

COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 349

Tuesday, June 16, 2009, 1:30 p.m.

County Commission Room

Room 119

County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

| | | | |
|---------------------|--------------------|-------------|---------------------|
| Charney, Vice Chair | Dillard, Secretary | Alberty | West, Co. Inspector |
| Tyndall | Hutson, Chair | Butler | |
| Walker | | Cuthbertson | |

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, June 10, 2009 at 10:39a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Charney called the meeting to order at 1:34 p.m.

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

MINUTES

On **MOTION** of **Walker**, the Board voted 3-0-0 (Tyndall, Walker, Charney "aye"; no "nays"; "abstained"; Dillard, Hutson "absent") to **APPROVE** the Minutes of May 19, 2009 (No. 348).

NEW APPLICATIONS

Case No. 2330

Action Requested:

Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1500 sq. ft. (Section 240.2.E), located: 3765 South 61st Avenue West.

Presentation:

Jack Lollis, 4005 South 68th West Court, Tulsa, Oklahoma, stated he began construction of a 38' x 50' garage in the back yard without a permit. By the time he was notified he had put in the concrete and framework. He obtained the permit for a 25' x 30' building. He stated they were permitted to do a carport 25' x 30' in front of it since the framework and concrete was in place. Then he received a work stop order on the carport, finding by covering the carport it might exceed the 1,500 sq. ft. requirement, he was advised to seek relief through the Board of Adjustment. He submitted elevations showing the original plans permitted (Exhibit A-1) and photographs (Exhibit A-2). He asked for the variance to enclose it to protect his collection of vehicles and for aesthetics in the neighborhood.

Comments and Questions:

Mr. Charney questioned staff regarding the change in the permit. Mr. West responded that after the permit was issued it was determined that a carport would be counted as additional structure and needed relief from the zoning code.

Interested Parties:

Jim Clary, 6014 West 39th Street, Tulsa, Oklahoma, 74107, submitted photographs (Exhibit A-5). He stated he lived there for fifty years. He was opposed to the application, because it would be rental property, and the storage of cars would be unsightly. He added that the building was too large for the property. Mr. Walker asked for the wall height and found they were ten-foot walls.

Mary Jo Armer, 5932 East 39th Street, Tulsa, Oklahoma, 74107, expressed concern for the size of the building and storm drainage on neighboring properties.

Peggy Voss, 3735 South 60th West Avenue, Tulsa, Oklahoma, 74107, was opposed to a large, commercial looking metal building. She considered it inappropriate for the neighborhood.

Theda Laird, 3766 South 60th West Avenue, Tulsa, Oklahoma, 74107, was concerned for storm drainage from the subject property.

Zona VanArsdale, 6329 West 39th Street, Tulsa, Oklahoma, 74107, submitted photographs of the subject property from her yard (Exhibit A-3). She was opposed to the application.

Norma Bacon Clary, 6014 West 39th Street, Tulsa, Oklahoma, was opposed to the size, and appearance. She pointed out that it is close to the road and highly visible. She indicated it would decrease the value of neighboring properties.

Stefanie Haley, 6002 West 39th Street, Tulsa, Oklahoma, 74107, stated this building is unique in that it is exposed instead of being in a back yard behind a fence.

Laura Wilson, 3745 South 61st West Avenue, expressed concern for parts and vehicles being stored outside.

Applicant's Rebuttal:

Mr. Lollis responded to the comments, indicating there are other accessory buildings of similar size in the neighborhood. His intention was to store the cars within the building and out of sight. He assured the Board that drainage issues would be handled and this is not for commercial use. His family would be the only ones using the building. He planned to maintain the yard.

Comments and Questions:

He responded to the Board, stating the storm water from the property flows to the east. He did not plan to work on his cars there or have any outside storage. He would have a separate entrance to the property. He stated the oversized lot of 7/8 of an acre is the hardship. Mr. Walker noted the staff comments state the County Assessor's record of a one-half acre lot. Mr. Clary submitted a letter from Mr. Lollis for the record (Exhibit A-4). Mr. Alberty noted that the applicant's exhibit (Exhibit A-1) confirms the lot size is one-half acre.

Board Action:

On **Motion** of Tyndall, the Board voted 3-0-0 (Tyndall, Walker, Charney "aye"; no "nays"; "abstained"; Dillard, Hutson "absent") to **DENY** a Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1500 sq. ft. (Section 240.2.E), finding a lack of hardship, on the following described property:

LT 9 BLK 3, PLEASURE ACREAGE 3RD ADDN, Tulsa County, State of Oklahoma

* * * * *

Case No. 2331

Action Requested:

Special Exception to permit a communications tower in the AG district (Section 310); and a Special Exception to reduce the setback of a tower from AG zoned lots (Section 1204.3.C.7.a); and a Special Exception to modify the height of a fence in the required front yard from 4 ft. (Section 240.2.C), located: 16602 South 157th East Avenue.

