

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 446
Tuesday, July 18, 2017, 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

Hutchinson, V.Chair	Charney, Chair	Miller	West Co. Inspector
Crall, Secretary		Moye	
Dillard		Sparger	
Johnston			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13th day of July, 2017 at 9:40 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Hutchinson called the meeting to order at 1:30 p.m.

MINUTES

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the Minutes of May 16, 2017 (No. 444).

Mr. Hutchinson explained to the applicants and interested parties that there were only four board members present at this meeting. If an applicant or an interested party 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. Hutchinson asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding and no one requested a continuance.

UNFINISHED BUSINESS

2633—Rachel Brown

Action Requested:

Special Exception to allow a home occupation (counseling service) in the AG-R District (Section 320); Variance to allow a home occupation in a 1,200 square foot shop; Variance to allow three employees/contractors that are not members of the immediate family (Section 440). **LOCATION:** 11915 East 123rd Street North, Collinsville

Presentation:

The applicant has withdrawn the application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

**PRT SE NW BEG 660.09E NWC SE NW TH S350.57 W240 NW377.79 E382.03 POB
SEC 5 21 14 2.5ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

NEW APPLICATIONS

2637—Randy Scott

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in the CS District (Section 701); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 1000 North Garnett Road East

Presentation:

The applicant has requested a continuance to the September 19, 2017 Board of Adjustment meeting.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **CONTINUE** the request for a **Special Exception** to permit a fireworks stand (Use Unit 2) in the CS District (Section 701); **Variance** of the all-weather surface material requirement for parking (Section 1340.D) to the September 19, 2017 Board of Adjustment meeting; for the following property:

W 370 OF E 403 OF S 620 OF N 1/2 NE SE SEC 18-21-14, COMBS ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

UNFINISHED BUSINESS

2630—Josh Inda

Action Requested:

Variance to permit open air storage on a CS zoned property within 300 feet of an abutting R District (Section 1214). **LOCATION:** E of SE/c of West 8th Street South and South 175th West Avenue

Presentation:

Josh Inda, 3 American Way, Shawnee, OK; stated that he was previously before the Board and was asked by the Board to have a water drainage plan completed and to present a rendering of the required privacy fence. He contracted AAB Engineering Services in Sand Springs for the drainage plan. In the process of doing the water drainage Mr. Betchan gave a different map of the best way to utilize the land and to work with the land. The plan is to have a security fence as proposed with decorative plants on the outside of the fence.

Interested Parties:

Alan Betchan, AAB Engineering, 200 North McKinley, Sand Springs, OK; stated the property was looked at from the general access and where the drainage is and goes. What is proposed is to take the traffic back out the way they entered the property which takes the traffic away from the neighborhood. The drainage comes from the north and goes south, and there is a swell that runs west to the east and discharges on the east side going across the street. None of the area has provided detention in the time that it has developed, and it is now at a place where it would be more detrimental to hold back the water than letting it go. Mr. Betchan stated that if this is approved he will be working with the County Engineering staff to make sure that everything is lined up. The intent is

to screen at the property line so the screening fence will be moved up hill on the northeast boundary.

Mr. Johnston asked Mr. Betchan if there would screening, or crepe myrtles as designated on the drawing, all the way around the outside of the fence. Mr. Betchan answered affirmatively.

Mr. Crall asked Mr. Betchan if the green space in the picture is a buffer. Mr. Betchan stated that it will function as a buffer but a material handling yard cannot have a lot of grade because of the equipment used.

Mr. Johnston asked if the existing trees designated on the site plan would be retained. Mr. Betchan stated they will try but there is so much grade existing that when it is cut back it depends on how far out the tree roots reach out.

Peggy Franklin, 17305 West 2nd Street, Sand Springs, OK; stated the area where the applicant wants to place his business has wildlife on it all the time. The applicant could have purchased land in his backyard but not in her back yard. Ms. Franklin stated that she does not want to see that trash every day. There are three houses near his property and they will have to see that yard every day. Ms. Franklin stated that Mr. Inda has never reached out to any of the neighbors. She does not understand why the applicant came to her area and wants to change the plans. She loves her area and does not want to have trucks ruining the roads because those roads are maintained by the County. Ms. Franklin knows this is not going to be good for the area and she wants the Board to hear the land owners and not let this project happen.

