

**TULSA COUNTY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 459**  
Tuesday, August 21, 2018, 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	Hutchinson, V.Chair	Miller
Crall, Secretary		Ulmer
Dillard		Sparger
Johnston		

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 16<sup>th</sup> day of August, 2018 at 1:37 p.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.

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**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 July 17, 2018 (No. 458).

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**UNFINISHED BUSINESS**

**2688—Heartland Fireworks, LLC**

**Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an AG District (Section 310). **LOCATION:** 11508 East 116<sup>th</sup> Street North

**Presentation:**

The applicant was not present; Mr. Charney moved the case to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

**2689—Heartland Fireworks, LLC**

**Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an CS District (Section 710). LOCATION: 11290 West 51<sup>st</sup> Street South

**Presentation:**

The applicant was not present; Mr. Charney moved the case to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

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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 if anyone would like to continue their case and if they understood. The audience nodded their understanding and no one requested a continuance.

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**NEW APPLICATIONS**

**2707—James Kent**

**Action Requested:**

Special Exception to allow a fireworks stand (Use Unit 2) in an RS District and IL District; Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** North of the NE/c of South 49<sup>th</sup> Avenue West & West 46<sup>th</sup> Street South

**Presentation:**

The applicant was not present; Mr. Charney moved the case to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

**2708—Gary Dyer**

**Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an IL District; Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 5612 North Peoria Avenue East

**Presentation:**

**Gary Dyer**, P. O. Box 923, Tulsa, OK; stated he has a fireworks stand at this location for about ten years.

Mr. Charney asked Mr. Dyer if he had operated the fireworks stand at the subject location every single year for the last ten years. Mr. Dyer answered affirmatively.

Mr. Charney asked Mr. Dyer if he had ever received any complaints from the surrounding property owners. Mr. Dyer stated that he has not.

Mr. Charney asked Mr. Dyer how people parked at the stand. Mr. Dyer stated there is asphalt parking in front of the stand, and they also park to the left of the stand, and occasionally to the right of the stand. Mr. Charney asked Mr. Dyer if he always had plenty of parking for his patrons. Mr. Dyer answered affirmatively.

Mr. Charney asked Mr. Dyer what his hours of operation are. Mr. Dyer stated that he is only open in the summer, and he normally closes around 11:00 P.M.

**Interested Parties:**

**Daniel Dayoadetula**, 5707 North Frankfort Avenue, Tulsa, OK; stated the subject property is owned by his nonprofit foundation, and he owns the property next to the fireworks stand. Mr. Dayoadetula stated he leases the subject property to Mr. Dyer. Mr. Dayoadetula stated that he also operates a fireworks stand on the subject site at the same time as Mr. Dyer.

**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 **APPROVE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in an IL District; Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation will conclude at 11:00 P.M. except for July 3<sup>rd</sup> and July 4<sup>th</sup>, then the stand can stay open until midnight. The approval will have a five-year time limit, August 2023. The Board finds there is a significant amount of all-weather surface in place for the parking; for the following property:

**PRT TRACT 2 BEG 521.6S NEC TH W200 S150 E200 N150 TO BEG, KRUGER TRACTS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2709—Robert Stephenson**

**Action Requested:**

Variance to permit an accessory building to be located in the side yard (Section 420.2); Variance to permit two dwelling units on a single lot of record (Section 208). **LOCATION:** 7923 North Florence Avenue East

**Presentation:**

**Robert Stephenson**, 7923 North Florence Avenue, Sperry, OK; stated he is asking for two separate Variances, and after speaking with his neighbors he requests the second Variance to permit two dwellings be withdrawn. Mr. Stephenson stated that when he took his drawings to the permit office he informed the office that he would like to build his shop first and he was told that it would be okay as long as the new house would be a few feet in front of the shop.

Mr. Charney asked Mr. Stephenson if the outbuilding already existed. Mr. Stephenson answered affirmatively. Mr. Stephenson stated originally, he was going to raze the little house that was on the property and was going to build a small room on the back for her, but after speaking with his neighbors he decided it would be too much trouble to do so he is going to withdraw the second Variance request. Mr. Stephenson stated he will raze the existing little house or have it moved off the property.

Mr. Charney asked Mr. Stephenson if there were any other buildings existing on the property. Mr. Stephenson stated there is an old barn that he is going to tear down. There is a 40-foot container that is holding his furniture in it, and that will be removed when he moves into the new house. That will leave one out building on the subject property. Mr. Stephenson stated he plans to install a privacy fence going straight across to the property line and all the way to the back and to the front of the shop leaving two sides open, so the neighbors will not be able to see anything.

