

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 354  
Tuesday, November 17, 2009, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

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

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Monday, November 9, 2009 at 11:29 a.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.

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**MINUTES**

On **MOTION** of Walker, the Board voted 5-0-0 (Tyndall, Walker, Dillard, Osborne, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of October 20, 2009 (No. 353).

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**UNFINISHED BUSINESS**

**Case No. 2347**

**Action Requested:**

Variance of the maximum permitted floor area for detached accessory buildings on an RS zoned property from 750 sq. ft. to 1,640 sq. ft. (Section 240.2.E), located: 18253 South 79<sup>th</sup> East Avenue.

Mr. Cuthbertson reminded the Board that at the previous meeting the Board discovered the applicant wanted to keep an existing small accessory building. Therefore he needed more relief than was advertised for the extra square footage of floor area. The case was continued to this date for adequate notice.

**Presentation:**

**Kevin Olson**, 18253 South 79<sup>th</sup> East Avenue, proposed to build a 30' x 50' garage in addition to the existing 10' x 14' shed in his back yard per the plot plan. He provided photographs (Exhibit A-1).

**Comments and Questions:**

Mr. Walker asked him how he intended to use the building. Mr. Olson replied it would be for storing his boat and truck and personal projects, including mechanical work on his automobiles. Mr. Osborne asked if the building would have electricity and water. He replied there would be electricity only. Observations were made regarding the size of the lot, the isolated zoning district, and other large accessory buildings in the surrounding area.

**Interested Parties:**

There were no interested parties.

**Board Action:**

On **Motion** of **Walker**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Osborne, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum permitted floor area for detached accessory buildings on an RS zoned property from 750 sq. ft. to 1,640 sq. ft. (Section 240.2.E), finding the oversized lot would justify the larger size storage building area, 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, 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:**

Variance of the materials required on exterior building walls of an approved mini-storage facility in the OL district (Section 640.H.4); and a Variance of the screening requirement of a mini-storage facility from an abutting R district (Section 640.H.11), located: Southwest corner of South 129<sup>th</sup> West Avenue, and West 40<sup>th</sup> Street.

Mr. Cuthbertson reminded the Board that these two variances are in addition to actions taken by the Board at the previous hearing permitting the use of mini-storage on the OL-zoned property, and a variance of the setback requirement on the west boundary.

**Presentation:**

**Doyle E. Lee, Jr.**, 4024 South 129<sup>th</sup> West Avenue, Sand Springs, Oklahoma, 74063, proposed to use the metal building as the screening on the east. He wanted to leave the existing chain link fence or replace it with a six-foot chain link fence on the west. On the east of his property is AG-zoned property, and the buildings would be sixty feet from the centerline of the road. He suggested he could do some landscaping on the east for additional screening. He stated that on the west boundary his neighbor, Mr. McArthur (Exhibit B-3), would prefer the fence be left alone or just replaced with another chain link fence. A conceptual site plan (Exhibit B-1) was previously provided.

**Comments and Questions:**

Mr. Charney asked what he planned for screening on the north. Mr. Lee replied that he planned for a masonry fence. Mr. Walker noted the new buildings will be perpendicular to the existing buildings along 129<sup>th</sup> West Avenue on the west side. Mr. Lee replied there will not be any doors on that side. Mr. Charney asked for more clarification from staff regarding the screening requirements as they pertain to this application. Mr. Cuthbertson responded that the building material requirement is throughout the property. The buildings are not permitted by right to be metal, but must be some type of masonry building material. The screening requirement is applied to property lines shared in common with an R district. Mr. Cuthbertson stated the screening requirement would apply to the north and west sides. Mr. Tyndall asked about the location of the landscaping on the north. Mr. Lee replied it would be on the outside of the masonry fence. Mr. Tyndall asked why they didn't plan for landscaping on the east and west. Mr. Lee stated the engineering firm explained it to him that a certain amount of landscaped area was required for OL zoning.

