#### COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 324
Tuesday, May 15, 2007, 1:30 p.m.
Aaronson Auditorium
Tulsa Central Library

#### MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair

Hutson

Alberty

West, Co. Inspector

Dillard

Tyndall, Vice Chair

Butler

Walker, Secretary

Cuthbertson

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, May 10, 2007 at 1:07 p.m., as well as in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

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.

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#### MINUTES

On **MOTION** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** the **Amended Minutes** of February 20, 2007(No. 321).

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** the **Minutes** of April 17, 2007(No. 323).

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## **NEW APPLICATIONS**

### Case No. 2260

## **Action Requested:**

A Special Exception to permit a fireworks stand in an RE district (Section 410), located: 12901 East 100<sup>th</sup> Street North.

#### Presentation:

Jason Marietta, the applicant, was not present.

#### **Board Action:**

On **Motion** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to put this case on hold until the applicant arrives or the Board decides to reopen the case, on the following described property:

LT 5 BLK 1 GLENN-MUR ACRES SUB, Tulsa County, State of Oklahoma

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## Case No. 2261

## **Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an AG district for 10 years (Section 310); and a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), located: East of Northeast corner East 86<sup>th</sup> Street North and North 129<sup>th</sup> East.

## Presentation:

**J. R. Gann**, 5401 West Skelly Drive, proposed to open a new fireworks stand for the next ten years. They asked for a temporary gravel driving surface.

#### **Comments and Questions:**

In response to questions from the Board, Mr. Gann stated this is a new location for a fireworks stand. He replied that they have about 85 stands in the Tulsa area. They would gravel sufficiently for parking. They operate the stand from June 15<sup>th</sup> through July 4<sup>th</sup> and remove the stand until the next year. The hours of operation are usually 10:00 a.m. to 10:00 or 11:00 p.m., as permissible by the local government.

#### Interested Parties:

There were no interested parties who wished to speak.

#### **Board Action:**

A **Motion** was made by **Walker**, to <u>APPROVE</u> a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310); with hours of operation 10:00 a.m. to 10:00 p.m. from June 15<sup>th</sup> through July 4<sup>th</sup> for a period of five years or until the property is annexed into the city;

Mr. Alberty had a question on the motion, to understand if the intention was to be five years or until the property is annexed into the city, whichever comes first. Mr. Walker agreed that was the intent. Mr. Dillard noted that the weekend before the holiday, the stands usually stay open later than 10:00 p.m. Mr. Gann agreed they would like to stay open until 11:00 p.m. on the weekend before the holiday.

On **Amended Motion** by **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (Section 310); with hours of operation 10:00 a.m. to 10:00 p.m. from June 15<sup>th</sup> through July 4<sup>th</sup> for a period of five years or until the property is annexed into the city, whichever comes first; and to allow the stand to operate until 11:00 p.m. on the weekend before the holiday;

On **Motion** by **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), as presented to gravel according to the plan, finding it is a temporary use on the following described property:

BEG SWC SE SW TH N550 E411.44 S550 W POB LESS S60.01 THEREOF FOR RD SEC 21 21 14 4.628ACS Tulsa County, State of Oklahoma

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#### Case No. 2262

## **Action Requested:**

Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (410); and a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), located: 524 North 49<sup>th</sup> Avenue West.

#### Presentation:

**Sherry Barbour**, 18622 South 66<sup>th</sup> East Avenue, Bixby, Oklahoma, with Big Blast, Inc., stated they are applying for a fireworks stand at this location, which they have used for three years. Other groups have used this location for a fireworks stand for the last fifteen years. Gravel is in place and grass has grown up through it. The property is zoned AG and has a residential use. They have plenty of clearance for a fireworks stand. A non-profit organization will operate under all of the rules and regulations of Oklahoma, Tulsa County and the fire marshal. They have adequate parking and additional parking across the street by permission of the owner. They were asking for an approval for five years at this location. They asked to stay open to midnight on the Friday and Saturday nights before July 4<sup>th</sup>. They ask for the full legal time to operate the stand for the New Year's Holiday, December 15<sup>th</sup> to January 1<sup>st</sup>.

#### **Comments and Questions:**

Mr. Walker remembered problems with maintenance of this property. Mr. West stated those problems existed before this particular applicant. He did drive-by checks during July and found the area in good condition. Ms. Barbour stated they removed trash every night and they paid extra to have the port-a-john serviced more frequently.

