

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 359
Tuesday, April 20, 2010 1:30 p.m.
County Commission Room
Room 119
County Administration Building
500 South Denver

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair	None	Alberty	West, Co. Inspector
Osborne, Secretary		Cuthbertson	
Tyndall		Zezulka	
Walker, Vice Chair			
Dillard			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 14th day, April, 2010 at 1:48 p.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

1. On **MOTION** of **Tyndall**, the Board voted 5-0-0 (Tyndall, Walker, Charney, Osborne, Dillard "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of March 16, 2010 (No. 358).

UNFINISHED BUSINESS

2. **Case No. 2364**

Action Requested:

Special Exception to permit a manufactured home in the RS district (Section 410). Location: 5706 North Norfolk Avenue.

Presentation:

Michelle Reed, 5706 North Norfolk Avenue, Tulsa, Oklahoma 74126, the applicant, is asking that the legal description on the abstract to be approved. Ms.

Reed stated that Guaranty Abstract Company went over the legal description in the abstract and that there is no problem with the legal description. The mobile home has been set and the applicant has been in that location for three weeks.

Comments and Questions:

Mr. Charney asked if the mobile home would be the residence for the applicant. Ms. Reed responded affirmatively. They would reside in the home. Mr. Charney asked if there are any other structures on the property. Ms. Reed stated there are not at this time. Mr. Charney asked if there were any other mobile homes in the area. Ms. Reed stated that there are three mobile homes located on the block.

Mr. Osborne stated that the home has already been placed on the property; and asked if this was a replacement of another mobile home. Ms. Reed responded that when the property was purchased, there was a home on the property that had been destroyed by fire; that they cleared and cleaned the land. Mr. Osborne stated in 2004, there was a Special Exception granted with the following conditions: DEQ approval, skirting, tie-downs, and a building permit. He asked if those requirements have been met. Ms. Reed responded absolutely.

Interested Parties:

There were no interested parties.

Board Action:

On **MOTION** of **Dillard**, the Board voted 5-0-0 (Tyndall, Walker, Charney Osborne, Dillard "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a manufactured home in the RS district (Section 410), finding that all previous conditions have been met and all parking surfaces shall be asphalt or concrete. The Board finds that 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.

Beg 753' W and 468.7' N SE/c of Section 1, T-19-N, R-12-E, Thence W 430.3' to the E line of the Midland Valley Railroad right-of-way; Thence N 18°41'58"E 294.6'; Thence E 328.82'; Thence 277.89 ft. to the POB; Tulsa County, State of Oklahoma.

3. Case No. 2386-A

Action Requested:

Amendment to a previously approved site plan to permit a building addition to an existing metal salvage yard in the AG district. Location: 17848 U. S. Highway 75.

Presentation:

Charles Cole, P. O. Box 820, Bixby, Oklahoma 74008, the applicant, stated that the original plan did not allow room for growth and they have reached capacity in the existing structure with 6,000 square feet. The applicant is requesting to add

an additional building that will be set behind the existing building, which would be 100' by 140', allowing room for growth.

Comments and Questions

Mr. Charney stated that the proposed building is 100' by 140'; 14,000 square feet, and asked what type of building it would be. Mr. Cole responded that the building would be metal.

Mr. Osborne asked the height of the building. Mr. Cole responded that it would be 14 feet high at the wall and 20 feet at the peak. Mr. Walker asked if this structure would add to the business's capability or was the structure for storage. Mr. Cole responded that it would add to and allow for more employees.

Mr. Osborne asked if there was fencing or any kind of shielding on the property. Mr. Cole responded that there was an eight-foot fence with breathable fabric. Mr. Osborne asked what part of the property is shielded by the current fencing. Mr. Cole responded it shields the entire front between the buildings.

Mr. Charney asked staff about notes from 2008; from page 3.3 Original Staff Comments (2008); Mr. Cuthbertson stated that the approval was based on what existed at the time and that the business was not going to be expanded.

