

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 368  
Tuesday, January 18, 2011, 1:30 p.m.  
Aaronson Auditorium  
Tulsa Central Library  
400 Civic Center

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

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13<sup>th</sup> day, of January, 2011 at 10:52 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.

**Mr. Osborne not present for the beginning of the meeting at 1:30 P.M.**

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**MINUTES**

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Charney, Dillard, Tyndall, "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of November 16, 2010 (No. 366).

On **MOTION** of **TYNDALL**, the Board voted 3-0-0 (Charney, Dillard, Tyndall, "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of December 21, 2010 (No. 367).

**Mr. Osborne entered the meeting at 1:37 P.M.**

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**NEW APPLICATIONS**

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**Case No. 2391-Rick McClain**

**Action Requested:**

Variance of the required Land Area per Dwelling unit from 2.1 acres to permit a second dwelling (Section 330). **Location:** 4204 South Campbell Creek Road West

**Presentation:**

**Rick L. McClain**, 4204 South Campbell Creek Road West, Sand Springs, OK; stated he would like to be granted the requested variance to keep the two dwellings located on the land because the second party is his close friend and caretaker.

**Interested Parties:**

**Fredrick Stretch**, 21409 West Coyote Trail, Sand Springs, OK; stated he lives on the west side of Mr. McClain and is opposed to the addition of the second manufactured home. Mr. McClain has already moved a manufactured home onto the land and installed a septic system. When there is a lot of rain the land does not drain well and the septic system smells.

**Mike Jeffers**, 4741 South 221<sup>st</sup> West Avenue, Sand Springs, OK; stated he owned the land for two years and he is selling the land to his sister. Mr. Jeffers stated he installed the septic system and has never smelled the septic system. He supports Mr. McClain's request to have a second manufactured home on the land.

**Troy Thurman**, 21603 West Coyote Trail, Sand Springs, OK; stated he opposes the addition of the manufactured home. He owns the property east of Mr. McClain and eight other pieces of property in the surrounding area. Mr. Thurman stated he plans on building on the lot next to Mr. McClain and due to the perk test results he will need to build very near the second manufactured home, and that situation will make the housing look very crowded.

Mr. Charney stated it is not a question, of whether a manufactured home should be permitted in this area; it is a use permitted as a matter of right. The question is whether two dwelling units can exist on a lot of a specific size. That is all that is within the Board's jurisdiction today for determination.

**Katherine Spencer**, 3326 Campbell Creek Road, Sand Springs, OK; stated she supports the granting of the variance. Ms. Spencer stated Mr. McClain keeps his yard neat and manicured. She stated she works for the City of Tulsa and has access to Atlas pages, and everything is zoned AG. There are several manufactured homes placed about 100 yards apart on smaller lots between her property and Mr. McClain's property.

**Neal Cheever**, 21110 West Coyote Trail, Sand Springs, OK; stated he opposes Mr. McClain's request because adding a second manufactured home on the property will diminish the country setting. He has five acres of land and he bought in the country because it is country; he did not buy the land to have a lot of dwellings surrounding his land. There are restrictions dealing with the amount of dwellings allowed upon a specific piece of property and he wants to Board to uphold those restrictions.

**Darrel Wood**, 3303 South Campbell Creek Road, Sand Springs, OK; stated he opposes the addition of another manufactured home on Mr. McClain's property.

**Monty Weimur**, 4204 South Campbell Creek Road, Sand Springs, OK; stated he loves the country setting and that is why he is buying the property with Mr. McClain. He understands that people are upset because he and Mr. McClain did get ahead of the process. That is why he and Mr. McClain are here, to get everything corrected. Mr. Weimur stated that he thinks there is plenty of space between the two manufactured homes, unlike some of the surrounding lots. He wants this to be his retirement home and he wants the neighbors to be proud of their area, he wants the home to fit into the area and look good.

Mr. Stretch came forward for rebuttal to the presentation. He has lived in the area for 39 years and he is concerned about the septic system in heavy rains. He also believes by allowing a second manufactured home on the lot property values would depreciate.

**William Smith**, 3609 West 1<sup>st</sup> Street, Tulsa, OK; stated he supports Mr. McClain's request for a Variance. He has a similar situation that will be before the Board.

**Rebuttal:**

Mr. McClain stated that the manufactured homes are almost 50 feet apart, from corner to corner. The second manufactured home was set on the land so it would not block the traffic's view from the corner, and the septic system is the top of the line. No expense has been spared to set the manufactured home on the land properly, and all he wants is to be granted the Variance so everything will be proper.

Mr. Charney asked Mr. McClain if there was something peculiar to the land or a hardship to land. Mr. Charney stated the Board has to make a finding of that nature before a Variance can be granted. Mr. McClain provided that the area surrounding the lot is heavily wooded, and the lot itself is a beautiful piece of flat land.

