

CBOA-2683

21-14 21

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**BOARD OF ADJUSTMENT
CASE REPORT**

STR:1421

Case Number: CBOA-2683

CZM:18

PD:

HEARING DATE: 06/19/2018 1:30 PM

APPLICANT: Lonnie Basse

ACTION REQUESTED: Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310);Variance of the all-weather surface material requirement for parking (Sec.1340.D).

LOCATION: E of the NE/c of the N 129th E Ave and E 86th St N **ZONED:** AG

PRESENT USE: School campus

TRACT SIZE: 4.63 acres

LEGAL DESCRIPTION: BEG SWC SE SW TH N550 E411.44 S550 W POB LESS S60.01 THEREOF FOR RD SEC 21 21 14 4.628ACS,

RELEVANT PREVIOUS ACTIONS:

Subject property:

CBOA 2261: on 5.15.07, the Board **approved** a *Special Exception* to permit a fireworks stand (Use Unit 2) in an AG district for 5 years;*Variance* of paving requirement to permit temporary gravel driving surface (Section 1340.D).

ANALYSIS OF SURROUNDING AREA: The subject tract is located on the Owasso Highschool campus and surrounded by Owasso City limits.

STAFF COMMENTS:

The site plan submitted with the application proposes a 30' x 70' fireworks tent/stand on what appears to be the southeast portion of the AG zoned property. Per the Code, a fireworks tent/ stand is considered an Area-Wide Special Exception Use (Use Unit 2). The AG zoned property is currently part of the Owasso Highschool campus.

A Special Exception is required as the proposed fireworks stand is a use which is not permitted by right in the AG because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the area and to the general welfare, may be permitted.

A portion of the existing parking lot is an unpaved gravel area. The Code requires all parking areas be paved with an all-weather material to maintain a minimum level of aesthetics, and to control air-borne particulates like dust. The applicant has requested a variance to allow a gravel parking area on the site

Fireworks stands previously approved by the Board within the County are normally a temporary use operating for less than a few weeks in a given year. If inclined to approve the Board may consider

any conditions it deems necessary and reasonably related to the request to ensure that the fireworks stand is compatible with the surrounding area. The Board may consider establishing conditions related to hours of operation to protect nearby residential areas.

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Sample Motion:

Move to _____ (approve/deny) Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310);Variance of the all-weather surface material requirement for parking (Sec.1340.D).

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.

Finding the hardship to be _____.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.”

Presentation:

Jason Marietta, the applicant, was not present.

Board Action:

On **Motion of Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to put this case on hold until the applicant arrives or the Board decides to reopen the case, on the following described property:

LT 5 BLK 1 GLENN-MUR ACRES SUB, Tulsa County, State of Oklahoma

Case No. 2261

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an AG district for 10 years (Section 310); and a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), located: East of Northeast corner East 86th Street North and North 129th East.

Presentation:

J. R. Gann, 5401 West Skelly Drive, proposed to open a new fireworks stand for the next ten years. They asked for a temporary gravel driving surface.

Comments and Questions:

In response to questions from the Board, Mr. Gann stated this is a new location for a fireworks stand. He replied that they have about 85 stands in the Tulsa area. They would gravel sufficiently for parking. They operate the stand from June 15th through July 4th and remove the stand until the next year. The hours of operation are usually 10:00 a.m. to 10:00 or 11:00 p.m., as permissible by the local government.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

A **Motion** was made by **Walker** to **APPROVE** a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310); with hours of operation 10:00 a.m. to 10:00 p.m. from June 15th through July 4th for a period of five years or until the property is annexed into the city;

Mr. Alberty had a question on the motion, to understand if the intention was to be five years or until the property is annexed into the city, whichever comes first. Mr. Walker agreed that was the intent. Mr. Dillard noted that the weekend before the holiday, the stands usually stay open later than 10:00 p.m. Mr. Gann agreed they would like to stay open until 11:00 p.m. on the weekend before the holiday.

On **Amended Motion** by **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310); with hours of operation 10:00 a.m. to 10:00 p.m. from June 15th through July 4th for a period of five years or until the property is annexed into the city, whichever comes first; and to allow the stand to operate until 11:00 p.m. on the weekend before the holiday.