## **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a fireworks stand (Use Unit 2) in an AG district (410), with condition for the hours of operation 10:00 a.m. to 10:00 p.m., and to midnight for three nights before July 4<sup>th</sup>, as requested for five years

#### And

On **Motion** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of paving requirement to permit temporary gravel driving surface (Section 1340.D), finding it is a temporary use, on the following described property:

TR.13 BG.24.75 S.& 1200 E.NW COR. LT 1 OR NE NE TH. S.330E.98.4 N.330 W.99. 25 TO BG.SEC.5-19-12 Tulsa County, State of Oklahoma

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#### Case No. 2260

## **Action Requested:**

A Special Exception to permit a fireworks stand in an RE district (Section 410) located: 12901 East 100<sup>th</sup> Street North.

#### Presentation:

**Brett Watson**, 2311A Forrest Street, Pittsburg, Kansas, proposed to set up a fireworks stand on the subject property. They previously operated a stand about two blocks away from this location and it was annexed into the city limits. They would provide a grass/graveled parking area. They would operate the stand from June 26<sup>th</sup> through July 4<sup>th</sup>. The usual time is 10:00 a.m. to 10:00 p.m.

## **Comments and Questions:**

Mr. Cuthbertson commented to the Board that the applicant did not ask for a variance of the paving requirements. The Board would not have the option to grant that variance at this time. Mr. Charney explained this information to Mr. Watson. Mr. Watson asked if he could apply in time for this coming July 4<sup>th</sup> season. Mr. Cuthbertson replied that it was too late to get on the agenda for June. Mr. Cuthbertson added there is not a specific parking requirement for a fireworks stand. He also noted that the Board could determine parking in consideration of the special exception. Mr. Charney asked if the applicants communicated with the neighboring property owners regarding the application. Mr. Watson replied he only talked with the landowner.

#### **Interested Parties:**

**Anthony Jury**, 12931 East 98<sup>th</sup> Street North, stated the residence on the subject property has been unoccupied for two years. He added that the owner has not maintained the property. There is a narrow paved driveway to the house.

**Abigail Jones**, 12902 East 100<sup>th</sup> Street North, Owasso, Oklahoma, submitted a packet of documents in opposition to the application (Exhibit A-1). She spoke for herself and Tammy and Ron Kates, 12990 East 100<sup>th</sup> Street North, Owasso. She stated there was no place to park and the stand would not be compatible with the neighborhood. She commented that 100<sup>th</sup> Street North is not a through street.

**Doug Frances**, 12920 East 101<sup>st</sup> Street North, Owasso, expressed concern for late hours of operation for the fireworks stand, traffic and noise as already mentioned.

**Tammy Kates**, 12990 East 100<sup>th</sup> Street North, Owasso, expressed the same concerns as the other interested parties.

#### **Board Action:**

On **Motion** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **DENY** Case No. 2260, finding it would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 5 BLK 1 GLENN-MUR ACRES SUB Tulsa County, State of Oklahoma

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#### Case No. 2263

### **Action Requested:**

Special Exception to permit a fireworks stand in a CG district (Section 710); a Variance of the required hard surface parking to allow for gravel parking (Section 1340.D), located: Northeast corner of South 209<sup>th</sup> West Avenue and Highway 64.

#### Presentation:

**Melissa Torkleson**, 1120 South 221<sup>st</sup> West Avenue, Sand Springs, Oklahoma, proposed to open a fireworks stand to be operated by a non-profit organization. They would operate from June 15<sup>th</sup> through July 4<sup>th</sup> and the New Year's seasons from 10:00 a.m. to 10:00 p.m., with the exception of a closing time at midnight on July 3<sup>rd</sup> and 4<sup>th</sup>. She asked for an approval of five years for this temporary use.

#### **Interested Parties:**

There were no interested parties who wished to speak.

