two counsel members working together, he does not believe the Board has given to them the responsibility of resolving this matter. This Board makes the decision on land uses. There are policies written and there are things that the Board does, so regardless of what the counsels come back with it is still this Board’s responsibility to make a decision on the land use.

Mr. Charney appreciates Mr. Walker's clarification, and sometime the resolution of issues sometimes prevents the Board of needing to address certain conditions, but the underlying land usage is the Board and only the Board controls.

### **2534—Lance Price**

#### **Action Requested:**

Variance from the minimum land area per dwelling unit requirement from 2.1 acres to 1 acre; Variance from the minimum lot area requirement from 2 acres to 1 acre; Variance from the minimum lot width requirement from 150 feet to 118.6 feet in an AG District to permit a lot split (Section 330, Table 3). **LOCATION:** 7613 East 181<sup>st</sup> Street South, Bixby

#### **Presentation:**

Ms. Moyer stated that Ms. Linda Greene had requested a continuance for this case because she did not receive a notice of the hearing.

Mr. Charney asked if the applicant was present and Mr. Price acknowledged his presence. Mr. Charney asked Mr. Price how he felt about the request for a continuance because it would be a factor in the Board's decision.

**Lance Price**, 7613 East 181<sup>st</sup> Street South, Bixby, OK; stated the request for a continuance does present a hardship to him but in the spirit of compromise he would like to understand the concerns.

#### **Interested Parties:**

**Linda Greene**, 21884 West 131<sup>st</sup> Street South Sapulpa, OK; stated she did not receive any notification of any action, and she was not aware of anything going on until her sister-in-law called her. Ms. Greene stated that the notice that was mailed is not the address of where she is currently living.

Mr. Charney asked Ms. Greene if she would spend time with the applicant to understand what is being requested. Ms. Greene stated that would be exactly what she would like.

Mr. Walker suggested the case be moved to the end of the agenda to allow the applicant and the interested party to visit and discuss their issues, that way if they can come to an agreement before the end of the meeting the case can be heard and a decision can be made.

Mr. Charney stated the case will be moved to the end of today's agenda for hearing.

#### **Comments and Questions:**

None.

**Board Action:**

No action required on this case at this time, as it has been moved to the end of the agenda.

\* \* \* \* \*

**NEW APPLICATIONS**

**2539—Branch Communications – Kayla Kramer**

**Action Requested:**

Variance of the height requirement for cell towers in the AG District from 65 feet to 180 feet (Section 320.2.3). **LOCATION:** 6236 North Troost Avenue East

**Presentation:**

Ms. Moye stated that Staff is requesting a continuance because after reviewing the case information provided it was determined the applicant needs additional relief.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DILLARD**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to **CONTINUE** the request for a Variance of the height requirement for cell towers in the AG District from 65 feet to 180 feet (Section 320.2.3) to the June 16, 2015 Board of Adjustment meeting; for the following property:

**PRT SE NW & PRT GOV LT5 BEG 299W & 20S NEC SE NW TH W93 S195 W156 N195 W322.5 S195.5 W217.5 N50.5 W277 N15 W145 S810 W145 S TO PT 311N SL NW E145 S311 E TO PT 299W SECR NW N POB SEC 6 20 13 33.401ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

\* \* \* \* \*

**UNFINISHED BUSINESS**

## **2512—Howard Perkins**

### **Action Requested:**

Appeal determination of an Administrative Official that a Salvage Yard is operating in an AG District. **LOCATION:** 8724 East 86<sup>th</sup> Street North, Owasso

### **Presentation:**

The applicant's counsel and the applicant were not present.

Mr. Charney asked Mr. West if the clean up of the property has been accomplished. Mr. West stated the property has been cleaned up and Mr. Perkins has moved. Mr. Charney asked Mr. West if the sale had been consummated. Mr. West answered affirmatively.

### **Interested Parties:**

**Lee DeBoer**, 8622 East 86<sup>th</sup> Street North, Owasso, OK; stated the subject property has been cleaned, but there are still a lot of loose nuts and bolts laying around. There is also some oil leaching out of the top of the hill on the subject property, which he is on the downside of the hill.

Mr. Charney asked Mr. DeBoer if it was from an old well. Mr. DeBoer stated that he did not know but there is a hole on the top of the hill that has oil in it with water under it. Mr. Charney stated the leakage of natural resources is beyond the Board's purview, it is land usage is what the Board focus on. Mr. Charney asked Mr. DeBoer if he thought a satisfactory result has occurred on the subject property. Mr. DeBoer answered affirmatively.

Mr. Charney suggested to Mr. DeBoer that he contact the OERB regarding the uncapped well, because there are resources to help with that situation. Mr. Charney also stated that Mr. DeBoer could contact his business office and his staff would be able to provide him with a telephone number for the OERB.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **DILLARD**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **DISMISS** the request for an Appeal and close the case as the matter has been resolved. The subject property has been sold and the applicant, who was the owner, has moved; for the following property:

**NE NE NW LESS N50 THEREOF FOR RD SEC 25 21 13 9.247ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

## **2530—Craig Chaffin**

### **Action Requested:**

Variance to allow a graphic design business (Use Unit 15) and an auto repair business in the AG-R District. **LOCATION:** 25004 West 49<sup>th</sup> Street South, Sand Springs

### **Presentation:**

**Craig Chaffin**, 25004 West 49<sup>th</sup> Street, Sand Springs, OK; stated he has been working on the subject property for approximately 18 years, under the assumption that it had already been properly zoned. When he purchased the property there was a welding shop and a machine shop on each side of the property that it was zoned commercial. When he was notified that the property was not zoned commercial he started the process of making everything properly zoned because he does want to continue his business on the subject property. He has spoke with his neighbors and they had no problems with his business.