Mr. Cuthbertson asked if the camper on the land was being resided in and Mr. McClain stated it used during the summer to go camping in.

**Comments and Questions:**

Mr. Charney stated there may be private restrictions in Hickory Ridge Estates Addition that prevent two dwelling units on a particular lot. That is a matter that the Board does not look at. It is a matter of a private contract between the lot owners and the original dedicator and it is up to the owners in the sub-division to determine whether or not there are violations on the restricted covenants of the land. The code says to have two dwellings on this property 4.2 acres of land area would be required. That is the standard rule. There are approximately 2.6 acres of lot area, and adding in the right-of-way, 3.06 acres might be attained. That is the focus of the Board, given that there is a lesser amount of land than required by the code in an AG district there is a Variance being sought. The Health Department is the department that would deal with the septic system issue; the comments regarding the septic system are appreciated but the Board does not want the audience to think a decision is being made based solely on a septic system that may or may not be working well. The Board's focus is to determine whether there is a hardship, something unusual or out of the ordinary about the land.

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Tyndall, "aye"; no "nays"; no "abstentions") to **DENY** the Variance of the required Land Area per Dwelling unit from 2.1 acres to permit a second dwelling (Section 330) based on the lack of a demonstrated hardship as required by the code; for the following property:

**LT 8 BLK 2, HICKORY RIDGE ESTATES ADDN OF TULSA COUNTY, OKLAHOMA**

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**Case No. 2392-Jimmie Carlile**

**Action Requested:**

Variance of the 30 ft. of frontage required on a public street to permit a dwelling in an AG district. (Section 207). **Location:** 20456 South Garnett Road

**Presentation:**

**Jimmie Carlile**, 20302 South Garnett, Bixby, OK; stated he lives on the five acres due north of the subject ten acres. The property is land-locked, which is the hardship and he would like to install a manufactured home on the property for family. In 1991, the Tulsa County Commission designated South Garnett from 201<sup>st</sup> to the property line, approximately a ¼ mile section line, as a public access road, but he has been obligated to maintain the ¼ mile.

Mr. Charney asked Mr. Carlile if South Garnett Road was on his property. Mr. Carlile stated the west edge of Garnett Road was on his property.

Mr. Charney stated that in the past it has been important to the Board that when a permitted dwelling does not have 30 feet of frontage, there is something of record, i.e., a granted easement. Here there is a statutory right-of-way but that is not an affirmative grant by the land owner to allow access to the subject property. Mr. Charney asked Mr. Carlile if the Board designated that if the 30 foot easement is important, would he be comfortable with the decision, and Mr. Carlile stated he would.

Mr. Charney asked Mr. Carlile if the Board made the decision to allow only one home on the ten-acre tract accessed by the private easement, could he abide by that decision and Mr. Carlile stated that he could and would abide by that decision.

Mr. Charney stated that if the Variance were to be granted the Board will require the land owner to execute a permanent non-exclusive perpetual easement along the easterly boundary, up to 30 feet in width that dead ends into the subject property.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Alberty stated that whatever is prepared for this case, it must meet the approval of the County Engineer, rather than the Board or staff trying to prescribe how a document might be prepared; if the motion could include whatever is prepared, it must be acceptable to the County Engineer.

**Board Action:**

On **MOTION of CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Tyndall, "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the 30 ft. of frontage required on a public street to permit a dwelling in an AG district (Section 207); the hardship being that the subject property is land locked; the variance is granted to accommodate access to the subject property, and it is conditioned upon an execution of an easement by the land owner that is acceptable in form by the County Engineer. In granting the variance there will not be an additional dwelling unit on the subject property; only one dwelling unit allowed; for the following property:

**NE SE NE SEC 18 16 14 10ACS OF TULSA COUNTY, OKLAHOMA**

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**Case No. 2393-William Smith**

**Action Requested:**

Special Exception to permit a manufactured home in the RS district (Section 410); a Variance of the side yard requirement in the RS district (Section 430); and a Variance to permit two dwellings on a lot of record (Section 208); all to permit a second manufactured home across the two RS-zoned lots. **Location:** 6517 North Quaker Avenue

**Presentation:**

**William Smith**, 3609 West 1<sup>st</sup> Street, Tulsa, OK; stated he is requesting a special exception and two variances to move a new manufactured home onto his grandparents' lot. By allowing this he will be able to take care of his grandparents and maintain the lot.

Mr. Charney asked Mr. Smith if there were other manufactured homes in the neighborhood and Mr. Smith stated there were some within two blocks of the subject property.