On **Motion** by **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), as presented to gravel according to the plan, finding it is a temporary use on the following described property:

BEG SWC SE SW TH N550 E411.44 S550 W POB LESS S60.01 THEREOF
FOR RD SEC 21 21 14 4.628ACS Tulsa County, State of Oklahoma

Case No. 2262

Action Requested:

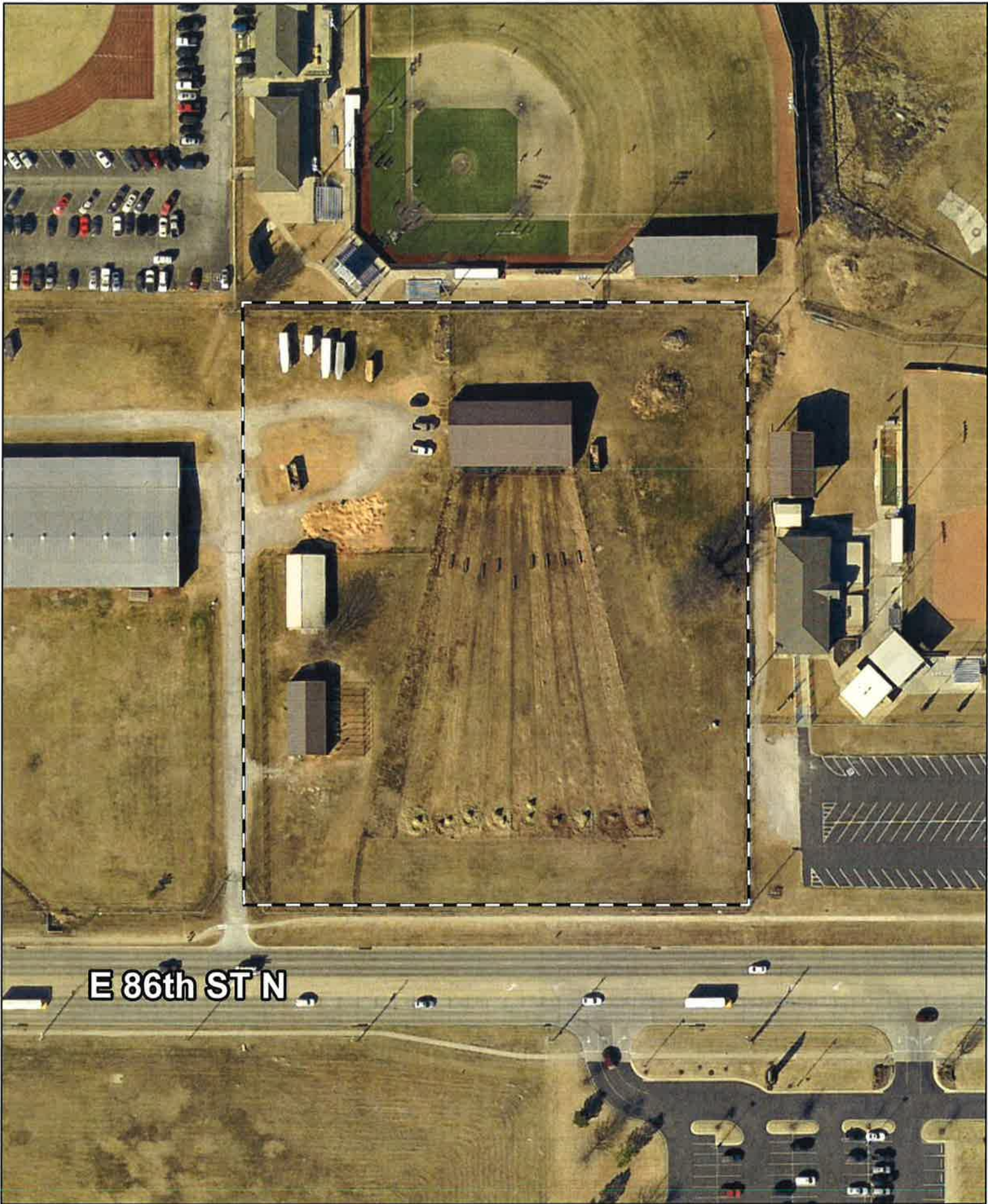
Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (410); and a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), located: 524 North 49th Avenue West.

Presentation:

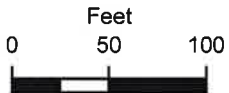
Sherry Barbour, 18622 South 66th East Avenue, Bixby, Oklahoma, with Big Blast, Inc., stated they are applying for a fireworks stand at this location, which they have used for three years. Other groups have used this location for a fireworks stand for the last fifteen years. Gravel is in place and grass has grown up through it. The property is zoned AG and has a residential use. They have plenty of clearance for a fireworks stand. A non-profit organization will operate under all of the rules and regulations of Oklahoma, Tulsa County and the fire marshal. They have adequate parking and additional parking across the street by permission of the owner. They were asking for an approval for five years at this location. They asked to stay open to midnight on the Friday and Saturday nights before July 4th. They ask for the full legal time to operate the stand for the New Year's Holiday, December 15th to January 1st.