**Interested Parties:**

**Sue Poplin**, 12916 West 40<sup>th</sup> Street, Sand Springs, Oklahoma, 74063, expressed support of this application. She stated that she is the second neighbor to the west.

**Cordy Burris**, 12921 West 40<sup>th</sup> Street, Sand Springs, Oklahoma, 74063, submitted photographs (Exhibit B-2). She was concerned about drainage, and the view of metal buildings.

**Terry West**, explained that if the application creates 20% of impervious area, they will need to provide a drainage plan. Mr. Cuthbertson remembered that the property was recently re-zoned so it will be subject to a plat. This process will address the drainage issues.

Ms. Burris asked for the variance to be denied. She suggested there should be a masonry fence all the way around the storage buildings. She was opposed to exterior lighting spilling into the R district, and the view of metal buildings.

**Applicant's Rebuttal:**

Mr. Lee stated there will be a masonry fence on the north side, and the old or new chain link fence will be on the east. He added that a hydrology report is being drawn up now.

**Common and Questions:**

Mr. Osborne noted it appeared that the rezoning to OL was to provide more buffer for the R district. He stated this application would make it more like CS again. He could not see a hardship. He stated there is no guarantee that the next owner will be as good of a land manager as this applicant. Mr. Alberty commented the planning commission did not want to rezone the subject property commercial, which would have permitted the additional mini-storage by right. They felt by zoning it OL there was protection within the code that made it necessary to come to the Board of Adjustment.

Mr. Charney asked for discussion regarding the use of masonry on the east side as a screening. Mr. Osborne was in support of an eight-foot masonry wall on the east, as a buffer. Mr. Charney asked for input regarding an intensive landscaping plan along 129th West Avenue. Mr. Dillard noted that Mr. Walker stated 129th West Avenue is not heavily used and directly across from the subject property is wooded property. Mr. Charney noted the similar connection between the two variance requests. He felt that some sort of screening is in order. He also pointed out that the rural nature of the area, and that 129<sup>th</sup> West Avenue ends in this neighborhood. He added there needs to be a hardship that is unique to the land. Mr. Walker understood the planning commission approved OL instead of CS to create a buffer for less intense use. He considered the variance requests to be legitimate.

Mr. Cuthbertson stated the code will allow the maximum building height of 12 ft. and it prohibits outside storage. Mr. Charney asked if the applicant stated previously he would do landscaping along 129<sup>th</sup> West Avenue. Mr. Lee replied that he would be willing to have landscaping there.

The Chair recognized Ms. Burris one more time. She mentioned that other neighbors travel 129<sup>th</sup> West Avenue every day, as it is the only way in and out of the neighborhood. She stated that in another case a condition was made to required trees along West 40<sup>th</sup> Street to remain as a buffer but later they were cut down.

**Board Action:**

On **Motion** of Walker, to **APPROVE** a Variance of the materials required on exterior building walls of an approved mini-storage facility in the OL district (Section 640.H.4); and a Variance of the screening requirement of a mini-storage facility from an abutting R district (Section 640.H.11), based on the hardship of the location as merely an extension of the existing mini-storage on CS-zoned property;

finding the purpose of the OL zoning was to limit any extension into the residential neighborhood of any more CS zoning; with conditions that the screening as presented in the plan, be a masonry screening on the north, the back side of the metal building on the east, and a chain link fence on the west that would match the existing fence.

Mr. Cuthbertson requested clarification, whether there was to be masonry on the north and east. Mr. Walker repeated with conditions that the screening as presented in the plan, be masonry screening on the north, the back side of the metal building on the east, and a chain link fence on the west that would match the existing fence but at the required eight-foot height.

Mr. Charney called for discussion on the motion to achieve a consensus. He asked if the Board members understood the motion for a masonry wall on the north, the back side of the metal building on the east as the screening, and a new chain link fence with a height of eight feet as required. Mr. Osborne did not believe the metal building wall on the east would be in the spirit of the zoning code, and needs to be screened. Mr. Tyndall agreed that other screening is needed on the east along 129<sup>th</sup> West Avenue. Mr. Charney suggested some fast-growing evergreen vegetation along the east for screening as an amendment to the motion. Mr. Dillard and Mr. Walker were agreeable to that amendment.

