AGENDA
Regularly Scheduled Meeting
Tulsa County Board of Adjustment
Tuesday, August 21, 2018, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
500 South Denver, Room 119

Meeting No. 459

CONSIDER, DISCUSS AND/OR TAKE ACTION ON:

1. Approval of Minutes of July 17, 2017 (Meeting No. 458).

UNFINISHED BUSINESS

2. 2688—Heartland Fireworks, LLC
   Special Exception to permit a fireworks stand (Use Unit 2) in an AG District (Section 310). LOCATION: 11508 East 116th Street North

3. 2689—Heartland Fireworks, LLC
   Special Exception to permit a fireworks stand (Use Unit 2) in an CS District (Section 710). LOCATION: 11290 West 51st Street South

NEW APPLICATIONS

4. 2707—James Kent
   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 49th Avenue West & West 46th Street South

5. 2708—Gary Dyer
   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

6. 2709—Robert Stephenson
   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
7. **2712—Cellco Partnership dba Verizon Wireless**
   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 161st West Avenue

8. **2714—Jakes Fireworks – Jason Wanetta**
   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 121st Street South

9. **2716—Jakes Fireworks – Jason Wanetta**
   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 106th Street North, Owasso

**OTHER BUSINESS**

**NEW BUSINESS**

**BOARD MEMBER COMMENTS**

**ADJOURNMENT**

Website: www.countyoftulsa-boa.org   E-mail: esubmit@incog.org

If you require special accommodations pursuant to the Americans with Disabilities Act, please call (918) 584-7526.

**NOTE:** Exhibits, Petitions, Pictures, etc., presented to the Board of Adjustment may be received and deposited in case files to be maintained at Land Development Services, INCOG. Ringing/sound on all electronic devices must be turned off during the Board of Adjustment meeting.

**NOTE:** This agenda is for informational purposes only and is not an official posting. Please contact the INCOG Office at (918) 584-7526, if you require an official posted agenda.
BOARD OF ADJUSTMENT
CASE REPORT

Case Number: CBOA-2688

STR: 1408
CZM: 12
PD:

HEARING DATE: 08/21/2018 1:30 PM (continued from 7/17/18 hearing)

APPLICANT: Heartland Fireworks, LLC

ACTION REQUESTED: Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310)

LOCATION: 11508 E 116 ST N

ZONED: AG

PRESENT USE: residential

TRACT SIZE: 4.21 acres

LEGAL DESCRIPTION: W285.2 NE NW NW LESS N16.5 THEREOF SEC 8 21 14 4.213ACS, HOPE CHAPEL, FBC OWASSO MISSION

RELEVANT HISTORY:

Surrounding Property:
CBOA-2517; on 11.18.14 the Board approved a special exception to allow a fireworks stand in the AG district with a 5-year time limit. Located: immediately west of the subject site.

CBOA-2464; on 5/21/13, the Board approved a special exception to allow a fireworks stand in the AG district with conditions that the firework stand be removed by July 10, 2013. Located: immediately west of the subject site.

ANALYSIS OF SURROUNDING AREA: The subject tract is abutted by AG zoning on the east, west, and south; CS and AG zoning to the north.

STAFF COMMENTS:
The site plan submitted with the application proposes a 20' x 40' fireworks tent/stand on the west portion of the AG zoned property. The AG zoned property appears to currently contain a residential use.

A Special Exception is required as the proposed fireworks stand is a use which is not permitted by right in the AG district 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.

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. The applicant has not submitted hours of operations or the dates the fireworks stand will be open. 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.

2.2

REVISED 8/10/2018
Sample Motion:

Move to ________ (approve/deny) a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310).

*Subject to the following conditions (including time limitation, if any): __________.

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.
to permit gravel parking (Section 1340.D), subject to a five year time limit of operation until November 2019; for the following property:

E/2 BEG NWC SE TH E353 S1271.73 NWLY360.9 N1197.13 POB LESS S50 FOR RD SEC 7 19 11 4.869ACS, RIVER VALLEY ESTATES AMD, OF TULSA COUNTY, STATE OF OKLAHOMA

2517—Jake's Fireworks, Inc.

**Action Requested:**
Special Exception to permit a temporary fireworks stand in the AG District (Section 310). **LOCATION:** 11400 East 116th Street North, Owasso

**Presentation:**
Jason Marietta, 1500 East 27th Terrace, Pittsburg, Kansas; no formal presentation was made but the applicant was available for any questions.

Mr. Charney asked Mr. Marietta exactly where the fireworks stand is located. Mr. Marietta stated it is at German Corner.

**Interested Parties:**
There were no interested parties present.

**Comments and Questions:**
None.

**Board Action:**
On MOTION of DILLARD, the Board voted 3-0-0 (Charney, Dillard, Hutchinson “aye”; no “nays”; no “abstentions”; Walker “absent”) to APPROVE the request for a Special Exception to permit a temporary fireworks stand in the AG District (Section 310), subject to a five year time limit of operation until November 2019; for the following property:

LT 1 BLK 1, HOPE CHAPEL, OF TULSA COUNTY, STATE OF OKLAHOMA

2518—Amanda Marks

**Action Requested:**
Variance to increase the permitted building height to 43 feet in an AG District (Section 330, Table 3). **LOCATION:** 1923 West 4th Street

**Presentation:**
Amanda Marks, 1956 North 177th West Avenue, Tulsa, OK; stated she is building a new home and is about 80% complete. The inspector just realized the height of the house is above the allowable height of 36 feet so she is before the Board to request a
UNFINISHED BUSINESS

NEW APPLICATIONS

Case No. 2464—Jake's Fireworks

Action Requested:
Special Exception to allow a firework's stand (Use Unit 2) in an AG District (Section 310, Table 1). Location: 11400 East 116th Street North (Owasso, OK)

Presentation:
Jason Marietta, 1500 East 27th Terrace, Pittsburg, KS; stated the International Church of the Four Square Gospel would like to operate a fireworks stand for the 4th of July holiday. The church is located in Owasso at German Corner.

Mr. Charney asked Mr. Marietta if he contacted the surrounding neighbors. Mr. Marietta stated that he had and only one person had called. The man that called asked if the church was operating the fireworks stand and Mr. Marietta told him yes. The caller stated he had no opposition then and hung up.

Mr. Draper asked Mr. Marietta where the stand would be placed. Mr. Marietta stated the stand would be placed in front of the church, on the 116th Street North side of the church.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of CHARNEY, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE the request for a Special Exception to allow a firework's stand (Use Unit 2) in an AG District (Section 310, Table 1). The days of operation are to be June 24, 2013 through July 4, 2013. The hours of operation are to be 9:00 A.M. to 9:00 P.M., June 24th through July 1st, then the hours of operation to be 9:00 A.M. through 11:00 P.M., July 2nd, July 3rd, and July 4th. The fireworks stand is to be removed no later than July 10, 2013; for the following property:

LT 1 BLK 1, HOPE CHAPEL, OF TULSA COUNTY, STATE OF OKLAHOMA

05/21/2013/#396 (2)
Subject Tract

CBOA-2688

Aerial Photo Date: February 2018

Note: Graphic overlays may not precisely align with physical features on the ground.
HEARING DATE: 08/21/2018 1:30 PM (continued from 7/17/18 hearing)

APPLICANT: Heartland Fireworks, LLC

ACTION REQUESTED: Special Exception to permit a fireworks stand (Use Unit 2) in an CS district (Sec. 710)

LOCATION: 11290 W 51 ST S

PRESENT USE: vacant/restaurant

TRACT SIZE: 1.79 acres

LEGAL DESCRIPTION: LOT 8 BLK 2, BUFORD COLONY SECOND ADDN

RELEVANT PREVIOUS ACTIONS:

Subject Property: CBOA-1186; on 08.17.93 the Board approved a variance of the screening requirement; a variance of the all-weather surface requirement for off-street parking.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts RS zoned lots to the west and south; a vacant CS zoned lot to the east; Sand Springs Corporate limits abut the subject property to the north.

STAFF COMMENTS:

The site plan submitted with the application proposes a 20' x 40' fireworks tent/stand on the west portion of the CS zoned property. The CS zoned property appears to currently contain a vacant commercial building.

A Special Exception is required as the proposed fireworks stand is a use which is not permitted by right in the CS district 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.

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. The applicant has not submitted proposed hours of operations or the dates the fireworks stand will be open. 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.
Sample Motion:

Move to ________ (approve/deny) a Special Exception to permit a fireworks stand (Use Unit 2) in an CS district (Sec. 710).

*Subject to the following conditions (including time limitation, if any): __________.

