

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 456
Tuesday, May 15, 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

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|---------------------|----------|---------|-----------------|
| Charney, Chair | Dillard | Miller | T. Tosh, County |
| Crall, Secretary | Johnston | Ulmer | |
| Hutchinson, V.Chair | | Sparger | |

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10th day of May, 2018 at 9:51 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 **CRALL**, the Board voted 3-0-0 (Charney, Crall, Hutchinson "aye"; no "nays"; no "abstentions"; Dillard, Johnston "absent") to **APPROVE** the Minutes of April 17, 2018 (No. 455).

Mr. Charney explained to the applicants and interested parties that there were only three 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 all three board members to constitute a majority and if one or two board members voted no today the application fails. Mr. Charney stated that he will ask each individual case what their decision will be today because there are so many in attendance today, and asked the audience if they understood. The audience nodded their understanding.

UNFINISHED BUSINESS

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:

Lou Reynolds, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated that he would like to request a continuance on behalf of his client.

Interested Parties:

Carolyn Back, KKT Architects, Director of Planning, 2200 South Utica Place, Suite 200, Tulsa, OK; stated she has a lot of people in attendance today that are concerned neighbors within earshot of the proposed development. They have taken time off work and if it would please the Board can those interested parties stand to be acknowledged because they may not be able to attend the June meeting.

Mr. Charney asked the interested parties in this case to please stand to be acknowledged. Mr. Charney stated that a substantial number of attendees stood showing an interest in this matter and the Board respects that.

Mr. Charney stated that numbers alone should not govern exactly what this Board would decide. It is a factor, but it should not govern the decision.

Mr. Charney asked the interested parties that are in favor of this proposal to please stand. Mr. Charney noted that there were also a number of people present that are favor of the application.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 3-0-0 (Charney, Crall, Hutchinson "aye"; no "nays"; no "abstentions"; Dillard, Johnston "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 June 19, 2018 Board of Adjustment meeting; for the following property:

SE/4 SEC 23-19-10; W/2 SW/4 SEC 24-19-10; NE NE SEC. 26-19-10 LESS 3.86 AC. FOR HWY; NW NE LESS BEG 1047.50S NWC NW TH NE113.78 S273.40 SWLY CRVRT 114.42 N312.02 POB SEC 26 19 10 39.273 ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

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NEW APPLICATIONS

2675—Rachel Brown

Action Requested:

Special Exception to allow a home occupation in an AG District (Section 320.1).

LOCATION: 11110 North 44th East Avenue, Sperry

Presentation:

The applicant requests a continuance to June 19, 2018; additional relief is needed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 3-0-0 (Charney, Crall, Hutchinson “aye”; no “nays”; no “abstentions”; Dillard, Johnston “absent”) to **CONTINUE** the request for a Special Exception to allow a home occupation in an AG District (Section 320.1) to the June 19, 2018 Board of Adjustment meeting; for the following property:

TR BEG 25S & 7W NEC SW NE TH W30 S103 E7 S862 W1289.13 S326.93 E1318.72 N1228.84 W7 N63 POB SEC 9 21 13 10.570ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

2670—Great Scott Fireworks – Randy Scott

Action Requested:

Special Exception to permit a firework stand (Use Unit 2). **LOCATION:** 8939 North Garnett Road East

Presentation:

Randy Scott, 12336 South 273rd East Avenue, Coweta, OK; stated he owns Great Scott Fireworks. He has done extensive research to find locations and this location is in the County. Mr. Scott stated that he operated a firework stand on the subject property

last year with no problems. When he went to get a permit he did not know that he had to come before the Board of Adjustment, so the Permit Office gave him verbal permission to operate the stand but informed him that he had to come before the Board to be operate the stand this year. The area where the stand was placed is all concrete. He did a traffic count study and there are about 14,000 cars a day passing the subject property. About four miles away from the high school there is another firework stand that has about 20,000 cars passing daily. The proposed site is off a four lane road. He would like to operate the stand for ten days. Mr. Scott stated that he would open the stand around June 23rd and keep it open until July 4th. There would be someone on the property 24 hours day. The stand would open about 9:00 A.M. closing around 9:00 P.M. until the 3rd and 4th, and the stand would open about 8:00 A.M. closing around midnight. Mr. Scott stated he has a five year lease with the subject property owner, and the property owner took down a fence to allow for more parking.

Mr. Hutchinson asked Mr. Scott if the sno cone business would be operating at the same times as the firework stand. Mr. Scott stated the property owner's daughter operates the sno cone business, but it is not operating currently. Mr. Hutchinson asked if the sno cone business would be operating at the same time as the firework stand. Mr. Scott answered affirmatively.

