

COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 347
Tuesday, April 21, 2009, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, April 15, 2009 at 4:43 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 **Walker**, the Board voted 3-0-0 (Charney, Walker, Dillard, "aye"; no "nays"; "abstained"; Tyndall, Hutson "absent") to **APPROVE** the Minutes of February 17, 2008 (No. 345).

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Mr. Charney offered the applicants to request a continuance, as only three Board members were present for this meeting. No applicants chose that option.

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

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NEW APPLICATIONS

Case No. 2318

Action Requested:

Variance to permit a detached accessory building in a side yard in the RE district (Section 420.2.A.2), located: 8251 North 70th East Avenue.

Presentation:

Taylor Hutchings, 8350 North 72nd East Avenue, Owasso, Oklahoma, 74055, stated he has a permit to build a home on a corner lot (Exhibits A-1 and A-2). The plans include a detached garage, which has electricity, heat/air, and water. It is connected to the house by a roof, concrete structure (wall) and two six-foot automatic gates. He pointed out the unique shape of the lot.

Comments and Questions:

Mr. Cuthbertson interjected that the zoning code does not permit a detached accessory building in the front or side yard in a residential district. It is designed to coordinate with the house but it is detached in the side yard. He noted that a roof does not constitute an attached garage. The space between the house and garage are not heated and cooled and is not a natural extension of the house.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dillard**, the Board voted 3-0-0 (Walker, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney, Tyndall, "absent") to **APPROVE** Variance to permit a detached accessory building in a side yard in the RE district (Section 420.2.A.2), finding the hardship is the unusual configuration of the lot, with streets on three sides of the lot; and finding this is not injurious to the community, per the architectural drawings (Exhibits A-1 and A-2), on the following described property:

Lot 1, Block 3, CROSSING AT 86TH STREET PHASE IV, Tulsa County, State of Oklahoma

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Case No. 2319

Action Requested:

Variance of land area per dwelling unit to permit a second dwelling in a AG district; and a Variance of the minimum required separation between dwellings from 30 ft. (Section 330), located: 17515 South Peoria Avenue.

Presentation:

Gary Anderson, 17515 South Peoria, Mounds, Oklahoma, stated the construction was permitted as one house. He was not sure why the request is for a second dwelling.

Comments and Questions:

Mr. Charney asked if both living quarters use the same front door. Mr. Anderson replied they use a common entry from the garage. The Board members and the applicant discussed that both quarters each have a kitchen and separate utility meters. Mr. West noted the original plan was for one home and has since applied

for separate utilities. Mr. West needed to know the Board's opinion on this matter, should it come up again. Mr. Anderson indicated in the early phase of the plans, they were to have redundant utilities. Then if there was a problem in one area a utility would not be totally off. He stated the inspector, builder, and electricity provider met and agreed this was possible. Mr. Dillard noted the recent construction trends include more than one kitchen and more than one utility meter for one home. Mr. Dillard observed that the applicant has worked to comply from the beginning of this endeavor.

Mr. Cuthbertson reminded the Board that AG zoning allows two dwellings on the same lot of record. It is the land area in question.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Walker**, to **APPROVE** a Variance of land area per dwelling unit to permit a second dwelling in a AG district; finding the AG zoning allows two dwellings per lot of record; finding 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;

Mr. Alberty clarified the second dwelling unit is not the issue. The variance is technically of the required land area per dwelling unit.

On **Amended Motion of Walker**, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to **APPROVE** a Variance of land area per dwelling unit to permit a second dwelling in a AG district; finding 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;

On **Motion of Walker**, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to **APPROVE** a Variance of the minimum required separation between dwellings from 30 ft. (Section 330), finding 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, on the following described property:

N208.71 S507.94 W417.42 GOV LT 2 OR SW NW, Tulsa County, State of Oklahoma

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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 Mahalic, 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

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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.D, with conditions for a 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

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 nature of this piece of ground and the buffer between here and the neighborhood; approved without it violating the intent of the Code, on the following described property:

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 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 manor; 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 violating the intent of the Code.

On **Motion of Charney**, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to **APPROVE** and a Variance of the paving requirement for a temporary parking area (Section 1340.D), and the temporary parking is limited to the same dates as the special exception, finding enforcement of the code would be a hardship and probably inappropriate to require hard paving for this small window of time, the variance is related to the fireworks stand use; both the special exception and the variance granted 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. 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

each. Mr. Gardner proposed to create four lots, two with frontage and two without frontage. He added the fourth lot would accommodate another house.