Mr. Charney asked Mr. Chaffin if he was currently operating the graphic design business and the auto repair business, and have been for an extensive period of time. Mr. Chaffin stated that he is operating both businesses and has been since 1998.

Mr. Walker asked Mr. Chaffin what type of work graphic design entails. Mr. Chaffin stated that it is custom vinyl lettering. His wife operates that business and is in a portion of the building. She letters the Tulsa Transit buses, Storey Wrecker trucks, Eagle Concrete trucks, etc. Mr. Walker asked if the vehicles were brought to her to have the lettering applied. Mr. Chaffin stated they do on occasion bring the vehicles to her but most of the time she goes to the customer's facility.

Mr. Walker stated that he made a site visit and noticed that there is quite a bit of mechanic work happening, and it looked like the neighbors had more vehicles sitting around than Mr. Chaffin did. Mr. Chaffin stated that he places most of the vehicles on the rear of the property so it will not be an eyesore.

Mr. Hutchinson asked Mr. Chaffin how many cars a day he worked on. Mr. Chaffin stated that he works on three to ten cars a week.

Mr. West asked the Board to make a condition that the existing building cannot be enlarged if they choose to give approval to this request.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

Mr. Walker stated that the road used to be called Hound Dog Holler Road, and there is still quite a bit of Hound Dog Holler Road stuff operating. Basically, when the community of Keystone was shut down a lot of the people moved into the subject area

making for a makeshift community. Mr. Walker stated that he does not see how an AG-R zoned piece of property can support an auto repair shop, though the graphic design business does not bother him.

Mr. Dillard stated that based on the fact that there are no protestants in attendance today and the fact that Mr. Chaffin has conducted business on the subject property since 1998 he thinks to close him down would be an undue hardship. Mr. Dillard stated he can support the continuance of Mr. Chaffin's business.

Mr. Crall agreed with Mr. Dillard.

Mr. Charney stated the business is behind the home and recessed from the road quite a bit, and given the configuration of the land being a long skinny tract without a lot of frontage coupled with the rural nature of the road he could support this request.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 4-1-0 (Charney, Crall, Dillard, Hutchinson, "aye"; Walker "nay"; no "abstentions"; none "absent") to **APPROVE** the request for a **Variance** to allow a graphic design business (Use Unit 15) and an auto repair business in the AG-R District. The hardship for the request is that the land has a unique nature of being very narrow and long, and the rural nature of the road fronting the property being peculiar characteristics to permit both uses. The approval will have two conditions, one is, that the existing commercial building not be expanded and no additional square footage be allocated to these uses; secondly, that the outside storage and/or repair work be done behind the residential structure away from the road where it will not be seen from the roadway; for the following property:

**W/2 E/2 E/2 SE SW SEC 29-19-10, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2531—Steve Younger**

**Action Requested:**

**Variance** of the allowed square footage for accessory buildings from 750 square feet to 2,400 square feet to allow for two detached accessory buildings (Section 240.2.E); **Variance** of the requirement that detached accessory buildings must be located in the rear yard (Section 420.2.A.2). **LOCATION:** 6831 West 41<sup>st</sup> Place South

**Presentation:**

**Steve Younger**, 6831 West 41<sup>st</sup> Place, Tulsa, OK; stated the last time he was before the Board his presentation was a little vague because there were people that were opposed to the request. Mr. Younger stated that he met with some of the owners in Block 4 to clarify his intent regarding the property where he would like to build the RV drive. The RV building will be over 90 feet from the street and the people from Block 4 agreed that the proposed building would be okay with them. Mr. Younger referred to

pictures showing the wet backyard that he presented to Board. The building will be similar to the one the Mr. Johnny Perkins has at his house which the Board approved previously. Mr. Younger stated that he originally requested a 40'-0" x 50'-0" building and he has pared it down to a 30'-0" x 50'-0" building with a storage shed for a total of 1,900 square feet not the 2,400 originally requested.

Mr. Charney asked Mr. Younger where the storage shed would be located on the property. Mr. Younger stated that it will be behind the house.

**Interested Parties:**

**Erik Nelson**, 6920 West 42<sup>nd</sup> Street, Tulsa, OK; stated he lives on the adjacent block. His main opposition is the location of the building because it is in the direct view of front yard. It is not acceptable to him to have a view of a building from his front yard. It is his understanding that it is against the zoning, and it is against the covenants. Mr. Nelson stated that he reviewed the latest architectural drawing. Another concern Mr. Nelson stated he has is the size the building. Mr. Nelson stated the property is at the top of a hill, it is not a drainage basin and it is not a watershed. From an engineering perspective, which Mr. Nelson stated he is, there is no drainage issue. Mr. Nelson stated there two similar structures in the neighborhood, and the structures are located at the rear of the properties.

