

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 353
Tuesday, October 20, 2009, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, October 14, 2009 at 11:37a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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.

MINUTES

On **MOTION** of **Walker**, the Board voted 4-0-0 (Charney, Walker, Dillard, Osborne "aye"; no "nays"; no "abstentions"; Tyndall "absent") to **APPROVE** the Minutes of September 15, 2009 (No. 353).

NEW APPLICATIONS

Case No. 2347

Action Requested:

Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1,500 sq. ft. (Section 240.2.E), located: 18253 South 79th Avenue.

Presentation:

Kevin Olson, 18253 South 79th East Avenue, Bixby, Oklahoma, 74008, proposed to build a 1,500 sq. ft. shop-garage. He wants to store a boat, truck and other

personal items. The plans are for an all-metal structure on a concrete pad, and the exterior color would match the house.

Comments and Questions:

Mr. Walker asked about the eve height and Mr. Olson stated the walls would be ten feet. He added that he has a small shed on the property. Mr. Cuthbertson informed the Board that the application only showed a 1,500 sq. ft. building. The site plan did not show the existing shed. The notices were published and distributed before staff discovered the existing shed. The zoning code takes into account the square footage of all of the structures. The total square footage would be 1,640 sq. ft. This application would need new notice for the Board to approve it. A new notice would mean this request would have to be considered at the November 17, 2009 hearing. Mr. Walker asked if Mr. Olson had plans for any commercial use, to which he replied he did not. Mr. Osborne noted there are other similar sized buildings nearby in the neighborhood. Mr. Dillard asked about utilities to the building and Mr. Olson replied he would have electricity, no heating, water or sewer. Mr. Charney mentioned this is a larger lot than the required minimum lot size in an RS-district. Mr. Cuthbertson requested an updated site plan, showing the existing shed and the location.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **Walker**, the Board voted 4-0-0 (Charney, Walker, Dillard, Osborne "aye"; no "nays"; no "abstentions"; Tyndall "absent") to **CONTINUE** Case No. 2347 to the meeting on November 17, 2009, on the following described property:

LT 3 BLK 2, SPRINGVIEW ESTATES ADDN, Tulsa County, State of Oklahoma

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Case No. 2348

Action Requested:

Special Exception to permit a mini-storage use (Use Unit 16) in an OL district (Section 610); and a Variance of the setback from 100' to 60' from the centerline of 129th W. Ave. (Section 630), located: Southwest corner of South 129th West Avenue and West 40th Street.

Presentation:

Doyle Lee, 4024 South 129th West Avenue, Sand Springs, Oklahoma, 74063, stated he owns the mini-storage on the south side of this subject property. They have zoning for OL, and they want to expand the mini-storage. The setback variance would help them align the new structures on the subject property with the existing ones to the south.

Comments and Questions:

Mr. Walker noted that 129th West Avenue dead-ends just a short distance to the north of the subject property and that was the reason the Board gave the variance for the setback on 129th West Avenue.

Mr. Lee informed the Board when they initially attempted to build the mini-storage buildings they sought a CS zoning. The TMAPC denied the CS zoning but determined OL zoning would be appropriate on the subject property. They talked with every neighbor, obtained signatures, and found a majority of them were in support, and some were neutral (Exhibits A-1 and A-2). He responded to Mr. Charney's question about the building materials. Mr. Lee understood that in the OL district, the façade is supposed to be masonry or stucco. He pointed out the AG zoned property across the street to the east. He would like to use the metal building as the screening. He planned to use masonry screening on the north and on the west he proposed to leave the chain-link fence or replace it with a six-foot chain link fence. Mr. Osborne made a point of clarification, that the site plan indicates six new buildings perpendicular to the existing buildings.

Interested Parties:

Sue Poplin, 12916 West 40th, Sand Springs, Oklahoma, 74063, was in support. She stated the property is well-kept and the mini-storages would be an improvement from the previous abandoned house.

Mike McArthur, 12910 West 40th Street, Sand Springs, Oklahoma, 74063, stated he owns the property immediately to the west of the subject property and he has no objections. He added that it would be an improvement.

Mr. Walker asked Mr. McArthur if he would be agreeable to Mr. Lee changing the required fence to a six-foot chain link fence. Mr. McArthur indicated he would not mind.

Mr. Cuthbertson pointed out that the re-zoning to OL triggers the platting requirement. This will initiate new requirements including platting, at which time issues such as drainage are to be addressed. The development requirements include an exterior building wall be masonry or a similar material, and a screening requirement.

Applicant's Rebuttal:

Mr. Alberty indicated there may have been a previous Board Action that granted relief of the screening requirements on the north and west sides of the existing mini-storage facility. Mr. Cuthbertson added they would still need relief from the Board for screening on the OL portion of property.

Board Action:

On **Motion of Walker**, the Board voted 4-0-0 (Charney, Walker, Dillard, Osborne "aye"; no "nays"; no "abstentions"; Tyndall "absent") to **APPROVE** a Special

Exception to permit a mini-storage use (Use Unit 16) in an OL district (Section 610); and a Variance of the setback from 100' to 60' from centerline of 129th W. Ave. (Section 630), based on the hardship that 129th West Avenue has a dead-end a few blocks away, as relief was given in a previous application;

And,

On **Motion of Dillard**, the Board voted 4-0-0 (Charney, Walker, Dillard, Osborne "aye"; no "nays"; no "abstentions"; Tyndall "absent") to **CONTINUE** Case No. 2348 to the meeting on November 17, 2009, to allow the applicant to consider if there is additional relief needed, on the following described property:

E/2 SE SE SE LESS S447 THEREOF SEC 21 19 11 1.61ACS, SOONER MINI STORAGE, Tulsa County, State of Oklahoma

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Case No. 2349

Action Requested:

Request a refund of a partially processed application.