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.
Case No. 1186

Action Requested:
Special Exception to permit a drive-in restaurant in a CS zoned district, a variance of the screening requirement and a variance of the all-weather surface requirement for off-street parking - Section 710. - PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS, Section 1218.3 Use Conditions and Section 1350.C. DESIGN STANDARDS - Use Unit 18, located 11290 West 51st Street South.

Presentation:
The applicant, Jerry Holt, 3232 South 73rd East Avenue, requested permission to operate a drive-in restaurant on the property in question. He informed that the existing building will be removed and a new building will be constructed at the same location.

Comments and Questions:
In response to Mr. Tyndall, the applicant stated that there will be fluorescent lighting on the front of the building and a security light at the back door.

Mr. Walker stated that he is familiar with the property, and the proposed use is compatible with the surrounding area.

Interested Parties:
Etta Cole stated that she lives next door to the proposed use and is supportive of the application.

Board Action:
On MOTION of TYNDALL, the Board voted 3-0-0 (Eller, Walker, Tyndall, "aye"; no "nays"; no "abstentions"; Alberty, Looney, "absent") to APPROVE a Special Exception to permit a drive-in restaurant in a CS zoned district, a variance of the screening requirement for 5 years only, and a variance of the all-weather surface requirement for off-street parking for 5 years only - Section 710. - PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS, Section 1218.3 Use Conditions and Section 1350.C. DESIGN STANDARDS - Unit 18; subject to compliance with all County requirements; finding the use to be compatible with the surrounding area; and finding that the screening and gravel parking will be reviewed in 5 years to determine future compatibility; on the following described property:

Lot 8, Block 2, Buford Colony 2nd Addition, Tulsa County, Oklahoma.
Subject Tract

CBOA-2689

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

Aerial Photo Date: February 2018
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018
11290 W 51st St. S
Sand Springs, OK

20x40 Fireworks tent

Existing BBQ building

Existing Parking Lot

51st St. S Sand Springs, OK

3.7
BOARD OF ADJUSTMENT  
CASE REPORT

STR:9228  
CZM:45  
PD:

HEARING DATE: 08/21/2018 1:30 PM  

APPLICANT: James Kent

ACTION REQUESTED: Special Exception to allow a fireworks stand (Use Unit 2) in a RS district and IL district; Variance of the all-weather surface material requirement for parking (Section 1340.D).

LOCATION: N of the NE/c of S. 49th W. Ave. & W. 46th St. S.  
ZONED: IL,RS

PRESENT USE: Residential/industrial  
TRACT SIZE: 0.86 acres

LEGAL DESCRIPTION: LT 24 BLK 1, BRIDGES THIRD SUB

RELEVANT PREVIOUS ACTIONS: None relevant.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts RS zoned lots to the north; IL zoned tract to the south and west; the subject property abuts both RS and IL zoned lots to the east.

STAFF COMMENTS:

The site plan submitted with the application proposes a 30’x70’ fireworks tent on a portion of the lot. The lot has two zoning designations; IL zoning on the southern portion and RS zoning on the northern portion. Per the Code, a fireworks tent/stand is considered an Area-Wide Special Exception Use (Use Unit 2) that does not specify the minimum parking requirement on the lot.

A Special Exception is required as the proposed fireworks stand is a use which is not permitted by right in the RS or IL zoning districts 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.

The existing parking area consists of both unpaved gravel and grass. 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 non-all-weather parking material to be used for the parking area.

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.
Sample Motion:

Move to _________ (approve/deny) a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Sec. 701); Variance of the all-weather surface material requirement for parking (Sec. 1340.D).

*Subject to the following conditions (including time limitation, if any): _________.

*Finding the hardship to be _________.

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 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.”
Subject Tract

CBOA-2707

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

Aerial Photo Date: February 2018
Note: Graphic overlays may not precisely align with physical features on the ground.
BOARD OF ADJUSTMENT
CASE REPORT

STR: 129
CZM: 21
PD:

HEARING DATE: 08/21/2018 1:30 PM

APPLICANT: Gary Dyer

ACTION REQUESTED: Special Exception to permit a fireworks stand (use unit 2) in an IL zoned district; Variance of the all-weather surface material requirement for parking (Section 1340.D).

LOCATION: 5612 N PEORIA AV E

PRESENT USE: Industrial property

ZONED: IL

TRACT SIZE: 0.69 acres

LEGAL DESCRIPTION: PRT TRACT 2 BEG 521.6S NEC TH W200 S150 E200 N150 TO BEG, KRUGER TRACTS

RELEVANT PREVIOUS ACTIONS:

Surrounding Property: CBOA-2450; on 12.18.12, the Board approved a Special Exception to permit a store in an IL district. Located; 5630 N. Peoria Ave. E. (immediately north of the subject site).

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by IL zoned tracts to the north, south, and west; the subject lot abuts N. Peoria Ave. E. to the east.

STAFF COMMENTS:
The site plan submitted with the application proposes a fireworks tent on the eastern portion of the IL zoned lot that abuts N. Peoria Ave. E. Per the Code, a fireworks tent/stand is considered an Area-Wide Special Exception Use (Use Unit 2) that does not specify the minimum parking requirement on the lot.

A Special Exception is required as the proposed fireworks stand is a use which is not permitted by right in the IL zoning district 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.

The existing parking area appears to consist of both concrete and grass. 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 non-all-weather parking material to be used for the parking area.

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

5.2

REVISED 8/14/2018
stand is compatible with the surrounding area. The Board may consider establishing conditions related to hours of operation to protect nearby residential areas.

Sample Motion:

Move to _________ (approve/deny) a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Sec.701); Variance of the all-weather surface material requirement for parking (Sec.1340.D).

*Subject to the following conditions (including time limitation, if any): ________.

*Finding the hardship to be ________.

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 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.”
property, and she is tired of people coming and taking what is not theirs to have. She pays taxes on the property and she wants to see something done. Mr. Watson, who performed her survey, is supposed to send her a copy of the survey she had performed several years ago, but she wants to know how this Board is going to prove which survey company has the correct survey.

Mr. Charney stated that if this truly a boundary dispute, that is a separate issue from a land use dispute. If there is a boundary dispute maybe Mr. Kelley could help determine if a boundary dispute if the core of the issue. If it is a boundary dispute the Board does not have the jurisdiction to resolve a boundary dispute. Mr. Charney asked all parties to gather all their paperwork and bring it to the next meeting for review and discussion.

Mr. Osborne stated, again, the purpose of the Board of Adjustment is strictly to look at land use. That is all the Board has the authority to do under the law. If there are boundary disputes or violations against the land, those are items that should be addressed but it is something this Board has no authority to do anything about. If there is an issue with Mr. Mangold digging on the property the Board wants to hear from all interested parties because the Board is here to serve all the citizens of Tulsa County.

Comments and Questions:
None.

Board Action:
On MOTION of OSBORNE, the Board voted 2-0-1 (Charney, Draper, Osborne, “aye”; no “nays”; Charney “abstaining”; Dillard, Walker “absent”) to CONTINUE the request for a Special Exception for mining dirt (Use Unit 24) in the AG zone (Section 310, Table 1) to the January 15, 2013 meeting; for the following property:

The N/2 of the NE/4, Section 13, Township 21 North, Range 12 East, Less and Except, Beginning Northeast corner of N/2 of the NE/4, Section 13, Township 21 North, Range 12 East, thence West 980.95’, thence South 25’, thence Southeasterly 1227.08’ to a point, thence East 25’, thence North 718.5’ to the Point of Beginning, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2450—Nick Lombardi

Action Requested:
Special Exception to permit a store (Use Unit 14) in an IL District (Section 910).
Location: 5630 North Peoria Avenue East

Presentation:
Clint Herrington, 28 Morris Lane, Texarkana, TX; stated the proposal is for general retail development, a Family Dollar store. There is a current open barn structure that will be removed from the site. The land is currently platted and in an IL district.
**Interested Parties:**
There were no interested parties present.