## **Board Action:**

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Special Exception to permit a fireworks stand in a CG district (Section 710) for a period of five years; per request to operate the stand June 15<sup>th</sup> through July 4<sup>th</sup> and the New Year's seasons from 10:00 a.m. to 10:00 p.m., with the exception of a closing time at midnight on July 3<sup>rd</sup> and 4<sup>th</sup>; finding it 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 **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of the required hard surface parking to allow for gravel parking (Section 1340.D), finding the temporary use, on the following described property:

PRT NW SW BEG 1437.26N & 65E SWC SW TH N366.95 E261.08 S366.95 W261.08 POB LESS .09AC TO STATE SEC 2 19 10 2.11ACS Tulsa County, State of Oklahoma

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## Case No. 2264

## **Action Requested:**

Special Exception to permit a halfway house in an AG district (Section 310), located: 1821 East 66<sup>th</sup> Street North.

#### Presentation:

Stephen A. Schuller, 1100 One Ok Plaza, submitted the site plan and an exhibit (Exhibit B-1 and B-2) to the Board. Mr. Schuller stated the zoning code permits this Use Unit 2 use in an AG district by special exception. This project complies with the bulk and area requirements of the zoning code. It will comply with the offstreet parking and loading requirements. He informed the Board that he invited the property owners within 1,000 ft. of the site to a meeting to provide them with information regarding this application. He pointed out the mission of the proposed halfway house is to develop a rehabilitation-based program for the residents to achieve a maximum level of functioning as productive, accountable, law-abiding and responsible citizens through comprehensive assessment, supervision and guidance. This organization provides experienced, professional counselors. The house would be a community-based residential facility established to assist persons leaving structured institutions, such as prisons and jails to transition back into society. Mr. Schuller noted this is the largest federal district in northern Oklahoma that does not have a federal halfway house contractor. They have found these people need to re-establish family and community ties for positive support in the transition. Cornerstone Halfway House would offer a rigorous assessment, and would not admit sex-offenders, drug-users, or violent residents in this house. They perform mandatory and random drug tests. They provide

employment placement, educational programs, and treatment programs. They proposed to house 100 residents initially and increase to 300 in two years.

Mr. Schuller indicated the purchase of this property would increase the value of property in the area. He considered it a major financial investment in the community and an increased economic boost. He added this would increase the safety and decrease the crime in the community. The applicants will restore the structure and improve the property.

**Richard L. Dunkle**, 517 West 2<sup>nd</sup> Street, Oklahoma City, Oklahoma, stated he is the Director of the Oklahoma Halfway House, Inc. in Oklahoma City. It is a non-profit organization. They have not had any aggression from in-mates in the eight years that he has been with the organization. They do not have a lot of free time, but have regular and random checks on their presence at the facility and at their jobs. The safety and protection of the community are the first concern of this organization. There are four federal monitoring inspections of the facility per year.

## **Interested Parties:**

**Commissioner John Smaligo**, 8814 East 120<sup>th</sup>, Owasso, Oklahoma, questioned if this is the best use for this facility. He indicated the church membership was in full support of this project. He agreed with the neighbors in the community that they already provide their fair share of rehabilitative opportunities in this area. He agreed with citizen's living closest to this facility who were opposed to the application.

**Jeff Kirk**, 1727 East 73<sup>rd</sup> Street North, referred to a large petition of signatures in opposition to the application (Exhibit B-3). He indicated there was strong opposition in the community. He suggested that if the benefits to having this facility in a community were so good the other outlying communities around Tulsa would be bidding against each other for it. He stated he would be interested to know the average length of stay in the halfway house.

**Mike Wheeler**, 6416 North Xanthus, Turley, submitted the petition (Exhibit B-3), which they obtained in five days. He stated objections of: no access to public transportation for halfway house residents; proximity to a public park; nearby residential included families with young children, elderly and retired individuals; strain on the area infrastructure; added burden to volunteer fire department and county law enforcement; and the existing structure and public utilities are not designed to support a multi-residential facility.

**Edward Taylor**, 109 East 62<sup>nd</sup> Place North, suggested that the halfway house would bring a potential for unexpected problems for the neighborhood. He suggested they find a different and more appropriate area.

**Dean Dann**, 6447 North Victor, stated she was not afraid to have a halfway house in her neighborhood.

**Yonice Nicholson**, 6214 North Victor, shared her personal experience of an escaped family member from a halfway house. She opposed the application.

**Deborah Estraud**, 3547 South Knoxville Avenue, Tulsa, shared her personal experience with Dr. Chamberlin, finding him to be honorable and very helpful to her family. She indicated he has resources and knowledge to help residents of the halfway house to improve their lives. She was in support of the application.

