

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 360
Tuesday, May 18, 2010, 1:30 p.m.
Aaronson Auditorium, Lower Level
Tulsa Central Library
400 Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Walker, Vice Chair	Charney, Chair	Alberty	West, Co. Inspector
Dillard	Osborne, Secretary	Cuthbertson	
Tyndall		Sparger	
		Huntsinger	

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 11th day, May, 2009 at 10:59 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Walker 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.

MINUTES

On **MOTION** of Tyndall, the Board voted 3-0-0 (Tyndall, Walker, Dillard "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of April 20, 2010 (No. 359).

UNFINISHED BUSINESS

Case No. 2286-A-Charles Cole

ACTION REQUESTED: *Amendment to a previously approved site plan to permit a building addition to an existing metal salvage yard in the AG District.* **LOCATION:** 17848 S. Hwy 75

PRESENTATION: Charles Cole, 2212 East 13th Street, Tulsa, OK, the applicant, presented additional pictures (Exhibit A-1) to the board of the site. The tree line was cleared before the rain. Mr. Cole described the proposed 14,000 sq. ft. building addition. He provided that the business has already outgrown the existing facility and that the proposed building would allow them to move more of the stuff inside as well.

The Board acknowledged this is an existing business that is doing well, the site looks good; and have been made to play right.

Comments and Questions:

The Chairman recalled during the original application the Board approved the fact that the applicant was not going to grow or improve.

The Chairman inquired about the hours of operation, lighting of the yard, and signage. Mr. Cole stated the hours of operation are 8:00 AM to 5:00 PM, Monday thru Friday. There were no lights in the yard but there are lights on the building itself for security purposes. Mr. Cole stated there is a street light located at the main gate that he had put in. Mr. Cole stated they are actually putting in a smaller identification sign out front on the property, kind of like the Glenpool sign that has a flower bed around it.

The Chairman asked about truck traffic. Mr. Cole says the business averages 5 to 8 trucks a day.

Mr. Cuthbertson added Mr. Cole will need a permit for the sign from the inspector's office. Mr. Tyndall asked a time limit of 30 or 60 days to complete his requirements.

Interested Parties:

None present.

Board Action:

On **MOTION** of Tyndall, board voted 3-0-0 (Tyndall, Walker, Dillard "aye"; no "nays"; no "abstentions") to **APPROVE** an Amendment to a previously approved site plan to permit a building addition to an existing metal salvage yard in the AG district subject to having 60 days to complete the basic with the stated hours of operation (M-F, 8:00 AM – 5:00 PM); subject to no lighting of the yard, only lighting on the buildings for security

purposes; and subject to signage limited to a small sign at the front of the property, to be permitted; on the following described property:

BEG SWC N/2 SE TH E829.4 N400 W829.4 S400 TO POB & BEG 829.4E SWC N/2 SE TH E460 CRV RT APROX137 ALG HWY 75 ROW TH W APROX460 S137 TO POB SEC 34 17 12 9.04ACS

NEW APPLICATIONS

Case No. 2369-Sack & Associates/Ted Sack

ACTION REQUESTED: ***Amendment to a previously approved site plan to permit an expansion to an existing church use in the AG district; Special Exception to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property.*** **LOCATION:** 15710 S PEORIA AV E

PRESENTATION: **Ted Sack**, Sack & Associates, 111 South Elgin, Tulsa, OK; on behalf of the Holy Apostle Church, 15710 South Peoria Avenue, requested a continuance to the next meeting time on June 15, 2010.

Comments and Questions:

Four interested parties were present at this hearing; only two wanted to speak to the board.

Interested Parties:

Ben Herring, 15612 South Peoria, Bixby, OK; expressed that this is the second time to appear at a meeting on same subject; it was denied the first time. Mr. Herring wondered what the process is before it is tabled to a later date; how common is it to have all five members present. Mr. Alberty stated there is no guarantee because the board is all volunteer members and they have business commitments sometimes that prevent them from being here. Also there is no policy or state law that says you have to wait so many times. They can file an application every month if they so desire. The Chairman asked if it would be agreeable if we continue this until June 15th and if we still do not have five members present we can move ahead regardless. Mr. Herring stated that he would like to see this happen today because this is the day that was picked and the day he made accommodations to be available. Mr. Cuthbertson offered Mr. Herring the opportunity to provide any comments in writing prior to the hearing and he would make sure they would be provided to all members of the board. Mr. Herring stated he would not be interested in that because he would prefer to be here in person.

Kurston McMurray, 1515 South Utica, Tulsa, OK; asked for an agreement from the Board that they will proceed at the next hearing even if there are fewer than five members present. The Chairman agreed.

No other interested parties preferred to have a comment.