Mr. Dillard asked staff if the subject property was zoned commercial and the open air storage is what is under consideration. Mr. West stated the property is zoned CS but there is a Variance required for the outside storage.

Marlene Bass, 17433 West 9th Street, Sand Springs, OK; stated her property adjoins the subject property and her concern is the drainage. Where her business is located has total saturation because of the poor drainage, and if there is any more water directed toward her property it will flood her shop.

Rebuttal:

Alan Betchan came forward and stated there is a swell that runs from west to east and it runs the along the back of the storage buildings on the back side of the property. The intent is to maintain that drainage pattern.

Mr. Johnston asked Mr. Inda what the maximum height is of the storage racks to be used. Mr. Inda stated that at the present time the racks are 12 feet tall but they can be reduced.

Mr. Johnston asked Mr. Inda if the proposed fence was to be made of metal building siding. Mr. Inda answered affirmatively. Mr. Johnston stated that metal building siding

for fencing is not very residential looking and asked if they would consider an option of residential material for the fence. Mr. Inda stated the metal fencing is just an option that was being looked into but he would look at other options.

Mr. Inda stated that he knows there is a drainage problem in the area and he has discovered that the drainage pipe that goes under Highway 412 is plugged up. He has contacted highway department about fixing the problem.

Peggy Franklin came forward and asked for a clarification on what a Variance is and to confirm that the request was not for a zoning change. Mr. West explained that it was not a zoning change request because the property is zoned commercial. Ms. Franklin stated that she does not want a junk yard there because she would have to see it every day. She asked the Board to deny this request.

Mr. Hutchinson asked Mr. Inda to come forward and state his hardship for this case. Mr. Inda stated that the hardship for this request is the zoning of the property. There is a 300 foot rule in the zoning and that splits the property. Half of the property can have open air storage and the other half cannot because of the 300 foot rule. Mr. West stated that CS zoning does not allow any outside storage or open air storage that can be seen. The 300 foot that Mr. Inda is referring to is that he will have to screen the property if the subject area is within 300 feet of a residential district thus the Variance request for the outside storage and the screening is a requirement.

Mr. Betchan stated that the alternative to outdoor storage is enclosed storage and the terrain makes it difficult to pour a large flat slab that would be required for an enclosed storage building and that does not include the drainage problem. The open air storage allows for some grade and some drainage to be maintained. This is a CS area abutting an R District across the street. Mr. Betchan stated that if there is sight line issue regarding the screening fence there is nowhere on the subject property that a screening fence can be built on the property with more screening than what is proposed because of the topography.

Comments and Questions:

Mr. Johnston stated that he can understand why the neighbors have reacted the way they have, because they have had a green area to look at for quite some time. If a residential style fence with landscaping on the outside of the fence and hold the storage racks to eight feet or less he thinks the neighbors would be pleased.

Mr. Crall stated that he believes this is not much different than a parking lot. This will not be a junk yard because the applicant has come before the Board requesting a Variance and he understands what is necessary to be before the Board to receive approval. He can support the request.

Mr. Dillard stated that when he received his agenda packet it upset him when he read in the staff report that the applicant had not submitted a revised site plan, because they had a couple of months to present it to staff. But as for the use of the property, open air

storage, the product will be stored on racks and it will be orderly. Mr. Dillard stated that he does not think a fence can be erected tall enough to where the neighbors would not be able to see the subject property and still be legal. There will be some viewing of the property but he does not think it will be something that will make people nauseous so he can support the request.

Mr. Hutchinson stated that he agrees with his fellow Board members and he can support the request.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a **Variance** to permit open air storage on a CS zoned property within 300 feet of an abutting R District (Section 1214). The Board has found the hardship to be the topography of the land making it difficult to build a storage building on it. The approval will be per the conceptual plan submitted today. The storage units are to be no taller than the eight foot tall fence. The fence is to be constructed of residential materials and to be painted or stained. The fence is to be landscaped with trees outside the West 8th Street privacy fence; for the following property:

LT 7 BLK 3; LT 5 BLK 3; LT 3 BLK 3, WEKIWA HILLS, OF TULSA COUNTY, STATE OF OKLAHOMA

2634—Justin Owen

Action Requested:

Special Exception to permit a 150 foot cell tower (Use Unit 4) on AG zoned property (Section 310 and Section 1204.3). **LOCATION:** 16012 North 145th East Avenue, Collinsville

