

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 365
Tuesday, October 19, 2010, 1:30 p.m.
County Commission Room
County Administration Building, Room 119
500 South Denver

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair
Osborne, Secretary
Tyndall
Walker, Vice Chair
Dillard

Alberty
Cuthbertson
Sparger

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13th day, October, 2010 at 4:53 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 1:32 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 5-0-0 (Charney, Dillard, Osborne, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of September 21, 2010 (No. 364).

NEW APPLICATIONS

Case No. 2385-Larry Christian

Action Requested:

Variance to permit a detached accessory building in the front and side yard (Section 420.2) of an RS zoned property. **Location:** 1415 North Maple Avenue

Presentation:

Larry Christian, 10017 East 46th Place, Tulsa, OK; he stated he has a sloping wooded area next to his house and he wants to be able to build a detached garage in that sloping area. The proposed garage cannot be located any closer to the existing house without going down the hill or incurring a prohibitive expenditure.

Interested Parties:

Todd Linser, 1509 North Maple Avenue, Tulsa, OK; he stated he has reviewed the Zoning Code and it states that a detached accessory building shall not be located in the front or side yard.

Mr. Linser stated there is a steep bank on the property where he proposes to build the detached accessory building but he does not see how the proposed building can be placed on the property in the proposed area without a lot of landfill. He would need to raise the bank up to give the structure enough room and support. To landfill would change the structure of the landscape of the neighborhood.

Mr. Charney asked Mr. Linser if he thought the proposed accessory building would be detrimental to the neighborhood, and if so why.

Mr. Linser stated the houses in the neighborhood have attached garages, and a detached accessory building would change the scope and architecture of the neighborhood. If this case were approved it would change the whole Zoning structure of the neighborhood and it would allow another person to request a Variance for a detached accessory building. If this Variance were approved the applicant would be taking out trees, changing the bank slope, and bringing in a lot of fill dirt so aesthetically the ground and the foundation the detached accessory building would be on would be detrimental to the neighborhood.

Comments and Questions:

Mr. Charney asked Mr. Christian to describe his anticipated landscaping change for the land where he chose to build the accessory building. Mr. Christian stated he selected the site because the west side of the garage would not require any more than an 18" elevation to get to the plate line while the other side would be approximately 3 ½ feet. Once the area was prepared properly, the building would sit there with only removing one to three trees. On the street side there could be plants placed and the building would look similar to the house.

Mr. Walker stated that if this application for a Variance were to be approved today, it would not open the door for everyone else to have detached buildings. The only way the Board could approve this application, or any application, is if there were conditions that warranted an exception to the rule.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Dillard, Osborne, Tyndall,

Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance to permit a detached accessory building in the front and side yard (Section 420.2) of an RS zoned property; the hardship for the Variance is the topography of the land. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and 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, or the Comprehensive Plan; with the condition that the accessory building conform to the architectural style of the principle dwelling and the building shall not be clearly visible from the street with landscaping being discretionary with the applicant; for the following property:

LT 6 BLK 2, NOTTINGHAM FOREST ESTATES

Case No. 2386-Wes Robbins

Action Requested:

Variance of the 30 ft. of street frontage required to permit dwellings in an AG district (Section 207). **Location:** 7952 North 71st Avenue East

Presentation:

Russell Peronti, 13410 East 90th Street North, Owasso, OK; he stated Mr. Robbins owns the property in question; there are two 10-acre lots of record. Mr. Peronti stated he would like to purchase the north ten acre tract from Mr. Robbins and build a home on that ten acre tract. All the properties around the ten acre tract are residential with a subdivision known as The Crossings just north of the ten acre tract he wants to purchase. Mr. Peronti stated he thinks the Board should grant his request for a Variance because of the location of the subject ten acre tract. There is not much use for the ten acres, considering there is a subdivision directly to the north and residences to the south and along 71st East Avenue which dead ends there. There is also a 4,100 sq. ft. home located at the dead-end on the south ten acres. There are three water meters provided by Rural Water District No. 3 on the combined 20-acre tract; there are two located on the south ten acre tract and one on the north ten acre tract; utilities, AEP-PSO electric and ONG gas, are there as well for both ten acre tracts. Mr. Robbins would also like to split the south ten acre tract in the future, into a 2.7 acre tract and 7.3 acre tract.

Mr. Osborne asked Mr. Cuthbertson if the Board could address the split of the southerly ten acre tract, because the Variance request only addresses the 30 ft. street frontage. Mr. Cuthbertson stated the property is large enough and if the southerly ten acre tract were to be split, the resulting lots could not be smaller than the Agricultural District allows. It is just the frontage at issue today. A person cannot receive a building permit for a dwelling. One can receive a permit for a barn but not for a dwelling in an AG

District without the 30 ft. frontage. Mr. Cuthbertson stated that right now the Variance in question applies to the 20-acre tract. He went on to say this Board could act on that relief to apply to the 20-acre tract without conditions or the Board could view this request in two parts, the north ten acres and the south ten acres.

Mr. Charney stated the Board needs to discuss whether they should allow a Variance to permit a tract to be divided into two, and whether a ten acre tract should be serviced by a private easement. Mr. Cuthbertson told the Board the south ten acre tract could be divided into a three acre tract and seven acre tract because it is zoned AG, the problem would then be that a permit could not be obtained for a dwelling because there is no frontage.

Mr. Peronti stated that he and Mr. Robbins have agreed in principle on certain restrictions, such as no mobile homes, so the property can stay consistent with surrounding area, and this will be finalized at an attorney's office.

Interested Parties:

Wes Robbins, 7952 North 71st East Avenue, Owasso, OK; he stated he bought the property with two abstracts and there was no easement in place when he purchased the property. On the south ten acre tract there are 2.8 acres that have been fenced off for seven years and that is the portion he would like to split on the south ten acre tract. That portion has road access.

Comments and Questions:

None.

Board Action:

On **MOTION of WALKER**, the Board voted 5-0-0 (Charney, Dillard, Osborne, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the 30 ft. of street frontage required to permit dwellings in an AG district (Section 207) with the hardship being no road frontage available and the street development will probably never happen because of the subdivision development blocking the end of the road. This approval will be subject to one dwelling on the north ten acre tract for a total of one dwelling maximum, and permit one dwelling to be added to the south ten acre tract for a total of two dwellings maximum; finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and 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, or the Comprehensive Plan; for the following property:

W/2 NE SW SEC 26 21 13 20ACS

NEW BUSINESS:

None.

OTHER BUSINESS:

None.

BOARD COMMENTS:

Mr. Alberty advised the Board that they have been appealed on the Avalon case. Mr. Cuthbertson stated Matney Ellis, attorney from the District Attorney's office, may file for a dismissal because he does not think the appeal was filed in a timely manner.

There being no further business, the meeting adjourned at 2:29 p.m.

Date approved: 11/16/10

David E. Chanley
Chair