**Comments and Questions:**
None.

**Board Action:**
On MOTION of DRAPER, the Board voted 3-0-0 (Charney, Draper, Osborne, "aye"; no "nays"; no "abstentions"; Dillard, Walker "absent") to APPROVE the request for a Special Exception to permit a store (Use Unit 14) in an IL District (Section 910). This approval is subject to all development requirements of the Tulsa County zoning code. 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:

A Part of Tract Two (2), KRUGER TRACTS, a Subdivision of the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat No. 2162, being more particularly described as follows to wit: COMMENCING at the most Westerly Southwest Corner of Tract Two (2), KRUGER TRACTS, a Subdivision to the City of Tulsa, Tulsa County State of Oklahoma, according to the Recorded Plat No. 2162 thereof, thence N 00°07'00" E along the Westerly Line of said Tract Two (2) a distance of 312.60 feet to a point; thence N 89°42'00" E a distance of 486.82 feet to the POINT OF BEGINNING; thence N 89°42'00" E a distance of 200.00 feet to a point on the Easterly Line of said Tract Two (2); thence S 00°00'00" E along said Easterly Line a distance of 236.60 feet; thence S 89°42'00" W a distance of 200.00 feet; thence N 00°00'00" W a distance of 326.60 feet to the POINT OF BEGINNING, containing 1.0863 acres more or less, OF TULSA COUNTY, STATE OF OKLAHOMA

**2243-A—Brian Curthoys**

**Action Requested:**
Special Exception to permit a private airstrip in an AG District (Section 310).

**Location:** 5415 East 191st Street South

**Presentation:**
Brian Curthoys, 601 South Boulder, Suite 400, Tulsa, OK; stated he would like to operate a private airstrip. He was before the Board in 2007 and the Board at that time approved the airstrip with a five year limitation, and it has been over five years since that hearing. His client has discontinued the use of airstrip until he receives approval from the Board again. The client has made the area a little larger than when first requested but the use will remain the same. The previous application had an area shaped similar to a hockey stick and the southern area of the property was approximately 160 feet wide. With present application more property has been acquired and the site is now rectangular in shape that is 330 feet wide and 2,260 feet long. One of the
Note: Graphic overlays may not precisely align with physical features on the ground.
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BOARD OF ADJUSTMENT
CASE REPORT

STR:1329
CZM:16
PD:

HEARING DATE: 08/21/2018 1:30 PM

APPLICANT: Robert Stephenson

ACTION REQUESTED: Variance to permit an accessory building to be located in the side yard (sec. 420.2) and a variance to permit two dwelling units on a single lot of record (Sec. 208).

LOCATION: 7923 N FLORENCE AV E
ZONED: RE

PRESENT USE: Residential
TRACT SIZE: 2.37 acres

LEGAL DESCRIPTION: N331 S1338 E330 W/2 E/2 SE LESS W17.5 THEREOF FOR RD SEC 29 21 13 2.374ACS,

RELEVANT PREVIOUS ACTIONS:
None relevant.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts large AG zoned tracts to the east; RE zoned single-family residences to the north, south, and west.

STAFF COMMENTS:
According to the site plan, the applicant is proposing to construct a new single-family dwelling on the subject lot. Because of the proposed location of the new house, the existing 30' x 60' or 1800 sq. ft. storage/shop building will be in the side yard of the property. Section 420.2 states that a detached accessory building shall not be in the front or side yard or encroach upon a minimum setback line. To permit the existing storage/shop building the applicant has requested a Variance to permit a detached accessory building to be located in the side yard area, north of the proposed house.

As shown on the attached survey the site currently contains an existing dwelling. The site plan shows that the applicant intends to minimize the footprint of the existing dwelling and re-locate it to the rear of the proposed new residence. The Code states that not more than one single-family dwelling may be located on a lot in a RE zoned district. To permit the residential structures as proposed the applicant has requested a Variance to permit two dwelling units on a single lot of record (Sec. 208).

Sample Motion:
"Move to ________ (approve/deny) a Variance to permit an accessory building to be located in the side yard (sec. 420.2); a Variance to permit two dwellings on a single lot of record (Sec. 208).

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.”
Subject Tract

CBOA-2709

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

Aerial Photo Date: February 2018
Subject Tract

CBOA-2709

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

Aerial Photo Date: February 2018
HEARING DATE: 08/21/2018 1:30 PM

APPLICANT: Cellco Partnership, d/b/a/ Verizon Wireless

ACTION REQUESTED: Special exception to permit a 260 ft. 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 S. 161st W. Ave. ZONED: AG

PRESENT USE: vacant TRACT SIZE: 31.65 acres

LEGAL DESCRIPTION: 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

RELEVANT PREVIOUS ACTIONS: None relevant.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts AG zoned lots on all sides.

STAFF COMMENTS: The applicant is before the Board requesting a Special Exception to permit a 260 ft. tall wireless communications tower facility (250' cell tower and 10' lightning rod) and associated ground equipment on the AG zoned site. Telecommunications towers are classified under Use Unit 4 (Public Protection and Utility Facilities) and permitted in the AG district by Special Exception. A Special Exception is required as the proposed cell tower is a use which is not permitted by right in the AG district because of potential adverse affect, but if controlled in the particular instance as to its relationship to the area may be permitted.

As shown on the site plan, the distance from the proposed cell tower to the AG zoned tract to the south does not meet the County's setback requirements. Therefore the applicant has requested a Special Exception to modify the required tower setback (110% of the tower height) from the adjoining AG lot to the south.

Section 1204.3.C & E of the Code provides general standards for locating communication towers in any district. Some of the more notable requirements include:

1204.3.C.2.a: Towers and antennas shall be designed to blend into the surrounding environment through the use of color, galvanizing, or camouflageing architectural treatment, except in instances where the color is dictated by federal or state authorities such as the FAA.
1204.3.C.4.: Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

1204.3.C.6: All utility buildings and structures accessory to a tower shall meet all the requirements of the underlying zoning district. Exterior ground mounted equipment occupying more than 50 square feet, if visible from ground level, shall be screened from view from property within 150 ft. used for residential purposes.

The plans indicate that the proposed accessory exterior ground mounted equipment and cell tower will be enclosed by a 6' wooden fence. The site plan also shows that vegetation/ shrubs will be planted around the entire compound, which offers some shielding from the abutting residential properties.

1204.3.C.7.a: Towers must be set back a distance equal to at least one hundred ten percent (110%) of the height of the tower from any adjoining lot line of a residential, office, or agricultural zoned lot, excluding expressway rights of way zoned residential.

The submitted site plan indicates that the proposed tower height is 260 ft. The setback requirement is 286 ft. from an adjoining R, AG, or O zoned lot. The requirement was established for reasons including the creation of a fall zone and to minimize the impact of the tower on the low intensity zones. The submitted plan indicates that the proposed cell tower is less than 286 ft from the abutting AG zoned lot to the south; therefore the applicant has requested a special exception to modify the setback requirement to permit the proposed cell tower.

1204.3.C.8: Towers shall be enclosed by security fencing not less than six (6) feet in height or shall be equipped with an appropriate anti-climbing device; provided however the Board may modify of waive the requirements by special exception

The applicant’s plans show that the tower site will be enclosed by a 6 ft. wooden fence.

Additionally, Section 1204.3.E provides the following:

1. Factors to be considered in granting a special exception. In addition to any other requirement of this section, the following factors shall be considered in the determination to grant or deny a special exception for an antenna or tower:
   a. Height of the proposed tower;
   b. Proximity of the tower to residential structures, residential district boundaries and existing towers;
   c. Nature of uses on adjacent and nearby properties;
   d. Surrounding topography;
   e. Surrounding tree coverage and foliage;
   f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
   g. The total number and size of antennas proposed and the ability of the proposed tower to accommodate collocation;
   h. Architectural design of utility buildings and accessory structures to blend with the surrounding environment;
   i. Proposed ingress and egress;
j. The need of the applicant for a communications tower within the immediate geographic area to provide an acceptable level of communications service to the area;
k. The size of the tract and the most likely future development as indicated by the Comprehensive Plan, planned infrastructure, topography and other physical facts.
l. Landscaping

2. Collocation. Collocation of facilities should be encouraged wherever practical by allowing reasonable extra height or tower diameter necessary to support multiple antennas.

3. The findings of the Board of Adjustment as to each of these factors shall be made on the record and contained in the written minutes of the meeting.

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed communications tower will be non-injurious to the surrounding area.

Sample Motion:

"Move to [approve/deny] a Special Exception to permit a 260 ft. 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)"

The Board considered each of the stated factors in Section 1204.3.E.1&2 of the Code and finds that the application complies with those requirements to the Board's satisfaction.

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."
Please see below for Variance Hardship:

1. **Application of the zoning ordinance requirements to this particular piece of property will create unnecessary hardship to the property. This does not include financial hardship to the applicant.**

   This site is located in an area determined by Verizon’s wireless engineers to best close an existing coverage/capacity gap (see attached Letter of Need from Verizon wireless engineer Vaughn Mosely). There are no towers or suitable tall structures in the area on which to co-locate Verizon’s antennas. As a result, Verizon’s real estate specialists looked for a suitable location within this area to meet the County’s location requirements. Due to the proximity to dense residential areas, there were only (3) candidates in the area large enough to better meet the County’s criteria, with the proposed location on the subject property the only available candidate. As a result, strict application of the terms of the Ordinance would restrict wireless coverage in this area, the need for which Verizon wireless engineer Vaughan Moseley has submitted a statement for the record as part of this application.

