

**TULSA COUNTY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 423**  
Tuesday August 18, 2015, 1:30 p.m.  
Ray Jordan Tulsa County Administration Building  
500 South Denver, Room 119  
Tulsa, Oklahoma

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

Charney, Chair	Crall	Miller	West, Inspector
Dillard, Secretary		Moye	
Hutchinson		Sparger	
Walker, Vice Chair			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13<sup>th</sup> day of August, 2015 at 10:21 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 1:35 p.m.

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Ms. Nikita Moye read the rules and procedures for the County Board of Adjustment Public Hearing.

Mr. Charney explained to the applicants that there were only four board members present at this meeting, and 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 three board members to constitute a majority and if two board members 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. Everyone nodded their understanding and no one requested a continuance.

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**MINUTES**

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the Minutes of June 16, 2015 (No. 421).

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the Minutes of July 21, 2015 (No. 422).

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**UNFINISHED BUSINESS**

None.

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**NEW APPLICATIONS**

**2545—Ron Burger**

**Action Requested:**

Appeal of an Administrative Official's determination that inoperable/dismantled cars and various junk of all kinds are being stored on the subject lot. **LOCATION:** 9201 North Delaware Avenue East/9201 East 96<sup>th</sup> Street North, Sperry

**Presentation:**

**Ron Burger**, 9201 North Delaware Avenue, Sperry, OK; stated he moved to the subject property at the first of this year. The property is located far from the road. Mr. Burger stated that he does not have any dismantled cars or doing any kind of business. Mr. Burger stated this is an indential incident that happened to him when he lived on 86<sup>th</sup> Street North. He thought this was the ideal place for his children to come to and for them to have their cars. Mr. Burger stated that he only works on selling his items. Then received the citation from the County.

Mr. Charney asked Mr. Burger if he was a neighbor to the DeBoer family. Mr. Burger answered affirmatively. Mr. Charney asked Mr. Burger if he had received a citation while a neighbor to the DeBoers, and then decided to sell that property. Mr. Burger answered affirmatively. Mr. Charney asked Burger if he moved everything from the other property to this subject property. Mr. Burger answered affirmatively and explained that basically everything from the other property is still on the trailers they were hauled on. Mr. Burger stated that he cannot unload the trailers because the previous owner of the subject property left his junk in the accessory building on the subject property.

Mr. Charney asked Mr. Burger if he was operating a salvage or a store or selling items from the subject property. Mr. Burger stated that he is not selling anything.

Mr. Charney asked Mr. Burger if he was storing inoperable items on the subject property. Mr. Burger stated that he does have a pickup that is broke down from the other location.

Mr. Charney asked Mr. West what the standards are for this case. Mr. West stated that he cited Mr. Burger for a Use Unit 17, which is automotive and allied activities which refers to everything dealing with automobiles whether it be repair, body work, etc. Mr. West stated he also cited Mr. Burger for Use Unit 23 which is storage not elsewhere classified according to the zoning code which refers to the storage of the miscellaneous items on the property. Mr. West stated that in the prior case he called Mr. Burger's case Ron's Salvage which means dismantled and the selling of cars parts; Mr. Burger was not cited for that in this case. This case shows vehicles being brought in usable then disappearing which is the reason for the Use Unit 17 citation.

Mr. Charney asked Mr. West if the current citation was under two separate usages. Mr. West answered affirmatively.

Mr. Charney asked Mr. West if there was language in Use Unit 23 that describes the sort of storage that is permitted or not permitted in the district. Mr. West stated that it stipulates "not elsewhere classified"; it does not place the storage into a specific category.

Mr. Charney asked Mr. West if the subject property was in an AG District. Mr. West answered affirmatively.

Mr. Charney asked Mr. West if Use Unit 23 spoke to storage in the AG District. Mr. West stated that Use Unit 23 is normally allowed in commercial and industrial zoned districts as a matter of right.

Mr. Charney asked if Use Unit 23 was not allowed as a matter of right in the AG District. Mr. West answered affirmatively. Mr. West stated that Use Unit 17 is not allowed in the AG District either.

Mr. Hutchinson asked Mr. Burger if he stated that the cars were not inoperable. Mr. Burger stated that anything that is on the ground will run and drive. Mr. Burger went on to say that his cars, his children's cars and his grandchildren's cars are on the property.

Mr. Hutchinson asked Mr. Burger if he was saying that the burned car and the other cars that look inoperable in the pictures are on trailers. Mr. Burger stated the red pickup runs, the truck and tractor runs, and all the tractors run. Mr. Hutchinson asked Mr. Burger to look at page 3.14 and 3.19. Mr. Burger there his boat, axles for trailers, a pop-up trailer that has parts in it that he has not unloaded, a barrel that his granddaughter drained oil into from her vehicle, there are tires that were on a tire rack but someone stole it over the weekend, and 3.19 that engine belongs to someone else. Mr. Hutchinson asked Mr. Burger about the burned car that is behind the engine. Mr. Burger stated that it is on a trailer and he has removed it. Mr. Hutchinson asked Mr. Burger about page 3.20 showing a car next to a semi. Mr. Burger that car runs and is driveable.

