

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 325  
Tuesday, June 19, 2007, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, June 14, 2007 at 10:46 p.m., as well as in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

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

Mr. Cuthbertson read the rules and procedures for the County Board of Adjustment Public Hearing.

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**MINUTES**

On **MOTION** of **Walker**, the Board voted 3-0-1 (Walker, Tyndall, Charney "aye"; no "nays"; Hutson "abstained"; Dillard "absent") to **APPROVE** the Minutes of May 15, 2007(No. 324).

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**NEW APPLICATIONS**

**Case No. 2268**

**Action Requested:**

Special Exception to permit a fireworks stand, a pumpkin patch, and Christmas tree sales (Use Unit 2) in a CS district (Section 710); and a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D) permanantly, located: Southwest corner of West 41<sup>st</sup> Street and South 49<sup>th</sup> West Avenue

### Presentation:

**Brent Hinkle**, 3025 West 55<sup>th</sup> Place, Pastor Red Fork Church of God, stated the church purchased 40 acres. They have built a pavilion on the property. They proposed to operate the sales as presented in the action requested. The proceeds would go toward the building fund for their church. He submitted an applicant exhibit and aerials (Exhibits A-1 and A-2).

### Comments and Questions:

In response to the questions of the Board, Pastor Hinkle stated they would conduct sales at the pavilion. He stated they have a graveled parking lot for about 100 vehicles. Mr. Charney asked staff about the potential activity on the other portions of the subject property. Mr. Cuthbertson replied they have more intense IL uses. Pastor Hinkle responded that at the entrance there is a bar ditch. The County is going to widen the road and put in curbs. The applicant proposed to operate the stand from 10:00 a.m. to 10:00 p.m. from June 15<sup>th</sup> to July 5<sup>th</sup> for fireworks sales; pumpkin sales from October 1<sup>st</sup> to November 5<sup>th</sup>; and Christmas tree sales from November 23<sup>rd</sup> to December 25<sup>th</sup>. They asked for approval for a ten-year period.

### Interested Parties:

**Eddie Barkley**, 5111 East 41<sup>st</sup>, expressed his concern, as there have been numerous traffic accidents and increased traffic at the intersection.

**Phil Williams**, 4322 South 49<sup>th</sup> West Avenue, stated he is the Corporate Facilities Manager for Syntroleum Corporation. They store large amounts of flammables and combustibles at their facility. They were concerned about safety issues. He recognized the potential for grass fires. The fire department is a volunteer department and is located some distance from them.

### Applicant's Rebuttal:

Pastor Hinkle assured the Board they would not allow anyone to light fireworks near the fireworks stand. He stated there is quite a distance between the proposed site for the stand and the Syntroleum property. He also did not expect to draw the kind of business that would generate a large volume of traffic. He let the Board know they plan to brush hog the property to decrease the possibility of a grass fire.

### Board Action:

On **Motion** of **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Hutson, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Special Exception to permit a fireworks stand, a pumpkin patch, and Christmas tree sales (Use Unit 2) in a CS district (Section 710); with conditions for days and hours of operation: fireworks for sale only, with no displays June 15<sup>th</sup> to July 5<sup>th</sup>, pumpkins for sale October 1 to November 5<sup>th</sup>, and Christmas trees November 23 to December 24<sup>th</sup>; from 10:00 a.m. to 10:00 p.m.; and the approval is limited to the next three years, 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; and finding the activity requested is a permitted use in the CS district; and finding it is surrounded by properties with a more intense use in the industrial district;

And,

On **Motion** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Hutson, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), from June 19, 2007, finding the temporary nature of requested use, for the dates listed in the special exception; approved for three years, on the following described property:

BEG 350S NEC NE TH S823.90 W550 S130.40 W50 S17.71 W725.36 N1270.88 E1274.64 S300 E50 POB SEC 29 1912 36.440ACS, Tulsa County, State of Oklahoma

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#### **Case No.2269**

##### **Action Requested:**

Special Exception to permit a mobile home in an RS district (Section 410), located: 1526 South 264<sup>th</sup> Place West.

##### **Presentation:**

**Nedra Sanders**, 2631 East 14<sup>th</sup> Street, stated she is purchasing the subject property. The abstract, title and covenants indicated that she could have a mobile home on the property. The electric company informed her the zoning would not permit the use for a single-wide mobile home.

##### **Comments and Questions:**

Mr. Cuthbertson recognized it could be confusing since there are numerous mobile homes in the subdivision. A double-wide mobile home would not need a special exception. Mr. Walker asked about the sewage system. Ms. Sanders stated approval was given for a lagoon.

##### **Interested Parties:**

There were no interested parties who wished to speak.

##### **Board Action:**

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Hutson, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Special Exception to permit a mobile home in an RS district (Section 410), with conditions for skirting, tie-downs, DEQ approval, and paved parking for vehicles, 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:

LT 5 BLK 1 KEYSTONE MANOR SUBURBAN ACRES, Tulsa County, State of Oklahoma

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**Case No. 2270**

**Action Requested:**

Use Variance to permit an existing trucking establishment in an RS district (Section 410); and a Variance of the paving requirement to permit the existing gravel parking and loading surfaces (Section 1340 and 1350), located: 3348 West 57<sup>th</sup> Street South, & 5723 South 35<sup>th</sup> Avenue West.

