

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 410
Tuesday, July 15, 2014, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
500 South Denver, Room 119

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

Miller
Moye
Sparger

West, Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10th day of July, 2014 at 11:38 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. Charney announced that Mr. Dillard was on his way, but if he should not arrive there is a quorum present for today's meeting.

Mr. Dillard arrived at 1:32 P.M.

MINUTES

On **MOTION** of **WALKER**, the Board voted 4-0-1 (Charney, Dillard, Hutchinson, Walker "aye"; no "nays"; Osborne "abstaining"; none "absent") to **APPROVE** the Minutes of June 17, 2014 (No. 409).

Ms. Nikita Moye read the rules and procedures for the County Board of Adjustment Public Hearing.

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

2505—Brandon Osborn

Action Requested:

Variance to reduce the required 30 feet of frontage on a public road or right of way to 0 feet (Section 207). **LOCATION:** 19624 West 57th Street, Sand Springs

Presentation:

Brandon Osborn, 216 West 42nd Street, Sand Springs, OK; stated the permitting office informed him that the right-of-way was something that needed to be addressed before he could be issued a permit to build a home.

Mr. Charney asked if the applicant property was five acres in size. Mr. Osborn answered affirmatively. Mr. Charney asked if there if there was a publicly dedicated street leading to the property. Mr. Osborn stated there is not technically a county road. It was explained to him that it was an easement. There is a road paved to a point then it turns into gravel, and that is the part that would give him access to the property.

Mr. Charney asked Mr. Osborn if he accessed the property from West 57th Street. Mr. Osborn answered affirmatively.

Mr. Charney asked if there was a current easement of record that leads to the property. Mr. Osborn stated that Mr. Parsells owns some of the surrounding property and it is Mr. Osborn's understanding that he will allow access to the property. Mr. Charney asked if Mr. Parsells was present at today's meeting. Mr. Osborn answered affirmatively. Mr. Charney asked Mr. Osborn if he had purchased the subject property from Mr. Parsells. Mr. Osborn stated that he had not, but that he owns property adjacent to the subject property.

Mr. Dillard asked Mr. Osborn if he had made an application for the building loan. Mr. Osborn stated that he had not. Mr. Dillard informed Mr. Osborn that all the questions being asked by Mr. Charney are the same questions that a lender will ask, and if there is not a dedicated right-of-way easement the lender will deny the loan no matter what the Board of Adjustment members decide. Mr. Dillard stated there must be a recorded minimum 30 foot right-of-way easement to the property. The reason the lender requires

this is so the property may be resold, and without a legal ingress and egress it cannot be sold.

Mr. Charney stated that not only is there a County requirement of a recorded 30 foot public roadway to the property, or else a recorded private easement to the property, the additional reason is that if any lender were to resell the property or build a home it is required.

Mr. Charney asked staff if the survey in the Board's agenda packet is a survey of the subject tract. Ms. Moyer answered affirmatively. Mr. Charney stated that per the survey there appears to be a public road easement on the northerly boundary. This may not be an improved or accepted, but it looks like there may be something of record, Book 4255, Page 2742, of at least 30 feet in width across the northern boundary. Maybe there is not something west leading into the subject property, it is hard to decipher. The Board would like to receive any comments from staff on this that may help them to deliberate.

Mr. Osborne stated that it appears that 57th is not an improved road past about 201st. Mr. Walker stated that the road does run out in that area. Mr. Osborn stated that it appears there is an easement that is on a non-improved road. Mr. Charney asked Mr. West if that is his concept of the situation. Mr. West answered affirmatively, but that he is not sure if the easement on the subject property continues on to the other properties and there is no way of knowing that. Mr. Charney informed Mr. Osborn that it appears there is an easement on the northern boundary of the subject property.

Mr. Charney stated that since there is not an improved roadway to the subject property the Board would like to see something publicly dedicated from West 57th Street to the subject property.

Mr. Osborne asked the applicant if he planned on having a mobile home placed on the subject property. Mr. Osborn stated that he will be building a stick built home.

Mr. Charney informed Mr. Osborn that if the Board were to approve the requested relief today it would be for one residence on the one tract only, and no further dividing of the subject tract. Mr. Osborn nodded his understanding.