**Rona Ellen**, 6832 West 41<sup>st</sup> Street, Tulsa, OK; stated she lives in Block 4 and she also owns Lot 1 and part of Lot 2 in Block 4. Those lots are where her family plans to build their future home. Ms. Ellen stated that after the meeting on the 21<sup>st</sup> she talked with her husband, and the very next they tried to meet with everyone in Block 4 because she feels Mr. Younger did not state his true intent to the Board. Ms. Ellen presented copies of correspondence to the Board and discussed what happened in the meeting, and stated the meeting lasted than 15 minutes. Ms. Ellen stated that she does not care if the Youngers have a 2,400 square foot building or a 1,900 square foot building because he does have a lot of stuff to be stored, but she is concerned on the location. The doors of the proposed building will look into her future kitchen window, and the height of the proposed building will block out the sunrise. Ms. Ellen stated that an outside architect, that offered his services probono, stated that the drainage issues could be addressed because all that would be required would be a road to place the building in the rear of the subject property. Ms. Ellen presented pictures of the Younger's property that she took on Monday morning after storms came through Tulsa and discussed her viewpoints with the Board regarding the pictures. Ms. Ellen asked the Board to have the proposed building placed in the rear of the property.

Mr. Charney asked Mr. Nelson and Ms. Ellen to come forward and point out their properties on the aerial that is in the Board's agenda packet, and each party came forward. Mr. Charney stated that one property is located west of the subject lot and the other property is across the street to the south.

**Ray Lusk**, 7050 West 42<sup>nd</sup> Street, Tulsa, OK; stated he has a building that has been referred to by one of the interested parties and that building is land that is outside the



development, and he did so purposely to escape the covenants. Mr. Lusk stated that he owns three lots, one lot is in Block 2 and two lots that he built his house on in Block 3. Mr. Lusk stated he led the charge to change the covenants in Block 2 and Block 3 and that was done some time ago. Mr. Lusk stated that he also attending the neighborhood meeting that was held a few weeks ago. Mr. Lusk stated that from covenant perspectives he believes that the proposed building is covenant compliant because it is on a cul-de-sac. Because on a cul-de-sac what is not facing the road; it is actually facing the road of the cul-de-sac it is facing another road that one would have to go through a lot to get to, and that would be entrance to the development. Mr. Lusk stated that he believes the proposed building is in compliance with the covenants.

**Rebuttal:**

Steve Younger came forward. Mr. Charney asked Mr. Younger if he purchased part of the lot to his west and if he split the lot. Mr. Younger answered affirmatively. Mr. Younger stated that part of the proposed building will be placed on the lot that has been split.

Mr. Younger stated that Mr. Nelson had made a comment that when he walks out his door he will see the garage, but from the where the garage will be placed he will not be able to see very much of it. Yet if Mr. Nelson walks out his front door he can see Mr. Lusk's garage to his left, and if it was an issue to see a neighboring garage he would not have bought the house. Mr. Younger stated that if he is going to spend \$75,000.00 on a garage it is not going to be an eyesore, it will add value to the property.

Mr. Younger presented pictures of poultry which is what he sees when looking out his kitchen window referring the statement made by Ms. Ellen. Mr. Younger stated the covenants plainly state there will be no poultry and Mr. Younger raised issues with that fact so there are a lot of things that are not compliant with the covenants. Mr. Younger stated that he does not think the neighbors have a valid argument, and there are water issues on his property but he does not have the money necessary to build a road or culvert.

Mr. Dillard stated the Board members are only going to decide the land use, they are not psychologists so they are not going to attempt to settle the disputes of the community but will decide what the proper land use is.

Mr. Charney stated that when it comes to private covenant issues there are strong feelings about that; covenants are important. In the Board's examination and determination the Board does not take private covenants into consideration because it is a private matter between the developer and the home owner. It may be a factor that the Board would concern itself with but it is not a factor that controls the Board's decision. The Code stipulates there is not to be sideyard detached accessory buildings so in order to vary from that the Code stipulates that the Board must find a hardship for a Variance. Hardships are usually related to matters related to unusual configurations of land or a topographical issue.

Mr. Younger stated that he cannot emphasize enough that there is a water issue in his backyard. There is a natural spring in one area and water flowing from another area so water and mud is an issue.

**Erik Nelson** came forward and presented two pictures of the view from his front porch to show that he does not have a direct view of the neighboring garage. Mr. Nelson stated that Mr. Lusk's garage is largely placed back in a wooded area and he has no view of it whatsoever from the side of his house.

**Comments and Questions:**

Mr. Walker stated that restrictive covenants are a legal matter between the people that own the property, and have nothing to do with the relief requested today. Mr. Younger has also purchased a part of another lot making his lot oversized making that a justified hardship. Mr. Walker stated that he could support this request due to the size of the lot.

Mr. Dillard stated that he is in agreement with Mr. Walker and does not see where it would detract from any home. Mr. Dillard stated that in his background the garage drawings presented to the Board, it is a mansion and he feels this will be good land use. Mr. Dillard stated he can support this request.

Mr. Hutchinson stated that he concurs with Mr. Dillard. Mr. Hutchinson does not think Mr. Younger will do anything that will degrade or devalue his property as well as the other properties.