Presentation:

Justin Owen, P. O. Box 720358, Norman, OK; stated that Verizon continues to service the areas around Tulsa County and they are looking for new sites and the subject property will be a new site. The proposed cell tower is to increase capacity for the existing area. The tower will be a 150 foot tower will be a mono-tower. There are no other towers to provide coverage for this area. The tower complies with all the FCC requirements and regulations. The subject site will be surrounded by a wooden privacy fence and inside the fence will be outdoor cabinets that look similar to electrical cabinets. The cabinets will be six to eight feet tall. The tower is being built by Verizon but there will be the capability of leasing space on the tower to AT&T or another cell company.

Interested Parties:

Joelean Taylor, 16000 North 141st East Avenue, Collinsville, OK; stated her property line is 200 feet from the subject site. Ms. Taylor stated that she has children and show

horses, and there are children on the side of the subject site that are 450 feet away. Ms. Taylor stated that she did research and found that children that live within a seven mile radius have a higher rate of leukemia. There are also issues with insomnia and they make noise. One of the areas that were designated on the map as a gravel roadway is a driveway. When she stands in her front door she will look directly at the proposed tower. She purchased her property a few years ago so they could enjoy living in the country and there was no proposal to place a tower on the subject site when she purchased her property. Real estate surveys say that 88% of people would not want to purchase or rent property next to a cell phone tower, and 94% say a cell phone tower will negatively impact interest in a piece of property and the will negatively impact the price of the property.

Mr. Crall asked Ms. Taylor to explain her statement about cell towers making noise. Ms. Taylor stated that she looked at videos. Mr. Crall stated that Ms. Taylor is telling the Board a lot of stuff but is not showing the Board anything to back it up. Ms. Taylor stated that she can give the Board the information that she has found. Mr. Crall asked Ms. Taylor if she remembered how much noise a cell phone tower makes. Ms. Taylor stated that she watched the video and it was a constant hum,

Jerry Higgins, 14007 East 161st Street North, Collinsville, OK; stated his house is straight north of the subject property. He has put a lot of money and time into his property to live in the country, and he does not want to look at a cell phone tower outside his front door every day. Cell phone towers are ugly and they have lights on them. Mr. Higgins stated that according to the map that the County sent him the tower is 150 feet away from a public fence line and if that is true the support buildings will be a lot closer to his house. He also has concerns about his air rights. If he wants to fly a drone or erect a windmill tower to supply his house with power what kind of rights is he going to lose? He does not want to lose his air rights for his property for the convenience of a neighbor to make money that does not have respect for the neighbors.

Deon Higgins, P. O. Box 608, Owasso, OK; stated she has owns the property north adjoining the subject property. Ms. Higgins stated that there will be a 150 foot tower with a ten foot lightning rod attached to the top of the tower making the tower 160 feet tall. Ms. Higgins stated that the way she understands this there will also be four more units on the tower. She does not understand what the units are and one of those units will be right next to her driveway according to the map. She too is concerned about air rights because she has been thinking about installing a windmill tower to generate electricity for her property.

Rebuttal:

Justin Owen came forward and stated that Verizon is licensed by the FCC and they operate under all FCC rules and regulations and will continue to do so. Mr. Owen stated that he has been on these sites for 15 years and the only noise he has been around is from the heat and air units which are similar to a household unit. The equipment for the proposed tower is outside so there is no heat and air unit for it. The driveway that has been mentioned was designated as ending at a public right-of-way

according to a signed survey and the proposed tower will be coming off the cul-de-sac. Mr. Owen stated that what Verizon has seen regarding house values is that a cell phone increases their value. The proposed tower is 150 feet in height and a tower has to be lit if it is 200 feet or taller according to FAA requirements, or a tower is required to lit if it is in the immediate flight path to a runway. At this time Verizon does not see anything that would require the proposed tower to be lit.

Mr. Hutchinson asked Mr. Owen if the tower has met FAA approval. Mr. Owen answered affirmatively.

Mr. Owen stated that on the site plan the places that designate more units are spaces for potential customers, so there would be no need for another tower to be in the area.

Comments and Questions:

Mr. Hutchinson stated that he can support this request because the company must comply with FCC regulations.