Mr. Walker stated that the paperwork states there is no relevant action previously taken but there is a house across the road that must have had the access.

Interested Parties:

Art Parsells, 2951 East 56th Court, Tulsa, OK; stated the existing house belongs to Mrs. Schmidt, she is here today, and he believes he is representing the other home owners in the area also. He wants to make sure today's request does not take away any access from the other properties or affect any existing access. This area broke down about 1987 when he wanted to sell five acres and the Board of Adjustment denied the sell. Prior to that he maintained the road, West 57th; had it graveled every couple of years, laid a culvert under the low spots and took care of it until he was denied the lot

split. At that point he quit taking care of the road because he could not afford it. Through time the rules changed from a gravel road being approved to requiring pavement with gutters. Mr. Parsells stated that he would be the one that would be required to grant access, and he has no objections to granting the access. This same type discussion took place in 1987 and he stated then that he would be happy to grant the access.

Mr. Charney asked Mr. Parsells if he understood that the subject property is east of other roads. Mr. Parsells answered affirmatively.

Mr. Charney asked Mr. Parsells if he was aware of any other public roadways that was dedicated across the surrounding tracts. Mr. Parsells stated that he did not believe so because it is basically understood but it is not officially recorded nor is the public access to 61st Street which is the other end of his property.

Mr. Charney asked Mr. Parsells if he sold the subject tract to Mr. Osborn. Mr. Parsells stated that he originally sold it to Mr. Whittaker, and he believes the subject property has changed hands twice since then. He placed the original restrictions on the property, such as, no mobile homes. He also placed the easement on the original, for the Schmidts, and for the property that is between.

Mr. Charney wanted Mr. Parsells to be aware that the Board is not denying anyone access, but the Board is determining whether there is appropriate dedicated access to the subject property.

Mr. Osborne asked Mr. Parsells if there was document permitting the Schmidts an easement through the property as well. Mr. Parsells stated there is not. Mr. Parsells stated that Mr. Osborn relinquished his 30 foot easement on the southern boundary, and the other two that was sold relinquished their 30 feet along 207th and an additional 30 feet going north for a road that never materialized.

Virginia Schmidt, 19621 West 57th Street South, Sand Springs, OK; stated she has lived there for 31 years, and her property is north of the subject property.

Rebuttal:

Mr. Brandon Osborn came forward.

Mr. Charney asked Mr. Osborn if there were an easement from 201st to the corner of his property to match up with the 30 foot easement across the front of the property the Board could consider today's request, and there is a chance that it would be approved. Without that it is difficult for the Board to grant zero frontage because there is not a connector from 201st to the subject property. Mr. Charney had Mr. Osborn come to the bench and showed Mr. Osborn what he was saying on a printed layout of the subject property.

Mr. Charney stated that since Mr. Osborn cannot present the Board with an easement, the Board might want to continue this case for a 30 day period to allow the applicant time to provide the Board with a satisfactory private road easement, or some sort of publicly dedicated roadway easement. Mr. Charney suggested that Mr. Osborn even seek legal counsel to make certain there is legal access to the subject property, because the Board needs the technical document.

Mr. Walker stated that Tulsa County does not accept a dedication to the road right-of-way unless the road is brought up to the County standards. Mr. Parsells stated that was too expensive to do so he stopped, and now the Board is discussing the middle of a wildcat subdivision. All of this generated by doing this wildcat subdivision, and that is why the 1987 request was nixed.

Mr. Charney stated this is an example of selling off five acre tracts without the engineering and corresponding road construction. He thinks rather than denying the applicant's request today, he would suggest this case for a 30 or 60 day period. This would allow the applicant to speak with everyone involved, starting with Mr. Parsells, and to seek legal counsel. He wants Mr. Osborn to understand what he is getting into and what is there before he invests in building a house. He also wants Mr. Osborn to understand the difference between a private roadway easement with maintenance responsibilities and a publicly dedicated roadway that has been accepted by the County.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Hutchinson, Osborne, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** the request for a Variance to reduce the required 30 feet of frontage on a public road or right of way to 0 feet (Section 207) for a period of 30 days, which would be the August 19, 2014 Board of Adjustment meeting; for the following property:

W/2 SW NE SE SEC 35 19 10 5ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2506—Richard Borchers

Action Requested:

Variance of the allowed square footage for accessory buildings from 750 square feet to 1,560 square feet (Section 240.2.E). **LOCATION:** 1322 South 217th West Avenue

Presentation:

Rich Borchers, 1322 South 217th West Avenue, Sand Springs, OK; stated he has an existing 24 x30 building, and had a portable building next to it with a carport. He has

removed the carport and the portable building and he would like to erect an additional 24 x 35 metal building to store his boats, truck and gardening equipment.