Presentation:

Mr. Cuthbertson stated a few days after the application was made the applicant withdrew it, though some work was already completed.

Board Action:

On **Motion of Osborne**, the Board voted 4-0-0 (Charney, Walker, Dillard, Osborne "aye"; no "nays"; no "abstentions"; Tyndall "absent") to **APPROVE** a partial refund of \$400.00, on the following described property:

LT 1 BLK 1, HOLY APOSTLES CHURCH; Tulsa County, State of Oklahoma

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Case No. 2350

Action Requested:

Special Exception to permit a (Use Unit 8) Nursing Home in an RS district (Section 410); and a Variance of lot size and setback requirements for a special exception use in the RS district of: the minimum lot size of 10,000 sq. ft., the minimum lot width of 100 ft. and the minimum building setback of 25 ft. from abutting properties located within an R district, located: 4006 West 45th Place South.

Presentation:

Robbie Mantle, 4006 West 45th Place South, Tulsa, Oklahoma, 74107, gave some of the history for this project stating a relative currently wanted to be cared for in her own home. They proposed to open a licensed residential care facility for the elderly. It would involve providing 24/7 health care, licensed by the State of

Oklahoma. They have provisions for a three-bed facility and proposed to add two additional beds.

Comments and Questions:

Mr. Walker asked if they would add two additional beds within the existing structure. Ms. Mantle indicated they would be within the garage portion of existing structure. Mr. Osborne asked for the hardship. Board members and staff explained the need for a hardship regarding the land use.

Interested Parties:

Doug Richmond, 4016 West 45th Place, Tulsa, Oklahoma, 74107 expressed concern for the facility on a 65 ft. lot; and the traffic and parking it would require. He described current parking problems for his lawn care service, and visitors parking in front of neighbor's driveways.

Mona Harper, 4010 West 45th Place, Tulsa, Oklahoma, 74107, expressed concern for the lot sizes, and proximity to other homes. She mentioned they are already caring for other residents in the subject property home. She was opposed to any crowding of neighboring properties.

Alen Blackshear, P.O. Box 873, Owasso, Oklahoma, 74055-0873, stated he is a medical consultant and he has set up about six residential care centers. Ms. Mantle asked him to help her with this process. He mentioned the need for parking for a hospice nurse, pharmacist, and medical supply van. He stated there is only one nursing home in west Tulsa and there is a need for this type of facility.

Applicant's Rebuttal:

Ms. Mantle stated they have plans to widen the driveway for more parking. Mr. Walker asked how many residents they are caring for now. Ms. Mantle replied that there are three.

Mr. Richmond was recognized by Mr. Charney to speak again. Mr. Richmond stated that if someone wanted to put in a childcare center it would make the parking problems worse. Mr. Cuthbertson responded that commercial businesses are not allowed in the residential neighborhood. He added that if someone wanted to put in a childcare center, it would have to come before the Board for a special exception. The Board would consider the context of the subject property.

There was discussion among the Board members regarding a commercial use; concerns for the neighbors, crowding, traffic, and parking. They discussed the need for this type of care, and the existence of numerous homes where this care is provided. They discussed large families within the same home. The intensity of use was mentioned.

Mr. Cuthbertson stated the code allows nursing homes in single-family residential neighborhoods by special exception. The applications are considered on a case

by case basis, reviewed on, among other considerations, design, proposed intensity, and the dynamics of the neighborhood. He added that the special exception use requirements for lot size, frontage, and setback from an abutting R-zoned property assume the greater intensity of this use. He suggested these requirements offer a more institutional-type facility some automatic protections. Mr. Cuthbertson pointed out that the zoning code says that nursing homes, given a particular context can be found appropriate in a traditional residential neighborhood.

Mr. Charney asked Mr. Blackshear if, in his experience as a consultant, the business model will work. He replied that three is the minimum number of residents needed to make this type of facility work. He stated she has excellent personnel doing 12-hour shifts. He indicated that the parking could be managed off-street with proper operational scheduling.

Mr. Alberty stated the main issue appears to be the parking. Mr. Cuthbertson suggested the garage could be used to help with two parking spaces. The Board continued with more discussion regarding approval for a limited time period and the affect on the required state license.

Board Action:

On **Motion** of **Charney**, the Board voted 4-0-0 (Charney, Walker, Dillard, Osborne "aye"; no "nays"; no "abstentions"; Tyndall "absent") to **CONTINUE** Case No. 2350 to the meeting on November 17, 2009, on the following described property:

LT 1 BLK 2, VERA FAYE ADDN, Tulsa County, State of Oklahoma

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OTHER BUSINESS

Review and Approve County Board of Adjustment 2010 Meeting Schedule

Board Action:

On **Motion** of **Charney**, the Board voted 4-0-0 (Charney, Walker, Dillard, Osborne "aye"; no "nays"; no "abstentions"; Tyndall "absent") to **APPROVE** the Tulsa County Board of Adjustment 2010 Meeting Schedule.

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There being no further business, the meeting adjourned at 3:09 p.m.

Date approved: 11/17/09

David E. Charney
Chair