

**TULSA COUNTY BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 382  
Tuesday, March 20, 2012, 1:30 p.m.  
County Commission Room, Room 119  
County Administration Building  
500 South Denver Avenue

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

Dillard	Charney, Chair	Alberty	Tosh, Tulsa County
Osborne, Secretary	Tyndall	Sparger	
Walker, Vice Chair			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 15<sup>th</sup> day of March, 2012 at 9:27 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. Alberty explained the rules and procedures for the County Board of Adjustment Public Hearing.

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**MINUTES**

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of January 17, 2012 (No. 380).

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of February 21, 2012 (No. 381).

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**UNFINISHED BUSINESS**

None.

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Mr. Walker 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. Walker asked the applicants if they understood and asked the applicants what they would like to do. Two of the applicants stated that they would like to continue their cases to another meeting.

## **NEW APPLICATIONS**

### **Case No. 2425—Zelda Weathers**

**Action Requested:**

Special Exception to permit a Go-Kart Track within Use Unit 20 in an AG District.

Location: 9600 North Harvard Avenue

**Presentation:**

**Zelda Weathers**, 10210 North Harvard, Sperry, OK; requested to have her hearing rescheduled to the May 15<sup>th</sup> meeting.

**Interested Parties:**

There was one interested party present; he agreed to the rescheduling of the hearing.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Walker “aye”; no “nays”; no “abstentions”) to **CONTINUE** the request for a Special Exception to permit a Go-Kart Track within Use Unit 20 in an AG District, to the meeting of May 15, 2012; for the following property:

**TR BEG SECR SE SE TH W326.7 N333.5 W229.2 N TO PT ON NL S/2 SE SE E555.9  
S POB SEC 17 21 13 6.668ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

### **Case No. 2424—Phil Frazier**

**Action Requested:**

Special Exception to permit sand extraction within Use Unit 24 - Mining & Mineral Processing - in an AG District (Section 310). Location: SE of the SE/c 151<sup>st</sup> Street South and South Mingo Road

**Presentation:**

**Phil Frazier**, 1424 Terrace Drive, Tulsa, OK; requested to have his hearing rescheduled to the April 17, 2012 meeting.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Walker “aye”; no “nays”; no “abstentions”) to **CONTINUE** the request for a Special Exception to permit sand extraction within Use Unit 24 - Mining & Mineral Processing - in an AG District (Section 310), to the meeting of April 17, 2012; for the following property:

**GOV LTS 3 4 6 & 8 & 27AC ACCRETED LAND LESS BEG SWC GOV LT 4 TH N466.69 E466.69 S466.69 W466.69 POB & LESS BEG 1322.52N & 92.15E SWC SE TH NE103.37 NE163.69 E280.39 E255.57 E501.27 ELY572.66 SE157.78 S154.42 W1991.50 TO POB SEC 19 17 14 119.08ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**Case No. 2416—Ronald L. Hall**

**Action Requested:**

Variance to permit a second dwelling unit on one lot of record (Section 208); and a Variance of the minimum required land area per dwelling unit (Section 330).

**Location:** 12612 North 143<sup>rd</sup> Avenue East

**Presentation:**

**Ronald L. Hall**, 12612 North 143<sup>rd</sup> East Avenue, Collinsville, OK; would like to move a second mobile home onto his acreage for his step-daughter to live in. There have been two mobile homes on the land since 1973 until March 2010, when the second mobile home was removed. The new mobile home will have a separate legal address, its own private utilities, and a separate septic system.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall “aye”; no “nays”; no “abstentions”) to **APPROVE** the request for a Variance to permit a second dwelling unit on one lot of record (Section 208); and a Variance of the minimum required land area per dwelling unit (Section 330). This approval is subject to meeting all the DEQ requirements, with skirting, tie downs, and paved parking area and driveway; for the following property:

**S330.5 N991.5 E/2 W/2 SE SE LESS E25 THEREOF FOR RD SEC 33 22 14  
2.314ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2418—Benjamin J. Firey**

**Action Requested:**

Variance of the minimum 30' street frontage required for a lot being used for residential purposes (Section 207). **Location:** 14221 West 56<sup>th</sup> Street South

**Presentation:**

**Benjamin Firey**, 14221 West 56<sup>th</sup> Street South, Sand Springs, OK; his house burned down due to an electrical fire in July 2011. Mr. Firey bought the subject property from his grandfather which has owned it for over 50 years.