Mr. Crall stated that the drainage issue in the rear is a special circumstance because the cost to take care of the issue would be prohibitive.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance of the allowed square footage for accessory buildings from 750 square feet to 2,400 square feet to allow for two detached accessory buildings (Section 240.2.E); Variance of the requirement that detached accessory buildings must be located in the rear yard (Section 420.2.A.2), with the hardship being the oversize of the basic lot and the drainage situation; for the following property:

**LTS 2 & 3 LESS BEG SWC LT 2 TH NW215.31 E65 S180.66 CRV LF 30.25 POB BLK 4 & N315 W245 E905 N711.12 NE NE LESS N100 THEREOF SEC 30 19 12 1.209AC, STRATFORD ESTATES BLK 4, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2534—Lance Price**

**Action Requested:**

Variance from the minimum land area per dwelling unit requirement from 2.1 acres to 1 acre; Variance from the minimum lot area requirement from 2 acres to 1 acre;

Variance from the minimum lot width requirement from 150 feet to 118.6 feet in an AG District to permit a lot split (Section 330, Table 3). **LOCATION:** 7613 East 181<sup>st</sup> Street South, Bixby

**Presentation:**

**Lance Price**, 3223 East 146<sup>th</sup> Place, Bixby, OK; stated he owns 8.5 acres that he would like to separate. There is an existing house on one acre of the acreage and he would like to separate it from the remaining acreage.

Mr. Charney asked Mr. Price if he planned to split the other acreage into individual lots for more homes, if the Board were to approve this request. Mr. Price stated that he has no intentions of splitting the acreage apart because he is a believer in putting land back together rather than separating it.

**Interested Parties:**

**Linda Greene**, 21884 West 131<sup>st</sup> Street South, Sand Springs, OK; stated that she spoke with Mr. Price in the hallway today, and she now understands what Mr. Price is attempting to do with the subject property. Ms. Greene stated she is withdrawing her verbal request for the continuance.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DILLARD**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance from the minimum land area per dwelling unit requirement from 2.1 acres to 1 acre; Variance from the minimum lot area requirement from 2 acres to 1 acre; Variance from the minimum lot width requirement from 150 feet to 118.6 feet in an AG District to permit a lot split (Section 330, Table 3). This approval is not to presumed that it allows additional lot splits even though there is eight acres. The hardship is the peculiarity of the long narrow nature of the lot; for the following property:

**E/2 E/2 SW SE LESS E130 S385 THEREOF SEC 35 17 13 8.85AC, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2535—Ken Binkley**

**Action Requested:**

Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310); Variance of the all-weather surface requirement for parking (Section 1340.D). **LOCATION:** 9805 East 161<sup>st</sup> Street South, Bixby

**Presentation:**

**Ken Binkley**, 9805 East 161<sup>st</sup> Street South, Bixby, OK; stated the fireworks stand has been operating for 23 years and this will be the 24<sup>th</sup> year. The stand has been located on the subject property for 12 years. Mr. West informed him last year that he needed to come before the Board of Adjustment to receive approval which would make the stand legal, and that is why he is here today.

Mr. Charney asked Mr. Binkley if the stand was located on his homestead property. Mr. Binkley answered affirmatively.

Mr. Charney asked if there was an area for people to pull off 161<sup>st</sup> Street. Mr. Binkley stated there is ample parking and across the road he has permission from the sod farm to use their property for parking also if needed.

Mr. Binkley stated there has never been a traffic issue in the past and he has a lot of repeat customers.

Mr. Charney asked Mr. Binkley what his operating hours would be. Mr. Binkley stated that the hours would be 11:00 A.M. until 10:00 P.M., and on the 4<sup>th</sup> be open until midnight.

Mr. Hutchinson asked Mr. Binkley when he opened the stand and when he would close the stand for the season. Mr. Binkley stated that he will open it June 15<sup>th</sup> and be open until July 6<sup>th</sup>.

Mr. Crall asked Mr. Binkley if there was any area that he could lay gravel for the parking. Mr. Binkley stated the stand is in his yard so laying gravel on the property would mean he would be throwing rocks everytime he mows the grass.

Mr. Dillard asked Mr. Binkley if he had mud and rutting problems in the past. Mr. Binkley stated that he has had a couple of rainy seasons where there was a mud issue.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310); Variance of the all-weather surface requirement for parking (Section 1340.D) finding this will not be injurious to the surrounding neighborhood. The hours of operation will be 11:00 A. M. to 10:00 P.M. June 15<sup>th</sup> through July 6<sup>th</sup> with the hours of operation for July 3<sup>rd</sup> and July 4<sup>th</sup> being 11:00 A.M. to 12:00 midnight, or consistent with

the State permitted operating window. This approval has a five year time limit until June 2020; for the following property:

**E479.2 W849.7 LYING S OF MVRR LESS BEG 370.50E & 353.81N SWC SW TH N APR 128.67 SE APR 168.76 SW APR 119.19 POB & LESS S24.75 THEREOF FOR ST SEC 19 17 14 2.204ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

\*\*\*\*\*  
\*\*\*\*\*

### **NEW APPLICATIONS**

#### **2536—Joseph Watt**

##### **Action Requested:**

**Special Exception** to allow a mini-storage (Use Unit 16) in a CS District (Section 710). **LOCATION:** NE/c of East 86<sup>th</sup> Street North and North Yale Avenue, Owasso

##### **Presentation:**

**Joseph Watt**, 9936 East 55<sup>th</sup> Place, Tulsa, OK; stated the beginnings of this property was when the nine acres was separated out years ago. There was a perimeter of 90 feet on the north and 120 feet on the east zoned RE and the rest of the land was zoned agriculture. Mr. Watt stated that he has not been able to find the records for the separation so he does not know how it came about. The CS zoning is more restrictive for commercial development but yet part of this is to allow storage units and a commercial building. Prior to today he had to do all the storm water details and determinations so the proposed usage would not be displacing water on anyone else. Matter of fact, he will be taking water away from portions of the property that is now draining to the northeast and it will be pulled back to the south and the west holding it in the detention facility for the subject property, and it is proposed to regrade the site so there will be no water whatsoever displaced onto the neighbors to the north or to the east.

