

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 309
Tuesday, February 21, 2006, 1:30 p.m.
Aaronson Auditorium
Tulsa Central Library
400 Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Hutson, Chair	Walker	Alberty	West, Co. Inspector
Charney, Vice Chair		Butler	Tosh, Co. Inspector
Dillard, Secretary		Cuthbertson	
Tyndall			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, February 23, 2006 at 2:37 p.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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

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MINUTES

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** the Minutes of January 17, 2006 (No. 308).

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UNFINISHED BUSINESS

Case No. 2192

Action Requested:

Special Exception to permit a temporary 32 ft x 80 ft manufactured building for church classrooms in an AG-R zoned district, located: 19214 East 91st Street South.

Presentation:

Tim Terrill, Tulsa Engineering and Planning, 6737 South 85th East Avenue, stated they hoped to obtain a permanent placement of the manufactured building. He referred to the interested party from the last meeting asking about the fences. The fencing that was in poor condition has now been replaced and that neighbor is satisfied. The fencing that the Board made a condition for the south side would be located in the flood plain. To his knowledge the south fence would not be approved by the County or FEMA.

Interested Parties:

There were no interested parties who wished to speak.

Discussion ensued. The Board clarified that the request is to allow the 'temporary' type building permanently.

Board Action:

On **Motion of Charney**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** a Special Exception to permit a temporary 32 ft x 80 ft manufactured building for church classrooms in an AG-R zoned district, finding it 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, on the following described property:

E317.5 N343 NE NE LESS N60 & E50 THEREOF SEC 24 18 14 1.737AC,
Tulsa County, State of Oklahoma

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NEW BUSINESS

Case No. 2196

Action Requested:

Variance of the maximum sq. ft. permitted for an accessory building in an RS district (Section 240.2.E), located:

Teresa Tosh, 20013 East 75th Court North, Owasso, Oklahoma, with Tulsa County Inspections, came to give the Board some background information regarding this request. She informed them that Mr. and Mrs. Lusk came to the County Inspections Office to request a building permit. The permit was granted in Stratford Estates, Lots 6 and 7. They inquired about building a larger accessory building in RS-zoning. They then asked about obtaining property behind their lots, which they did. She added that she instructed them to obtain a lot-split. Ms. Tosh stated they do not generally receive the lot-split paperwork in her office. She understood it was AG property and so did Mr. Lusk but it was RS. She issued a building permit for the 6,000 square foot accessory building based on an incorrect understanding. She responded to complaints regarding the building, assuring people that it was legal in AG-zoning. The County Inspections office has only paper maps rather than digital, which was part of the problem. Once she discovered the property was zoned RS, she informed Mr. Lusk that he needed to go to the County BOA.

Presentation:

Elza Ray Lusk, 7050 West 42nd Street, submitted exhibits for his case (Exhibits A-1, A-2, and A-6). They completed the building in February 2005. They needed it

for a shop and storage of a motor home and personal belongings. They have slightly over five acres. He pointed out that the accessory building is 350' from the road and the house is 100' from the road. The building is 65' from the nearest lot line. It is an all metal building of quality construction. It is 60' x 100' with 13' side walls and a 4/12 pitch roof. The plans were reviewed and approved. They selected earth tone colors for the exterior to look better in the area. He pointed out on a map that most property owners in the area were in support. They plan to plant evergreens and other landscaping around the accessory building beginning on the west side.

Interested Parties:

Dewey Miller, 6655 West 42nd Street, stated he is the developer at Stratford Estates. He encouraged the applicant to purchase the subject property from Mr. Bigby. They considered the surrounding properties and felt it would be a benefit to the neighborhood. The most recent property owners were informed of the building under construction. The shop has plenty of distance from the road and other homes. He described the building as high quality construction. Mr. Miller also mentioned that the applicant has been very open with the neighborhood about the project.

Don Maynard, 7134 West 42nd Street, submitted a photograph (Exhibit A-5) and stated he lives just west of the subject property. He stated that he has the best view of the property. He added they bought five acres of land with strict covenants. He would have protested the lot-split if he had known. He asked that now that it is built that it match the exterior materials on the house.

Clark Andrew, 7176 West 42nd Street, he stated the lot-split was approved in August 2004 and the minutes (Exhibit A-3) of the meeting indicated the property was RS. They object to the building. He added that landscaping would take time to mature to make good screening and also requested that the building materials of the accessory building match the neighborhood.

Christy Andrew, 7176 West 42nd Street, referred to a packet of information and photo previously sent to the Board (Exhibit A-4 and A-5). She objected to the size and color of the building easily visible from her home.

Mr. Andrew read part of the Stratford Estates covenants. He indicated that the land was attached to Stratford Estates and therefore it was part of Stratford Estates.

Mr. Cuthbertson submitted the TMAPC minutes, which have been referred to, (Exhibit A-3).

Mr. Miller interjected, that he offered the subject property or even half of it to Don Maynard up to the eleventh hour before the Lusks purchased it. Mr. Maynard did not indicate any interest in that property over a period of years. Ms. Flemings

added that Diane Fernandez, at INCOG, explained that the property was attached to the Stratford Estate lots to provide road frontage but in no way is it a part of Stratford Estates.

Syd Flemings, 4215 South 69th West Avenue, stated there was an agreement among the neighbors at one of their meetings in the summer that accessory buildings would be covered with materials that were up to the standards of Stratford Estates. She expected the Mr. and Mrs. Lusk would use an attractive façade. She objected to the appearance of the accessory building.