**Chad Evers**, P.O. Box 201, Sperry, Oklahoma, stated he was a former convict and was in support of this application. He added if he had been able to go to this type of facility he could have made something of his life.

**Richard Shook**, 2172 South 197<sup>th</sup>, stated he is a former felon and he was grateful for such a facility that helped him to change his life. He was in support.

(Name inaudible), 5945 North Lewis Avenue, expressed her opposition. She stated she was not opposed to a halfway house, just not in this area. She had previous experience transporting inmates and noticed it was always the same people, indicating repeat offenders.

**Willetta Perkins**, 6645 North Peoria, stated she is a business owner in the area. She is not opposed to a halfway house but she thinks the community is doing their share. She hired residents of the existing women's facility at her business. She was familiar with the ways the residents get around the rules.

**Mark Wingo**, 320 South Boston, was in support of the application. He stated they we need to give these people the tools they need to re-enter society as responsible citizens.

Stephen Bosworth, 6635 North Peoria, stated his opposition.

**Willie Shannon**, 5140 North Rosedale, stated his opposition. He stated that his church provides a 12-Step Program.

Raymond Catlin, 1638 East 75<sup>th</sup> Place North, stated his support.

**Scott Wheeler**, 6417 North Victor, stated his opposition, having moved there because of the lower crime and peacefulness.

**Barbara Casey**, represented her company that owns the property at 2105 East 66<sup>th</sup> Street North, expressed opposition.

**Deidra Hodge**, 2575 East 66<sup>th</sup> Street North, indicated the community was in support of the 2025 plans for the improvements to the park but they were not in support of a halfway house. She stated it would be injurious to the neighborhood.

**Gwen Lillard**, 6005 North Atlanta Court, stated opposition to the application, considering it unsafe for the neighborhood.

(Name not provided) stated he lived next door to the subject property. He expressed support of the application.

**Brenda Spears**, 1722 East 76<sup>th</sup> Street North, Sperry, Oklahoma, stated she was not in support of the application. She noted that the community does not have the goods and services to provide for this facility so she expected they would contract from elsewhere. She did not think that would help the economy of the area.

**Michael Pollard**, 100 West 5<sup>th</sup> Street, ONEOK Plaza, represented Charles Sisler, Janette Operall, Jim and Judy Sisler, residents and nearby neighbors of the facility. He suggested the application was premature. He raised numerous questions, about how it would benefit the public; and if the inmates are going to be from this area or some other. He had questions about square footage of the facility, parking, and the number of visitors expected for up to 300 residents.

A petition of opposition, letters of opposition and support and an Oklahoma Registry were submitted to the Board (Exhibits B-4, B-5 and B-6).

## Applicant's Rebuttal:

Mr. Schuller reminded the Board that an interested party stated there is no place more peaceful than Turley. There is a halfway house in Turley so that shows these facilities are not injurious to the neighborhood. The residents of the halfway house would not be allowed to go to the public park. He informed the Board there is no approval for a Progressive Rehabilitation Services (PRS) to have a facility in Osage County. The halfway house residents would not be walking in the neighborhood. He noted there were numerous people in the community in support of the application.

#### **Comments and Questions:**

Mr. Walker noted the applicant's ratio of residents to staff is 12:1 and in the Oklahoma City facility, it is 7:1.

**Matt Crum**, 4372 East 57<sup>th</sup> Street, with PRS, replied that they would meet the 1:7 ratio at this facility.

Board discussion: Mr. Dillard stated that Turley is a part of Tulsa. He added that the bank in Turley is considered a Tulsa bank. The proposed project is a Tulsa, Oklahoma halfway house. Mr. Charney noted this is AG zoned property with a church structure on it. This is a more intense use and the ordinance requires that a more intense use must go to the Board of Adjustment. Mr. Dillard stated the property had a set, limited use in the past and the proposed use would be a broad, general use. He noted it was used three to four times per year and the proposed use would be twenty-four hours a day per 365 days a year.

