

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 397
Tuesday, June 18, 2013, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
County Commission Room, Room 119
500 South Denver

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Dillard	Charney, Chair	Miller	West, Co. Inspector
Draper	Walker, Vice Chair	Bates	
Osborne, Secretary		Sparger	

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13th day of June, 2013 at 8:25 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Secretary Osborne called the meeting to order at 1:30 p.m.

MINUTES

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Draper, Osborne "aye"; no "nays"; no "abstentions"; Charney, Walker "absent") to **APPROVE** the Minutes of May 21, 2013 (No. 396).

Mr. Osborne explained to the applicants that there were only three board members present at this meeting, and if an applicant would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from all three board members to constitute a majority and if one board member voted no today the application would be denied. Mr. Osborne asked the applicants if they understood and asked the applicants what they would like to do. The applicants stated that they would like to proceed with the hearing today.

UNFINISHED BUSINESS

NEW APPLICATIONS

Case No. 2465—Robert Zielazinski

Action Requested:

Variance to allow a detached accessory building in the side yard in an RE District (Section 420.2.A.2). **Location:** 9924 North Harvard Avenue East

Presentation:

Robert Zielazinski, 9924 North Harvard Avenue, Sperry, OK; stated he wants to install a detached garage, which will be a metal skinned pole barn, on his side lot. He has visited with his neighbors and they all signed a letter stating that they have no problem with the proposed garage. The reason he chose the side yard is because it is convenient to the house. Also, if the garage were installed in the backyard it would interfere with his septic tank leach field lines.

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, Draper, Osborne “aye”; no “nays”; no “abstentions”; Charney, Walker “absent”) to **APPROVE** the request for a Variance to allow a detached accessory building in the side yard in an RE District (Section 420.2.A.2) with the hardship being that the applicants septic tank leach lines are in the backyard not allowing the garage to be built in the backyard; for the following property:

S 238.34 N 715 E 475.2 OF NE SE SEC 17-21-13 LESS N25 2.33 AC., OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2466—Huey W. Bryant

Action Requested:

Variance to allow 2nd dwelling unit on 1 lot of record (Setion 208); Special Exception to allow Mobile Home dwelling in an RS District (Section 410, Table 1). **Location:** 5712 South 97th Avenue West

Presentation:

Huey Bryant, 5712 South 97th West Avenue, Sand Springs, OK; stated his mother is 80 years old and is living by herself, and has reached the point of needing someone to stay with her so he wants to install a mobile home behind his house. His house sits on two acres.

Mr. Osborne asked if there would be a driveway to access the mobile home and Mr. Bryant stated there would be.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DRAPER**, the Board voted 3-0-0 (Dillard, Draper, Osborne “aye”; no “nays”; no “abstentions”; Charney, Walker “absent”) to **APPROVE** the request for a Variance to allow 2nd dwelling unit on 1 lot of record (Setion 208); Special Exception to allow Mobile Home dwelling in an RS District (Section 410, Table 1). This approval will require that the mobile home have the tie downs and skirting that are required, and will meet all DEQ requirements. The parking for the mobile home will be concrete or asphalt; for the following property:

LT 1 BLK 3, HILL TOP ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2468—Zach & Taylor Carpenter

Action Requested:

A Use Variance to allow a Single Family Home (Use Unit 6) in an IM District (Section 910). **Location:** 1818 West 21st Street South

Presentation:

Zach Carpenter, 480 West Fairview Street, Tulsa and **Taylor Carpenter**, 4505 West 35th Street North, Tulsa, OK; Zach Carpenter stated that he is interested in the property for personal use as a single family residence for himself. He is attracted to the property for it’s historical value. He estimates the house located on the property to be built in the early 1900s. The house is all old masonry and in decent condition, especially since it is

possibly over 100 years old. Taylor Carpenter stated that he and his brother want to purchase the old two-story home from Baker-Hughes and restore the property. There are several buildings on the property which they would demolish but they want to keep the old shop/warehouse building and the house. The demolition of all the buildings would probably cost more than the price of the land. He and his brother want to purchase 2.7 acres off of the southeast corner of the six plus acreage which faces 23rd Street and Union. This house is less than a mile from an elementary school and single family residences.

Mr. Osborne asked the Carpenters how soon after the purchase would they start the demolition of the buildings that they did not want to save. Zach Taylor stated that it would not be immediately because they would first want to secure the property. The house has not been occupied for over 30 years and all of the windows have been knocked out. Currently there are homeless people living in the buildings. Zach Taylor stated that he and his brother are both engineers and have looked at the buildings. Zach Taylor stated that he would be the one to live in the house on the land.

Mr. Dillard asked what the time frame was for having the house livable. They have discussed a time line but for now they want to secure the land, house and buildings so tools can be brought onto and stored on the property for the rehab. Also the time line depends on the Carpenter's financial means.

