

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 372
Tuesday, May 17, 2011, 1:30 p.m.
Aaronson Auditorium
Tulsa Central Library
400 Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 11th day, of May, 2011 at 4:40 p.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Walker 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 **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of April 19, 2011 (No. 371).

NEW APPLICATIONS

Case No. 2396—Bryon Skinner

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 301); and a Variance of the paving requirement for a temporary parking area (Section 1340.D).

Location: 12949 South Elwood Avenue

Presentation:

Bryon Skinner, 815 Terrace Drive, Sand Springs, OK; stated the fireworks stand will be placed on his mother's property. The fireworks stand has been operated at this location since 2004. Mr. West, of Tulsa County, told Mr. Skinner in 2009 that the fireworks had to be preapproved to be able to operate. In 2010 Mr. Skinner said he did not hear from Mr. West and operated the fireworks stand without approval. He is before the Board today to request approval to be able to open the fireworks stand for the 2011 season.

Mr. Walker noted that Mr. Skinner was asking for a temporary parking area to be approved for the fireworks stand, and he asked Mr. Skinner if the gravel area already existed for the proposed parking. Mr. Skinner stated the gravel had been installed in 2009 because a few cars had been stuck in the grass.

Mr. Osborne asked Mr. Skinner how long he had operated the fireworks stand at this location and Mr. Skinner stated that he had started this stand in 2004. He had another stand located at 308 North 209th West Avenue that has been approved for several years; he took over this stand from a mutual friend who no longer wanted to work the fireworks stand. Mr. Skinner stated that he was not aware the stand had to be approved when he started in 2004. Mr. Skinner stated that Mr. West was answering another complaint from the area when he stopped by the fireworks stand on July 1, 2009, in the late afternoon, to inquire about the permit for the stand and he told Mr. West he did not have a permit but he did not hear back from Mr. West either. In 2010 he called Mr. West to inquire about a permit and did not receive a call back from Mr. West so he opened the fireworks stand for the 2010 season. Mr. Skinner stated he had tried to contact Mr. West earlier this year but was unable to do so; therefore, he started the process to come before the Board of Adjustment to seek approval.

Mr. Osborne asked Mr. Skinner how he thought his fireworks stand had been approved to operate. Mr. Skinner stated that he did not know that the fireworks stand had to be approved for operation until 2009. In 2010 Mr. Skinner stated he had called Tulsa County to see if the stand had been approved and no one he spoke to could tell him if the fireworks stand had been approved. Mr. Osborne again asked Mr. Skinner how he thought he had received approval if he had never requested approval. Mr. Skinner stated he did not and did not think anything about the situation any further.

Interested Parties:

James Creekmore, 12900 South Elwood Avenue, Jenks, OK; stated he lives one block north and across the street from the fireworks stand. He opposes the fireworks stand because it is a nuisance. Mr. Creekmore stated there are times he cannot get out of his driveway because of the traffic. Fireworks start popping as soon as the stand opens in the morning and they continue until late at night and well past the Fourth of July.

Mr. Cuthbertson asked Mr. Creekmore if the public was popping the fire crackers or if the fireworks stand operators were popping the fire crackers. Mr. Creekmore stated it

had to be the operators of the stand because there were no cars near or at the stand yet the fire crackers are still popping.

Mr. Walker informed Mr. Creekmore that fire crackers were not allowed to be set off within 500 feet of the fireworks stand.

Jack Lierly, 12916 South Elwood, Jenks, OK; stated he lives directly across the street from the fireworks stand. He opposes the fireworks stand. Fireworks are popped right in front of the stand and past eleven o'clock at night, particularly on the 4th of July. Mr. Lierly stated his concern is a safety issue, especially when the firecrackers are set off in front of the stand. Mrs. Skinner told him last year that it would be the last year for the fireworks stand; there was one portable stand and two permanent stand-alone stands that someone came in and tore down. The stand-alone stands were on the property for two or three years and never moved so they were eyesores. In the past Mr. Lierly stated he had to ask the Skinners to come clean up the fireworks debris from his side of the road and out of his pasture. The pasture is cut for hay and he is concerned that with fireworks being shot off next to the pasture, there could be a fire started causing the pasture and his house to catch fire.

Rebuttal:

Mr. Skinner stated that on the Fourth of July fireworks are usually set off at the stand, and they are shot off after the stands are closed. He proposes to widen the gates to allow a better flow of traffic to the stand. As far as the issue with the fireworks, he cannot control the popping of fireworks once the customer leaves the stand area.