Mr. Charney asked Mr. Burger about page 3.14 because there appears to be many cars that are inoperable. Mr. Burger stated that car is on a trailer and he purchased it for a man that wanted the parts from it.

Mr. Charney stated to Mr. Burger that even though he says the vehicles are not on the property any longer, he was cited for a specific moment in time. Mr. Burger stated that he never sold that; he buys things and hauls them for people because he has a dealers license at the salvage. Mr. Charney asked Mr. Burger if he was pulling parts off the items. Mr. Burger stated that he does not pull the parts. Mr. Charney asked Mr. Burger how the parts are taken off the vehicles. Mr. Burger stated that he does not take parts off the vehicles and he does not sell parts. Mr. Burger stated that a lot of times he will purchase a vehicle for an interested party, take the vehicle to where the other party wants them delivered, but a lot of times he takes the vehicle to his house because he cannot deliver the vehicle to the interested party the day he picks it up. Mr. Charney asked Burger if he was storing it for awhile pending the relocation of the vehicles. Mr. Burger answered affirmatively.

Mr. Hutchinson asked Mr. Burger about the boat that is shown on page 3.25. Mr. Burger stated the pontoon boat was purchased without a motor and later purchased a motor for it, but later his friend wanted to purchase the pontoon but has never produced the money so the pontoon is still sitting on a trailer.

Mr. Charney asked Mr. West if it was his belief that day he visited the subject property that there was storage that was in violation of Use Unit 23, because he saw other storage that he felt was occurring on an AG site in violation of the Code. Mr. West answered affirmatively. Mr. West stated that he does not have a problem with the tractor and other AG related equipment, but the storage of the metal and miscellaneous stuff is not associated with agricultural use.

**Interested Parties:**

**Tom Redding**, 9205 North Delaware Avenue, Sperry, OK; stated Mr. Burger lives west of him and they use a shared right-of-way because Mr. Burger is in a land locked situation. Mr. Redding stated that he had contacted Mr. West several months ago because he felt the situation was getting out of control, and Mr. West was very helpful. As a land owner in an agricultural zone he has a responsibility. He has been on his property since 2001 and started with four acres and now has approximately 14 acres. He and his wife have a little brood mare farm and have worked hard to develop the property. He does not want to see his property value decrease because of what has been moved in behind his property. Mr. Redding stated that Mr. Burger brings in vehicles on a daily basis and he is concerned about soil contamination. There are transmissions and rear axles laying around. Mr. Redding stated that he is not sure what Mr. Burger is doing with the vehicles that he brings in daily but to him it looks like he is breaking them down. Mr. Redding is also concerned about the water drainage that comes from Mr. Burger's property to his property because it could destroy his pastures, and it could flow into the creeks. Mr. Redding does not believe this is something that should be in an agricultural area. He is concerned about the overall appearance of the

subject property, and if he were to sell his property people would not want to buy it because of the appearance of the subject property. As a property owner taking care of the land is a responsibility toward the neighbors. Mr. Redding stated that Mr. Burger had to leave 86<sup>th</sup> Street North in Owasso for the same reason, he is now doing the same thing behind him and he cannot understand what the difference is between the two properties.

Mr. Charney stated that there is a distinction in the nature of the violation between the last operation and this property because of a particular operation of a business, which was the source.

**Cody Williams**, 9124 North Delaware Avenue, Sperry, OK; stated he lives east of the subject property's right-of-way and has been there for his entire life, 34 years. He has built a new house on his property for his family and he works hard to keep it nice and clean. His concern is that he has children and on a daily basis there are trailers and trailers of things that are not AG items going into the location, and he has never seen anything leave the subject property. Another concern is his property value. Everything that is brought onto the subject property is leaking and it runs into his ditch which is near his garden.

**Rebuttal:**

Mr. Burger came forward and refuted the fact that he was west of the neighbor, and he showed his property on the map in the agenda packet. Mr. Burger stated that his drainage does not flow onto the neighboring property. Mr. Burger stated that all the oils that he supposedly is leaking is not going onto the neighboring property, because the stormwater flow goes south.

**Comments and Questions:**

Mr. Charney stated that the Board can only be concerned about the land usage. There is a public official that has said and show photographic support that looks like there was inoperable vehicles. Maybe they have since been moved but the Board does not know for certain. The Board also sees that there is lots of other storage. Mr. Charney stated that from his perspective it would be hard to overturn an order finding a violation based on the evidence. Mr. Charney stated that from what he has seen an appropriate issuance of a citation was given. This is broader than appropriate storage of agricultural equipment.

