

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 455
Tuesday, April 17, 2018, 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	Hutchinson, V.Chair	Miller	T. Tosh, County
Crall, Secretary		Ulmer	
Dillard		Sparger	
Johnston			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 12th day of April, 2018 at 9:16 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

MINUTES

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Crall, Dillard, Johnston "aye"; no "nays"; no "abstentions"; Hutchinson "absent") to **APPROVE** the Minutes of March 20, 2018 (No. 454).

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

2670—Great Scott Fireworks – Randy Scott

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an CG District (Section 701); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 8939 North Garnett Road East

Presentation:

Staff requests a continuance to May 15, 2018 due to incorrect legal.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Charney, Crall, Dillard, Johnston “aye”; no “nays”; no “abstentions”; Hutchinson “absent”) to **CONTINUE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in an CG District (Section 701); Variance of the all-weather surface material requirement for parking (Section 1340.D) to the May 15, 2018 Board of Adjustment meeting; for the following property:

LT 1 BLK 1; TR BEG 30E SWC S/2 NW NW SW TH N164.90 E155 S164.90 W155 POB SEC 20 21 14 .586 AC, MORTON VIEW, OF TULSA COUNTY, STATE OF OKLAHOMA

2674—Timothy Borgne

Action Requested:

Special Exception for a Rifle and Skeet Range Gun Club (Use Unit 2 - Section 1202) in an AG District. **LOCATION:** 19501 West 41st Street

Presentation:

The applicant has requested a continuance to May 15, 2018.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Crall, Dillard, Johnston “aye”; no “nays”; no “abstentions”; Hutchinson “absent”) to **CONTINUE** the request for a

Special Exception for a Rifle and Skeet Range Gun Club (Use Unit 2 - Section 1202) in an AG District to the May 15, 2018 Board of Adjustment meeting; for the following property:

E/2 SW SE & SE SE SEC 23 19 10, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney 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 fails. Mr. Charney 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.

NEW APPLICATIONS

2669—Ron McCulley

Action Requested:

Variance of the minimum lot area per dwelling unit requirement in an AG District to allow for two dwelling units on a single lot (Section 330). **LOCATION:** 7735 North 71st Avenue East

Presentation:

Ron McCulley, 7735 North 71st East Avenue, Owasso, OK; stated he would like to build a second dwelling behind his house and behind the pool. Mr. McCulley stated he has a lot of family that comes in from out of town and the second dwelling would be used as a place for them to stay while visiting. Another option would be to use it as a dwelling for his wife's parents, both of which are in their eighties, and this would allow them to maintain their independence. The proposed house would not be seen from the road and it would be built with the same materials as the main house, so it will look similar.

Mr. Charney asked Mr. McCulley if he had any plans in the future to sever the ownership of the primary residence from the proposed second dwelling. Mr. McCulley stated that he did not.

Mr. Charney asked Mr. McCulley if the second dwelling would have the same access as the main house. Mr. McCulley answered affirmatively. Mr. Charney asked Mr.

McCulley if the proposed building would be on the same utility service as the main house. Mr. McCulley answered affirmatively.

Mr. Charney asked if the proposed dwelling would be placed behind the existing pool. Mr. McCulley answered affirmatively.

Mr. Charney asked Mr. McCulley how many square feet would be in the proposed building. Mr. McCulley stated that it would be approximately 1,300 square feet.

Mr. Crall asked Mr. McCulley about the new shop that is shown on the site plan. Mr. McCulley stated that he is currently building a new shop.

Mr. Charney asked Mr. McCulley to come forward and explain the layout of the existing house and the proposed house using page 2.5 of the agenda packet.

Interested Parties:

Chris Leach, 7840 North 75th East Avenue, Owasso, OK; stated his property is behind Mr. McCulley's, on the west side of 75th. Mr. Leach stated this agricultural land and there are very few rules in the unincorporated areas of Tulsa County. The rules that are there were written for a good reason. Mr. Leach stated that Mr. McCulley purchased 2.5 acres and built a gigantic house, a gigantic shop and is now trying to build an additional large house on the subject property. Mr. Leach stated that he has concerns about drainage because a large percentage of the subject property will be non-permeable, so runoff will go down hill and impact other properties. There are also concerns about the property having the ability to absorb human waste without impacting the surrounding properties. The houses are seriously large homes that will hold a large number of people, and if the second dwelling becomes permanent housing for family it could impart a continuous load on the land. The zoning restrictions on the land were clear when Mr. McCulley purchased the land, and if he desired multiple dwellings he should have purchased a larger piece of land or land with different zoning. Mr. Leach stated there are no extraordinary or exceptional conditions or circumstances which are peculiar to the land. This density of development will absolutely impair the purpose, spirit and intent of the Tulsa County Zoning Code. Mr. Leach asked the Board to uphold the existing provisions in the Zoning Code.