##### **Interested Parties:**

**Calvin Swindle**, 5206 South Harvard, Unit 319, Tulsa, OK; stated he has concerns about the drainage.

Mr. Charney stated that in order to have a building constructed on the subject site there will be platting and an engineering effort made to control the stormwater in a manner that is consistent with all the stormwater regulations. The Board of Adjustment does not focus upon that, but focus on the land use is appropriate. The stormwater drainage, the stormwater retainage and the stormwater detention and the release will all be addressed at the platting stage and it will be reviewed very carefully, then it will be stamped by an Engineer that the applicant is not releasing stormwater at a faster rate in the post development stage than is being release currently.

Ms. Miller stated that this case has been before the Tulsa Metropolitan Planning Commission and the County Commission, and the applicant did commit to platting the property. Ms. Miller asked Mr. Watt what his timeline was for platting the property. Mr. Watt stated that as soon as he receives approval for his Variance he will be submitting the plan as soon as possible.

**Rebuttal:**

Joseph Watt came forward for questions from the Board.

Mr. Charney stated that in order to approve a Special Exception the Board needs to make certain findings that what is being proposed is not going to injurious or detrimental to the neighborhood. This is an increasingly important and critical corridor. To the west is Sperry and to the east is Owasso and that makes it an important corridor for each community with lots of public spending on the roadways to improve the corridor. Mr. Charney asked the applicant if any thought had been given to those structures, as to whether they have something attractive about them because there are things that might normally be relevant so the Board could determine whether it would potentially be detrimental to this developing corridor. Mr. Watt stated that what he has done is looked at the perimeter fencing in a way that will not detract from the community, he does not want chainlink or wooden fencing. The thinking is masonry columns with capstones with the interworking wrought iron between the columns to achieve the London street look. There is a perimeter landscaping plan with varying canopy heights of trees so people could partially see through but not see the entire facility. Mr. Watt stated that on the south side of the facility, which faces 86<sup>th</sup> Street North, the same thing is planned but the fencing will be different because in the future where the commercial building area is planned there is a planned veneer on the building that will be cohesive with the surrounding homes. The two drives, possible three, were placed so as to keep the cueing traffic down on the intersections. There will be two drives from Yale and one from 86<sup>th</sup> Street North, but these are early concepts and have since looked at a possible third point from Yale.

Mr. Charney asked Mr. Watt to describe the veneer of the proposed building. Mr. Watt stated that stucco or stone is being discussed because he wants a very nice and longer lasting veneer for the building.

**Comments and Questions:**

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a **Special Exception** to allow a mini-storage (Use Unit 16) in a CS District (Section 710). The perimeter fencing is to be ornamental in nature with masonry columns. There is to be landscaping. The buildings that face 86<sup>th</sup> Street North have a masonry veneer or be stucco; for the following property:

**BEG SWC SW TH N678 E545 S17.99 E45.20 S660.01 W590.56 POB LESS S16.5 FOR RD & LESS W16.5 N661.5 S678 SW FOR RD SEC 22 21 13 8.696ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2537 – Big Blast – Sherry Barbour**

**Action Requested:**

Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310, Table 1); Variance of the all weather parking surface requirement (Section 1340.D). LOCATION: 7409 East 146<sup>th</sup> Street North, Collinsville

**Mr. Hutchinson recused himself at 3:02 P.M.**

**Presentation:**

**Harry Barbour**, 18622 South 62<sup>nd</sup> East Avenue, Bixby, OK; stated he is before the Board representing his wife, the applicant, because she could not be here today. There will be a tent placed on the property with a semi-trailer and RV for the sales. There will be a gravel parking lot installed and there will be a 24 foot culvert. The gravel is a necessity because without it there would be no access to the land due to mud. He works with nonprofit groups and this is one way funds are raised. After the three week selling period the property will look just as it does currently.

Mr. Dillard stated that the application has asked for the December 20<sup>th</sup> through January 2<sup>nd</sup> selling time, as well as a Variance to the all-weather surface. Mr. Dillard asked Mr. Barbour if he is saying he does not want those requests. Mr. Barbour stated that basically the business is the Fourth of July season, and he was not aware that his wife had requested the New Year season.