Comments and Questions:

Mr. Walker remembered problems with maintenance of this property. Mr. West stated those problems existed before this particular applicant. He did drive-by checks during July and found the area in good condition. Ms. Barbour stated they removed trash every night and they paid extra to have the port-a-john serviced more frequently.



E 86th ST N



Subject Tract

CBOA-2683

21-14 21

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

8.6





N 129th E AVE

N 130 E AVE

N 131 E AVE

N 131 E CT

N 133 E AVE

E 89 PL N

N 135 E AVE

E 90 CT N

E 88 ST N

E 88 CT N

N 134 E AVE

E 89 ST N

N 136 E AVE

E 88 ST N

N 137 E AVE

E 89 PL N

N 138 E AVE

E 89 PL N

E 89 ST N

E 88 ST N

E 87 ST N

E 86th ST N

E 84 ST N

N 133 E AVE

N 134 E AVE

N 136 E AVE

E 85 ST N

N 138 E AVE

E 83 ST N



Subject Tract

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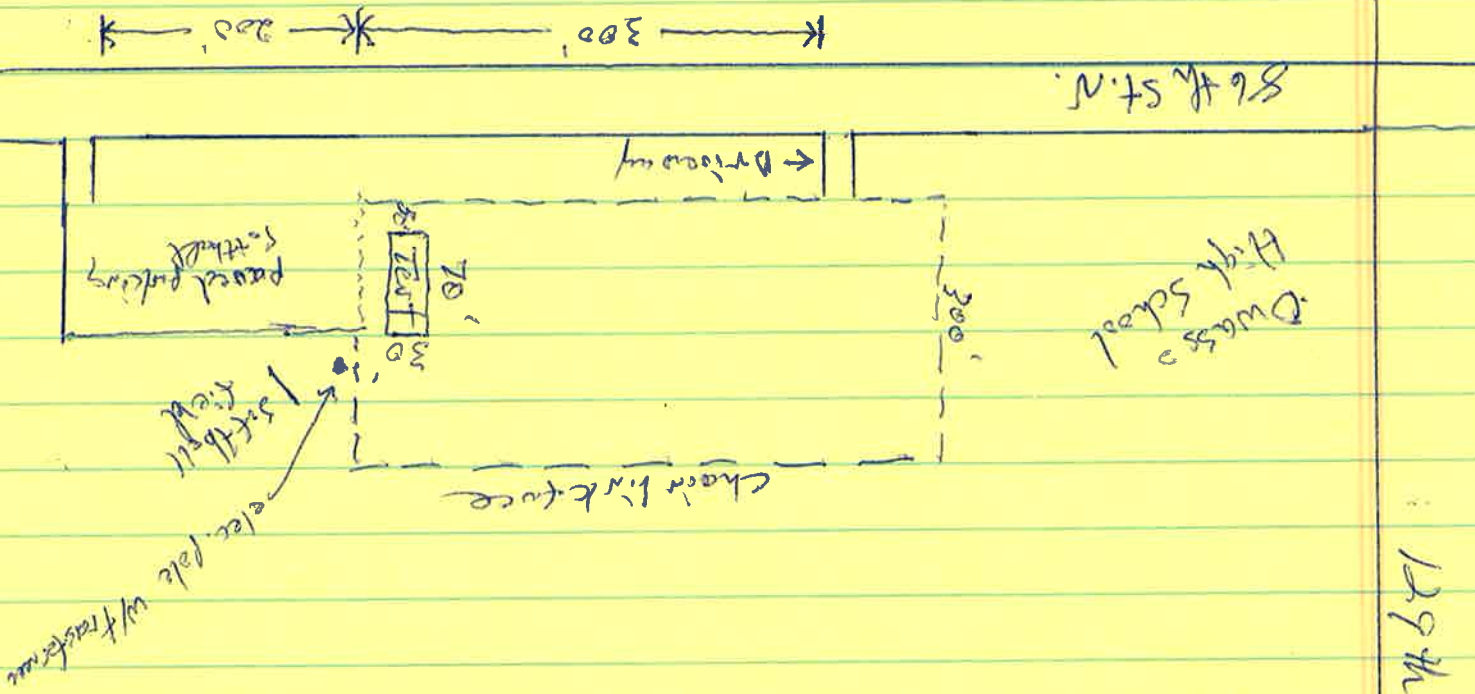
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21-14 21

Aerial Photo Date: February 2018

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Dwasse, OK

~~4-2-09~~

5-17-18

Site Plan