Mr. Dillard stated that he goes by sight and his sight says there is every reason to uphold the citation. There is no evidence that could persuade him differently other than new photos showing him that the area has been cleaned up. This is a clear violation of what Mr. West cited Mr. Burger for.

Mr. Walker stated that he believes there is a misunderstanding of agricultural zoning. People get the sense that it is country and they can do whatever it is they want to do, and that is not the way it really is. The land is inappropriate and he can support staff's citation.

Mr. Hutchinson stated that he can definitely support Mr. West. This was one of his concerns when Mr. Burger was moving the stuff off the 86<sup>th</sup> Street North property.

**Board Action:**

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Walker “aye”; no “nays”; no “abstentions”; Crall “absent”) to **UPHOLD** the Administrative Official’s determination that there is inoperable/dismantled cars and various junk of all kinds being stored on the subject lot on the day of the initial inspection; for the following property:

**PRT SW NE BEG 325.65S NEC SW NE TH SW127.13 SE105.85 W132.85 S180.68 SW114.73 SW73.64 S APPROX2.92 E TO PT ON EL SW NE N POB SEC 20 21 13 1.628ACS; TR BEG 2242.96S & 877.78E NWC NE TH N255.95 E TO PT ON EL SW NE S260 W438.83 POB SEC 20 21 13 2.599ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2546—Craig Hemphill**

**Action Requested:**

Variance of the allowable square footage for accessory buildings in the RS District from 750 square feet to 1,600 square feet (Section 240.2.E). **LOCATION:** 1818 Town & Country Drive, Sand Springs

**Presentation:**

**Craig Hemphill**, 1818 Town & Country Drive, Sand Springs, OK; stated he grew up in the house and has lived there for 42 years. He would like to have a new shop to store vehicles in and tinker around in. The existing shed is 25 years old and is starting to fall apart. He has three vehicles that he would like to get out of the weather, and his band saw and other tools.

Mr. Walker stated that he did look at the site and there are other oversized storage buildings in the area. Mr. Walker asked Mr. Hemphill if the person directly across the street from him was operating a construction company from his big building. Mr. Hemphill stated that he is not operating a construction business but he has a landscaping business and he stores his equipment in the building. Mr. Hemphill stated that the big building directly across the street from him was erected about 25 years ago, and the previous owner of the property used to store his motor home in the building. The current property owner purchased the house about 15 years ago.

Mr. Walker asked Mr. Hemphill if he was planning on operating a business out of his proposed building. Mr. Hemphill stated that he was not. Mr. Hemphill stated that he does tinker on cars and helps friends with their cars but it is not a business; he works in IT at a dealership.

Mr. Charney asked what the minimum size lot would be for the RS zoning. Mr. West stated that it would 6,000 square feet.

Mr. Hemphill stated that he plans on having the proposed building grey metal with white trim and a white roof to match his house.

Mr. Walker asked Mr. Hemphill what he planned for his eave height of the proposed building. Mr. Hemphill stated the he plans 11 or 12 feet at the eave.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Walker stated that Mr. Hemphill does keep his property up and everything seems to be proportional to his lot size.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Walker “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a **Variance** of the allowable square footage for accessory buildings in the RS District from 750 square feet to 1,600 square feet (Section 240.2.E), subject to the eave height not to be in excess of 12 feet. The existing shed is to be razed after the proposed building is complete. There is to be no commercial activities on the subject property but personal hobbies are allowed. The hardship is that the existing lot is so large compared to other RS lots, that the size of the lot will permit the larger accessory building; for the following property:

**LT 3, TOWN & COUNTRY ACRES, OF TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

**ITEMS TO CONSIDER, DISCUSS AND/OR TAKE ACTION ON:**

- a) Draft Rules of Procedures and Code of Ethics (exhibit attached)
- b) Variance standards (exhibit attached)
- c) Special Exception (exhibit attached)
- d) Sample motions/finding statements

Ms. Moyer stated this is not a revision but is an update to the existing Rules and Procedures. The ability for the Secretary, Vice Chair and Chairman of the Board was added to the Rules and Procedures. Also, the Conflict of Interest was added to give additional guidance as to what constitutes a conflict of interest.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Crall "absent") to **ADOPT** the Rules of Procedures, the Code of Ethics, the Variance standards, the Special Exception standards, and to utilize the Motion/Finding statements as presented.

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**NEW BUSINESS**

None.

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**BOARD COMMENTS**

Mr. Walker announced that he will be retiring from the County Board of Adjustment in September, but he will continue to serve until there is a replacement appointed. Mr. Walker stated that he had left a message at Karen Keith's office, his County Commissioner.

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There being no further business, the meeting adjourned at 2:24 p.m.

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

9/15/2015  
Roland Z. Walker  
Chair