Mr. Dillard stated that unfortunately he is biased because he lives next door to a cell tower, and he has not had any problems with it. He put the house up for sale because he is down-sizing and there was no problem mentioned regarding the cell tower. A cell tower is like anything else, the first time you drive by it you notice it but on the third day you don't even notice it is there. He can support this request.

Mr. Johnston stated that his brother-in-law has a cell tower in his back yard and it is less than 200 feet from his house, and there is no noise. Mr. Johnston stated he can support the request.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a Special Exception to permit a 150 foot cell tower (Use Unit 4) on AG zoned property (Section 310 and Section 1204.3), per plan as submitted. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

N/2 NE SE & BEG 659.98S NWC NE SE TH E660.79 S329.98 W660.94 N329.99 POB LESS .03AC FOR RD SEC 16 22 14 24.980ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2635—Brandon Few

Action Requested:

Variance to permit a detached accessory building (garage) in the side yard (Section 420.2-A.2). **LOCATION:** 13710 South 125th East Avenue, Broken Arrow

Presentation:

Darren Hoog, 13710 South 125th East Avenue, Broken Arrow, OK; stated he would like to have three car garage for his cars. He will build the garage to match the house.

Mr. Dillard informed Mr. Hoog that if the garage were to be attached to the property (house) he would not need to come before the Board of Adjustment. Mr. Hoog stated that would cost him more money to do so.

Mr. Dillard asked Mr. West if the small storage building in the back was going to be included in the square footage. Mr. Hoog stated that the storage building will be taken down.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a **Variance** to permit a detached accessory building (garage) in the side yard (Section 420.2-A.2), finding the hardship is the shape of the lot and the lot is over a ½ acre. The Board has found this will be in the spirit and harmony of the neighborhood; for the following property:

LT 3 BLK 2, HICKORY HILLS 4TH ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2636—Michael Juby

Action Requested:

Variance of the minimum frontage requirement on a public street/dedicated right-of-way from 30 feet to 0 feet (Section 207); **Variance** of the lot area and land area per dwelling unit requirement; **Variance** of the minimum lot width to permit a lot-split in the AG District (Section 330). **LOCATION:** 112 East 111th Street North, Sperry

Presentation:

Cindy Juby, P. O. Box 337, Sperry, OK; stated the property has been in the family for 112 years and she and her husband inherited the property from her husband's grandparents. When the grandfather passed away the grandmother moved in with her and her husband. Ms. Juby stated they decided to build a larger house on the rear portion of the property so the grandmother could live with them. There are three houses

on the subject property and they own all three. The house that is in the middle of the subject property was the grandmother's house and now her son wants to purchase the smaller house. The bank will not allow two houses on one piece of property.

Mr. Dillard asked Ms. Juby to come forward and point out the three houses on the property on the map the Board has in their agenda packet. Ms. Juby pointed to two houses and one shop building. Mr. Dillard asked Ms. Juby to point to the house that the son would like to purchase. Ms. Juby pointed to the smaller house.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a Variance of the minimum frontage requirement on a public street/dedicated right-of-way from 30 feet to 0 feet (Section 207); Variance of the lot area and land area per dwelling unit requirement; Variance of the minimum lot width to permit a lot-split in the AG District (Section 330). Finding the hardship to be the lay of the land and the buildings are existing; for the following property:

TR 2 BEG 347 E OF SW COR NW TH E 272 N 100 W 272 S 100 TO BEG SEC 12-21-12 .63 ACR., OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

2638—Stanley & Miriam Farmer

Action Requested:

Special Exception to increase the fence height in the required front yard from 4 feet to 8 feet (Section 240.2.C). **LOCATION:** 5401 South 203rd West Avenue

Presentation:

Stanley Farmer, 5401 South 203rd West Avenue, Sand Springs, OK; stated he growing organic food and organic chickens. The wildlife in the area is decimating the orchards and he would like to have a higher fence to deter the wildlife. The fence is to keep the deer and designed specifically to keep the deer out. He has nine acres and it is heavily wooded and the terrain of the land cannot be seen from the road.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a **Special Exception** to increase the fence height in the required front yard from 4 feet to 8 feet (Section 240.2.C); for the following property:

LT 1, BLK 4, ROCK CREEK ACRES, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 3:04 p.m.

Date approved: 8-15-17


Chair