Mr. Charney asked Mr. Stephenson if he was saying the rear yard of the shop is going to be fenced. Mr. Stephenson answered affirmatively.

Mr. Charney asked Mr. Stephenson when he planned to start construction on the new house. Mr. Stephenson stated that he is ready to start, and Ms. Tosh is waiting to receive the plans.

**Interested Parties:**

**Shane Hnatusko**, 7957 North Florence Avenue, Sperry, OK; stated he lives directly to the north of the subject property. His concerns were the second dwelling and that has been nixed. He is in agreement with the plans and a proponent of the privacy fence.

**Su An Storrs**, 8003 North Florence Avenue, Sperry, OK; stated her concerns were with the second dwelling. When she built her house two years ago and at that time she was told she would not be allowed to have two separate meters on her property. She was also told the line on the street was tapped to the maximum amount of water meters it could hold. Ms. Storrs stated she is in favor of the single dwelling and the shop with a privacy fence.

**Audrey Weatherford**, 7954 North Florence Avenue, Sperry, OK; stated her concerns were also the second dwelling. Ms. Weatherford asked if there would be timeline for when the other buildings on the property would be removed.

Mr. Charney stated that he does not think the applicant could receive a Certificate of Occupancy until the other dwelling unit were removed, but he is unsure about a time frame for the removal.

**Questions and Comments:**

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 **STRIKE** the request for a **Variance** to permit two dwelling units on a single lot of record (Section 208) based on the applicant's request of no longer wishing to pursue the Variance; for the following property:

**N331 S1338 E330 W/2 E/2 SE LESS W17.5 THEREOF FOR RD SEC 29 21 13  
2.374ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Charney, Crall, Dillard, Johnston “aye”; no “nays”; no “abstentions”; Hutchinson “absent”) to **APPROVE** the request for a Variance to permit an accessory building to be located in the side yard (Section 420.2), subject to all other buildings on the site, except for the new shop, being removed prior to the occupancy of the new house which will come at a later time. The Board finds the hardship to be that the shop is already in existence. There is to be a privacy fence erected around the shop as described by the applicant; for the following property:

**N331 S1338 E330 W/2 E/2 SE LESS W17.5 THEREOF FOR RD SEC 29 21 13  
2.374ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2712—Cellco Partnership dba Verizon Wireless**

**Action Requested:**

Special Exception to permit a 260-foot cell tower (Use Unit 4) on AG zoned property (Section 310 and Section 1204.3); Special Exception to reduce the required tower setback (110% of the tower height) from the adjoining AG zoned lots (Section 1204.3). **LOCATION:** 1725 South 161<sup>st</sup> West Avenue

**Presentation:**

**David McGehee**, 121 Village Boulevard, Madison, MS; stated he represents Verizon Wireless in partnership with Cellco. The proposal is for a 250-foot tall tower with a ten-foot lightning rod, ground cabinets and a fence. The area leased is 80'-0" x 80'-0" located on a 41-acre tract. The leased area is about 300 feet off 161<sup>st</sup> West Avenue and about 175 feet north of the property line. The leased area is in between a couple of heavy tree lines that will serve as a buffer. This site will fill in a coverage gap that exists west of Sand Springs. Mr. McGehee stated the tower is designed to hold any future tenants to help minimize towers in the area.

Mr. Charney asked Mr. McGehee if there was frequently co-location on Verizon towers. Mr. McGehee stated there are some.

**Interested Parties:**

There were interested parties present.

**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 **APPROVE** the request for a

Special Exception to permit a 260 foot cell tower including the lightning rod (Use Unit 4) on AG zoned property (Section 310 and Section 1204.3), finding that the proposed use will not be injurious to the surrounding properties or detrimental to the public welfare; Special Exception to reduce the required tower setback (110% of the tower height) from the adjoining AG zoned lots (Section 1204.3), finding that by reducing the requirement will not imperil an actual structure within the fall range of the tower; for the following property:

**PRT SW NW & NW SW BEG SWC SW NW TH N54.61 E1313.99 TO EL SW NW TH S54.61 TO SECR SW NW TH S ALG EL NW SW 994.29 TH W1314.90 TO WL NW SW TH N994.28 POB SEC 8 19 11 31.6472 ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

### **2714—Jakes Fireworks – Jason Wanetta**

#### **Action Requested:**

Modification of a previously approved Special Exception (CBOA-2515) to extend the time limitation to permit a fireworks stand in an AG district (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 17734 East 121<sup>st</sup> Street South

#### **Presentation:**

**Jason Marietta**, 1500 East 27<sup>th</sup> Terrace, Pittsburg, KS; stated there has been a fireworks stand for approximately ten years. The Board approved the stand in the past and it is now time to update that former approval.