Mr. Charney stated that in regard to the drainage issue, there are rules and regulations regarding the construction effort that are addressed by the Building Permit Department and the Inspectors. The drainage issue is governed by a jurisdiction outside of the Board of Adjustment's purview.

Rebuttal:

Ron McCulley came forward.

Mr. Charney asked Mr. McCulley if there would be a garage attached to the proposed house. Mr. McCulley stated that there will not be a garage for the propose house.

Mr. Charney asked Mr. McCulley if the new shop was in existence. Mr. McCulley stated that it is under construction currently.

Mr. Charney asked Mr. McCulley how large his existing residence is. Mr. McCulley stated that his house is 4,500 square feet.

Mr. Dillard asked Mr. McCulley if the 4,500 square foot house was a two-story or a single-story house. Mr. McCulley stated that it is a two-story house.

Mr. Charney asked staff if Mr. McCulley's original house had been 5,800 square feet would it have been permitted on the subject property? Ms. Tosh answered affirmatively and stated that if Mr. McCulley had come in stating the new dwelling was to be for in-laws and attached to the existing house she would have permitted it without any exception.

Mr. Charney asked Mr. McCulley to explain why he did not propose to attach the addition to the existing house. Mr. McCulley stated that originally when he built the main house the new dwelling was not even a thought, so now there is no place to attach onto the house and still have it look nice.

Comments and Questions:

Mr. Johnston stated that he has no problem with the request as long as it will not be split off as a separate residence in the future.

Mr. Charney agreed and stated that if the applicant had sought a lot split he would have major concerns.

Mr. Dillard stated that he has no concerns about the proposal because he could have originally built a 5,800 square foot house as a matter of right. And the applicant disclosed on the application that the proposed pool house would be used as a residence for family members in the future. To disclose that up front means a lot because most applicants do not do that.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Crall, Dillard, Johnston "aye"; no "nays"; no "abstentions"; Hutchinson "absent") to **APPROVE** the request for a Variance of the minimum lot area per dwelling unit requirement in an AG District to allow for two dwelling units on a single lot (Section 330), subject to the site plan submitted on pages 2.6, 2.7 and 2.8 in the agenda packet. The hardship is that it is an addition to an existing structure that was not contemplated originally, and to attach it now would not configure well with the existing structure. There is to be no lot split sought by the applicant, and the applicant is not to sell the second dwelling without being conveyed simultaneously with the original dwelling; for the following property:

BEG 660.58N SECR SW TH N330.29 W635.78 S40 E270 S135 E123 S155.27
E242.95 POB SEC 26 21 13 2.584ACS, OF TULSA COUNTY, STATE OF
OKLAHOMA

Mr. Charney stated that due to the nature of Item #4 on the agenda, the Board is going to take Item #5 out of order and hear it next.

2673—Lori Schmeling

Action Requested:

Modification to a previously approved Special Exception to allow an additional use, Bed and Breakfast, in an AG District (Section 1202, Use Unit 2); Special Exception to allow camping in an AG District (Section 1220, Use Unit 20). **LOCATION:** 2926 West 111th Street South, Jenks

Presentation:

Lori Schmeling, 2926 West 111th Street, Jenks, OK; stated she currently has a wedding venue and she also holds family reunions, birthday parties, etc. She has had many people ask her about creating a place for a bed and breakfast for honeymooners and wedding participants. So is asking the Board's permission to allow camping and a bed and breakfast on the subject property. There will be no RVs allowed.

Mr. Charney asked Ms. Schmeling if she would have the bed and breakfast within the existing structures. Ms. Schmeling answered affirmatively.

Ms. Schmeling stated that the main entrance where indoor weddings are held is large enough for about eight sleeping bags or air mattresses if the troops had to come inside due to rain. The camping will be in a heavily wooded area on the subject property and there are also open areas if the campers would like to stay there.

Mr. Charney asked Ms. Schmeling about restrooms for the guests. Ms. Schmeling stated there are three bathrooms available in the house.

Mr. Charney asked Ms. Schmeling if any neighbors had expressed any objection to the proposal. Ms. Schmeling stated that no one has.