Interested Parties:

Morgan Pemberton, Assistant City Planner, City of Owasso, 200 South Main Street, Owasso, OK; stated the City has several concerns about the firework stand. The first concern are the fireworks themselves. Fireworks are illegal in the City of Owasso, and Owasso does understand that technically the subject property is located in Tulsa County jurisdiction it is surrounded on all sides by City of Owasso property. Therefore, the City feels the placement of a firework stand being completely surrounded like this would be inappropriate. The second concern is parking. In addition to the auto repair shop that is operating on the property the sno cone stand is actually in operation. Owasso is unsure whether the sno cone stand received approval of the Special Exception required to operate. The placement of the sno cone stand has a seating area in front of it and it takes up a significant amount of the parking on the southern end of the property and takes up at least half of that area. Owasso staff has observed the subject site at various times in the last couple of weeks and have noticed that the sno cone stand and the auto repair shop are operating at the same times and there are actually very few parking spaces available. Owasso feels the addition of the firework stand is going to even more severely limit the parking on the site, which could lead to people parking on the grass and maybe parking along the one entrance and exit. The City of Owasso is concerned about emergency access to the property if the parking does overflow. The City of Owasso respectfully requests the Board to deny this application.

Mr. Crall asked Ms. Pemberton about the problems caused last year. Ms. Pemberton stated that she is not aware specifically of last year's issues.

Mr. Crall asked how an "island" such this piece of property is happens. Ms. Pemberton stated that Oklahoma state law dictates that cities do not have the authority to annex property. The property owner has to want to be annexed into the City and submit an application for approval by Council. Even if a property is surrounded on all sides, as this piece of property, a city does not have the authority to legally annex a property without the property owner's consent.

Mr. Charney asked Ms. Pemberton if the subject property was surrounded on all sides by the City of Owasso and next to expressway. Ms. Pemberton answered affirmatively.

Mr. Charney asked Ms. Pemberton if the property had been in the Owasso city limits, as a matter of right, it would not have been allowed because of an Ordinance. Ms. Pemberton answered affirmatively.

Rebuttal:

Randy Scott came forward and stated that fireworks are illegal to shoot off in the City of Owasso but they are not illegal to possess in the City of Owasso. Mr. Scott stated he had a firework stand on the subject property with the sno cone stand last year and there were no problems. This year will be better because the property owner moved a fence so there should be no problems again. Mr. Scott stated he has already paid the property owner for the lease of the site, keeps the place clean and has insurance.

Comments and Questions:

Mr. Crall stated that Mr. Scott had a stand there last year and there were no problems so he could support the request.

Mr. Charney stated he has mixed feelings about this request. He feels that one of the duties of a County Board of Adjustment, is when there is a piece of property within a jurisdiction's fence line the Board cares about what that jurisdiction thinks. He does not think the Board had seen a case like this; being in a fence line and surrounded by a city. This property is in the heart of the City's jurisdiction. It is impactful that the City of Owasso staff has a strong feeling against this request.

Mr. Hutchinson agreed with Mr. Charney. Mr. Hutchinson stated that normally a firework stand is open ten days and it is not a big deal, but in this case because of the location he has mixed feelings. Mr. Hutchinson stated it carries a lot of weight when a City attends a Board of Adjustment meeting in opposition to a request.

Board Action:

On **MOTION** of **CRALL**, to **APPROVE** the request for a Special Exception to permit a firework stand (Use Unit 2); 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 .586AC, MORTON VIEW, OF TULSA COUNTY, STATE OF
OKLAHOMA**

Motion to Approve FAILED due to lack of a second; therefore, the application was denied.

Mr. Charney stated that given the quorum today of three Board members there will be no need to take a formal vote to deny the request because a two to one vote has no force.

Randy Scott came forward and asked the Board if he had any appeal rights. Mr. Charney stated there are appeal rights that exist and staff can advise Mr. Scott of the process. Ms. Miller stated that realistically the applicant cannot make it to District Court for a hearing by the time he wants to open the firework stand.

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

Presentation:

Roy Webb, P. O. Box 129, Haskell, OK; stated the neighbor that had concerns at last month's meeting no longer has any concerns, because the processing is not near his property.

Mr. Charney stated the Board has a pictorial representation of the area and the subject site is outlined in pink on that representation; page 4.4, Exhibit A and is the crosshatched area in the handout brought to the meeting. The pink area does not go on the north side of Highway 64 and that is the only area where the mining process will take place.

Mr. Webb stated that his intent is not to open a mine. He wants to develop the land with five-acre tracts and build houses on them.