Mr. Charney asked Mr. Marietta if there had been any complaints from the neighbors. Mr. Marietta stated that he has not received any complaints, and the two owners are in the audience today if the Board needs them to speak about the operation.

Mr. Charney asked Mr. Marietta to explain how the parking is handled currently. Mr. Marietta stated the lot is very solid. There is usually a semi-trailer parked on the lot loaded with product, and there has never been an issue even when it rains.

#### **Interested Parties:**

There were no interested parties present.

#### **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 **APPROVE** the request for a Modification of a previously approved Special Exception (CBOA-2515) to extend the time limitation to permit a fireworks stand in an AG district (Section 310); Variance of the

all-weather surface material requirement for parking (Section 1340.D). The hours of operation will conclude at 11:00 P.M. except for July 3<sup>rd</sup> and July 4<sup>th</sup>, then the stand can stay open until midnight. The approval will have a five-year time limit, August 2023; for the following property:

**N273.58 W990.15 LT 4 SEC 1 17 14 6.219ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2716—Jakes Fireworks – Jason Wanetta**

**Action Requested:**

Special Exception to permit a fireworks stand in an AG District (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D). LOCATION: 13412 East 106<sup>th</sup> Street North, Owasso

**Presentation:**

**Jason Marietta**, 1500 East 27<sup>th</sup> Terrace, Pittsburg, KS; stated there has been a stand on the subject property for over ten years, and it is the same as the previous case.

**Interested Parties:**

There were no interested parties present.

**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 **APPROVE** the request for a Special Exception to permit a fireworks stand in an AG District (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation will conclude at 11:00 P.M. except for July 3<sup>rd</sup> and July 4<sup>th</sup>, then the stand can stay open until midnight. The approval will have a five-year time limit, August 2023; for the following property:

**N/2 NW NE NW LESS BEG NEC THEREOF TH W486.29 S50 SE488.97 N100 POB & LESS N16.5 W173.71 THEREOF FOR RD SEC 16 21 14 4.102ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2707—James Kent**

**Action Requested:**

Special Exception to allow a fireworks stand (Use Unit 2) in an RS District and IL District; Variance of the all-weather surface material requirement for parking



(Section 1340.D). **LOCATION:** North of the NE/c of South 49<sup>th</sup> Avenue West & West 46<sup>th</sup> Street South

**Presentation:**

**James Kent**, 4503 South 49<sup>th</sup> West Avenue, Tulsa, OK; stated he has a fireworks stand at the subject location for 14 years, and he owns the property. The area is all gravel and he has never had a complaint in his 14 years at the location.

**Interested Parties:**

There were no interested parties present.

**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 **APPROVE** the request for a **Special Exception** to allow a fireworks stand (Use Unit 2) in an RS District and IL District; **Variance** of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation will conclude at 11:00 P.M. except for July 3<sup>rd</sup> and July 4<sup>th</sup>, then the stand can stay open until midnight. The approval will have a five-year time limit, August 2023; for the following property:

**LT 24 BLK 1, BRIDGES THIRD SUB, OF TULSA COUNTY, STATE OF OKLAHOMA**

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**UNFINISHED BUSINESS**

**2688—Heartland Fireworks, LLC**

**Action Requested:**

**Special Exception** to permit a fireworks stand (Use Unit 2) in an AG District (Section 310). **LOCATION:** 11508 East 116<sup>th</sup> Street North

**Presentation:**

The applicant was not present.

**Interested Parties:**

There were no interested parties present.

**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 permit a fireworks stand (Use Unit 2) in an AG District (Section 310) to the September 18, 2018 Board of Adjustment meeting; for the following property:

**W285.2 NE NW NW LESS N16.5 THEREOF SEC 8 21 14 4.213ACS, HOPE CHAPEL, FBC OWASSO MISSION, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2689—Heartland Fireworks, LLC**

**Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an CS District (Section 710). **LOCATION:** 11290 West 51<sup>st</sup> Street South

**Presentation:**

The applicant was not present.

**Interested Parties:**

There were no interested parties present.

**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 permit a fireworks stand (Use Unit 2) in an CS District (Section 710) to the September 18, 2018 Board of Adjustment meeting; for the following property:

**LOT 8 BLK 2, BUFORD COLONY SECOND ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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**BOARD COMMENTS**

None.

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There being no further business, the meeting adjourned at 2:19 p.m.

Date approved: 9-18-18

  
Chair