

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 399
Tuesday, August 20, 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

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 15th day of August, 2013 at 9:19 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.

MINUTES

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Charney, Dillard, Draper "aye"; no "nays"; no "abstentions"; Osborne, Walker "absent") to **APPROVE** the Minutes of June 18, 2013 (No. 397).

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Charney, Dillard, Draper "aye"; no "nays"; no "abstentions"; Osborne, Walker "absent") to **APPROVE** the Minutes of July 16, 2013 (No. 398).

Mr. Charney 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. Charney 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.

Mr. Bates read the rules and procedures for the County Board of Adjustment Public Hearing.

UNFINISHED BUSINESS

Case No. 2454—Randy Frailey

Action Requested:

Use Variance to allow Use Unit 27 in an IL District to Permit a Salvage Yard (Section 910). **LOCATION:** 6702 North Peoria Avenue East, 6750 North Peoria Avenue East

Presentation:

Randy Frailey, 6750 North Peoria, Tulsa, OK; stated he has installed a fence and planted a few trees around the property for screening purposes especially along the walking trail. He has painted all the buildings so they now match in color and look similar. He has acquired a street sweeper and now sweeps the street in front of his property and the hard surfaces inside the salvage yard to help eliminate the dust problem. He has installed a computer system for his business because at the last meeting it was discussed that there were possible stolen items passing through his business. With the computer system he can identify the incoming materials, every transaction, and customer. He has also poured concrete in front of the building. He has also installed large concrete brick walls to form a containment area for the storage of materials so the materials can be easily scooped up for transport and they will not spill over into other areas of the salvage yard.

Mr. Charney asked Mr. Frailey if the rezoning action for his property was still pending. Mr. Frailey stated the action is still pending, because he was advised to receive his approval from the Board of Adjustment first.

Mr. Charney asked Mr. Frailey if he had complied with the Board's request from the last meeting, i.e., the cleaning up the property among other things. Mr. Frailey stated that he thought he had accomplished all the Board's requests from the previous meeting.

Mr. Charney asked Mr. Frailey where he had the posts placed for his fence. Mr. Frailey stated the posts were on the inside of the yard giving the fence a smooth appearance on the public side.

Mr. Charney asked Mr. Frailey if there had been any more neighborhood meetings that he had participated in. Mr. Frailey stated that he did not know of any more neighborhood meetings.

Mr. Charney asked Mr. Frailey how long he had been the owner of the subject property. Mr. Frailey stated he has owned the property for approximately 12 years and has operated the subject business in the same capacity through the 12 years.

Mr. Charney asked Mr. Frailey if there was any portion of his business that is encroaching over onto the RS lot. Mr. Frailey stated that as far as the operations are concerned no, but there are materials stored on the RS lot.

Mr. Charney asked Mr. Frailey if the fence that has been built encompasses the RS lot. Mr. Frailey answered affirmatively.

Interested Parties:

Jeff Kirkham, 1727 East 73rd Street North, Tulsa, OK; stated he was at the last Board of Adjustment meeting for this case, and his frustrations with the subject property started in 1980. Now Commissioner Smaligo has stepped in to help the citizens of Turley, and Mr. Frailey has put forth a great effort to clean up his salvage yard. Mr. Kirkham thinks Mr. Frailey has lived up to the requests of the Board. The citizens of Turley will be watching this business and he would request the Board review this case in two or five years.

Commissioner John Smaligo, 633 North Denver Avenue, Tulsa, OK; stated he and Mr. Kirkham walked along the bike trail at the rear of the subject property, and drove by the front of the property a couple of times to look at everything. There is a small area of debris that still needs to be cleaned up, and an old chain link fence that needs to be removed. He does like the trees that have been planted and the fence that has been installed because it does block the view of the operation. The enormous piles of debris, metal and other objects have been brought down and can no longer be seen above the fence. Matter of fact about the only thing visible above the fence are the cranes used in the operation of the business. He has even been a customer of Mr. Frailey's because he had a hot water tank that he needed to dispose of and the staff copied his driver license and entered the information into the computer system. Commissioner Smaligo is very impressed with the progress Mr. Frailey has made and he supports Mr. Kirkham's request to have a review of the business in two or five years from the Board of Adjustment.

Rebuttal:

Mr. Frailey came forward for questions from the Board.

Mr. Charney asked Mr. Frailey to tell the Board the hours of operation for his business. Mr. Frailey stated they are 8:00 A.M. to 5:00 P.M., Monday through Friday and 8:00 A.M. to 2:00 P.M. on Saturday. Mr. Charney asked if there was any crushing activity or operations late at night. Mr. Frailey stated there is none.

Mr. Charney asked if Mr. Frailey would object to a review of his business by the Board of Adjustment in the future. Mr. Frailey stated that he would not have a problem with that because he plans on staying in business at the subject location.

Mr. Dillard asked Mr. Frailey how many employees he has helping in his business. Mr. Frailey stated there are approximately 30 employees that work at the subject location. He has several contract laborers that perform outside work for him. Mr. Dillard asked Mr. Frailey what he estimated his annual payroll to be. Mr. Frailey stated that it is approximately \$200,000.