Mr. Draper asked the Carpenters if they are under negotiations with the current owner. The Carpenters stated that Baker-Petrolite is the current owner and they have been in discussion with them. Zach Carpenter stated that the property is not platted and it is not in the city limits of Tulsa, so the land will be surveyed and split off from the larger acreage. They have contacted the utility companies and there is a way that can be worked out so the subject property can have all the utilities tied in.

Mr. Brad Bates informed the Board that the applicants will need to obtain a lot split from the County for the property.

Mr. Draper asked the Carpenters if they were willing to obtain a lot split for the subject property, and both stated that they were willing to do so.

Interested Parties:

Jim Bost, 2119 South Union Avenue, Tulsa, OK; stated his business is just east of the subject property and across the street. There are a lot of transients and homeless in the area. He has tried to convince the present owners, as late as last week, to clean up the property because they have a building on the property that the owner's operate out of. He would be afraid to have a home in the area, even with a gun and a dog because of the high crime. He has been in the old house located on the property and he would be surprised if it could be made livable.

Mr. Draper asked Mr Bost if he was opposed to the Board approving the applicant's request to refurbish the house structure.

Mr. Bost stated he is objecting to the change of the classification which would enable the Carpenters to do what they are proposing. The objection has nothing to do with the Carpenters but the whole area is a heavy, heavy industrial usage area.

Mr. Osborne stated that Mr. Bost may think this is not a wise project for the Carpenters to tackle, but the Board must look at the application from purely a zoning perspective.

Mr. Bates stated that this request is not for a zoning change. Mr. Osborne nodded and stated that the request is for a use variance. Mr. Dillard stated this request is to revert the subject property back to what it once was. Mr. Osborne asked staff if they knew when the subject property had been rezoned to IM. Mr. Bates stated that he was not sure when the property was zoned IM. But the staff case report states that any time a non-conforming use remains vacant, or under utilized, for more than three years it loses it's non-conformity.

Rebuttal:

Zach and Taylor Carpenter both came forward. They just want to clean up the property and have a prestiges property with an older home and old brick buildings with historical value. It is not economical for them to even attempt this type and size project if they cannot live on the site. They have a contract with Baker-Hughes on the property if they can be approved for the Use Variance.

Mr. Dillard stated this commercial property is an eyesore, and it will continue to be an eyesore, and for him to support the approval of this request he wants to know a timeline of the project, a timeline that can be lived by. The Carpenters stated that they do not want to commit to a timeline that will make them liable, but if given approval they will start the clean-up process immediately. Mr. Dillard asked the Carpenters what improvements were they going to start and when, because he does consider mowing the lawn an improvement. The Carpenters stated that they would start with securing the property and boarding up all the broken windows. Mr. Dillard asked them to state their time frame goal for the property, so he can be convinced this is going to be a good project with Board approval. Zach Carpenter stated that he and his brother have experience with property such as the subject property, because have taken a piece of property similar to the subject property and rehabbed the entire property in less than a year. Taylor Carpenter stated that the goal is to clean up all the over growth, repair the fence and secure the property with an electric gate, have all the utilities turned on, and secure the structures to the point that they feel comfortable leaving tools and equipment on the site. The goal is one year to secure the property and make the outside appearance presentable.

Mr. Draper asked the Carpenters where the fence that they are going to repair is currently located. Taylor Carpenter stated the entire six plus acres is fenced with a six foot chain link fence that has three strands of barbed wire at the top and it is in disrepair. They are going to cross fence the 2.7 acres they are going to purchase and

install an electric gate at the point where there is an old road that will be a future driveway to the house.

Mr. Draper asked Mr. West if there was any criteria for the proposed fencing and if there were any screening requirements for the subject property. Mr. West stated the zoning is not changing therefore screening will not be an issue, but if the zoning were to change it would require screening between the residence and the industrial portion of the property. Taylor Carpenter stated their plan is to erect and maintain the same type and style fencing as is currently on the property.

Mr. Osborne asked Mr. West if there is a time frame that must be stipulated in this case if it is approved by the Board. Mr. West stated it is required the applicant act upon their approved request within 36 months. Mr. Draper asked if that meant the applicant only need board up the windows or must they occupy the property within the 36 months. Taylor Carpenter stated that they have not even purchased the property as of yet because Baker-Hughes wants to know they received approval for the Use Variance before proceeding with negotiations. Baker-Hughes is a large company and there are several departments that this purchase contract must pass through before it can be finalized, and their time line could be six months, a year or longer. The Carpenters have already been in discussion with them for more than six months. Mr. West stated that a variance approval goes with the land unless the Board places conditions upon the approval.

Mr. Bates stated that approval for the Use Variance would go to the property owner. The application was for the entire six plus acres the Use Variance, if approved, would allow for a single family dwelling be anywhere on the six acres.

Mr. Draper asked what would happen to the Use Variance if the applicants were not able to act upon the subject property before the 36 month period ends. Mr. West stated that if the applicant were not able to act upon the approval before June 18, 2016 the approval would go away, and they must appear before the Board again with another request.