Mr. Charney asked Mr. Cole if he made the 2008 application. Mr. Cole responded affirmatively. Mr. Charney asked Mr. Cole if he remembered the granting of that application. Mr. Cole responded that he remembered the granting; however, he did not remember that there was no expansion.

Mr. Walker stated that the approval in 2008 was to allow Mr. Cole to have storage with the requirement that the size of the business would not be increased. The property is located in an AG district, and it seemed inappropriate to have Heavy Industrial use on the property.

Mr. Charney asked the height of the screening fences. Mr. Cole responded that it would be eight-feet.

Interested Parties:

Steve Lamoreaux, 2333 West 183rd Street South, Mounds, Oklahoma 74047, on behalf of Cotton Creek Golf Course. The golf course owns land to the south and west of the salvage yard. Mr. Lamoreaux stated that he was at the 2008 meeting and understood that there would be a screening fence installed on the south side of the salvage yard. In addition, trees would be planted on the west side of the building and salvage yard; and that the salvage on the west was to be removed and it has not been.

Comments and Questions:

Mr. Charney asked Mr. Lamoreaux to tell the Board his understanding of the

fencing requirement. Mr. Lamoreaux responded on the south side where the property joins and to the west. Mr. Lamoreaux asked the Board to require previous conditions to be met.

Mr. Cuthbertson stated that the screening conditions were listed on page 3.11.

Mr. Charney asked if the previously agreed upon conditions were met, would the golf course have any objection to a new building. Mr Lamoreaux responded that is correct.

Mr. Charney asked Mr. Cole to state which conditions have been met and which conditions remain to be satisfied.

Applicants Rebuttal:

Mr. Cole provided that the trees have not been planted due to a legal matter with someone else's property being stored on the land. The stored property owner has been given legal notice to remove the property within ten days. As far as the south boundary, there are materials on the ground and the fencing company will not place the fence until the area is cleared.

Comments and Questions:

Mr. Charney asked if the applicant was prepared should the Board decide to grant the request to get the screening on the south side done imminently. Mr. Cole responded affirmatively; 30-days would be ample time. Mr. Charney stated it has been noted that the screening would be fences and trees.

Mr. Walker stated that originally, the large footprint was to be brought down in size; and all outside storage was to be placed inside the structure. Mr. Walker stated that the hearing on the matter should be continued until the conditions of 2008 have been met.

Board Action:

On **MOTION** of **Walker**, the Board voted 5-0-0 (Tyndall, Walker, Charney, Osborne, Dillard "aye"; no "nays"; no "abstentions") to **CONTINUE** the Amendment to a previously approved site plan to permit a building addition to an existing metal salvage yard in the AG district until the next Board meeting on May 18, 2010; allowing the applicant time to complete the previous conditions.

BEG SWC N/2 SE TH E829.4 N400 W829.4 S400 TO POB & BEG 829.4E SWC N/2 SE TH E460 CRV RT APROX137 ALG HWY 75 ROW TH W APROX460 S137 TO POB SEC 34 17 12, Tulsa County, State of Oklahoma

4. Case No. 2365

Action Requested:

Special Exception to permit a communications tower in the AG district (Section 310). Location: East of 3889 South 265th West Avenue.

Presentation:

Ken Kerr, P. O. Box 1907, Oklahoma City, Oklahoma 73101; on behalf of Verizon Wireless, the applicant. The applicant is requesting to construct a 250-foot communications tower on the subject property. The tower will be 275-feet from the nearest property line in an area zoned AG; the nearest residential structure is at least 300 feet from the proposed tower. The parcels in this are five to ten acre parcels and heavily wooded. The design of the tower is that, with time, the galvanized steel would dull and blend into the area. The tower will accommodate four sets of 12 antennas each, which will allow Verizon to occupy the tower as well as in the future allowing three other carriers. The applicant stated that the tower would blend into the environment using natural color aggregate stone finish. Ingress/egress is allowed under a grant of right-of-way to use roadway easements in accordance with Tulsa County. This tower is needed because of the lack of communication in this area. Currently, Verizon has one tower located along Highway 51 between this area and Mannford. Over the last couple of years with increased traffic, Verizon has utilized its entire available spectrum. The only way to alleviate the overuse data is to build another tower. This tower will take the load off the Mannford tower and give this area more communications such as cell phone and data (WiFi). As to the landscaping, there will be a buffer of trees and scrub typical for this area.