Mr. Draper asked Mr. Frailey if the property was operating as a recycling facility when he purchased the property. Mr. Frailey answered affirmatively, but that it was more for scrap cars and items of that nature.

Mr. Dillard asked Mr. Frailey to explain what he had to alleviate the traffic problems that were in front of his business. Mr. Frailey stated that he has people that direct the traffic when it is needed because there are still a few people who will not yield.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Draper "aye"; no "nays"; no "abstentions"; Osborne, Walker "absent") to **APPROVE** the request for a **Use Variance** to allow Use Unit 27 in an IL District to Permit a Salvage Yard (Section 910). The hardship is the unique nature of the business that has been operating on the subject property for many, many years. The property owner is to return in five years to the August 2018 County Board of Adjustment meeting for a review. The applicant is to pay an agenda fee and costs related to newspaper legal notification and notice mailing for the 2018 meeting. The hours of operation are to be daylight hours or normal customary business hours with no night time activity. The applicant is to continue operating the subject business in a neighborhood friendly manner and continue to keep the site as clean as possible given the nature of the business; for the following property:

S/3 E/2 NE SE SE LESS S15 THEREOF FOR ST & LESS BEG SEC E/2 NE SE SE TH W72 NELY ON CRV LF220 TO NL S/3 E/2 NE SE SE TH E52 TO EL SEC TH S219.9 POB SEC 36 21 12 1.240ACS & BG.50'W.NE COR SE SE TH W. 481'SWLY 445'E.545'NLY 440'TO BG. SEC.36-21-12, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2471—Steve Fisher

Action Requested:

Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 square feet to 1,800 square feet (Section 240.2.E).

LOCATION: 798 North Willow Road West (Sand Springs)

Presentation:

Steve Fisher, 2014 Archdale Drive, Broken Arrow, OK; stated he is building a small house on the subject property. The land, which four acres, has been in the family since 1942. The proposed out building sounds large but 15 feet of the concrete pad the building is to sit on will actually be a porch. The proposed building will actually be a family party barn.

Mr. Charney asked Mr. Fisher if there were any proposed bedrooms or bathrooms in the barn. Mr. Fisher stated there will be a restroom in the barn. The family is quite large and there will be a need for a restroom when they are all there.

Mr. Charney asked Mr. Fisher if he planned to heat or cool the barn. Mr. Fisher stated he intended to have something in the barn to make the facility comfortable, and he does not want the water pipes to freeze in the winter.

Interested Parties:

Jick Garrett, 767 North Willow Road, Sand Springs, OK; stated he does not object to the family barn, but he wants it clarified that there would be no business taking place in the subject building.

Mr. Charney asked Mr. Fisher to come forward, and he asked Mr. Fisher if he had any plans to operate any commercial enterprise, whether for profit or non-profit, out of the building. Mr. Fisher stated there would be business operated out of the building.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Draper “aye”; no “nays”; no “abstentions”; Osborne, Walker “absent”) to **APPROVE** the request for a Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 square feet to 1,800 square feet (Section 240.2.E), finding that the hardship is the fact that the subject property is long and narrow in nature and of such size that a barn that is larger than the norm is consistent with the tract size. The tract is much larger than the minimum lot permitting a 750 square foot standard structure. This approval is conditioned on the fact that there will be no commercial business or enterprise operated out of the subject structure; for the following property:

**LT 1 & ALL VAC SPRING ST ADJ ON N BLK 6, CHARLES PAGE HOME ACRES
SUB NO 1, OF TULSA COUNTY, STATE OF OKLAHOMA**

Case No. 2472—Stephanie Martin

Action Requested:

Variance of the Land-Area per dwelling unit from 2.1 acres to .76 acres to allow a lot-split (Section 330, Table 3); Variance of the side yard setback from 15 feet to 0 feet (Section 330, Table 3). **LOCATION:** 12857 North 143rd East Avenue

Presentation:

Stephanie Martin, P. O. Box 68, Owasso, OK; stated she represents the land owners, Gene and Naomi Blood. They have owned the property since 1979, and at the time they purchased the property there was one mobile home on the property. In 2000 they moved another mobile home onto the property. Now the owners have reached a time in their life where they can no longer take proper care of the property and they have secured a buyer for the property. In 2004 they refinanced the property, paid for a survey, and was told that a lot-split would be done at that time. At a much later date it was discovered that the lot-split process was never finished. Now the owners want to due everything properly so they may sell the property if they want.

Mr. Draper asked about the mutual driveway that is mentioned in the Board's agenda packet. Ms. Martin stated there is a driveway on the property that is shared. Mr. Draper asked if there was a legal right for use of the driveway filed with Land Records. Ms. Martin there is not an agreement that has been recorded because it has never been an issue.

Mr. Bates stated that a mutual access agreement would be good, but the property does access to North 145th Street which is a dedicated roadway.

Mr. Charney asked if there has been any opposition from any of the neighbors. Ms. Martin stated that when she was taking pictures of the property a couple of the neighbors asked her questions, and they did not object.