Mr. Osborne asked Mr. Borchers if the new building was to be a garage. Mr. Borchers stated that it will basically be a work shop.

Mr. Charney asked staff if the existing building was non-conforming. Mr. West stated that a 750 square foot building is allowable in the rear yard, so the existing building is legal. The applicant needs relief for the second building.

Mr. Borchers stated that there are two lots and they are tied together. Mr. Walker stated that the drawing in the Board's agenda packet shows that the building is only five feet off the back. Mr. Borchers stated there is a 15 foot easement in the rear. Mr. Walker stated that the rear yard setback for the District is 20 feet. Mr. West stated that is for a dwelling. An accessory building can be within five feet of the property line.

Mr. Charney asked Mr. Borchers to describe the proposed building. Mr. Borchers stated that it will be like a carport but enclosed. He only wants to be able to keep his vehicles and garden equipment out of the weather.

Mr. Charney asked Mr. Borchers if any of his neighbors, especially the ones closest to the proposed building, have any objections to the proposal. Mr. Borchers stated that he is not aware of any objections. Mr. Charney asked Mr. Borchers if he had a chance to visit with the neighbors. Mr. Borchers stated that the letters were mailed out notifying the neighbors. Mr. Charney asked Mr. Borchers if he had talked to them. Mr. Borchers stated that he had not.

Mr. Walker stated that he had visited the site and Mr. Borchers has an immaculate place, and what he is proposing is going to be a great improvement. There are other properties in the area that are not as well kept as Mr. Borchers.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Dillard, Hutchinson, Osborne, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance of the allowed square footage for accessory buildings from 750 square feet to 1,560 square feet (Section 240.2.E) with the hardship being the oversized lot, two tied together, and the two lots forever joined together. The Board finds this will be harmonious and with the spirit of the neighborhood; for the following property:

LTS 2 & 3 BLK 6, CANDLESTICK BEACH, OF TULSA COUNTY, STATE OF OKLAHOMA

2057—Brent Schmidt

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in the AG District (Section 310, Table 1). **LOCATION:** E of the NE/c of North Cincinnati Avenue and Highway 20

Presentation:

Brent Schmidt, P. O. Box 255, Skiatook, OK; no formal presentation was made by the applicant but he was available for any questions.

Mr. Charney asked Mr. Schmidt if he had a fireworks stand on the site before. Mr. Schmidt stated he has had one for the last two years. Last year he received a permit from the City of Skiatook, and this year when he tried to obtain a permit he found the site is County property. Mr. West issued a permit with provision that he appear before the Board of Adjustment.

Mr. Charney asked Mr. Schmidt if he has any problems with the ingress or egress from the site. Mr. Schmidt stated there have been no problems.

Mr. Charney asked Mr. Schmidt if he has received any complaints from the neighbors or anyone. Mr. Schmidt stated that he has not. One of the neighbors, to the east, did call because she was concerned about him erecting a building on the property.

Mr. Charney asked Mr. Schmidt when he wanted to have the fireworks stand operational. Mr. Schmidt stated that he wanted to have it for the 4th of July each year.

Mr. Charney asked Mr. Schmidt what were his hours of operation for the last couple of years. Mr. Schmidt stated that on the 3rd and 4th he has been open until midnight, and the rest of the time until 10:00 P.M. while opening at 7:00 or 8:00 A.M.

Mr. Charney asked if there was a residence or commercial business near the stand. Mr. Schmidt stated that it is a commercial business. The closest residence is to the east and about 1/8 mile away.

Mr. Osborne asked Mr. Schmidt how many days before the 4th of July did he open his stand. Mr. Schmidt stated that he normally opens about ten days prior to the 4th.