**Interested Parties:**

**Ronald Folsom**, 7503 East 146<sup>th</sup> Street North, Tulsa, OK; stated the property and all the lots are designated as agricultural and residential, and he would request that it remain the same. Mr. Folsom stated he lives on a 2 ½ acre tract that is immediately east of the subject property. The traffic on Highway 20 has been getting worse for the past 40 years. He was one of the first people to build a house on the land in the area when it was just a field. The aerial map that is in the Board's agenda packet does not show the rise in the road at the subject tract. Any of these lots, all the way to 77<sup>th</sup> East Avenue, coming from their lot onto Highway 20 cannot see the traffic coming over the hill. The posted speed limit is 55 miles per hour on Highway and most people don't drive 55 miles per hour. There have been a lot of accidents on Highway 20 because there is no shoulder and the person pulling onto Highway 20 from their driveway cannot see the oncoming traffic because of the rise in the roadway. A school bus and a horse trailer have slipped into the culvert. The shoulder of the road in the subject area is very

steep and there has been a head-on collision there. The recent heavy storm caused the culvert and ditch to flood and the stormwater flowed across the highway flooding Highway 20. Mr. Folsom stated that North 77<sup>th</sup> East Avenue and 75<sup>th</sup> East Avenue are both only driveway width, and by having a bunch of cars going into the lot it will cause a problem. There are also a lot of heavy trucks and semis that travel Highway 20 that could be a problem.

**Audrey Folsom**, 7503 East 146<sup>th</sup> Street North, Tulsa, OK; stated that she does not like the idea of a fireworks stand being open in December and January. If the fireworks were to be open in July until 10:00 P.M. and 11:00 P.M. on July 3<sup>rd</sup> and 4<sup>th</sup> would be okay but after that time she would object. People want to be able to retire at night so out of courtesy there should be a time limit.

**Sal Martinez**, 14615 North 77<sup>th</sup> East Avenue, Collinsville, OK; stated he lives on the adjacent road to the property. He lives on a dead end road and there is only room for one vehicle. There is barely enough room for a car to turn around and there is a lot of truck traffic in the area. The only vehicle that stops on the main road is a school bus which his son rides. Usually if a vehicle needs to turn around they use his front yard to turn around and there have been a lot of car wrecks there. He also has horses that a fireworks stand would disturb.

**Fred Cargile**, 14631 North 75<sup>th</sup> East Avenue, Collinsville, OK; stated he lives on the corner and he just sold the subject property a few months ago. The entire 60 acres is a housing addition and only houses. Mr. Cargile stated that he sold the property for the purpose of a house being built on it.

Mr. Crall asked Mr. Cargile if he sold the property to Mr. & Mrs. Barbour. Mr. Cargile stated that he sold the subject property to Mr. Don Hutchinson.

Mr. Charney asked Mr. Cargile to come forward and point out on the Board's agenda packet map where he lives in relation to the subject property. Mr. Cargile pointed to the northeast corner of the map on page 9.5.

**Rebuttal:**

Harry Barbour came forward and stated there is an area of trees that blocks the view from the neighbors so he feels the fireworks stand will be out of their sight. There will be a few trees close to the road that will be removed to allow visibility to the east, and the visibility to the west is very good. Mr. Barbour stated there will be a large culvert installed in the ditch that will handle the water flow and drainage.

Mr. Charney asked Mr. Barbour if he understood that if he is granted approval for his request the underlying zoning of the subject property is not being changed. Mr. Barbour stated that he understood that.

Mr. Charney asked Mr. Barbour about the line of sight to the property even with two ingress and egress points. Mr. Barbour stated that he has been on the property and he



has looked from the vantage point of pulling out and he believes there is plenty visibility now, and when the trees on the east side are removed it will make it even better. Mr. Barbour stated there is an incline in the highway but it is a long way to the top of the hill so cars can be seen a long time before they get close to the subject property.

Mr. Crall asked Mr. Barbour about the 24 foot driveway that is designated in the description. Mr. Barbour stated that he would like to install a 24 foot driveway to allow cars to come and go easily.

Mr. Charney asked Mr. Barbour if he knew if 75<sup>th</sup> East Avenue was a publicly dedicated right-of-way. Mr. Barbour stated it is a private street.

Fred Cargile came forward and stated that unless Mr. Barbour is making his ingress and egress where the trees are located on the east side there is no reason to take the trees out.

Mr. Charney asked Mr. Barbour why he needed to remove the trees along the easterly boundary of the subject property. Mr. Barbour stated that he only wants to remove a small portion of the trees that are close to the highway. Mr. Charney asked if the trees were located on the subject property. Mr. Barbour answered affirmatively.

**Comments and Questions:**

Mr. Walker stated that he cannot support this request.

Mr. Crall stated there are a lot of "ifs" for six days a year so he cannot support the request.

Mr. Charney stated that he is not a traffic engineer but this does cause him a level of concern of the sight lines coming over a hill. A fireworks stand would cause more traffic than the standard agricultural use in the specified two weeks so it does cause him some concern.

**Board Action:**

On **MOTION** of **CRALL**, the Board voted 0-2-1 (no "ayes"; Crall, Walker "nays"; Charney, Dillard "abstaining"; none "absent") to **DENY** the request for a **Special Exception** to allow a fireworks stand (Use Unit 2) in an AG District (Section 310, Table 1); **Variance** of the all weather parking surface requirement (Section 1340.D); for the following property:

**SE SW SW SE LESS S35 & E25 FOR RD THEREOF SEC 23 22 13 2.06ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**THE MOTION FAILED DUE TO LACK OF A MAJORITY VOTE.**