2. **There are conditions that are peculiar to this piece of property, which do not apply to other properties in the same zoning district.**

   The subject property is the only one close enough to the Engineer determined search area zoned AG with a willing candidate, as determined after a diligent search by Verizon’s real estate specialist. In addition, the site location proposed is better than other AG zoned properties in the area due to the fact that there is a wooded buffer area on almost all sides which will help shield most of the tower from view from nearby properties.

3. **The variance, if granted, will not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance or the comprehensive plan.**

   A variance from the strict application of this Code would not cause detriment to the public good. The Applicant worked with the property owner for a carefully chosen location with significant tree screening in a vacant field, which will minimize the visual impact of the site. The site is designed and will be constructed to strict structural and safety standards, with State of Oklahoma P.E. stamped plans submitted with this application. The site will serve to improve wireless coverage in the general area, which will benefit the residents and businesses, as reliable wireless coverage has become a critical part of local infrastructure.
SURVEYOR'S NOTES

1. This is an Readland Tower Survey, made on the ground under the supervision of an Ochlockonee Registered Land Surveyor. Data of field survey is October 5, 2017.

2. The survey was conducted on a public record tower survey of the Readland Tower Survey, made on the ground under the supervision of an Ochlockonee Registered Land Surveyor. Data of field survey is October 5, 2017.


4. All underground utilities, underground extensions or building foundations were measured with a 3 ft. radius on the boundary of the Readland Tower Survey, made on the ground under the supervision of an Ochlockonee Registered Land Surveyor. Data of field survey is October 5, 2017.

5. All boundary lines are shown on the plan. Boundaries shown are in feet and refer to WGS 1983.

6. This survey was conducted at the request of an Ochlockonee Registered Land Surveyor. Data of field survey is October 5, 2017.

7. All boundary lines are shown on the plan. Boundaries shown are in feet and refer to WGS 1983.

8. The tower was constructed with the cooperation of an Ochlockonee Registered Land Surveyor. Data of field survey is October 5, 2017.

9. No underground utilities, underground extensions or building foundations were measured with a 3 ft. radius on the boundary of the Readland Tower Survey, made on the ground under the supervision of an Ochlockonee Registered Land Surveyor. Data of field survey is October 5, 2017.

10. All underground utilities, underground extensions or building foundations were measured with a 3 ft. radius on the boundary of the Readland Tower Survey, made on the ground under the supervision of an Ochlockonee Registered Land Surveyor. Data of field survey is October 5, 2017.

PLOTTER'S EXCEPTIONS

Fidelity National Title Insurance Company
Government for Title Insurance Company
Government for Title Insurance Company

Surveyor's Certification

KENTHE

EDWIN HAWK

Surveyor's Certification

I hereby certify that I have surveyed the property described in this survey and have given due consideration to the requirements of the American Society of Professional Surveyors. This survey is the result of my knowledge, information, and belief.

EMERSON, INC.

Surveyor's Certification

EDWIN HAWK

Oklahoma License No. 205

1100 Country Club Drive

Edmond, Oklahoma 73034

(405) 384-8572
PROPOSED 80'x80'
LEGAL LAND SPACE
(SEE ENLARGED SITE PLAN)

PROPOSED 80' WOODEN FENCE
(78'x78')

PROPOSED TOWER

PROPOSED 30' INGRESS/EGRESS AND UTILITY EASEMENT
0.21 ACRES

DEBRA DEANNE SUDER
& TINA MARIE GULLISPE
APN: 99108-91-08-24820

DEBRA DEANNE PUTMAN
APN: 99108-91-08-28320

SUBJECT PROPERTY IS LOCATED IN PANEL #
40143C0195K, DATED AUGUST 3, 2009 AND
IS IN THE BASE FLOOD ZONE "A" AND IS
NOT IN A SPECIAL FLOOD HAZARD AREA.

PARENT PARCELS:
DON BOYNE, EXECUTOR OF THE
ESTATE OF PETE VACCARO, DECEASED:
APN: 99108-91-08-25350
DEED BOOK 5283, PAGE 49
31.6472 ACRES (R)

LINE (PV)
PROPOSED VERIZON ANTENNAS
RAD CENTER = 250' AGL

FUTURE COLLOCATOR
RAD CENTER = 240' AGL

NOTES:
- Prior to any construction, verify all data & antenna orientation. Contractor is solely responsible for proper location & orientation.
- The contractor shall coordinate with the construction manager for final structure design and specifications.

NOTE: Structures shown is schematic in nature only. The contractor shall coordinate with the construction manager for final structure design and specifications.

PROPOSED 6" ICE BRIDGE

PROPOSED VERIZON'S GENERATOR ON 3'-6"x5'-0" GENERATOR PAD W/ 4'-0"x6'-0" ICE BRIDGE

PROPOSED VERIZON OUTDOOR CABINET TO BE MOUNTED ON PROPOSED PAD

PROPOSED VERIZON'S EQUIPMENT PAD WITH 4'-0"x8'-0" ICE BRIDGE

PROPOSED EQUIPMENT LEASE AREA (11.5'x24')

PROPOSED TOWER

PROPOSED ICE BRIDGE

PROPOSED 12' COMPOUND GATE

PROPOSED 30' ENTRANCE/EGRESS AND UTILITY EASEMENT 0.21 ACRES

PROPOSED TELEPHONE PEDESTAL

PROPOSED POWER POLE

NOTE: Trees and bushes to be common for landscape use in this county.

SCALE: 1" = 20' (11x17 PRINT)
Certificate of AM Regulatory Compliance

Site Name: Fisher Bottom
Location: N36-08-19.62 W96-10-18.037
Client: Verizon Wireless
Certification Date: 7/17/2018

According to the Federal Communications Commission (FCC) Rules and Regulations,

"§1 Subpart AA. Disturbance of AM broadcast station antenna patterns
Part 1.30000 Purpose.
This rule protects the operations of AM broadcast stations from nearby tower construction that may distort the AM antenna patterns. All parties holding or applying for Commission authorizations that propose to construct or make a significant modification to an antenna tower or support structure in the immediate vicinity of an AM antenna, or propose to install an antenna on an AM tower, are responsible for completing the analysis and notice process described in this subpart, and for taking any measures necessary to correct disturbances of the AM radiation pattern, if such disturbances occur as a result of the tower construction or modification or as a result of the installation of an antenna on an AM tower. In the event these processes are not completed before an antenna structure is constructed, any holder or applicant for a Commission authorization is responsible for completing these processes before locating or proposing to locate an antenna on the structure, as described in this subpart.
Part 1.30002 Tower construction or modification near AM stations.
(a) Construction near a nondirectional AM station. Proponents of construction or significant modification of a tower which is within one wavelength of a nondirectional AM station, and is taller than 60 electrical degrees at the AM frequency, must notify the AM station at least 30 days in advance of the commencement of construction. The proponent shall examine the potential impact of the construction or modification as described in paragraph (c). If the construction or modification would distort the radiation pattern by more than 2 dB, the proponent shall be responsible for the installation and maintenance of any detuning apparatus necessary to restore proper operation of the nondirectional antenna.
(b) Construction near a directional AM station. Proponents of construction or significant modification of a tower which is within the lesser of 10 wavelengths or 3 kilometers of a directional AM station, and is taller than 36 electrical degrees at the AM frequency, must notify the AM station at least 30 days in advance of the commencement of construction. The proponent shall examine the potential impact of the construction or modification as described in paragraph (c). If the construction or modification would result in radiation in excess of the AM station's licensed standard pattern or augmented standard pattern values, the proponent shall be responsible for the installation and maintenance of any detuning apparatus necessary to restore proper operation of the directional antenna."

This certificate verifies that the site at the above coordinates has been screened out to 3.2 km for directional antenna AM stations and 1.2 km distance for non-directional antenna AM stations and found to have no AM broadcast stations currently licensed to operate within those distances. Current FCC rules coordination distances are less as calculated in the above FCC rule §1.30002 adopted February 2014. Structure height is also considered in the current FCC rules. No further AM coordination actions are warranted at this time.
Letter of Support

Cellco Partnership, d/b/a Verizon Wireless, is the Nation's number one wireless communications provider, and is known for its extraordinary and reliable service. At the present time, Verizon would like to improve the coverage and reliability of its network in west Tulsa County, in the Fisher Bottom area just west of Sand Springs, and offload traffic off of the surrounding sites in the area, allowing them to operate more efficiently without data delays or dropped calls. This site has been designed in direct response to usage demand in the area, which is not limited by zoning district, and will improve network efficiency and reliability, benefitting the many residents, businesses, and commuters in the area. As 76% or more of E-911 calls are from wireless devices (NHTA, 2-2016), and with over half of American households wireless only for voice service (CDC's 2016 Wireless Substitution study) network reliability has become a vital public safety issue (Please see attached Justification Letter from Verizon wireless Engineer Vaughn Moseley for details of the need for the site).