Mr. Charney asked Mr. Schmidt if he closed the stand on the 5th of July. Mr. Schmidt stated that he closes for the season on the night of the 4th.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Osborne asked Mr. West if there were any requirements for gravel or paved parking. Mr. West stated that normally those requirements are waived because this is a temporary stand and an all-weather surface is not wanted at other times of the year.

Mr. Schmidt stated that there is a commercial business next to the stand and he allows the fireworks stand customers to use his parking lot.

Board Action:

On **MOTION of HUTCHINSON**, the Board voted 5-0-0 (Charney, Dillard, Hutchinson, Osborne, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in the AG District (Section 310, Table 1). The fireworks stand will be allowed to operate from June 15th to July 4th, opening at 8:00 A.M. and closing at 10:00 P.M. June 15th through July 2nd. Hours of operation for July 3rd and July 4th will be 8:00 A.M. to 12:00 midnight; for the following property:

N273 NW SW SW LESS S223 N273 W195.34 & LESS BEG 273S & 195.34E NWC NW SW SW TH N67.01 E462.96 S67.44 W462.66 POB FOR HWY SEC 24 22 12 2.39ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2058—Jay Castoe

Action Requested:

Variance to permit the construction of a detached accessory building in a side yard located in an RS District (Section 420.2.A.2); Variance of the 750 square foot requirement for accessory units to allow a 900 square foot accessory building to be built (Section 240.2.E). **LOCATION:** 1333 South 215th West Avenue

Presentation:

Jay Castoe, 1333 South 215th West Avenue, Sand Springs, OK; stated he would like to build a 30 x 30 detached shop beside his house. After the shop is constructed he would like install a 20 x 20 foot awning on the north side of proposed shop.

Mr. Charney asked if the awning is like a carport. Mr. Castoe answered affirmatively.

Mr. Walker asked Mr. Castoe what he would be using the shop for. Mr. Castoe stated that he has hobbies and that is where he will be for those hobbies.

Mr. Charney asked Mr. Castoe if he would working in the shop, doing any work of any sort for pay or commercial purposes. Mr. Castoe stated that he would not.

Mr. Walker stated that Mr. Castoe has quite a bit of outside storage. Mr. Castoe stated there are two detached sheds and he plans to keep the metal shed. Mr. Castoe stated that he owns a 1929 Chevy that he wants to restore and two trailers. If he is working on his hobbies in the building he can place the trailers on the carport area to keep them out of the weather.

Mr. Hutchinson asked Mr. Castoe if the carport would be open. Mr. Castoe answered affirmatively.

Mr. Osborne asked Mr. Castoe if the three separate lots depicted in the drawing in the Board's agenda packet were tied together. Mr. Castoe answered affirmatively.

Ms. Miller asked Mr. Castoe if he had gone through the lot combination process. Mr. Castoe stated that he paid his fees and went through the process for the lot combination.

Mr. Charney asked Mr. Castoe if he had heard anything from the owner of the pasture near his property. Mr. Castoe stated that he has not heard anything from that owner. Mr. Charney asked if anyone around him had spoke to him about what he was wanting to do. Mr. Castoe stated that he had spoke to a couple of the neighbors and they do not have any problems with what he is proposing to do.

Mr. Osborne asked Mr. Castoe what the building is to look like. Mr. Castoe stated the building will be a metal red-iron building that will be matched to look like the other metal building on the property, and it will be close to matching the home.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Hutchinson, Osborne, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance to permit the construction of a detached accessory building in a side yard located in an RS District (Section 420.2.A.2); Variance of the 750 square foot requirement for accessory units to allow a 900 square foot accessory building to be built (Section 240.2.E). The hardship for the Variances for the detached accessory building and open carport be placed in the side yard is the unusual configuration of the three lots that are tied together, as they run more north-south than they do east-west. The size of the lot is of such that an accessory building of that nature would not be out of character architecturally with the balance of the neighborhood. The new detached accessory building will have an open attached carport with a concrete floor. There is to be no commercial use; for the following property:

LT 12-14 BLK 3, CANDLESTICK BEACH, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:20 p.m.

Date approved:

Aug 19, 2014
R. L. Walker
Chair