Interested Parties:

Hilda Matia, stated she owns Tract 1. She understood the applicant stated he does not plan to do more lot splits, and he put her name on a document but she has not signed any agreement with the applicant. She sought to purchase three acres east of her property and she wanted to be sure that this application does not affect her.

Board Action:

On **Motion** of **Walker**, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to **DENY** a 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); finding it would create two lots without frontage, the remaining lots would not be well served with less than a 30 ft. easement; and finding a lack of hardship for this variance, on the following described property:

SW NE LESS S12ACS THEREOF & LESS S260 E500 N28ACSSW NE & LESS
BEG 1975.19S NWC NE TH E260.58 SE122.67 E96.29 NW60.63 NE214.84
N241.39 E226.62 N352.02 W913 S653.32 POB & S260 E500 N28ACS SW NW,
Tulsa County, State of Oklahoma

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Case No. 2323

Action Requested:

Special Exception to permit a fireworks stand in an AG district, accessory to an existing church (Section 310), located: 14003 East 116th Street North.

Presentation:

Pastor Jack Voss, 14003 East 116th Street North, Collinsville, Oklahoma, 74021, stated they have operated a fireworks stand for the last five years by a special exception. They request an extension of the special exception for ten more years.

Comments and Questions:

Mr. Cuthbertson informed the Board that the previously approved special exception expired two weeks ago. Therefore, they had to make a new application rather than an amendment to a condition of a previously approved plan to extend the time limit. Mr. Charney verified the stand would be placed to the right of the access road for customers driving in. Pastor Voss stated they provide police security at this site on July 3rd and 4th. They asked for the hours of operation from June 20th through July 5th, with hours of operation June 20th to July 2nd, of 10:00 a.m. to 9:00 or 10:00 p.m., and on July 3rd and 4th 10:00 a.m. to 12:00 midnight. He added that on July 5th they open for about three hours and sell items for one-half price.

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 Special Exception to permit a fireworks stand in an AG district, accessory to an existing church (Section 310), with conditions for approval of seven years, from June 20th through July 5th; hours of operation June 20th through July 2nd, and July 5th from 10:00 a.m. to 10:00 p.m.; and July 3rd and July 4th from 10:00 a.m. to midnight; to keep the area neat and clean, free of debris, on the following described property:

A TRACT OF LAND LOCATED IN LOT ONE (1) OF BLOCK ONE (1) OF CROSSROADS CHRISTIAN CENTER, FILED AS PLAT NO. 5157 IN THE TULSA COUNTY CLERK'S OFFICE; IN SECTION FOUR (4) OF TOWNSHIP TWENTY-ONE (21) NORTH AND RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN (I.B. & M.) ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, TULSA COUNTY, STATE OF OKLAHOMA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF LOT 1 OF BLOCK 1 OF SAID CROSSROADS CHRISTIAN CENTER; THENCE N 01 15' 26" W ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 539.58 FEET TO THE NE CORNER OF SAID LOT 1; THENCE S 88 44'34" W ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 596.31 FEET; THENCE S 19 40'36" E A DISTANCE OF 259.98 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 420.00 FEET, A CENTRAL ANGLE OF 16 29'40". A CHORD BEARING OF S 27° 55'26" E, A CHORD DISTANCE OF 120.49 FEET, FOR A DISTANCE OF 120.91 FEET; THENCE ALONG A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 280.00 FEET, A CENTRAL ANGLE OF 34°54'56", A CHORD BEARING OF S 18°42'48" E, A CHORD DISTANCE OF 168.00 FEET, FOR A DISTANCE OF 170.63 FEET; THENCE S 01 15'20" E A DISTANCE OF 9.42 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE S 86 29'37" E ALONG THE SOUTH BOUNDARY OF SAID LOT 1 A DISTANCE OF 187.47 FEET; THENCE N 88 44'34" E A DISTANCE OF 222.89 FEET TO THE POINT OF BEGINNING, AND CONTAINING 6.12 ACRES, MORE OR LESS

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There being no further business, the meeting adjourned at 3:22 p.m.

Date approved: _____

Chair