Verizon comes before the Tulsa County Board of Adjustments to request a Conditional Use Permit and 99.4' Setback Variance to allow construction of a new 250' tall wireless communications tower facility (260' tall including 10' lightning rod). Verizon Wireless has carefully selected a location on a 31.6 acre tract in an AG Zone, on a location in a vacant field surrounded on most sides by an existing tree line, which will act as a visual buffer and help shield the site from view and better blend in to the landscape. The nearest tower is 1.75 miles to the West, so no existing sites are available in the area for co-location. The distances to the nearest adjacent property lines are notated on the enclosed Site Plan, with the distance to the South property line 99.4' short of the County's setback requirement. This site location is generally sparsely populated, with the nearest house exceeding the tower’s height (310' to the South). The site is proposed well off of the nearest public road a distance of 306', with an all weather access road proposed off of S 16th W Ave. to the site. The tower is designed for additional future wireless tenants (please see Site Plan page C-2), and will have a locked fenced compound 78'x78' in size. This tower will require lighting per its FAA approval (please see attached), but will have a “dual mode” lighting system, that will switch to red at dusk, so as not to disturb any residents in the area. Necessary utilities will be power and fiber, the latter of which will be installed underground from the public road. The site will be unmanned.

This site will serve the public convenience and welfare because the use will be designed, constructed and maintained in compliance with all local, state, and federal codes and regulatory compliance, including FAA, FCC, and all other applicable government agencies.
Re: Verizon Wireless Proposed Fisher Bottom Cell Site
Fisher Bottom OK

To Whom It May Concern:

In my capacity as a Radio Frequency Engineer for Verizon Wireless (hereinafter “Verizon”), I am writing to you on behalf of Verizon in support of Verizon’s applications to build a new site in the town of Fisher Bottom. My responsibilities include, but are not limited to, the design and engineering of Verizon Wireless Communications network in the State of Oklahoma with the exception of the panhandle.

Verizon is currently attempting to improve capacity and coverage in and around the town of Fisher Bottom. The current coverage on the west side of town is relatively weak and we are experiencing capacity issues in this area which can result in drop calls, slow data speeds, and in extreme cases not being able to send or receive calls or data at all. This site will greatly improve the coverage in those areas and improve in building coverage for the rest of the community. The site will also add much needed capacity to the area which will result in better data speeds and call quality.

By allowing this site to be constructed at this location, Verizon will be able to improve the overall level of wireless services for the residents of Fisher Bottom. This site will also allow for better connectivity between the town of Fisher Bottom and the surrounding communities.

Sincerely

Vaughn Moseley
Radio Frequency Engineer
Verizon Wireless
**DETERMINATION OF NO HAZARD TO AIR NAVIGATION**

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

- **Structure:** Antenna Tower FISHER BOTTOM OK - A
- **Location:** Sand Springs, OK
- **Latitude:** 36-08-19.62N NAD 83
- **Longitude:** 96-10-18.03W
- **Heights:**
  - 650 feet site elevation (SE)
  - 260 feet above ground level (AGL)
  - 910 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-I L Change 1, Obstruction Marking and Lighting, a med-dual system - Chapters 4,8(M-Dual),&12.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- **X** Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

This determination expires on 09/12/2019 unless:

(a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
(b) extended, revised, or terminated by the issuing office.
the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 222-5928, or chris.smith@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2017-ASW-19561-OE.

Signature Control No: 351698476-359338302 (DNE)
Chris Smith
Technician

Attachment(s)
Case Description
Frequency Data
Map(s)

cc: FCC
Case Description for ASN 2017-ASW-19561-OE

Proposed 260' antenna tower. Dual/med. intensity lighting is requested. For questions contact Nate Peterson, 770-797-1144.
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MEMORANDUM OF LAND LEASE AGREEMENT

This Memorandum of Land Lease Agreement ("Memorandum"), is made this 30th day of January 2018, by and between Don Boyne, Executor of the Estate of Pete Giacomo, Mary Louise Boyne, as Trustee of the Mary Louise Boyne Living Trust dated June 3, 1998, William S. Giacomo, Jan Karen Scott, Phyllis Ann Schlottman, with a mailing address of 919 S. Moccasin Place, Sapulpa, Oklahoma 74066 (collectively, the "Lessor"), and Cellco Partnership d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 ("Lessee").

RECITALS:

WHEREAS, Lessor is the owner of certain real property located at 161 W Avenue, Sand Springs, Tulsa County, Oklahoma, which is more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Premises and Easements (each as defined below) are a portion of the Property; and

WHEREAS, Lessee leases the Premises from Lessor pursuant to the Land Lease Agreement of even date herewith (the "Lease"); and

WHEREAS, Lessor and Lessee desire to file this Memorandum of record in the office of the Clerk of Court of Tulsa County, Oklahoma, in order to provide record notice to third parties of Lessee’s leasehold estate in the Premises;
NOW, THEREFORE, for and in consideration of the Premises, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are expressly acknowledged by the parties, Lessor and Lessee agree and acknowledge for themselves and their respective successors and assigns, as follows:

1. Lessor grants to LESSEE the right to install, maintain, and operate communications equipment upon an approximately six thousand four hundred (6,400) square feet portion of the Property (the "Premises"), together with the non-exclusive right of ingress and egress from a public right-of-way, 7 days a week, 24 hours a day, over the Property, to and from the Premises, and for the purpose of installation, operation, and maintenance of LESSEE’s communications equipment, including utilities and fiber, over, under, along, and through a thirty (30) feet wide right-of-way, and over, under, along, and through one or more additional rights of way from the Property (collectively, the “Easement(s)”). The Property is further described on Exhibit A, attached hereto and made a part hereof. The Premises and Easements are further described and depicted on Exhibit B, attached hereto and made a part hereof.

2. The term of the Lease is Five (5) years commencing on the Commencement Date as defined in the Lease. Lessee may extend the term of the Lease for Four (4) renewal terms of Five (5) years each, upon the terms and conditions set forth in the Lease.

3. The Lease is binding upon Lessor and Lessee, and their respective heirs, successors and assigns.

4. Lessee has the right of first refusal to purchase, or obtain a communications easement under, the Premises during the initial term and all renewal terms of the Lease.

5. This Memorandum contains only selected provisions of the Lease and reference is made to the full text of the Lease for all of the applicable terms and conditions. This Memorandum shall not, in any way, amend or supersede the terms and conditions of the Lease.
IN WITNESS WHEREOF, the Lessor and Lessee have executed this Memorandum the day and year first above written.

LESSOR:

Don Boyne, Executor of the Estate of Pete Giacomo, Mary Louise Boyne, as Trustee of the Mary Louise Boyne Living Trust dated June 3, 1998, William S. Giacomo, Jan Karen Scott, Phyllis Ann Schlottman

By: _______________________
Printed Name: Don Boyne
Title: Executor of the Estate of Pete Giacomo
Date: 3/1/2018

By: _______________________
Printed Name: Mary Louise Boyne
Title: Trustee
Date: 3/1/2018

By: _______________________
Printed Name: William S. Giacomo
Date: 2-26-18

By: _______________________
Printed Name: Jan Karen Scott
Date: 3/1/2018

By: _______________________
Printed Name: Phyllis Ann Schlottman
Date: 3/1/2018

LESSEE:

Cellco Partnership d/b/a Verizon Wireless

By: _______________________
Printed Name: Jason Leiker
Title: Director-Network Field Engineering
Date: 3-30-18
STATE OF Oklahoma
COUNTY OF Tulsa

Before me, the undersigned Notary Public, personally appeared Don Boyne, Executor of the Estate of Pete Giacomo, with whom I am personally acquainted (or whose identity was proven to me on the basis of satisfactory evidence), who acknowledged that he executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, this 1 day of March, 2018.

NOTARY PUBLIC
Printed Name: J. Andrew Pickard

My Commission Expires:
January 16, 2022

STATE OF Oklahoma
COUNTY OF Tulsa

Before me, the undersigned Notary Public, personally appeared Mary Louise Boyne, Trustee of the Mary Louise Living Trust dated June 3, 1998, with whom I am personally acquainted (or whose identity was proven to me on the basis of satisfactory evidence), who acknowledged that she executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, this 1 day of March, 2018.