Comments and Questions:

Mr. Cuthbertson asked if the tower would be visible from 265th East Avenue, the nearest public road to the west. Mr. Kerr stated it would be hard to see since the trees in this area are tall; this site is going to be so far off the roadway it would be hard to see.

Mr. Charney asked the applicant, since he was familiar with the factors under consideration, if there were any problems he could foresee. Mr. Kerr responded negatively, that he had reviewed all of the factors.

Interested Parties:

John Boggs, 26499 West 41st Street, Sand Springs, Oklahoma, owns the abutting property to the north and south. Mr. Boggs stated this area is a platted subdivision for residential use with no commercial development. This tower is literally going to be in his backyard. The back of the home is all glass windows and recently extensive landscaping was added. The backyard is used for the entertainment for church gatherings, birthday parties and children. He added there is not a way to landscape to hide a 250-foot tower. The tower would be visible from 265th East Avenue. There are several ten-acre tracts with homes that join the subject property; all of these properties have homes on them except for two. Mr. Boggs is opposed to the Special Exception.

Angela Boggs, 26499 West 41st Street, Sand Springs, Oklahoma. Her issue regarding the tower is health concerns. There are studies that show when

people live within 400 meters of a cell phone tower they have increased chances of breast cancer and brain tumors. She asked that the Board consider the possible health issues for her, her children and the neighborhood. Ms. Boggs presented the Board with a letter from Jamie Davenport, a neighbor whose property is also abutting the subject property. Ms. Boggs stated the reason Ms. Davenport could not be present was that her grandchild was in the hospital. Ms. Boggs is opposed to the Special Exception.

Jimmy Edwards, 3831 South 265th West Avenue, Sand Springs, Oklahoma, stated that the tower can be seen from 265th and that the tower is closer than 300 feet from his property line.

Comments and Questions:

Mr. Charney asked if the Boggs' were co-owners of the property. Ms. Boggs responded they are married.

Mr. Osborne asked Mr. Edwards which direction his property was from the subject property. Mr. Edwards responded it is to the north.

Applicants Rebuttal:

Ken Kerr stated that he did not mean to imply that the tower could not be seen; typically, once the neighborhood gets used to them they are not noticed. Mr. Kerr is uncertain if this tower would be lighted. Mr. Kerr suggested that this item be continued so that Verizon Wireless could contact the neighborhood and hold a meeting along with a balloon test.

Lila O'Conner, Technical Engineer for Verizon Wireless, 555 Enterprise Drive, Edmond, Oklahoma 73013, said the proposed tower would be a 250-foot tower and visible; however, the site would be a clean site and the tower would fade as the galvanization weathers. Regarding health issues, the antennas meet standard guidelines.

Ken Kerr requested that the request be continued until the Board meeting of June 15, 2010.

Board Action:

On **MOTION** of **Charney**, the Board voted 5-0-0 (Tyndall, Walker, Charney, Osborne, Dillard "aye"; no "nays"; no "abstentions") to **CONTINUE** the Special Exception to permit a communications tower in the AG district (Section 310). The request of the applicant has been continued until the June 15, 2010 meeting of the Board.

LT 4 BLK 1, BLUE STEM ACRES II, Tulsa County, State of Oklahoma.