**Mr. Hutchinson re-entered the meeting at 3:33 P.M.**

**2538—Marcus Fairless**

**Action Requested:**

Special Exception to permit a community event space (Use Unit 2) in the RS District; Special Exception to permit a museum and children's area (Use Unit 5) in the RS District; Use Variance to permit a restaurant (Use Unit 12) in the RS District; Use Variance to permit produce sales (Use Unit 13) in the RS District. **LOCATION:** 4502 West 41<sup>st</sup> Street

**Presentation:**

**Marcus Fairless**, 1830 South Cheyenne Avenue, Tulsa, OK; stated he represents Amy Whitman at Red Berry Farm. Red Berry Farm is an eco minded historic property that is a unique anchor to the Red Ford area and to the community of Tulsa. The property consists of 65 acres that is home to Cedar Rock Inn, Silo Event Center, and three short term rental homes. The owner would like to extend her services to her community with added amenities including a farm-to-table restaurant, a sale of local grown produce, and a community event center for weddings and small parties with the follow up as an accessory use to a museum. The event center portion is designated as a 50'-0" x 30'-0" open air covered shade structure. The hours of operation for the event center would be Thursday, Friday and Saturday from 11:00 A.M. to 10:00 P.M. The cultural facility called the children's museum and children's area will be an arts and crafts area where children can learn about farming practices. There will be gardens and sculptures for the children to play on and a wall for the children to hang their art. The owner is planning on growing food in the rear of the property and serving it in the existing home, with a service for 20. The hours of operation for the restaurant will be Tuesday through Saturday from 11:00 A.M. to 9:00 P.M. The sale of produce will be during the summer months. The Red Berry Farm is a main staple to the Red Fork Community.

Mr. Charney asked Mr. Fairless if he thought the more intense use in the RS zoned large tract area would be detrimental to the neighbors. Mr. Fairless stated the existing Red Berry Farm is a staple of the area and makes the Red Fork area what it is now. The curb appeal and nature of the development is residential in nature; everything is set back to the adjacent neighborhoods. The reason it does not impact the single family residential district is because the owner will maintain the existing home and its front elevation and plan to restore it back to its original nature. The curb appeal, other than the parking and the double entrance, will be maintained. There will be an orchard in the front. Fencing will be installed, there will be landscaping done to make it very residential in nature and be low impact. The farm-to-table restaurant concept is something the community can benefit from. The proposed time slots will be conducive to the residents of the neighborhood.

Mr. Charney asked Mr. Fairless if the parking and the structures were set back significantly on the long narrow piece of property. Mr. Fairless answered affirmatively.

Mr. Walker asked if there was something in operation currently referring to the Red Berry Farm name. Mr. Fairless answered affirmatively. Mr. Fairless deferred to Ms. Sandi Dittman.

**Interested Parties:**

**Sandi Dittman**, 4501 West 41<sup>st</sup> Street, Tulsa, OK; stated the property is directly across the street from her house. She owns Red Berry Farm and the name was derived from Berryhill and Red Fork. She has an event center that seats 200 people. She has the Silo and the Cedar Rock Inn. Cedar Rock Inn has been open for ten years and has five rooms in the bed and breakfast. The proposed restaurant will be nice for the community and her guests. The Silo seats 200 people and she hosts weddings there. The house was built in 1918 and is one of the oldest structures in the community. She would like to keep the structure as it is and only remodel the bathrooms for the public, and have the ADA compliant bathrooms in a new structure.

Mr. Walker asked Ms. Dittman if she is currently growing crops or berries. Ms. Dittman stated the gardens have been plowed and tomatoes are currently growing.

Mr. Charney stated that with the Silo operating where it is, it is already significant non-residential use in the neighborhood, and the neighborhood is tolerating that well currently.

Mr. Walker asked Ms. Dittman where the old Silver residence was on the property. Ms. Dittman stated that Cedar Rock is the old Silver residence, and that house was built in the 1890s making it a historical part of Oklahoma.

Mr. Walker asked Ms. Dittman about her time frame for what she is proposing. Ms. Dittman deferred to Mr. Fairless. Mr. Fairless stated the gardens are in the rear of the property and a grant has been given for those. The property has been cleared of all debris and the house has been cleaned out. The architectural changes will be mostly the addition of the 40 parking spaces, the double ingress and egress on the site, the sculptures and the orchard. The front fence line and the signage is considered a weekend project. The ADA restrooms and the catering kitchen are the biggest architectural feature that will need to happen and will be completed quickly. The ADA ramp will be associated with the front porch of the existing house and the new deck for the restaurant, which is merely a covered canopy, will be quick. The infrastructure will not change.

Mr. Crall asked if there was an event center operating across the street. Mr. Fairless stated that Red Berry Farm operates a wedding venue in a structure that looks like a barn. Mr. Crall asked if the applicant now wants a second event center. Mr. Fairless answered affirmatively and stated that it would be an extension of the event center that is currently operating.

Ms. Miller asked what the capacity of the proposed event center is to be. Mr. Fairless stated that it is possible to have 215 chairs only that are not fixed, which would be as tight and as dense as the center could be.

Mr. Charney asked if there is the hope to have events held on both sides of the street with the farm-table restaurant concept within the proposed event center. Mr. Fairless answered affirmatively.