NOTARY PUBLIC
Printed Name: J. Andrew Pickard

My Commission Expires:
January 16, 2022

LESSEE SITE NAME: Rock House Rd., OK
LESSEE SITE NUMBER: 472838
STATE OF **Indiana**
COUNTY OF **Howard**

Before me, the undersigned Notary Public, personally appeared William S. Giacomo, with whom I am personally acquainted (or whose identity was proven to me on the basis of satisfactory evidence), who acknowledged that he executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, this 30 day of February, 2018.

My Commission Expires:
12/15/2022

Printed Name: NITALYA N. DURAN

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STATE OF **Oklahoma**
COUNTY OF **Jasper**

Before me, the undersigned Notary Public, personally appeared Jan Karen Scott, with whom I am personally acquainted (or whose identity was proven to me on the basis of satisfactory evidence), who acknowledged that she executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, this _ _ day of March, 2018.

My Commission Expires:
January 16, 2022

Printed Name: J. ANDREW PICKARD

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STATE OF Oklahoma
COUNTY OF Tulsa

Before me, the undersigned Notary Public, personally appeared Phyllis Ann Schlottman, with whom I am personally acquainted (or whose identity was proven to me on the basis of satisfactory evidence), who acknowledged that she executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal, this 1 day of March, 2018.

[Signature]
NOTARY PUBLIC
Printed Name: J. Andrews Pickard

My Commission Expires: January 16, 2022

STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned officer, personally appeared JASON LEIKER, with whom I am personally acquainted (or whose identity was proven to me on the basis of satisfactory evidence), who acknowledged himself to be the Director-Network Field Engineering of Cellco Partnership d/b/a Verizon Wireless, and affirmed that, being duly authorized, he executed the foregoing instrument on behalf of Cellco Partnership d/b/a Verizon Wireless for the purposes therein contained.

Witness my hand and seal this 30 day of March, 2018.

[Signature]
NOTARY PUBLIC

My Commission Expires: October 29, 2019

LESSEE SITE NAME: Rockhouse Rd. OK
LESSEE SITE NUMBER: 472838
Exhibit A

Description of the Property

PARENT PARCEL: (TITLE)
A tract of land lying in the Southwest Quarter of the Northwest Quarter and in the Northwest Quarter of the Southwest Quarter all in Section 8, Township 19 North, Range 11 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows, to-wit:

Commencing at the Southwest Corner of said Southwest Quarter of the Northwest Quarter, the same being the Northwest Corner of said Northwest Quarter of the Southwest Quarter; Thence N 00°46'51" E along the West Line of said Southwest Quarter of the Northwest Quarter, a distance of 54.61 Feet to the Point of Beginning; Thence S 88°18'57" E parallel to and 54.61 Feet North of the South Line of said Southwest Quarter of the Northwest Quarter, a distance of 1313.99 Feet to a point on the East Line of said Southwest Quarter of the Northwest Quarter, said point being 54.61 Feet North of the Southeast Corner thereof; Thence S 00°47'30" W along the East Line of said Southwest Quarter of the Northwest Quarter, a distance of 54.61 Feet to the Southeast Corner thereof; Thence S 00°51'20" W along the East Line of the Northwest Quarter of the Southwest Quarter, a distance of 994.29 Feet to a point, said point being 325.47 Feet North of the Southeast Corner at said Northwest Quarter of the Southwest Quarter; Thence N 88°18'57" W parallel to the North Line of said Northwest Quarter of the Southwest Quarter, a distance of 1314.90 Feet to a point on the West Line of said Northwest Quarter of the Southwest Quarter, said point being 325.50 Feet North of the Southwest Corner thereof; Thence N 00°54'30" E along the West Line of the Northwest Quarter at the Southwest Quarter, a distance of 994.28 Feet to the Northwest Corner of said Northwest Quarter of the Southwest Quarter; Thence N 00°46'51" E along the West Line of the Southwest Quarter of the Northwest Quarter, a distance of 54.61 Feet to the point of beginning. The above described tract contains 31.6472 acres more or less.
**Exhibit B**

**Description of the Premises and Easement**

**80' X 80' PREMISES (AS-SURVEYED)**
A lease area being a portion of Don Boyne, Executor of the Estate of Pete Giacom, deceased tract described in Deed Book 5283, Page 49 recorded in the County Clerk Office in Tulsa County, Oklahoma situated in the Southwest 1/4 of Section 8, Township 19 North, Range 11 East in said County and being more particularly described as follows;

COMMENCE at brass monument found marking the Southwest corner of said Section 8, Thence along the Southerly line of said Section 8, N 89°49'37" E a distance of 339.09 feet to a point; Thence leaving said Southerly line, N 00°23'38" W a distance of 1772.23 feet to the POINT OF BEGINNING; Thence S 89°36'22" W a distance of 80.00 feet to a set 5/8" rebar; Thence N 00°23'38" W a distance of 80.00 feet to set 5/8" rebar; Thence S 89°36'22" E a distance of 80.00 feet to a set 5/8" rebar; Thence S 00°23'38" E a distance of 80.00 feet to the POINT OF BEGINNING. Containing 6,400.00 square feet (0.15 acres) of land more or less.

**30' INGRESS/EGRESS AND UTILITY EASEMENT (AS-SURVEYED)**
An easement being a portion of Don Boyne, Executor of the Estate of Pete Giacom, deceased tract described in Deed Book 5283, Page 49 recorded in the County Clerk Office in Tulsa County, Oklahoma situated in the Southwest 1/4 of Section 8, Township 19 North, Range 11 East in said County and being more particularly described as follows;

COMMENCE at brass monument found marking the Southwest corner of said Section 8, Thence along the Southerly line of said Section 8, N 89°49'37" E a distance of 339.09 feet to a point; Thence leaving said Southerly line, N 00°23'38" W a distance of 1772.23 feet to a set 5/8" rebar; Thence S 89°36'22" W a distance of 82.97 feet to the POINT OF BEGINNING of an easement being 30 feet wide and lying 15 feet on each side of the following described centerline; Thence S 27°51'49" W a distance of 49.31 feet to a point; Thence S 88°39'28" W a distance of 259.16 feet more or less, to a point on the Easterly right-of-way line S 16th W Avenue (public right-of-way) and the POINT OF ENDING. Containing 9,256.21 square feet (0.21 acres) of land more or less.
BOARD OF ADJUSTMENT
CASE REPORT

STR:7401
CZM:59, 64
PD:

HEARING DATE: 08/21/2018 1:30 PM

APPLICANT: Jason Marietta

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); and a Variance of the all-weather surface material requirement for parking (Section 1340.D)

LOCATION: 17734 E 121 ST S
ZONED: AG

PRESENT USE: Agricultural
TRACT SIZE: 6.22 acres

LEGAL DESCRIPTION: N273.58 W990.15 LT 4 SEC 1 17 14 6.219ACS

Subject Property:
CBOA-2515; on 11.18.14, the Board approved a special exception to permit a temporary firework stand in the AG district; variance to permit gravel parking, subject to a five-year time limit of operation until November 2019.

CBOA-2321-A; on 9/15/09, the Board approved an amendment to a previously approved Special Exception for a fireworks stand in the AG district, to extend the time limit for 5 years from September 15, 2009 with condition that the hours of operation from 6/22 to 7/1 be 9AM to 9PM and from 7/2 to 7/4 from 9AM to 10PM, trash be kept clear, grass mowed, and no use of fireworks within a 500 ft radius.

CBOA-2321; on 4/21/09, the Board approved a special exception to permit a temporary firework stand in the AG district and a variance of the paving requirement for off-street parking for one year from June 22, 2009 and additional conditions.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts zoned residences (Broken Arrow) on the west; AG zoning on the south and east; A-1, RS-3 zoning (Broken Arrow) and E 121st St on the north.

STAFF COMMENTS:

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).

In 2014, the Board approved a Special Exception on the subject property to permit a temporary firework stand in the AG district, subject to a five-year time limit of operation until November 2019 (CBOA-2515). The applicant is requesting the Board to modify the original approval to extend the allowed time period.
As this application is essentially a request to continue a use that has previously been approved on the property; testimony provided at the public hearing from neighboring property owners may aid the Board in determining if the use has in fact been compatible with the surrounding area.

The Site Plan submitted with the application proposes the stand on the northern half of the property along E. 121st Street. The site on which the applicant proposes the fireworks stand abuts a residential area to the southwest. However the subject property is buffered from the residential area by trees.

The applicant proposes an unpaved (gravel) surface parking area. The Code requires all paving surfaces be paved so as to maintain a minimum level of aesthetics, but more importantly to control air-borne particulates like dust and to control the tracking of dirt and mud onto public streets. The applicant is requesting a Variance of the all-weather surface material requirement for parking (Section 1340.D) The applicant did not provide a proposed schedule for operation of the fireworks stand, but 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.