Board Action:

On **MOTION** of Tyndall, the Board voted 3-0-0 (Tyndall, Walker, Dillard, "aye"; no "nays"; no "abstentions") to **CONTINUE** the Amendment to a previously approved site plan to permit an expansion to an existing church use in the AG district; and the Special Exception to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property until the next Board meeting on June 15, 2010, providing that there would be no further continuations; on the following described property:

**BEG 2885W & 370N SECR SE TH W150 N335 E150 S335 POB LESS S176.5 SEC 33
19 12**

Case No. 02367-Coy & Kim Casey

ACTION REQUESTED: *Variance to permit a detached accessory building in a side yard in an RS zoned district (420.2.A.2) and a Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1,111 sq. ft. (Section 240.2.E).*

LOCATION: 4136 W 59TH ST

PRESENTATION: Coy & Kim Casey, 4136 West 59th Street, Tulsa, OK; presented the request to construct a detached garage on the side of their property. Mr. Casey presented a documentation of support by four neighbors.

Comments and Questions:

The Chairman stated there are several similar situations in the area and not a whole lot of thoroughfare there is there? Ms. Casey responded their street is a dead end street. The Chairman asked if the building was going to be located in the treed area to the west. Mr. Casey responded that it would be approximately three feet west of the existing garage and home.

Mr. Tyndall asked what the building was going to be used for and Mr. Casey stated he will be using the building as a garage for a boat and a ½-ton pickup truck; protection from the hail.

Mr. Dillard asked the property was on sewer system or septic tank. Mr. Casey responded the property is on the sewer system.

Mr. Casey explained the hardship will be the clearing of three large diameter trees. Also, the activities will be held in the backyard and for the side there will be a loss of trees and picnic table. The lot is 158'-0" deep.

Mr. Alberty stated there is no hardship that would meet code requirement, which is the real issue. He informed what the Board may be concerned about looking at the neighborhood and realizing that this is certainly is something not unfamiliar in this area. The Board may consider some of the existing conditions and some of the lots and their sizes; this is an oversized lot, 750 was primarily based on the minimum size of the lot and this lot is certainly much larger than 6900 sq. ft.

Interested Parties:

None present.

Board Action:

On **MOTION** of **Dillard**, the Board voted 3-0-0 (Dillard, Tyndall, Walker, "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance to permit a detached accessory building in a side yard in an RS zoned district; and a Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1,111 sq. ft. as presented and planned finding that this lot is larger than the typical RS zoned lot and existing large trees force the location of the building; on the following described property:

**BEG 2885W & 370N SECR SE TH W150 N335 E150 S335 POB LESS S176.5 SEC 33
19 12**

Case No. 02368-Mark Bickerstaff

ACTION REQUESTED: *Variance of the minimum lot size (2 acres to .75 acres) and land area (2.1 acres to .92) required in the AG district (Section 310) to permit a lot split.* **LOCATION:** 14131 E. 126TH STREET NO.

PRESENTATION: **Mark Bickerstaff**, 14103 East 126th Street North, Collinsville, OK; requested the lot split to allow his stepson to become a first time home buyer and qualify for federal credits as well as the Indian credits. Mr. Bickerstaff stated that he cannot afford to move either of the houses back further, cost wise. Mr. Bickerstaff explained that he has cleaned out trees on the west side behind the house to fence it in for livestock. The driveways have been paved as well. Both dwellings have been there since 2003 so the only thing that changes is they become owners of $\frac{3}{4}$ acre. Mr. Bickerstaff expressed that his stepson and his wife would provide a notarized letter stating that if they were to move because of jobs they would transfer the $\frac{3}{4}$ tract back to him.

Comments and Questions:

The Chairman asked if there was not any way to split this. Mr. Bickerstaff presented a picture that shows the two houses are too close together. The house that is there now is a double wide and the one that was there was a single wide.

The Chairman asked about the location of the tract; it is on 126th Street North in between Owasso and Collinsville, East and South.

Mr. Alberty stated Mr. Bickerstaff could have two dwelling units on this property because it is greater than four acres so he could technically have two dwellings. The problem that it presents is he also could split two acres off and he wouldn't need the variance for the lot size. It is that he wants to create a lot that is less than two acres and if you look at this map you will see that probably 98% of the lots in this area are two acres or greater. There is one small lot to the southeast of the property that is not two acres. There is a reason why you hold these to two acres. This is an agriculturally zoned area so it does create a problem with regards to allowing lots to be created less than what the zoning requires. There needs to be a hardship certainly in this case that would apply to the land, basically, the applicant has eight acres so there is no hardship in that amount other than the fact the way he wants to split it.

Mr. Alberty stated the two dwellings on the lot isn't the issue. The two dwellings can coexist right now without any variance requirement because it is permitted in the code. Mr. Alberty further expressed concern for setting precedence for smaller lots in the agriculturally zoned area. The neighborhood has an expectation level for a two acre plus lot. This action starts to introduce something less than that. It changes the whole dimension of it all.