Mr. Bates stated that staff had received a few calls and they were in support of the applicant's request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Draper “aye”; no “nays”; no “abstentions”; Osborne, Walker “absent”) to **APPROVE** the request for a **Variance** of the Land-Area per dwelling unit from 2.1 acres to .76 acres to allow a lot-split (Section 330, Table 3); **Variance** of the side yard setback from 15 feet to 0 feet (Section 330, Table 3), finding that there has been a long standing non-conforming use. The hardship is the long and narrow nature of the lot with some of the lots along the street being varying widths; for the following property:

S220 N1320 E/2 E/2 SE LESS W25 THEREOF FOR RD SEC 33 22 14 3.21AC (TR 6 PH 1), OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2473—Leon M. Kragel

Action Requested:

Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 square feet to 1,500 square feet (Section 240.2.E).

LOCATION: 2525 South 61st West Avenue

Presentation:

Leon Kragel, 2525 South 61st West Avenue, Tulsa, OK; stated he wants to replace the existing building and build a larger building in the same location. The building would be used to store his personal equipment.

Mr. Charney asked Mr. Kragel what type of building he was planning. Mr. Kragel stated that he plans to build a red-iron metal building that will be similar in color as the house.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Draper “aye”; no “nays”; no “abstentions”; Osborne, Walker “absent”) to **APPROVE** the request for a **Variance** of the maximum permitted floor area for a detached accessory building in an RS district from 750 square feet to 1,500 square feet (Section 240.2.E). The hardship is the size of the lot which is long and deep, and several times the statutory zoning minimum of 6,900 square feet. This approval is subject to the site plan as submitted and there is to be no commercial use; for the following property:

LT 7 BLK 5, SECOND WEST TULSA VIEW ACRES SUB, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2474—Melissa Torkelson

Action Requested:

Special Exception to allow a Firework's Stand (Use Unit 2) in an IM District for 5 years (Section 910, Table 1). **LOCATION:** 4500 West 21st Street South

Presentation:

The applicant was not present.

Mr. Charney asked staff if they had heard from the applicant. Mr. Bates stated this was a situation where they were cited but they were allowed to operate this year with the understanding that they would need to attend today's meeting for the future years. He has attempted to contact the applicant but has not heard from anyone.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Draper "aye"; no "nays"; no "abstentions"; Osborne, Walker "absent") to **CONTINUE** the request for a Special Exception to allow a Firework's Stand (Use Unit 2) in an IM District for 5 years (Section 910, Table 1) to the next County Board of Adjustment meeting on September 17, 2013; for the following property:

NE NW SEC 16 19 12 -LESS N 50, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2475—Melissa Wynn

Action Requested:

Use Variance to allow a manufactured home (Use Unit 9) in an IH District (Section 910). **LOCATION:** 1824 South 44th West Avenue

Presentation:

Melissa Wynn, 1822 South 44th West Avenue, Tulsa, OK; stated she wants to place a mobile home on her land which is about 13 acres. It has always been her intention to build on the property. The old farmhouse that was originally on the property was razed in 2009 because it was structurally unstable. On the north end the property abuts Ark Wrecking Company land and the river dike. She has had problems with transients and vandalism on the property. She operates a waste oil recycling business on the property and has done so for the last 57 years. She will live in the mobile home and be able to

act as security for the property. The mobile home will be placed about the same place of the previous farm house.

Mr. Charney asked Ms. Wynn how she accessed the property. Ms. Wynn stated she accesses the property from South 44th West Avenue.

Mr. Charney asked Ms. Wynn if the property was serviced by septic system. Ms. Wynn stated the office building is on a septic system and she would tie the mobile home into that system.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Draper “aye”; no “nays”; no “abstentions”; Osborne, Walker “absent”) to **APPROVE** the request for a **Use Variance** to allow a manufactured home (Use Unit 9) in an IH District (Section 910), subject that the mobile home have tie downs, be skirted, and meet all DEQ requirements. There is to be a concrete parking pad near or at the mobile home. The hardship being that the property is of significant size and is located in an IH district; for the following property:

E652.7 S207.6 GOV LT 8 & E652.7 SW SW LYING N OF RR R/W SEC 9 19 12 12.995ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 2476—Claudia Rodriguez

Action Requested:

Special Exception to permit a mobile home in the RS district (Section 410, Table 1).

LOCATION: 6011 North Rockford Avenue East

Presentation:

Claudia Rodriguez, 1418 East 59th Place North, Tulsa, OK; Ms. Rodriguez was represented by an interpreter. She would like to place a mobile home on the subject property so she can rent it to her brother. There had been a house on the property but it was demolished about three years ago.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Draper "aye"; no "nays"; no "abstentions"; Osborne, Walker "absent") to **APPROVE** the request for a **Special Exception** to permit a mobile home in the RS district (Section 410, Table 1), subject that the mobile home have tie downs, be skirted, and meet all DEQ requirements. There is to be a concrete parking pad. The mobile home is to be connected to City water and sewer system. The placement of the mobile home is meet all setback requirements per County code. 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:

LTS 13 14 BLK 5, EAST TURLEY ADDN AMD B1&4-5&8, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 3:05 p.m.

Date approved: _____

10/15/13

David E. Chawner

Chair