Mr. Walker asked Mr. Firey if he had a recorded easement agreement for his property. Mr. Firey stated that he had been deeded the driveway and that he (Mr. Firey) had given that person an easement agreement so there would be no future legal problems. Mr. Alberty stated that Mr. Firey will need to bring a copy of the easement granting access to his property to INCOG for the file, and this is done for Mr. Firey's protection. Mr. Firey stated that he would do that.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall “aye”; no “nays”; no “abstentions”) to **APPROVE** the request for a Variance of the minimum 30' street frontage required for a lot being used for residential purposes (Section 207), subject to a copy of a recorded access agreement being provided to INCOG for the case file; for the following property:

**N1098.4 W/2 W/2 E/2 SW NW & E41.4 N1098.4 E/2 E/2 W/2 SW NW SEC 33 19 11  
5.20ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

## **2419—Kevin Vanover**

### **Action Requested:**

Variance from the requirement that unenclosed parking areas be surfaced with an all-weather material (Section 1340.D). **Location:** 5615 North Mingo Road East

### **Presentation:**

**Kevin Vanover**, Impact Engineering, 109 North Birch, Owasso, OK; stated the subject property is on the northeast corner of 56<sup>th</sup> Street North and North Mingo Road. This is an existing facility that sells and maintains construction equipment. The existing lot is all crushed aggregate rock. There will be a new facility constructed that will also sell and maintain construction equipment, and it has been separated from the existing facility. This is currently going through the permitting process and the lot-split has been approved, finalized and filed with the County office. The nature of the business is large construction equipment; i.e., bulldozers, track hoe, etc. If the lot were to be paved the constant movement of the equipment, and even the displaying of the equipment, the pavement would constantly be under replacement construction just because of the weight of the equipment. That would place a hardship on the client and that is why there is a request for a variance.

Mr. Osborne asked Mr. Vanover what type of surface was currently on the area, and Mr. Vanover stated it was crushed aggregate rock over the entire site. For the new facility it is proposed to have a concrete paved surface for the customer and employee parking with an apron around the building.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall “aye”; no “nays”; no “abstentions”) to **APPROVE** the request for a Variance from the requirement that unenclosed parking areas be surfaced with an all weather material (Section 1340.D) due to the extraordinary conditions and circumstances of maintaining a hard surface driveway and parking area related to the business. This approval is subject to the crushed aggregate rock be in the area used by the large equipment or vehicles only, with the employee and customer parking area to be concrete; for the following property:

**S450 W299 BLK 1, NORTHEAST INDUSTRIAL DISTRICT, OF TULSA COUNTY, STATE OF OKLAHOMA**

## **2421—Damian Tobias**

### **Action Requested:**

Special Exception to allow a manufactured home in a RS district (Section 410).

Location: 6037 West 61<sup>st</sup> Street South

### **Presentation:**

**Damian Tobias**, P. O. Box 352, Oakhurst, OK; stated there had been a house on the property but it burned down and they replaced it with a manufactured home. The existing garage will be replaced and the new building will be used for storage. Mr. Tobias stated that he did not know he would need to request permission to place a manufactured home on the subject property and that is why he is before the Board of Adjustment today. He placed the manufactured home in line with the neighbor's manufactured home because he could not see setting his in front or in back of the neighbor's because he wanted it to be aesthetically pleasing to the area.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a Special Exception to allow a manufactured home in a RS district (Section 410). This approval is subject to meeting all the DEQ requirements, with skirting, tie downs, and a paved parking area. In granting this special exception the Board finds that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood; for the following property:

**LOTS-18-19-20-BLK-12, NEW TANEHA, OF TULSA COUNTY, STATE OF OKLAHOMA**

## **2422—Daniel M. and Joeleen V. Person**

### **Action Requested:**

Variance from the requirement that residential lots have a minimum of 30 feet of frontage along a public street or dedicated right-of-way to permit a lot-split.

Location: 12184 North 75<sup>th</sup> Avenue East

### **Presentation:**

**Daniel Person**, 12184 North 75<sup>th</sup> East Avenue, Collinsville, OK; stated he wants to split the lot in half. There is an existing easement that has been in existence since 1966 and feels this hearing is strictly a formality.

Mr. Walker asked Mr. Person if there was an access easement to the property. Mr. Person stated there is a 30'-0" easement from 126<sup>th</sup> Street going south on 75<sup>th</sup> Street to the end of the lot, and the easement has been in existence since 1966.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a Variance from the requirement that residential lots have a minimum of 30-feet of frontage along a public street or dedicated right-of-way to permit a lot split, subject to evidence of a filed easement with a minimum of 30'-0" by a publicly-dedicated street being provided to INCOG for the case file; for the following property:

**S/2 E/2 W/2 SW NE SEC. 2-21-13, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2423—Matt Blair**

**Action Requested:**

Special Exception to permit church use within Use Unit 5 in an RS district.

Location: SW/c of West 41<sup>st</sup> Street South and South 73<sup>rd</sup> Avenue West

**Presentation:**

**Matt Blair**, 3817 South Rolling Oaks Drive, Tulsa, OK; stated the church is proposing to purchase the subject property and the closing is contingent upon this special exception request being approved by the Board. This lot is under two different zonings. The conceptual master plan was presented to INCOG and it shows the building to be placed on the commercial side and the parking area on the residential side of the lot.