Presentation:

Kevin Coutant, 320 South Boston, Tulsa, Oklahoma, submitted a detailed plan (Exhibit B-2) and a packet (Exhibit B-1), most of which are items in the agenda packet. The proposed location is in the community of Leonard. He noted there was an original town site platted for Leonard but the town site was never developed. The proposed tower site of 100' x 100' straddles a number of the 25 ft. platted lots. There are no streets and the area is undeveloped. He pointed out the

pastures to the north south and west. The closest residence is east-southeast over 380 ft. away. The proposed tower height is 180 ft. with a 15 ft. lightning rod. It meets the 110% height requirement. The overall topography of the lease area is flat and surrounding areas are hilly. The surrounding tree coverage and foliage is a limited number of mature trees. The 180 ft. tower is self-supporting and will not be lighted. He stated that it will provide room for four collocations. There are coverage gaps in the immediate vicinity that cannot be met on any existing tower. The expected future use of the parent tract is pasture land. No landscaping is planned. He informed the Board that they sent out notices of a community meeting, which was held with good attendance from the community. They received support for the application.

Interested Parties:

Chris Murphy, 16603 South 145th East Avenue, Bixby, Oklahoma, 74008, stated a realtor informed her that a cell tower would decrease the value of surrounding properties. She complained it would be an eyesore.

Mr. Coutant introduced the RF Engineer to respond to questions.

Hank Madden, 1210 South Detroit, Tulsa, Oklahoma, explained that the tower could not be placed on nearby hilltops as it must be located where the signal does not interfere with the signal in another county. He stated that the hilly terrain interferes with the signal, which influences the tower height and coverage areas.

Bob Murphy, 16603 South 145th East Avenue, Bixby, Oklahoma, 74008, stated they were contacted in the past by another company about placing fiber optic cable.

Applicant's Rebuttal:

Mr. Coutant stated that having the tower in place would be beneficial to the development of this community.

Comments and Questions:

In response to Mr. Tyndall, Mr. Coutant stated there would be an eight foot fence with three strands of barbed wire around the top of this site.

Board Action:

On **Motion of Walker**, the Board voted 3-0-0 (Tyndall, Walker, Charney "aye"; no "nays"; "abstained"; Dillard, Hutson "absent") to **APPROVE** a Special Exception to permit a communications tower in the AG district (Section 310); and a Special Exception to reduce the setback of a tower from AG zoned lots (Section 1204.3.C.7.a); and a Special Exception to modify the height of a fence in the required front yard from 4 ft. (Section 240.2.C), finding all twelve factors required have been considered, as covered in the applicant's presentation; and finding the special exceptions 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 the following described property:

THAT PART OF THE NORTHWEST QUARTER (NW/4) OF THE SOUTHEAST QUARTER (SE/4) LYING NORTH THE RAILWAY LESS AND EXCEPT LOTS NINETEEN (19), TWENTY (20), TWENTY-ONE (21), TWENTY-TWO (22), TWENTY-THREE (23), TWENTY-FOUR (24) AND TWENTY-FIVE (25), INCLUSIVE, IN BLOCK TWELVE (12) AND ALL OF BLOCK TWENTY-ONE (21) IN THE ORIGINAL TOWN OF LEONARD; IN SECTION TWENTY-SEVEN (27), TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT THEREOF.

Case No. 2332

Action Requested:

Variance of the maximum permitted size of a detached accessory building in the RS district from 750 sq. ft. to 1,020 sq. ft. (Section 240.2.E), located: 7530 North Owasso Place.

Presentation:

Nvmo Seng Lao, 7530 North Owasso Place, Tulsa, Oklahoma, 74126, spoke for his father. They started construction of a carport (Exhibit C-1) and received a stop work order. It is 30' x 34' to protect their vehicles. It would not be visible from the street. It is small and behind the house. There is not another home behind their property.

Comments and Questions:

He responded to questions from the Board. They will not use it for commercial activities. There is a small creek bed behind the subject property. Mr. Charney noted the lot is almost double the average size of an RS lot. The accessory building's wall height is eight feet. The yard is fenced, including the rear yard. Mr. Tyndall noted commercial use on surrounding properties.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Tyndall**, the Board voted 3-0-0 (Tyndall, Walker, Charney "aye"; no "nays"; "abstained"; Dillard, Hutson "absent") to **APPROVE** a Variance of the maximum permitted size of a detached accessory building in the RS district from 750 sq. ft. to 1,020 sq. ft. (Section 240.2.E), as submitted, with a condition for no commercial activity; finding the oversized nature of the lot and the unique topography at the westerly boundary of the lot are a hardship, on the following described property:

LT 3 BLK 2, DELAWARE GARDENS, Tulsa County, State of Oklahoma

Case No. 2333

Action Requested:

Special Exception to permit a home occupation (indoor baseball practice facility) in an AG district (Section 310, located: 3105 Campbell Creek Road.

Presentation:

Mr. Cuthbertson informed the Board that the applicant is a fire fighter and could not be present today. The applicant asked for a continuance to July 21, 2009. Mr. Cuthbertson added that a home occupation cannot cover more than 500 sq. ft. of a building, and this one is larger, so he needs more relief from the ordinance.

Interested Parties:

There were no interested parties who wished to speak.

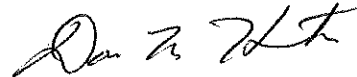
Board Action:

On **Motion** of **Walker**, the Board voted 3-0-0 (Tyndall, Walker, Charney "aye"; no "nays"; "abstained"; Dillard, Hutson "absent") to **CONTINUE** Case No. 2333 to the meeting on July 21, 2009, on the following described property:

There being no further business, the meeting adjourned at 2:55 p.m.

Date approved: _____

7-21-09



Chair