#### **Board Action:**

On **Motion** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **DENY** a Special Exception to permit a halfway house in an AG district (Section 310), finding it would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare; and finding it would be too severe an increase in use, on the following described property:

E250 W830 S/2 SW SE SEC 31 21 13 3.788ACS, W250 E/2 SW SW SE LESS S50 THEREOF FOR RD SEC 31 21 13 3.501ACS Tulsa County, State of Oklahoma

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## Case No. 2265

## **Action Requested:**

Use Variance to permit an accessory building as a principal use on an RS lot (Section 410), located: 14312 East 59<sup>th</sup> Street North.

## **Presentation:**

**Ernest Marshall**, 14312 East 59<sup>th</sup> Street North, proposed to obtain a lot-split and build a house on the east lot (Tract A). The existing structure is a 30' x 40' metal building. He uses it for storage. He stated he lives in the house on the two and one-half acre lot.

#### **Comments and Questions:**

Mr. Tyndall questioned Mr. Marshall about the lot-split. Mr. Cuthbertson explained that Mr. Marshall needed the Use Variance for the accessory building on a lot other than the one with the principle use. He needs the variance to obtain the lot-split. If the Board denied the application, he would have to move the accessory building.

#### **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Use Variance to permit an accessory building as a principal use on an RS lot (Section 410), with approval for three years to build the home, finding the size of the lot, on the following described property:

BEG 1316N & 330.83W SECR SE TH N330 W330.83 S330 E330.83 POB LESS N25 THEREOF FOR RD SEC 4 20 14 2.316ACS Tulsa County, State of Oklahoma

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## Case No. 2266

## **Action Requested:**

Variance of the minimum street frontage required in an AG district for a lot to be used for residential purposes, from 30 ft. to 0 ft. (Section 207), located: 17777 East 171<sup>st</sup> Street South.

## Presentation:

**Marcus Durham**, 17777 East 171<sup>st</sup> Street South, proposed a lot-split for access to a public street and a 30 ft. driveway easement. He stated they have utilities. He does not have plans to subdivide. A site plan was provided (Exhibit C-1).

## **Comments and Questions:**

The Board members cautioned Mr. Durham about platting if they are going to subdivide.

## **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Charney**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of the minimum street frontage required in an AG district for a lot to be used for residential purposes, from 30 ft. to 0 ft. (Section 207), restricted to 2.14 acres as on the application, and subject to the easement being filed of record, on the following described property:

SW SW SEC 25-17-14, NW NW SEC 36-17-14 Tulsa County, State of Oklahoma

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## Case No. 2267

#### **Action Requested:**

Variance of the maximum permitted square footage for accessory buildings in the RS district from 750 sq. ft. (Section 240.2.E), located: 12440 East 132<sup>nd</sup> Street South.

### Presentation:

**Todd Ferman**, 12440 East 132<sup>nd</sup> Street South, Broken Arrow, Oklahoma, proposed to re-build a 31' x 33' shop that burned down. He planned to replace it with a 30' x 40' metal structure.

#### **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of the maximum permitted square footage for accessory buildings in the RS district from 750 sq. ft. (Section 240.2.E), finding the oversized lot, on the following described property:

W. 179.5 E. 1433.5 S. 725-N1/2 NE SEC 8-17-14 LESS N 25 RD. Tulsa County, State of Oklahoma

**Terry West**, County Inspections, informed the applicant that the zoning has changed to require 15 ft. from either side property line. Mr. Ferman responded that he would build accordingly.

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## **OTHER BUSINESS**

## Discussion:

Mr. West asked for a discussion related to the classification of private ponds on residential lots. They are receiving an increasing number of applications with residential ponds in platted subdivisions. The County Inspectors are not clear how to address this when an applicant wants to build a pond for personal use on a separate lot from the principle use.

Mr. Cuthbertson suggested the Board consider this as to whether it is or is not a Classifiable Use. He asked if it is a technical element of a subdivision that needs to be addressed by the engineers' office.

The Board discussed issues regarding compliance with zoning code for a pond versus pool; engineering issues; detention ponds and other related items.

**Dewey Miller**, stated he is the developer of Stratford Estates. He referred to a particular property where an old pond was filled-in. Now the owner proposes to excavate the pond.

Mr. Charney suggested that the Board obtain legal advice from the District Attorney and do some research on the subject.

The consensus of the Board was to consider and research the matter more thoroughly before making any resolution.

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There being no further business, the meeting adjourned at 5:23 p.m.

Date approved: \_