Interested Parties:

Roy Hess, 12831 North 139th East Avenue, Collinsville, OK; stated he dislikes this split because he moved out there 13 years ago to get away from urban sprawl. It is AG out there for single residence and this request will cut down on the wildlife and, if this is done, we are going to have to let several others in that area do the same thing. That will tax the water system.

The Chairman asked if the double wide sitting on this property now? Mr. Hess confirmed that it was. Mr. Tyndall asked Mr. Hess where he lived in relation to this situation; Mr. Hess said he lived on 126th which is directly west and six (6) properties north.

It was stated that there was a single person living there in a single wide using the existing pad, existing utilities, etc. Now the single person has been replaced with a family of two which became a family of three in March. These houses have been here since March 2007, both locations have been there. The single wide was there since 1999. Mr. Hess's house was installed there March of 2007.

Kenny Tomlin, 12808 North 139th East Avenue; expressed opposition to this is because they are on Washington water district, volunteer fire system out there and the more this is done the more chances some of the homes are going to get burned up out there. There is not a water line in the area for a fire hydrant.

Board Action:

On **MOTION** of Tyndall, the Board voted 3-0-0 (Tyndall, Walker, Dillard "aye"; no "nays"; no "abstentions") to **DENY** a Variance of the minimum lot size (2 acres to .75 acres) and land area (2.1 acres to .92) required in the AG district to permit a lot split based on not being able to prove a hardship, on the following described property:

The W 150 of the E 300 of the N 218 of the S 268 of the W/2 W/2 SE SE & LESS S50 THEREOF FOR RD SEC 33 22 14

Case No. 2370-Matt Weinstock

ACTION REQUESTED: *Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1,400 sq. ft. (Section 240.2.E).* **LOCATION:** 2410 S 57TH AV W

PRESENTATION: **Matt Weinstock**, 2410 South 57th West Avenue, Tulsa OK: explained that he wanted to replace smaller, dilapidated storage buildings, which have been torn down, with one larger storage building also utilizing the new building as security for a ¾-ton pickup truck.

Comments and Questions:

The Chairman stated that he had been out to look at the site and it looks like it is less than 5'-0" from the property line on the north. Mr. Weinstock said he was told there was a variance of 3'-0" from the fence line.

Mr. Tyndall asked about the property being two lots. Mr. Weinstock stated there were actually three parcels, and we just got finished cleaning up on the parcel lines (lot combination).

Mr. Cuthbertson stated that Mr. Weinstock just recently executed a lot combination to combine all of them.

The Chairman asked about the hardship on the property; we have a lot tied together that has grown over five times as large as the minimum. So he is asking to increase the size from 750 sq. ft. to 1,400 sq. ft. which is less than twice the size, therefore, we have a legitimate hardship situation here. The fact that it is already built would have just been a "squeaker" for him, I think. The hardship would be the over-size tract. We don't need any other hardship for this variance.

Interested Parties:

Harold Hurley, 2347 South 59th West Avenue, Tulsa, OK; stated he has the property that joins the property in question. Six months ago the property was in awful shape; Mr. Hurley has a little Jack Russell Terrier and he has killed rats, mice, snakes from the property. Since Mr. Weinstock has tore down all the buildings and put this building in

there it is cleaned up, looks neat, and I don't have rats, snakes, opossum, and skunks running across my yard. It was really bad, and I haven't seen any since this building has been constructed and he has cleaned it up. I can look down there and see his house, before it looked like a jungle, you couldn't even see from my house and my property joins him on the west side. I am elated with what he has done. I don't know if it will help or not but for the neighborhood around there it helped us.

Board Action:

On **MOTION** of **Tyndall** the Board voted 3-0-0 (Tyndall, Walker, Dillard "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1,400 sq. ft. finding an oversized lot, on the following described property:

LT 4 BLK 3, SECOND WEST TULSA VIEW ACRES SUB

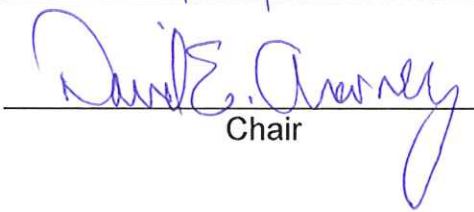
NEW BUSINESS:

Mark Bickerstaff asked what his options are, because of his denial today, for possibly moving forward with this. Mr. Cuthbertson told Mr. Bickerstaff they could discuss it after the meeting if he would like. He wanted to know if he needed to attend tomorrow's lot split meeting. Mr. Cuthbertson told him no, at this point no. INCOG will provide a copy of the petition to Mr. Bickerstaff.

OTHER BUSINESS:

None

There being no further business, the meeting adjourned at 2:30 p.m.

Date approved: 6/15/10

Chair