Mr. Walker withdrew his motion.

On **Motion of Charney**, the Board voted 4-1-0 (Walker, Tyndall, Dillard, Charney "aye"; Osborne "nay"; no "abstentions"; no "absences") to **APPROVE** a Variance of the materials required on exterior building walls of an approved mini-storage facility in the OL district (Section 640.H.4); and a Variance of the screening requirement of a mini-storage facility from an abutting R district (Section 640.H.11), with conditions for a masonry wall on the north; new eight-foot chain link fence on the west; the metal building on the east screened with evergreen bushes or trees planted at a minimum height of six feet, and in 15 ft. increments along the building on 129<sup>th</sup> West Avenue from the southeast corner of the building to the northeast corner of the building; 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:

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

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## NEW APPLICATIONS

### 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 the 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 45<sup>th</sup> Place South.

#### Presentation:

**Robin Mantle**, 4006 West 45<sup>th</sup> Place South, Tulsa, Oklahoma, 74107, stated her desire to have a residential nursing care home (Exhibit C-1). She informed the Board that neighbors who previously opposed her application at the last meeting were now in favor of it. She had angled parking surface paved in the front for off-street parking. An architect prepared plans to construct additional bedroom space for two more beds on the interior of the home, and a ramp to meet the ADA requirements for the entry.

#### Comments and Questions:

Mr. Walker commended her for keeping the tree in the front yard, and the angled parking. He wanted them to keep the appearance of a house versus an institutional-type facility. Ms. Mantle stated that even on the interior she planned to keep the appearance of a home for the residents' benefit.

#### Interested Parties:

**Brent Hinkle**, 3025 West 55<sup>th</sup> Place, Tulsa, Oklahoma, Pastor of the Red Fork Church of God, was in support of this facility. He appreciated the home setting for giving value and strength to the community. He is in support of more of this kind of home in West Tulsa.

Mr. Walker noted the property lines on the plat and stated if they were in the house next door they could have accomplished this project by right, as it is in the Tulsa city limits. Mr. Osborne mentioned that the City of Tulsa has just gone through the process of making new guidelines for this type of facility. He is hopeful that Tulsa County will also offer the same type of provisions. Mr. Osborne noted that the previous concerns of the neighbors were regarding parking and keeping the residential nature of the neighborhood. Mr. Charney reminded the Board that the consultant stated at the last hearing that it takes a minimum of three beds for this kind of care facility to pay for itself. Ms. Mantle interjected that she does not want more than the maximum of five beds in order to provide a high quality of care. Mr. Charney asked for the number of staff parking spaces needed. Ms. Mantle replied they need parking spaces for two employees at a time plus hospice personnel that come and go.

**Board Action:**

On **Motion of Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Osborne, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a (Use Unit 8) Nursing Home in an RS district (Section 410); and a Variance of the 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; with conditions to allow for a maximum of five beds; employees to use the off-street parking; and delivery parking on site; finding the small lot and the unique nature of the use, on the following described property:

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

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**Case No. 2351**

**Action Requested:**

Variance of the rear yard setback requirement from 40' to 16' and a Variance of the side yard setback requirement from 15' to 5' to permit an accessory building in an AG-R district (Section 320.2.A.2), located: 5907 South 164<sup>th</sup> West Avenue.