Mr. Dillard asked Ms. Schmeling if she has had any complaints about her current business. Ms. Schmeling stated that she is not aware of any.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Crall, Dillard, Johnston “aye”; no “nays”; no “abstentions”; Hutchinson “absent”) to **APPROVE** the request for a **Modification** to a previously approved Special Exception to allow an additional use, Bed and Breakfast, in an AG District (Section 1202, Use Unit 2); **Special Exception** to allow camping in an AG District (Section 1220, Use Unit 20) finding that it will be in harmony with the spirit of the Code; for the following property:

E699.34 W1230.34 N854.03 NW SEC 34 18 12 13.711ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2672—Roy Webb

Action Requested:

Special Exception to allow a Mining and Mineral processing use (Use Unit 24) in an AG District (Section 310). **LOCATION:** 16610 South 185th Avenue East, Bixby

Presentation:

Roy Webb, P. O. Box 188, Haskell, OK; came forward.

Mr. Charney asked Mr. Webb if he had received a copy of the correspondence that was received today, and asked Mr. Webb if he had an opportunity to meet with the neighbors or called a neighborhood meeting to discuss the nature of his application. Mr. Webb stated that he has visited with some of the neighbors and he has not found anyone that is opposed to what he would like to do. Mr. Dillard gave Mr. Webb his copy of the correspondence that was received earlier today.

Mr. Webb stated he is a contractor and a landowner in Muskogee County, and he is branching out. Mr. Webb stated he purchases property that he thinks he can enhance them to resale, or make them useful. Mr. Webb stated that he has a total of 100 acres; 50 acres on each side of the highway. Mr. Webb stated that it is not his intent to mine the subject property because he is a dirt contractor. The terrain on the subject property is very unlevel and he plans to build a road on the subject property so he can get onto the property to see what needs to be done. Mr. Webb stated that he will be taking some dirt out but he will bring in dirt. He does not plan on devaluing any of the land owners properties. There will not be any blasting done, because if he encounters rock that won't move easily he will jackhammer it or move around it.

Mr. Charney asked Mr. Webb if he would have a hoe hammer. Mr. Webb stated that if he felt it was necessary to place a road in a specific area he would use a jackhammer.

Mr. Charney asked Mr. Webb if this would be a dirt pit. Mr. Webb answered affirmatively. Mr. Webb stated that he does not know how long it would be a dirt pit, but he normally holds a piece of property for a year before selling.

Mr. Dillard asked Mr. Webb if he would be selling the dirt. Mr. Webb stated that he would like to sell the dirt because it would help with expenses. There is a new bridge being built on Snake Creek, and he spoke to those people about purchasing the shale from him. Mr. Webb stated the area will not be a permanent shale pit. Mr. Webb stated that he wants to make the land level, but he will not clear all the timber.

Mr. Charney stated the request covers the entire 100 acres, and it would be relevant to the Board to see a plan that shows which areas would remain virgin territory, areas that will be worked over.

Mr. Webb stated that on the north side of the highway there is 50 acres and 40 acres of that is being farmed in wheat, and he has no plans to change that. The remaining 10 acres is wooded and has small brush on it, and people have been using that area for illegal purposes and using it as a dump. That is the area he wants to clean up.

Mr. Charney stated that he understands what Mr. Webb wants to do, but it could help the Board to determine whether the request is to be supported or not if there was more precision to the plan for the property. Mr. Charney asked Mr. Webb if he had the time to present a plan with a narrative to the Board for review. Mr. Webb stated that he has not been able to layout a plan because the terrain is so rough that he needs to do a little work to be able to visualize a plan for the subject property.

Mr. Dillard stated that without specificity of today's request cannot be approved, because it too open ended.

Interested Parties:

George Shafer, 17023 – 171st Street East, Bixby, OK; stated he is the President and CEO of Eagle Mountain Ministry Ranch. Mr. Shafer stated that Mr. Webb's property touches the entire north end of Eagle Mountain Ranch. Mr. Shafer stated that he has known Mr. Webb and his family for quite awhile and he is a man of integrity. Mr. Shafer stated that Mr. Webb owns a very nice, clean construction company. Mr. Shafer stated that he has to very careful about what happens near his ranch and this proposal excites him because he thinks it will enhance his property. Mr. Shafer stated that he would like clarity on where the shale pit would be located and dust issues.

Steve Wilcox, 17453 South 71st East Avenue, Bixby, OK; stated the whole plan seems very vague and the information he does have is second hand. Mr. Wilcox stated that he understands that his northeast corner of his property touches the southeast corner of the subject property so he is not really impacted. However, it is the aesthetics and it would be nice to know what is going on on the subject property. Mr. Wilcox stated that he would like more specifics about what Mr. Webb wants to do because this seems very vague.

Mr. Charney stated that in Mr. Webb's defense, sometimes a person does not know what he can do until he gets into the situation, touch it, scrape on it a little bit, and dig in

it a little bit to know. Mr. Charney stated that he does understand what Mr. Wilcox is saying and the need for a general concept plan.