**Interested Parties:**

**Rita Lamkin**, Mayor of Catoosa and Attorney, 1205 North 154<sup>th</sup> East Avenue, Tulsa, OK; stated she represents Rita and John Phillips residing at 6501 North Quaker Avenue, Tulsa, OK. Ms. Lamkin stated that Mr. Smith does not own the subject property, that the property is owned by the Averys, who are the grandparents. There is a problem with the Smith's filing an application in their name on property they do not own. There is also a problem with the manufactured home sitting on the lot line, and this is an RS district, which makes the home an illegal non-conforming 1973 trailer as it is; her city code would not allow any enlargement or any increasing of the use.

Mr. Osborne asked Ms. Lamkin if Mr. and Mrs. Phillips resided at 6501 North Quaker Avenue, and Ms. Lamkin stated they did. Mr. Osborne asked Ms. Lamkin if the land located at 6501 was a combination of two lots, and Ms. Lamkin stated it was. Mr. Osborne asked what the buildings were on the lot and if they crossed over the lot line.

**John Phillips**, 6501 North Quaker Avenue, Tulsa, OK; came forward and stated there was a home with a little garage located on one lot and a larger garage is located on the other lot.

**Marlena Burcher**, 1301 North Irvington, Tulsa, OK; stated she is the daughter of the Averys and it is her daughter who is inheriting the subject property.

**Comments and Questions:**

Mr. Charney stated there is one issue regarding a special exception, where the Board has to determine if the request would be injurious to the neighborhood. The next issue is an orientation issue of the mobile homes. There would be no variance needed, no hardship needed, if the mobile homes were oriented in an east-west direction instead of the north-south direction they are currently proposed.

Mr. Charney stated it is not uncommon that those who are in the process of acquiring, purchasing, or inheriting from relatives to actually be the named applicant. As long as the Board feels they have the consent of the party who owns the subject property, that is the extent of the inquiry. Mr. Alberty confirmed this statement for Mr. Charney. Mr. Charney asked Mr. Smith if the landowner was present, and he stated he was. Mr.

Charney asked if the landowner concurred with the application being made, and the landowner nodded a confirmation.

Mr. Charney asked staff if the variances being sought were only being sought because of the common boundary between the two lots. Mr. Cuthbertson stated the variance for the side yard is because of the common boundary, and the variance to permit two dwellings is because each of them will extend over both properties.

Mr. Charney stated to the audience that it is the Board's responsibility to focus on a different type of hardship, not a financial hardship. A hardship is something that is unique or of peculiar nature to the land.

**Board Action:**

On **MOTION of OSBORNE**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Tyndall, "aye"; no "nays"; no "abstentions") to **APPROVE** the special exception to permit a manufactured home in the RS district (Section 410); in this particular case, an individual manufactured home could be placed on Lot 8 and a manufactured home could be placed on Lot 9 with the additional requirements of the manufactured homes are to be tied down and appropriately skirted and all parking surfaces are to be paved; 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 **MOTION of CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Tyndall, "aye"; no "nays"; no "abstentions") to **DENY** a variance to permit two dwellings on a lot of record (Section 208) by virtue of the new home being added, based on no stated hardship that is peculiar to the land.

On **MOTION of CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Tyndall, "aye"; no "nays"; no "abstentions") to **DENY** a variance of the side yard requirement in the RS district (Section 430); to permit a second manufactured home across the two RS zoned lots given that there is no hardship demonstrated thus becoming a non-issue caused by the previous denial to permit two dwellings on a lot of record; all for the following property:

**LT 8 BLK 14, LT 9 BLK 14, GOLDEN HILL SECOND ADDN IN TULSA COUNTY, OKLAHOMA**

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**Case No. BOA-9235-A-Calvin Peck**

**Action Requested:**

Amendment to a previously approved site plan for a church in the R district to permit an existing detached building. **Location:** 6520 North Utica Avenue

**Presentation:**

Calvin Peck, P. O. Box 624, Bristow, OK; stated he is a sales associate with Keller-Williams representing the seller. This request is to update a special exception that was granted in October 1976. The warehouse was built in approximately 1977. The subject property is under contract and the buyer's mortgager requires the special exception be updated to include the warehouse immediately west of the church building.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Tyndall, "aye"; no "nays"; no "abstentions") to **APPROVE** the Amendment to a previously approved site plan for a church in the R district to permit an existing detached building; finding the amendment to 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; for the following property:

**BEG 815N SECR GOV LT 3 TH W248.70 TO PT ON EL PHILLIPS FARMS ADDN N273.20 E200 N217.8 TO NL GOV LT 3 E TO PT ON NEC LT 3 S491 POB LESS N50 & E25 THEREOF FOR RD SEC 6 20 13 IN TULSA COUNTY, OKLAHOMA**

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**NEW BUSINESS:**

None.

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**OTHER BUSINESS:**

None.

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**BOARD COMMENTS:**

None.

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There being no further business, the meeting adjourned at 3:14 p.m.

Date approved: MAR 15, 2011

  
Chair