**Presentation:**

**Robert Allen Hughes**, 5907 South 164<sup>th</sup> West Avenue, Sand Springs, Oklahoma, 74063, stated the property is zoned AG-R. It is four miles from Prattville, off of Coyote Trail, and the size is slightly over one acre. He added that most AG-R properties are much larger. The code requires a 40 ft. setback at the rear and a 15 ft. setback on the side yards. He informed the Board that the location of the house was shifted to one side of the property to avoid a large boulder bed located along the north side. The neighborhood covenants require a 15 ft. setback for the rear yard and 5 ft. on the side yards. He proposed to conform to the setbacks of the existing neighboring structures to be consistent with the appearance of the neighborhood. He referred to photographs to help the Board see how the boulder beds and structures are situated.

**Comments and Questions:**

Mr. Tyndall asked how he would access the storage building. Mr. Hughes replied it would be accessed from the rear. There would be two garage doors, one on the north and one on the west.

**Interested Parties:**

There were no interested parties.

**Board Action:**

On **Motion of Osborne**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Osborne, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the rear yard setback requirement from 40' to 16' and a Variance of the side yard setback requirement from 15' to 5' to permit an accessory building in an AG-R district (Section 320.2.A.2), finding the unique nature of the property, on the following described property:

LT 3 BLK 3, PLEASANT OAKS ADDN II, Tulsa County, State of Oklahoma

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**Case No. 2352**

**Action Requested:**

Special Exception to permit a church use (Use Unit 5) in an IL district (Section 910), located: 5010 West 41<sup>st</sup> Street South.

**Presentation:**

**Eric Sack**, 111 South Elgin, Tulsa, Oklahoma, 74120, represented Red Fork Church of God. He stated the property is zoned IR, CS and IL. They desire church use across the entire property. He added the church wants to position the sanctuary centrally on the property, which is the portion zoned IL. The property is about forty acres. The ancillary uses would be located to the south, east and west. He indicated it would not be injurious to the surrounding neighborhood. It was indicated that church uses are permitted as a use by right in the IR and CS districts.

**Comments and Questions:**

Mr. Osborne asked if the property is platted. Mr. Alberty responded that it is subject to plat. Mr. Sack stated they have submitted a sub-division plat and they will take it to the Technical Advisory Committee this week.

**Interested Parties:**

There were no interested parties.

**Board Action:**

On **Motion of Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Osborne, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a church use (Use Unit 5) in an IL district (Section 910), finding it is not injurious to the surrounding neighborhood or detrimental to the public welfare, and there is nothing inconsistent with the surrounding zoning, on the following described property:

A TRACT OF LAND THAT IS PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION TWENTY-NINE (29), TOWNSHIP NINETEEN (19) NORTH,



RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NE/4; THENCE SOUTH 00°51'52" EAST ALONG THE EASTERLY LINE OF SAID NE/4 FOR 1173.90 FEET; THENCE SOUTH 89°08'08" WEST ALONG AN EASTERLY EXTENSION OF THE NORTHERLY LINE OF LOT ONE (1), BLOCK ONE (1), "USPCI RESEARCH AND BUSINESS PARK", AN ADDITION TO TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF AND ALONG SAID NORTHERLY LINE FOR 550.00 FEET TO THE NORTHWEST CORNER OF SAID LOT ONE (1); THENCE SOUTH 00°51'52" EAST ALONG THE WESTERLY LINE OF SAID LOT ONE (1) FOR 130.40 FEET; THENCE SOUTH 89°27'46" WEST FOR 50.00 FEET; THENCE SOUTH 00°51'52" EAST FOR 17.71 FEET; THENCE SOUTH 89°08'50" WEST FOR 725.36 FEET TO A POINT ON THE WESTERLY LINE OF THE NE/4 OF THE NE/4 OF SAID SECTION TWENTY-NINE (29); THENCE NORTH 00°49'59" WEST ALONG SAID WESTERLY LINE FOR 1320.88 FEET TO THE NORTHWEST CORNER OF SAID NE/4 NE/4; THENCE NORTH 89°06'20" EAST ALONG THE NORTHERLY LINE OF SAID NE/4 FOR 1324.64 FEET TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND.

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There being no further business, the meeting adjourned at 3:08 p.m.

Date approved: 12/15/09  
David E. Conway  
Chair