Sample Motion:

"Move to ________ (approve/deny) the requested Modification to extend the allowed time limit for a fireworks stand per the previously approved conditions in CBOA 2515; Variance of the all-weather surface material requirement for parking (Sec.1340.D).

*Subject to the following conditions (including time limitation, if any): ________.

*Finding the hardship to be ________.

Finding the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code."

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."
Mr. Charney asked Mr. DeBoer if he was related to the other parties in the audience that are interested in this application. Mr. DeBoer answered affirmatively and stated that they would agree to a continuation.

Comments and Questions:
None.

Board Action:
On MOTION of DILLARD, the Board voted 3-0-0 (Charney, Dillard, Hutchinson "aye"; no "nays"; no "abstentions"; Walker "absent") to CONTINUE the request for an Appeal determination of an Administrative Official that a Salvage Yard is operating in an AG District to the January 20, 2015 Board of Adjustment meeting with no objection from the applicant and the interested parties; for the following property:

NE NE NW LESS N50 THEREOF FOR RD  SEC 25 21 13  9.247ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Action Requested:
Special Exception to permit a fireworks stand in the AG District (Section 310); Variance to permit gravel parking (Section 1340.D). LOCATION: 17734 East 121st Street South

Presentation:
Jason Marietta, 1500 East 27th Terrace, Pittsburg, Kansas; stated he is before the #2515 and #2517 on today's agenda. These are both for renewals for the operation of a fireworks stand that each has been operating for approximately five years. Everything is to remain the same.

Mr. Charney asked Mr. Marietta if he had ever received any complaints from any of the neighbors in either case. Mr. Marietta stated that he had not.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of HUTCHINSON, the Board voted 3-0-0 (Charney, Dillard, Hutchinson "aye"; no "nays"; no "abstentions"; Walker "absent") to APPROVE the request for a Special Exception to permit a fireworks stand in the AG District (Section 310); Variance
to permit gravel parking (Section 1340.D), subject to a five year time limit of operation until November 2019; for the following property:

E/2 BEG NWC SE TH E353 S1271.73 NWLY360.9 N1197.13 POB LESS S50 FOR RD SEC 7 19 11 4.869AC, RIVER VALLEY ESTATES AMD, OF TULSA COUNTY, STATE OF OKLAHOMA

2517—Jake's Fireworks, Inc.

Action Requested:
Special Exception to permit a temporary fireworks stand in the AG District (Section 310). LOCATION: 11400 East 116th Street North, Owasso

Presentation:
Jason Marietta, 1500 East 27th Terrace, Pittsburg, Kansas; no formal presentation was made but the applicant was available for any questions.

Mr. Charney asked Mr. Marietta exactly where the fireworks stand is located. Mr. Marietta stated is at German Corner.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of DILLARD, the Board voted 3-0-0 (Charney, Dillard, Hutchinson “aye”; no “nays”; no “abstentions”; Walker “absent”) to APPROVE the request for a Special Exception to permit a temporary fireworks stand in the AG District (Section 310), subject to a five year time limit of operation until November 2019; for the following property:

LT 1 BLK 1, HOPE CHAPEL, OF TULSA COUNTY, STATE OF OKLAHOMA

2518—Amanda Marks

Action Requested:
Variance to increase the permitted building height to 43 feet in an AG District (Section 330, Table 3). LOCATION: 1923 West 4th Street

Presentation:
Amanda Marks, 1956 North 177th West Avenue, Tulsa, OK; stated she is building a new home and is about 80% complete. The inspector just realized the height of the house is above the allowable height of 36 feet so she is before the Board to request a
NEW APPLICATIONS

Case No. 2346
Action Requested:
Variance of the 15 ft. side yard requirement in an AG-R district to 12 ft. (Section 330); to permit a dwelling, located: 4909 East 211th Street South.

Presentation:
Chris Fremen, P.O. Box 52, Bixby, Oklahoma, 74008, proposed to continue a building process on his property. The building was set 12 feet from the property line by error. He referred to the homeowner’s association covenants rather than the zoning code. He thought he was leaving extra distance but because of the discrepancy between the covenants and Code he encroached on the building line.

Comments and Questions:
In response to questions from the Board, Mr. Fremen explained that he was building a pole barn structure to live in while he built a residence. The existing structure would be used for personal workshop after the permanent home is built. The plans include a bathroom and kitchen facility for livability. He described the clean up and improvement of the property since he purchased it. He stated that the neighbor on the east is in support. Mr. Charney noted the narrow building envelope on his corner lot, with larger setbacks on two sides of the lot.

Mr. West was concerned that two dwellings on the lot of record on 1.3 acres would be in violation of the zoning code when he wants to build the permanent home.

Interested Parties:
There were no interested parties who wished to speak.

Board Action:
On Motion of Charney, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to APPROVE a Variance of the 15 ft. side yard requirement in an AG-R district to 12 ft. (Section 330); to permit a dwelling, finding the unique nature of this corner lot to an arterial street, with a more narrow building envelope; on the following described property:

LT 10 BLK 2, TIMBERBROOK, Tulsa County, State of Oklahoma

**********

Case No. 2321-A
Action Requested:
Amendment to a condition of a previously approved Special Exception for a fireworks stand in the AG district; to extend the time limitation beyond one year, located: 17734 East 121st Street South.
Mr. Cuthbertson reminded the Board that this is the same applicant that was approved in April. The neighbors were concerned and the Board gave approval for a one year trial period.

**Presentation:**
Justin Marietta, 2311 A West 4th Street, Pittsburgh, Kansas, 66762, submitted a letter (Exhibit B-1) from the operator of the stand stating the neighbors' that were previously opposed, after seeing how it was operated this year, are now in support.

**Comments and Questions:**
Mr. Charney asked if the applicant would agree to the conditions in the previously approved application with an extension of time.

**Interested Parties:**
There were no interested parties who wished to speak.

**Board Action:**
On Motion of Charney, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Amendment to a condition of a previously approved Special Exception for a fireworks stand in the AG district; to extend the time limitation beyond one year, to approve for five years from September 15, 2009; with conditions for the hours of operation from June 22nd to July 1st to be 9:00 a.m. to 9:00 p.m., and July 2nd through July 4th from 9:00 a.m. to 10:00 p.m.; to keep all trash and debris cleared on the site, keep grass mowed, all in a neat manner; and to strictly enforce safety measures in the 500 ft. radius, not allowing the use of fireworks within the 500 ft. radius; on the following described property:

N273.58 W990.15 LT 4 SEC 1 17 14, Tulsa County, State of Oklahoma

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**Case No. 2338**
**Action Requested:**
Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310), located: 20813 West Coyote Trail.

**Presentation:**
The applicant, Nancy Anders was not present.

**Board Action:**
On Motion of Charney, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **DENY** without prejudice, due to failure of the applicant to present, regarding the following described property:

09:15:09:352 (5)
Case No. 2320

Action Requested:
Variance of the average lot width from 150' to 118' to permit a lot-split in an AG-R district (Section 330), located: 15110 North Trenton Avenue East.

Presentation:
Mickey Mahallc, 14508 East 110th Street North, stated he obtained 30 ft. of frontage by creating a panhandle. This changed the average lot width to 118 ft.
He provided a signed letter stating they will not request more lot splits in the future, and a letter from the rural water district (Exhibit B-1 and B-2).

Interested Parties:
There were no interested parties who wished to speak.

Board Action:
On Motion of Charney, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to APPROVE a Variance of the average lot width from 150' to 118' to permit a lot-split in an AG-R district (Section 330), finding the peculiar shape of the land resulting in extraordinary circumstances to be the hardship; and finding the 30 ft. of frontage touching a publicly dedicated road; finding it will not be a detriment to the neighborhood, on the following described property:

S/2 SW SE NW LESS BEG 165S NEC S/2 SW SE NW TH W290 S165 E290 N165 LESS E25 THEREOF FOR RD, Tulsa County, State of Oklahoma

Case No. 2321

Action Requested:
Special Exception to permit a temporary fireworks stand in an AG district (Section 310); and a Variance of the paving requirement for a temporary parking area (Section 1340.D), located: 17734 East 121st Street.

Presentation:
Jason Marietta, with Jakes Fireworks, 2311A West 4th, Pittsburgh, Kansas, stated their request to put up a fireworks stand on the subject property outside of Broken Arrow city limits. He pointed out the subject property is a large vacant lot. The operations would only be for the two weeks before the 4th of July.