Mike Lowman, 16532 East 165th Street South, Bixby, OK; stated the letter received by the Board today was from his Counsel, and the main reason for the letter is the proposal is too vague. Mr. Lowman stated that he owns seven acres and the subject property touches his south and east sides. He does appreciate what he has heard today from Mr. Webb and the other people today because he completely had no idea of what was going on. Mr. Lowman stated that he is currently in a property dispute with the east side of his property and the land the wheat field is located on. Mr. Lowman stated that he would like to know more about what is proposed for the property. Mr. Lowman stated he received a notice about this meeting and it talked about mining and other things so he decided to get with Counsel. His Counsel drafted the letter the Board received today asking questions about what is proposed. Mr. Lowman would ask the Board to continue this case until there can more information from Mr. Webb. Mr. Lowman stated that it does sound like Mr. Webb has good things planned for the subject property, but he was not aware of what was happening.

Rebuttal:

Roy Webb came forward.

Mr. Charney stated that when a person seeks a Special Exception approval from the Board the Board must make certain findings that are a requirement and it helps in those findings if the Board knows more. Mr. Charney stated he does not think the applicant needs the Board's permission to perform exploration, as long as there is no mining or dirt being sold. Mr. Charney suggested if the current contract seller will allow it, go onto the property and explore to refine a plan. Mr. Webb stated that he would like to put the bridge deal together to sell them the dirt, and he is on a time frame because they need to know where they are going to get their material from.

Mr. Webb stated that he will not know until he gets onto the land, but he does not plan on having a salvage yard on the property; it will be a nice facility that someone would be proud to own.

Mr. Charney asked Mr. Webb if he could keep the bridge deal alive if this request were continued for another four weeks, and brought back a plan for the Board to review showing where the shale pit would be, where the road is to be, etc. Mr. Webb doubted if he could keep that deal because they are already behind schedule.

Mr. Webb stated that he has water trucks to take care of the dust. He will not make any more noise than what is currently there. Mr. Webb stated there is someone already there building roads with the same equipment that he will have on the property. Mr. Webb stated that he will come in on the property on existing road that he owns on his side and the neighbors will not even be aware that he is there.

Mr. Charney stated those are some new facts that the Board needs to hear and need to know. Mr. Charney stated that he has been in Mr. Webb's shoes before and he understands the time line that Mr. Webb is under, but he feels that it is the Board's duty to know more about what the plan is.

Mr. Dillard stated the Board is a land use Board and not an economic Board, he would like to see the applicant make the money but that is not part of this Board's perview. The Board is here to approve just land use.

Mr. Johnston stated that he agrees with Mr. Dillard, and this case needs more definition.

Mr. Crall stated the Board does not know what the plan is, and needs to see. Mr. Crall stated that he thinks the neighbors would be behind the proposal if they could get a clear picture of plans.

Mr. Charney asked Mr. Webb to come forward and show them where he plans on accessing the subject property, using page 4.4 of the agenda packet.

Mr. Charney asked Mr. Webb if the Board were either to deny or continue this case today pending the drafting of a plan with a narrative which would he prefer? Mr. Webb stated that he feels he may lose the contract if this case were continued. Mr. Charney stated the Board needs more definition, and that would be a factor in the Board's consideration. A commitment of where the road would exactly be, the hours of operation, what measures will taken for dust control, the fact that there would be no blasting; that is what the Board needs in a narrative or a document.

Mr. Charney asked Mr. Webb if he would prefer a vote today or would he prefer a continuance? Mr. Webb stated that he would ask for the continuance.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Crall, Dillard, Johnston "aye"; no "nays"; no "abstentions"; Hutchinson "absent") to **CONTINUE** the request for a Special Exception to allow a Mining and Mineral processing use (Use Unit 24) in an AG District (Section 310) to the May 15, 2018 Board of Adjustment meeting. The Board requests the applicant bring back a concept plan of the mining operation coupled with a narrative of how it will operate, i.e., no blasting; using the attorney's letter as a guideline. The Board would also request the applicant have a group discussion with the neighbors before the next Board of Adjustment meeting; for the following property:

NE SE LESS 5.95 ACRES FOR RD. SEC 26 17-14; NW SE LESS 7.83 AC FOR RD SEC 26 17 14; NW SW LYING SW NEW HWY 64 SEC 25 17 14 4.46AC; E1/2 SW LESS HW & RY. SEC 25-17-14, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

The Board welcomed Ms. Amy Ulmer to her first official meeting for the County Board of Adjustment.

There being no further business, the meeting adjourned at 2:31 p.m.

Date approved: _____

5/15/18



Chair