Applicant's Rebuttal:

Mr. Lusk pointed out the properties around the subject property will be sold in the future and may or may not have covenants like Stratford Estates. They will not have a say on what is developed and built there. He assured the Board he had tried to do everything legally and correct and saw no 'red flags' until December. He planned to do some nice landscaping when they finish with the construction. He referred to his exhibits (Exhibit A-2), that include a list of neighbors in support of the application, a letter from Dewey Miller, and a map indicating neighbors in support.

Mr. Maynard asked to speak again. He asked if Mr. Lusk was going to plant mature trees because his understanding was that he would plant seedlings. He asked also if there were plans to increase the size of this building. Mr. Hutson replied if he wanted to add onto this building he would have to come before the Board again.

The Board discussed the application regarding several issues. The restrictive covenants have no binding affect on the additional 1.3 acres containing the accessory building. The lot-split and lot tie agreement exists and a mistake was made in permitting the large building. There are other less acceptable or compatible things that could have been built on this property. There are fast-growing attractive trees that could be planted that would help with screening. The building is built a good distance from other homes. It is not likely that the presence of this building would negatively impact the property values.

Mr. Charney asked the staff for guidelines regarding conditions for screening. Mr. Albery responded that planting trees would have minimal impact in protecting the homeowners. He stated that the color of the building would make a difference. He added that the Board could condition the motion for screening to the greatest extent possible. They could require a landscape plan by a landscape architect.

Mr. Lusk indicated that painting the building would be difficult to maintain. He stated they did not include footing for brick work. He added that they selected colors that would blend well.

Board Action:

On **Motion of Charney**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** a Variance of the maximum sq. ft. permitted for an accessory building in an RS district (Section 240.2.E), with a condition for reasonable landscaping, finding the size of the land, location compared to other RS lots in the subdivision; that such extraordinary or exceptional conditions or circumstances exist, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan on the following described property:

LT S 6 & 7 BLK 3 & A TRACT BEG SECLRT 7 TH S175.72 W333.14 N175.44 E334.61 POB SEC 30 19 12 1.346ACS STRATFORD ESTATES BLK 2, STRATFORD ESTATES BLK 3, Tulsa County, State of Oklahoma

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Case No. 2197

Action Requested:

Use variance to allow museum/private club/retreat in RS district - variance of parking spaces and variance of hard surface parking Sec. 410 -1219.4 - 1340.D, located: 4521 West 41st Street South.

Presentation:

Randy Dittman, 4501 West 41st Street, stated they have lived there for 18 years. They established Cedar Rock Inn, a bed and breakfast on the subject property. They previously obtained approval from the BOA for a more restrictive bed and breakfast. They have received many requests for parties, reunions and such. Mr. Dittman also offered an alternative for the customary all-weather surface for parking (Exhibit B-1). They informed the neighbors of the application and have made themselves available if they have questions. He mentioned the widening of West 41st Street, which begins this coming summer, as supportive to the proposal. They have provided for right-of-way with a two-car wide cement drive. Mr. Dittman stated there is plenty of room to put in a couple of septic systems. He expects it will be good for property values and meet the need for gatherings in West Tulsa

Interested Parties:

Linda Fitzgerald, President of the Southwest Chamber, 4315 South 27th West Avenue, expressed the support of the chamber. They do not have meeting places in west Tulsa and sited reasons why they needed them, including: Mainstreet OK, Route 66, and new urban development.

Pam Searcy, 1416 East 34th Street, architect for the project, stated she saw the grass paver system for parking, in use in Tucson, Arizona. She expressed her

respect for the code and her intention to comply with the intent of the Code. She believed the paver system would compliment the existing and desired character.

The applicant withdrew A variance of parking spaces.

Board Action:

On **Motion of Charney**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** a Use variance to allow museum/private club/retreat in RS district only, finding the peculiar size of the nearly five acre tract in an RS district and the proximity to other uses by the applicant nearby, and that this is not an extremely intense use.

And,

On **Motion of Charney**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** a Variance of hard surface parking Sec. 410 -1219.4 - 1340.D, finding the aesthetic nature of the existing structure to permit the use of the geo-grid support system, and waive the traditional hard surface requirement, as requested, on the following described property:

W.165-S. 330 SE SW SW SEC 21 19 12 1-1/4ACRES, W/2 E/2 SE SW SW & E150 W/2 SE SW SW SEC 21 19 12 4.772ACS, W15 E/2 W/2 SE SW SW SEC 21 19 12 .227AC, Tulsa County, State of Oklahoma

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Case No. 2198

Action Requested:

Special Exception to permit mining of dirt in an IM district (Section 901), located: ¼ mi east of South 49th West Avenue on the south side of 21st Street.

Presentation:

Darin Akerman, 6111 East 32nd Place, with Sisemore, Weisz and Associates, referred the Board to the application and exhibits provided by the applicant (Exhibits C-2 and C-3). He added that staff identified issues in the staff report. The dirt is used for a builder, off-site.

Comments and Questions:

Mr. Charney asked if the applicant is willing to comply with the conditions or answer the concerns staff presented. Mr. Akerman agreed. Mr. Charney asked if the applicant has any disagreements with the staff suggestions or requirements. Mr. Akerman found nothing objectionable. Mr. Hutson asked if the staff has read the letter from the applicant, dated February 20, 2006. Mr. Cuthbertson indicated they had and were in agreement. Mr. Akerman stated that most of the mining would be toward the center of the property. He added that the front slope of the

property would be maintained and would have two or three points of access on 21st Street. Mr. West commented that engineering would require they not track mud onto 21st Street and County Inspections enforce it.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dillard**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** a Special Exception to permit mining of dirt in an IM district (Section 901), on the following described property:

There being no further business, the meeting adjourned at 3:21 p.m.

Date approved: _____

 3-21-06



Chair