Mr. Charney asked Mr. Webb to tell the Board about the mining operation being proposed. Mr. Webb stated there will be no blasting, but he might use a jack hammer if it was needed. He is not going to clear all the trees because he wants to enhance the property and make the property look good.

Mr. Charney asked Mr. Webb how long he thought he would be working the site. Mr. Webb stated that it would probably be about five years.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Crall, Hutchinson “aye”; no “nays”; no “abstentions”; Dillard, Johnston “absent”) to **APPROVE** the request for a Special Exception to allow a Mining and Mineral processing use (Use Unit 24) in an AG District (Section 310). The approval is limited to the land shown on Exhibit A and located south of Highway 64; not all the land originally advertised. There is to be no blasting. The approval will be limited to five years, May 15, 2023. The applicant is to conform to all the industrial standards for dust control and erosion control; 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

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NEW APPLICATIONS

2676—American Promotional Events

Action Requested:

Special Exception to permit a firework stand (Use Unit 2) in an CG District (Section 701). **LOCATION:** NE/c of Highway 64 & 209th West Avenue, Sand Springs

Presentation:

Lonnie Basse, American Promotional Events, Inc., 5401 West Skelly Drive, Tulsa, OK; stated this request is for consumer firework sales that was previously granted for a ten-year period and has now expired. The hours of operation will be from June 15th to July 6th; 10:00 A.M. to 10:00 P.M. from June 15th to July 2nd; July 3rd and July 4th the hours will be 8:00 A.M. to midnight.

Mr. Charney asked Mr. Basse if he had any objections from anyone with the City of Sand Springs. Mr. Basse stated that he has not had any objections.

Mr. Charney asked Mr. Basse if he was involved in the operation of the previous stand on the subject property. Mr. Basse stated that he was not.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 3-0-0 (Charney, Crall, Hutchinson “aye”; no “nays”; no “abstentions”; Dillard, Johnston “absent”) to **APPROVE** the request for a **Special Exception** to permit a firework stand (Use Unit 2) in an CG District (Section 701) with a time limit of five years, May 15, 2023. The hours of operation are to be June 15th through July 4th; 10:00 A.M. to 10:00 P.M., June 15th through July 2nd and 8:00 A.M. to Midnight July 3rd and July 4th; for the following property:

**PRT NW SW BEG 1437.26N & 65E SWC SW TH N366.95 E261.08 S366.95 W261.08
POB LESS .09AC TO STATE SEC 2 19 10 2.11ACS, OF TULSA COUNTY, STATE
OF OKLAHOMA**

2677—Jason Schultz

Action Requested:

Variance of the minimum land area per dwelling unit (Section 330). **LOCATION:**
12034 North 145th Avenue East

Presentation:

Jason Schultz, 10208 North 140th East Court, Owasso, OK; stated this lot split request is for a six-acre tract and it would be 2.04 acres for a single-family residence.

Mr. Charney asked Mr. Schultz if the tract he is seeking to build on is fronted by a public street. Mr. Schultz answered affirmatively. Mr. Charney asked if there was a mutual access easement running along the northern boundary. Mr. Schultz answered affirmatively. Mr. Charney asked if there was an existing residence on the tract located in the back. Mr. Schultz answered that residence is being built currently.

Mr. Charney advised Mr. Schultz that he carefully construct a mutual access easement along the northerly boundary, having it carefully drafted and placed in the abstract with a maintenance agreement because that is a critical instrument for mortgage financing and resale. Mr. Charney informed Mr. Schultz that the Board does not want the subject property to be split any more, and he asked Mr. Schultz if he agreed with that. Mr. Schultz confirmed his agreement to no more lot splits for the subject property.

Mr. Charney asked Mr. Schultz if the property were going to be served by an aerobic system. Mr. Schultz answered affirmatively.

Mr. Hutchinson asked Mr. Schultz if Tract A and Tract B were going to have shared driveway. Mr. Schultz stated he will be laying his driveway beside to Tract B’s driveway.

Mr. Charney asked Mr. Schultz if there would be any commercial use on the subject property. Mr. Schultz stated there would not.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Crall, Hutchinson “aye”; no “nays”; no “abstentions”; Dillard, Johnston “absent”) to **APPROVE** the request for a Variance of the minimum land area per dwelling unit (Section 330). The Board finds the hardship to be the unusual configuration of the land, given the long linear access easement along the northerly border. There are to be no future lot splits; no zoning changes; and no commercial use on the subject property; for the following property:

BG. NEC N1/2 SE TH W.1144.7'S.228.3' E.1144.7'N.228.3'TO BG. SEC. 4-21 14, 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 2:25 p.m.

Date approved: _____

Chair