**Presentation:**

**David Luna**, 10703 South Homestead, Sapulpa, Oklahoma, stated he is the realtor for the owner of the subject property. They do not plan to put in a parking lot or add a trucking company. They plan to use the land as it is now. There is an office and there are some docks. They park their own trucks on the subject property along with two other trucking companies and fifteen individuals. There is access only from 33<sup>rd</sup> West Avenue. He stated there are around 30 to 35 trucks that park there at any given time.

**Comments and Questions:**

Mr. Charney asked what triggered this application. Mr. Luna replied that he had the building for sale. Mr. Charney asked how long the current owner has operated this use. Mr. Luna responded it has been 18 years. He added they will probably run less trucks than before. The purchaser wants to continue the same use. He pointed out the one-acre tract with a detention pond is on a separate abstract. He stated they will not be accessing the subject property from 57<sup>th</sup> West Avenue.

**Interested Parties:**

**Randi Miller**, Tulsa County Commissioner from District 2, stated they need for more Code Enforcement in the area, as there is too much traffic for the residential neighborhood. She stated that it is not on an arterial street and she cannot support it. She does not support such uses in a residential area. She added that it is bad for the residential streets.

**Joyce Kay Price**, 5815 South 31<sup>st</sup> West Avenue, stated she represented West of Riverton homeowners. She informed the Board that they have around twenty new homes in the neighborhood. She added that about 43 habitat homes have been built in this neighborhood. Ms. Price indicated the area is transitioning. She considered the hardship self-imposed and that it was injurious to the neighborhood.

**Cynthia Ray**, 3409 West 59<sup>th</sup> Street, spoke for herself and represented the Fields at 3411 West 59<sup>th</sup> Street in opposition to the application. She read their letter to the Board (Exhibit B-4). She added that the light from flood lights on the subject property also fall on her property. Photographs were provided (Exhibit B-2). Mr. Charney asked how long they have lived there, to which she replied 28 years. She responded to him that the use has been present around 15 to 18 years.

**Rick Taylor**, 3515 West 57<sup>th</sup>, noticed some truck washings on this property have killed some life in the nearby creek.

**Leslie Davis**, 5645 South 33<sup>rd</sup> West, submitted photographs and a petition to the Board (Exhibits B-1 and B-3). She pointed out there is damage to the sidewalk from the trucks. She was concerned for noise and other pollution.

**Bonnie Regal**, 3333 West 57<sup>th</sup> Street, stated they live directly north of the subject property. She complained about the generators running on the freezer trucks all night.

**Applicant's Rebuttal:**

Mr. Luna responded that they are not building anything new. They plan to leave the property as it is. He pointed out there are no houses to the west. They were willing to build fences or whatever the Board requests.

**Comments and Questions:**

Mr. Alberty reminded the Board that this has been an illegal use and not a non-conforming use since prior to 1980.

**Board Action:**

On **Motion of Walker**, the Board voted 4-0-0 (Walker, Tyndall, Hutson, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **DENY** Case No. 2270, finding it would be injurious to the neighborhood and not conforming to the spirit and harmony of the code, on the following described property:

W/2 LT 11 LESS S90 & LESS BEG NEC W/2 LT 11 TH S215.9 W150 N30 E70  
N185.9 E80 POB, PRT LT 11 BEG NEC W/2 LT 11 TH S215.9 W150 N30 E70  
N185.9 E80 POB, S90 W/2 LT 11 & ALL LT 14 CAMPBELL HILLS, 33RD SELF  
STORAGE RSB E150.37 L11 & ALL L12 & 13 CAMPBELL HILLS Tulsa County,  
State of Oklahoma

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**OTHER BUSINESS**

**Discussion** related to the classification of private ponds on residential lots.

The Board discussed the subject with input from staff and Mr. Iski, District Attorney. They questioned what constitutes a private pond, limitations of size and volume of water. They considered engineering, drainage, dams and surrounding properties. Mr. Alberty stated a detention pond is required in many instances to meet the subdivision regulations to provide necessary drainage and storm water standards. He noted two issues, public concerns and private concerns. The private concerns are normally handled through restrictive covenants. They considered whether a pond on a lot as the principal use is a permitted use. Mr. Alberty noted that a lot combination would make the pond an accessory use rather than a principal use. They discussed AG versus R-zoning and platted versus unplatted lots. Mr. West stated he would require some type of drawings for engineering to review for approval. He added that if it is on a residential lot, a pond is not a customary use for a residence, but a swimming pool is customary. Mr. West stated that a pool has special requirements in the code for safety, such as a fence. He questioned if a pond would have the same requirements.

The chair recognized Dewey Miller to speak.

**Dewey Miller**, a developer, stated he would like to have a process to follow. He has seen similar things slip through the cracks previously. A property owner asked for his involvement in a project for a private pond. He agreed to if they provided engineering plans to review. They have not provided engineering plans. Mr. Miller found that the people who design ponds belong to the U.S. Department of Agriculture. They will not engineer for a private individual, nor will they enforce the construction or inspect in a platted sub-development. He listed issues of safety, run-off from aerobic systems, run-off with nitrates and fertilizers. The property is supposed to be stabilized before a pond is made and it needs to be maintained.

They discussed koi ponds, water features and the size and volume of a swimming pool. They considered the issue of run-off drainage. Mr. West noted the difference in having livestock or not and the need for irrigation.

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There being no further business, the meeting adjourned at 3:05 p.m.

Date approved:

David E. Aronoff  
07/17/07  
Chair