**Jim Baird**, 4443 West 42<sup>nd</sup> Street, Tulsa, OK; stated he has lived in the area for 30 years and rents the house immediately east of the subject property. Mr. Baird asked that the proposed driveway be considered for another area because of the hill that does not allow for good visibility of oncoming traffic. One of the reasons he enjoys where he lives is the quiet and the idea of an event center three or four days a week disturbs him. He can hear the music from the current event center. Ms. Dittman stated that the concert music Mr. Baird is hearing comes from the neighbor's house and it is not connected to Red Berry Farm. Mr. Baird stated the children's museum would be okay but to operate a restaurant five nights a week until 9:00 takes the tranquil part of the area away.

**Rebuttal:**

Ms. Dittman came forward for questions from the Board.

Mr. Charney asked Ms. Dittman if there was music associated with the weddings. Ms. Dittman stated she has had parties and respects Mr. Baird's opinion about them. Ms. Dittman stated she did go around the neighborhood and asked if people would sign a petition saying they agreed with what is being proposed.

Mr. Charney asked Ms. Dittman if there were time limits on the wedding events. Mr. Fairless stated the event center would be open on Thursday, Friday and Saturday nights from 11:00 A.M. until 10:00 P.M.

Mr. Crall asked what happens when the bride asks the DJ to continue until 11:00 P.M. Ms. Dittman stated that because she is the one with the event center she places limitations on the events. She lives next door to the event center so if it goes ten minutes over she knows about it and immediately calls the event manager to get it shut down. Ms. Dittman stated that the time limit can be extended at the Silo but that it because it is an enclosed environment and the proposed event center will not be. All of these conditions are explained to the brides and mothers and she controls it.

**Comments and Questions:**

Mr. Walker asked Staff why this is not a PUD zoning. Ms. Miller stated that there has been a lot of discussion regarding this request. There is a lot happening in this corridor that is new and exciting. Ms. Miller stated that Staff did not think it was appropriate to introduce, through zoning, any kind of commercial use because that would set a precedent. It could have been a PUD but it would still need the underlying zoning to provide for the commercial usage. This is the least intrusive way of fitting into the

neighborhood. Staff also thought this was a complement to the use that is already going on in the area versus introducing commercial zoning. Mr. Walker stated this is basically having a commercial operation next to residential. Ms. Miller stated the Board could include any conditions they would want.

Mr. Charney stated there is a significant base that is in favor of the proposal but then there is one person that finds part of this to be good and part of it to be potentially detrimental. This is an interesting request.

Ms. Miller stated that she thought this was to be a smaller venue than the Silo. She thought this was for events of 75 people or less. Ms. Dittman stated that how the count was approached was to go to a maximum count, but not go 200 people because that is a lot of people to control. Ms. Dittman stated that a 100 person event is easier to control and she thinks 200 is too much for the proposed event center site. Mr. Fairless stated the occupancy was not based on the usage. The most intense occupancy was placed on that pad to work back into the parking thus ensuring there was enough parking for the facility.

Mr. Dillard stated that with the information that has been provided he can support this request. Right across the street is the land owner and there are several signatures in support of the proposal. If all applicants were this complete in their presentation it would make the Board's job a lot easier.

Mr. Crall stated that he likes the fact that Ms. Dittman lives there and has to face the neighbors; she cannot deny how loud the music is.

Mr. Hutchinson stated the he is in support of the request.

Mr. Charney stated that he cares the Board be significantly sensitive to a neighbor across the way and if there are things that could be tweaked he would suggest it be considered if the Board were to approval this request.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to permit a community event space (Use Unit 2) in the RS District; Special Exception to permit a museum and children's area (Use Unit 5) in the RS District. In regards to the community event center and the museum and children's area given the current existing nature of what is being accomplished and the operating history of the applicant this concept will not be injurious to the neighborhood or detrimental to the public welfare. The event center is to be a canopied open air structure at 1,500 square feet. The hours of operation for the event center will be Thursday, Friday, and Saturday from 11:00 A.M. until 10:00 P.M. The children's museum and outdoor area is to be an outdoor area for children to participate in art projects, teaching of gardening, etc.; for the following property:

**E 1/2 E 1/2 NE NW NW SEC 28-19-12, OF TULSA COUNTY, STATE OF OKLAHOMA**

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Use Variance to permit a restaurant (Use Unit 12) in the RS District; Use Variance to permit produce sales (Use Unit 13) in the RS District. The significant and unusual condition is this is a large lot with very narrow and deep frontage that will accommodate the orchard, garden, and the various uses. The peculiar nature of the lot allows the Board to approve the Variance requested. The restaurant is to be in the main house with a maximum seating capacity of 20 and it will have an outdoor deck and garden area with a maximum seating capacity of 75. The hours of operation for the restaurant will be Tuesday through Saturday from 11:00 A.M. to 9:00 P.M. The sale of produce hours of operation will be Tuesday through Saturday from 11:00 A.M. to 5:00 P.M. The property will be screened from other RS zones with a wooden privacy fence. There will be ADA compliant restrooms and ramps. There will be at least 40 parking spaces provided; for the following property:

**E 1/2 E 1/2 NE NW NW SEC 28-19-12, OF TULSA COUNTY, STATE OF OKLAHOMA**

\*\*\*\*\*

**NEW BUSINESS**

None.

\*\*\*\*\*

**OTHER BUSINESS**

None.

\*\*\*\*\*

**BOARD COMMENTS**

None.

\*\*\*\*\*

There being no further business, the meeting adjourned at 4:14 p.m.

Date approved: \_\_\_\_\_

6-16-2015

  
Chair