Mr. Osborne asked Mr. Skinner the proximity of the fireworks he pops off to the location of the fireworks stand. Mr. Skinner stated he is typically 250 feet from the fireworks stand.

Comments and Questions:

Mr. Walker asked Mr. West about the condition of the facility, and Mr. West stated in 2009 the facility was typical of firework stands. Mr. West stated that Mr. Skinner had filed the necessary paperwork in 2010 but did not follow through with taking the application before the Board. Mr. West stated it was an error on his office's part by not following through with an inspection of Mr. Skinner's stand but there are so many stands during the fireworks season that occasionally a few are missed.

Mr. Osborne stated that it is the Board's obligation to adhere to the code and if a special exception is to be granted the request is not to be injurious to the neighborhood or detrimental to the public welfare. He is concerned that Mr. Skinner did not do the things he was required to do to operate a fireworks stand, especially after he found a permit was required. Also, in operating the stand, shooting off fireworks within 500 feet of the stand is a clear violation of the existing ordinance. It appears there is a lack of control, thus causing this stand to be injurious to the neighbors and the neighborhood and detrimental to the public welfare. Mr. Osborne stated he could not support the approval of this request.

Mr. Dillard stated that he does not have a problem with the location of the stand but he does have a problem with the fireworks being set off within 500 feet of the fireworks stand. Mr. Dillard stated he could not support the approval of this request.

Mr. Walker stated he could not support the approval of this request because of disregard for the rules and regulations of the use of fireworks.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Walker “aye”; no “nays”; no “abstentions”) to **DENY** the Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 301); and **DENY** a Variance of the paving requirement for a temporary parking area (Section 1340.D), finding the Special Exception would not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood and otherwise detrimental to the public welfare; for the following property:

W330 S/2 N/2 SW SW SEC 1 17 12 2.50ACS, OF TULSA COUNTY, OKLAHOMA

2398—TNT Fireworks

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 301); and a Variance of the paving requirement for a temporary parking area (Section 1340.D). **LOCATION:** SW/c of East 101st Street and South 193rd East Avenue

Presentation:

Lonnie Basse, 5401 West Skelly Drive, Tulsa, OK; stated he represents TNT Fireworks and is asking the Board’s approval of a Special Exception and a Variance in an AG district. There will be two entrances/exits to the area for the public to use. The selling season for the fireworks stand will be June 15th and no later than July 6th, with the hours of 8:00 A.M. to 10:00 P.M. except for July 3rd and 4th, then the operating hours requested are 8:00 A.M. to 12:00 Midnight.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Walker “aye”; no “nays”; no “abstentions”) to **APPROVE** the Special Exception to permit a fireworks

stand (Use Unit 2) in an AG district (Section 301); and a Variance of the paving requirement for a temporary parking area (Section 1340.D). 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, subject to the selling season to be from June 15th through July 6th with operating hours to be from 8:00 A.M. to 10:00 P.M. for June 15th through July 2nd; operating hours for July 3rd and 4th to be 8:00 A.M. to 12:00 Midnight. A time limitation for the fireworks stand is to be five years. Gravel is to be placed in front of the fireworks stand and the property is to have two entrances/exits with a gravel driveway; for the following property:

**NE & N/2 SE LESS BEG 400S NEC NE TH S3570.62 W55 N1328.15 E5 N2242.47
E50 TO POB SEC 25 18 14 235.747ACS, OF TULSA COUNTY, OKLAHOMA**

2150-A—Midwest Agape Chapel

Action Requested:

Amendment to a previously approved site plan for a day care center accessory to a church use of the property. **LOCATION:** 5161 East 171st Street South

Presentation:

Rick Oberlender, 10007 South 67th East Place, Tulsa, OK; stated the church wants to build a 15 feet by 30 feet addition on the back of the building for a daycare center to accommodate the children. He added that he is submitting a site plan today that shows future additions to the childcare center building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Walker “aye”; no “nays”; no “abstentions”) to **APPROVE** the Amendment to a previously approved site plan for a daycare center accessory to a church use of the property as submitted today; for the following property:

**LT 1 BLK 1, RESERVE A, RESERVE B, MIDWEST AGAPE CHAPEL ADDN PRT
RESUB QUAD CENTER, OF TULSA COUNTY, OKLAHOMA**

NEW BUSINESS:

None.

OTHER BUSINESS:

None.

BOARD COMMENTS:

None.

There being no further business, the meeting adjourned at 2:04 p.m.

Date approved: 6/21/11
David E. Army
Chair