Mr. Draper asked for staff's interpretation of acting upon the variance? Mr. West stated that normally once some type of permit is issued for construction or the remodeling of the premises. Permits remain open for a year unless the applicant can bring in a letter requesting an extension explaining unforeseen hinderances for continuation of the site.

Zach Taylor stated that this entire process is contingent on Baker-Hughes because they are not going to allow anything to happen that will be, or could be, a liability to them. If there should be an environmental problem the Carpenters would make sure Baker-Hughes takes care of it before the purchase because they do not want to buy anything that poses a hazard or liability to them.

Mr. Bost came forward to ask the Board a question. Mr. Bost wanted to know what prevents the owners from building more than one home on the land? The Use Variance approval would be limited to the 2.7 acres and the existing structure on the land.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Draper, Osborne “aye”; no “nays”; no “abstentions”; Charney, Walker “absent”) to **APPROVE** the request for a **Use Variance** to allow a Single Family Home (Use Unit 6) in an IM District (Section 910). The Board finds the hardship to be that the house is in disrepair and has historical value. This approval is for the southeast portion of the subject property, which is 2.7 acres, and restricted to the existing single-family structure only; for the following property:

A part of the NE/4 of Section 15, Township 19 North, Range 12 East in Tulsa County. Beginning 270 feet South and 24.75 feet West from the NE corner of said NE/4, thence West a distance of 288 feet to a point, thence South a distance of 360.74 feet to a point, thence South 58 Degrees 01' 16" East a distance of 23.44 feet to a point, thence South 71 Degrees 52' 44" East a distance of 282.10 feet to a point, thence North 460.90 feet to the point of beginning, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2469—Cheryl Vann

Action Requested:

Special Exception to allow a drive in restaurant (Use Unit 18) in an IM District (Section 910, Table 1); Variance of the requirement for an all-weather material parking surface for 3 years (Section 1340.D). **Location:** 3217 West 21st Street South

Presentation:

Cheryl Vann, 4805 South McKinley Avenue, Sand Springs, OK; stated she purchased the property at the first of the year, and the existing structure used to be a gas station. The pumps and tanks have been removed from underground. Testing monitors have been installed on the subject property for seepage from the previous tanks and the wells. These testing monitors are why she is asking for Variance on parking surface. The property has been vacant for over 17 years, and she has gutted and cleaned up the structure and property. She proposes to use the existing structure and has new electrical wiring, plumbing and gas lines installed. She will have a new roof installed and will be painting the structure. Her establishment would not be an eat-in establishment but a walk-up with a drive-thru restaurant. She would like to have the hours of 6:00 A.M. to 3:00 P.M., Monday through Friday.

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, Draper, Osborne “aye”; no “nays”; no “abstentions”; Charney, Walker “absent”) to **APPROVE** the request for a **Special Exception** to allow a drive in restaurant (Use Unit 18) in an IM District (Section 910, Table 1); **Variance** of the requirement for an all-weather material parking surface for 3 years (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. Also, 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:

BEG SWC SW SW TH N150 E170.75 S150 W170.75 TO BEG LESS W24.75 & S50 FOR RD SEC 10 19 12, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2470—Mike Ballew

Action Requested:

Special Exception to allow a Church (Use Unit 5) in an RM-2 District (Section 410, Table 1); **Variance** of the all weather surface parking requirement (Section 1340.D).

Location: 7330 West 16th Street South

Presentation:

Mike Ballew, 5808 South 70th West Avenue, Tulsa, OK; stated he would like to use an old modular class room as a church, and wants the church to be an asset to the community. The subject property is currently fenced and the existing house is being used for church meetings. The existing house would become the parsonage if the application is approved today. The subject property is currently fenced. There are no traffic issues in the area. The subject property is sandy loam so there is no mud issues for the parking area, and would park approximately 25 to 30 cars on the area. A hard surface for the parking would be installed as church finances allow. The church has purchased the property to the east of the subject property. The church would like to be allowed to keep the existing barn for their use.

Mr. Bates informed the Board the existing barn is currently on the property illegally because it is not an accessory building to anything. It is currently considered the principal building of the lot and that is not allowed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DRAPER**, the Board voted 3-0-0 (Dillard, Draper, Osborne “aye”; no “nays”; no “abstentions”; Charney, Walker “absent”) to **APPROVE** the request for a Special Exception to allow a Church (Use Unit 5) in an RM-2 District (Section 410, Table 1); Variance of the all weather surface parking requirement (Section 1340.D). This approval is subject to a concrete or asphalt surface for parking be installed no later than three years from today’s date of June 18, 2013, or the applicant will be required to come back before the Board of Adjustment for an extension of the parking requirement. There is to be no parking in the required front yard. There is to be no other single-family dwelling on the property. 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. 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; for the following property:

W72 N200 TR 18 LT 6, BILLINGTON'S ACRE TRACTS, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 3:03 p.m.

Date approved: 8/20/13

David E. Cheney
Chair