Comments and Questions:
Mr. Walker asked if it would be set up for the July 4th holiday and no New Year holiday included. He replied it is for the one time July 4th season. Mr. Charney established that the stand and parking area would be on the east side of the lot when customers drive onto the property.
Interested Parties:
Richard Power, the President of the Saddleback Homeowners' Association, stated their concern for pedestrian traffic across the neighboring yards. The properties are not fenced. He pointed out the topography in the area, including a creek and wooded terrain. He expressed concern for fire hazards. Mr. Power indicated the closest fire hydrant may be 1,000 ft. away. The fire department sent a letter to the Board regarding concerns (Exhibit C-1). He added that intersection of Lynn Lane, East 121st Street and East Tucson Street is dangerous. There is no stop sign on the east and westbound streets. There have been several accidents and a fatality in the last five years. He expected more auto traffic and more pedestrian traffic as children are out of school.

Sherry Smith, 800 East Van Buren, noted there are two abandoned trailers on the subject property with old furniture and items on the porches. The yard is not mowed regularly. She considered it a fire hazard. She added there is only one official driveway, a dry creek and no sidewalks.

Sandy Riley, 605 East Van Buren, stated there are signs on both sides of 121st Street to caution traffic of a dangerous hill. She added there is also one small bridge on 121st Street that does not have a pedestrian walkway.

Sherry Cook, 805 East Union Street, stated her home is behind the subject property. She had the same concerns as listed above. She mentioned that since the ice storm there is a massive amount of wood debris, adding to the fire hazard.

Applicant's Rebuttal:
The applicant responded that the law does not allow them to sell fireworks to children under sixteen. The trailers are quite a distance from the site of the fireworks stand. He stated the site for the stand will be mowed. He stated that he intends to follow the letter of the law.

Comments and Questions:
In response to questions, the applicant was not planning to open the stand until June 22nd. He stated there would be a temporary stand moved onto the property and then removed. The family has experience and a good history of running a fireworks stand. The family members would provide the security and occupy a travel trailer on the site.

Board Action:
On Motion of Charney, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to APPROVE a Special Exception to permit a temporary fireworks stand in an AG district (Section 310); and a Variance of the paving requirement for a temporary parking area (Section 1340.J, with conditions for one year approval from June 22, 2009 through July 5, 2009; hours of operation from June 22nd to July 1st to be 9:00 a.m. to 9:00 p.m.; and July 2nd through July 4th from 9:00 a.m. to 10:00 p.m.; to keep all trash and
On Amended Motion of Charney, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to APPROVE a Special Exception to permit a temporary fireworks stand in an AG district (Section 310); with conditions for a one year approval from June 22, 2009 through July 5, 2009; hours of operation from June 22nd to July 1st be 9:00 a.m. to 9:00 p.m., and July 2nd through July 4th from 9:00 a.m. to 10:00 p.m.; to keep all trash and debris cleared on the site, keep grass mowed all in a neat manner; and to strictly enforce safety measures in the 500 ft. radius, not allowing the use of fireworks; finding the unique nature of the long piece of ground and the buffer between site and the neighborhood; approved without violatng the intent of the Code, on the following described property:

N273.58 W990.15 LT 4 SEC 1 17 14, Tulsa County, State of Oklahoma

Case No. 2322

Action Requested:
Variance of the 30 ft. of frontage required on a public street to permit residential use of a lot in the AG district (Section 207), located: 9201 North Delaware Avenue.

Presentation:
Sam Gardner, P. O. Box 172, Owasso, Oklahoma, 74055, stated his request in order to do a lot split at the rear. The intent is to make two lots only. He pointed out page 6.7 of the agenda shows the proposed plan for approval.

Comments and Questions:
Mr. Cuthbertson clarified that page 6.6 of the agenda shows the existing condition and 6.7 is the proposed plan. He stated this is basically squaring off the property lines. Mr. Cuthbertson explained there are three existing lots with one house on
Jokers Fireworks
17234 E 121st St. S.
Broken Arrow, OK 74011
BOARD OF ADJUSTMENT
CASE REPORT

Case Number: CBOA-2716

STR: 1416
CZM: 12
PD:

HEARING DATE: 08/21/2018 1:30 PM

APPLICANT: Jason Marietta

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

LOCATION: 13412 E. 106th St. N. ZONED: AG

PRESENT USE: Agricultural TRACT SIZE: 4.1 acres

LEGAL DESCRIPTION: 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,

RELEVANT PREVIOUS ACTIONS:

Subject Property:
CBOA-2205; on 4.18.06, the Board approved a Special Exception to permit a fireworks stand in an AG District (Section 310); and a Variance of the all-weather surface material requirement for parking (Section 1340.D), for a period of 3 years.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts Owasso city limits to the north and east; AG zoned tracts to the south; RE zoned residential tracts to the west.

STAFF COMMENTS:
The site plan submitted with the application proposes a fireworks tent on the northeast portion of the Ag zoned lot that abuts E.106th St. N. & N. 135th E. Ave. Per the Code, a fireworks tent/stand is considered an Area-Wide Special Exception Use (Use Unit 2) that does not specify the minimum parking requirement on the lot.

A Special Exception is required as the proposed fireworks stand is a use which is not permitted by right in the AG zoning district 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.

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 non-all-weather parking material to be used for the parking area.

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.

Sample Motion:

Move to _________ (approve/deny) a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Sec.701); Variance of the all-weather surface material requirement for parking (Sec.1340.D).

*Subject to the following conditions (including time limitation, if any): __________.

*Finding the hardship to be __________.

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

Aerial Photo Date: February 2018
Note: Graphic overlays may not precisely align with physical features on the ground.
request for a special exception and variance from the zoning code. He promised to encourage other neighbors in opposition to drop their protests. Mr. Ramos promised to cease the auto repair business and Ms. Harris promised to cease electronic surveillance of his property. Ms. Harris promised also to cease protest of his past activities that she considered violations of the zoning code. This agreement would be replaced by a more formal agreement. She added that she advised him on some gardening problems and they are now open to communication. He observed the cameras being removed.

**Interested Parties:**
There were no interested parties who wished to speak.

**Board Action:**
On Motion of Dillard, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Special Exception to allow retail sales of farm produce in an AG zoned district Sect 320.1.2; and a Variance of the required hard surface parking to allow gravel parking for customers, finding the small incidence of sales, on the following described property:

N440 E/2 E/2 SE LESS W.16AC THEREOF FOR RD SEC 3322 14 6.500ACS (TR 1 & 2 PH 1), Tulsa County, State of Oklahoma

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**NEW APPLICATIONS**

**Case No.2205**

**Action Requested:**
Special Exception to permit a fireworks stand (Use Unit 2) in an AG district; and a Variance of the all-weather surface requirement for the parking area, located: 13412 East 106th Street North.

**Presentation:**
Brett Watson, 402 Victorian Drive, Pittsburg, Kansas, reminded the Board of the short time period they would use the property. He added the parking would be graveled to prevent autos from displacing mud onto the street. The hardship is that this is only a temporary use.

**Comments and Questions:**
Mr. Charney asked Mr. Watson if the application was approved if the lights would face north toward the church rather than south. Mr. Charney also would condition it with a 10:30 p.m. closing time with lights out. Mr. Watson responded that in the summer the sun sets later so there would not be much need for lighting. He also requested to stay open later on July 3rd and 4th, when they have a lot more business.
Interested Parties:
There were no interested parties who wished to speak.

Board Action:
On Motion of Charney, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district, for a period of three years; and a Variance of the all-weather surface requirement for the parking area, finding the temporary nature of the special exception use, on the following described property:

N/2 NW NE NW LESS BEG NEC THEREOF TH W486.29 S50 SE488.97 N100 POB & LESS N16.5 W173.71 THEREOF FORRD SEC 16 21 14 4.102ACS, Tulsa County, State of Oklahoma

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Case No. 2206
Action Requested:
Special Exception to permit a cell tower in an RM-2 district; and a Special Exception of the required 110 percent distance from an R district, located: 6524 West Charles Page Boulevard South.

Mr. Cuthbertson noted to the Board that under staff review it was determined that the special exception of the required 110 percent distance from an R district was not necessary. Staff advised the special exception based on the residential district they were in but it should have been interpreted "from the next residential district", which was more than the 110% distance. The applicant has withdrawn that special exception.

Presentation:
Lou Reynolds, 2727 East 21st Street, represented Verizon Wireless for Mr. Kavanagh. He submitted photographs, a map and a site plan (Exhibits B-1, B-2 and B-3). It is an unusual location, as one-half of the site is on IM and one-half on RM-2 property. It would all be on the IM property but it would be on the levy. All the homes are 300' from the location for the tower. It is behind a commercial center. He reviewed the surrounding properties and their uses. This application is for a 150’ monopole tower. He stated this tower would fill up a critical gap in Sand Springs and west Tulsa.

Interested Parties:
There were no interested parties who wished to speak.