Chair Charney recused himself at 2:33 p.m., asking Vice Chair Walker to take the meeting. However, Mr. Charney did not leave the room or vote.

5. Case No. 2366

Action Requested:

A Use Variance to permit an existing landscape business in an AG district (Section 310) and a Variance of the paving material to permit gravel (Section 1340.D). Location: 13243 South Mingo Road East.

Presentation:

Wanda Clark, 16456 East 1st Place, Tulsa, Oklahoma 74108, the applicant, is requesting that AAA Landscape be allow to continue business in an AG district and for the paving material to permit gravel.

Comments and Questions:

Mr. Osborne asked if the applicant had been in business since 1999. Ms. Clark responded that the business was established out of "it's my land I can set-up shop." Originally, it was a 900-square-foot mini-mobile with three employees. Then last March a new building was added to the site, allowing for a larger office space. During the permitting process, it was called to her attention that this type of business was not allowed in an AG district. AAA was given a legal noncompliant notice with the agreement that they would operate legally; there was never any intent to operate illegally. Mr. Osborne asked what other physical structures were on the property. Ms. Clark responded that on the south corner is the original mini-mobile, which has been removed. Mr. Osborne responded that the aerial is not representative of what is currently on the land; therefore, the updated information will be used. Mr. Osborne asked if all of the buildings had been built without permits. Ms. Clark stated that there are three plastic covered greenhouses and on the northwest end of the parking is a work shed, and one white portable building for the storage of lawn equipment to keep them off the land and the area is fenced. Mr. Osborne asked if there are any residential structures on the property and if anyone lives on the property. Ms. Clark responded negatively; however there is a fifth wheel parked, which belongs to the owner and that is where it is parked when not in use. There is one residential house just to the south of the subject property and it is owned by the Sod Farm. The gravel is typical for the area because of mud and trucks; the gravel area is maintained. The subject property is located in a flood zone.

Mr. Dillard asked if the entire subject property was in a flood plain. Mr. West responded affirmatively. Mr. Dillard asked if the applicant wants to build permanent structures in that flood plan. Mr. West responded the applicant would have to meet the required two-foot of free board (i.e. BFE 631). Mr. Dillard asked if gravel is appropriate for the area. Mr. West stated that gravel is better for the area and gravel allows water to be absorbed into the ground where concrete will run off.

Mr. Osborne asked what it would take to have an area rezoned. Mr. Alberty responded an application and tested for the Comprehensive plan.

Mr. Alberty added one of the advantages of the use variances is that it does not change the zoning. The County has that option and the City used to under State legislation. It allows the use that is being considered to be specific. In order to grant a zoning that would accommodate this use it would allow a lot more uses by right. Typically, a landscape growing business involves retail. Mr. Alberty asked if the applicant sold retail. Ms. Clark responded just wholesale. Mr. Alberty suggested some of the typical uses that could be made of this property. This could be one of them.

Mr. Osborne stated that on a previous case similar to the one at hand, the Board decided that was not a proper use of the land. Mr. Osborne asked the Board why this case would be different from the previous case. Mr. Alberty responded that in that particular case the area was surrounded by residential areas.


Board Action:

On **MOTION** of **Osborne**, the Board voted 4-0-0 (Tyndall, Walker, Osborne, Dillard "aye"; no "nays"; no "abstentions") to **APPROVE** a Use Variance to permit an existing landscape business in an AG district (Section 310) and a Variance of the paving material to permit gravel (Section 1340.D) allowing an existing landscape business in an AG district as per plan submitted today given that the landscape business is located in a flood plain. The Board also finds that gravel is appropriate for the flood plain area.

PRT NW BEG NWC S/2 NW NW TH S425.6 E296 S80.6 E564.90 NW525.8 W711.7 POB SEC 7 17 14 8.6AC, Tulsa County, State of Oklahoma.

There being no further business, the meeting adjourned at 2:55 p.m.

Date approved: _____

5-18-2010

Chair