**Interested Parties:**

**Dewey Miller**, 6655 West 42<sup>nd</sup> Street, Tulsa, Ok; stated he is the developer of Stratford Estates, an upscale development. He does not oppose the church being built on the property. He does oppose the proposed all metal building materials because the church is going to have high-end upscale homes surrounding it on three sides. Stratford Estates has a requirement that all the homes be 50% brick, stucco, or stone. Most of the homes are 100% brick, stucco or stone. His concern is that an all-metal structure will not fit into the character of the area. On the west side of the subject property, the State Armory is an all masonry building. On the north side of the subject property is TCC College West Campus which is an all brick and stone structure. Each of these buildings do have metal roofs. Mr. Miller does not think the introduction of metal

buildings into the area is a good idea and would not be in character with the neighborhood.

**Rebuttal:**

Matt Blair came forward and stated that his only rebuttal to Mr. Miller's argument on the building materials is that one of the largest and most expensive houses in Stratford Estates has a all metal barn. The church has no desire to have the building look like a plain metal building. Also, there are several metal buildings down the hill in the Berryhill area.

**Comments and Questions:**

Mr. Alberty stated that the only portion that requires the Board's approval is what is proposed for the RS district. Use Unit 5 is by right in the CS district. Technically the church is proposing to build their building in the CS district and there is no requirement in the code for the CS district as to what type of materials is used in the CS district. What the Board is looking at is the land use of the RS portion and there are no buildings being proposed on the RS portion, it is only proposed parking for the church. Mr. Blair does not need any approval from the Board of Adjustment on the CS portion.

**Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a Special Exception to permit church use within Use Unit 5 in an RS district, subject to a plat. In granting this special exception the Board finds that 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; for the following property:

**N445 E/2 NE NW LESS BEG NEC NW TH S100 WLY383.78 NW104.4 W176.31 TO WL E/2 NE NW TH N70 E POB & LESS E37.5 THEREOF FOR RD SEC 30 19 12 5.085ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2426—Bruce and Diane Hardy**

**Action Requested:**

Special Exception to permit tree sales within Use Unit 2 in an AG District (Section 310); Variance to permit retail sales in an AG District (Section 1203.3). **Location:** SE/c of 177<sup>th</sup> Avenue West and West Wekiwa Road

**Presentation:**

**Bruce and Diane Hardy**, 5147 South Harvard, Suite 310, Tulsa, OK; stated he and his wife want to open a seasonal gardening lot that would be open two seasons out of the year. In the spring vegetables, flowers, shrubs, trees, and a variety of other plants would be sold with a major focus on the trees. In the autumn the trees would be the main product sold because that is the best time of year to plant trees. The land has been in the family since 1945 and is largely river bottom. There are lots of trees and it



has access to the river but nothing permanent can be built on the land because it is flood plain; the last known flood was in 1986. There are only two things that can happen on the land that is either farming or using it for ranching. The Hardys decided to use the land for tree farming and 2010 they obtained all the necessary licenses for that purpose and started planting trees. He has started the retail operation of the tree farming by obtaining large grown trees from construction sites, trees that were going to be destroyed because of the construction. By obtaining these trees he does not need to wait ten years for a tree to mature and has them readily available for the public to purchase. In the future Mr. Hardy stated that he would like to turn the subject property into a full-scale retail gardening center. Mrs. Hardy stated that they have no plans of razing any of the older trees unless they are diseased, and they have stopped all hunting on the property because they want it to be like a sanctuary for all wildlife, even the eagles that are there. As a land steward Mr. Hardy thinks by turning this property into a gardening nursery center it will fit into the nature of the area.

Mr. Alberty suggested to the Board that a few more questions of the applicant might better define his retail sales intent and by doing so it would eliminate the retail sales expanding into something other than what has been discussed at this meeting today.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall “aye”; no “nays”; no “abstentions”) to **APPROVE** the request for a Special Exception to permit tree sales within Use Unit 2 in an AG District (Section 310); Variance to permit retail sales in an AG District (Section 1203.3), limited to nursery and gardening products and related accessories. There is to be a time limit of five years on the special exception. In granting this Special Exception it will be in harmony with the spirit and intent of the Code, and the hardship found is that the subject property is in a flood plain; for the following property:

**PRT GOV LT8 LYING S OF WEKIWA RD & W OF A LN BEG 2000 SW INT SEC SL RD & E L GOV LT9 TH S TO THREAD ARKANSAS RIVER WLY TO WLN LT8 NALGWLNTOPT2515NWCLT8T HNEALGSR/WLNWEKIWARD TO POB LESS BEG 523 SNWC LT8 TH NELY 435S TO MLSW TO WLL T8N POB & LESS .22 AC NW SW FOR RD SEC 6 19 11 7.196AC, OF TULSA COUNTY, STATE OF OKLAHOMA**

## **2427—Blas Gaytan**

### **Action Requested:**

Special Exception to allow Use Unit 2 in an IM District to allow open air music festivals; Special Exception to permit Use Unit 19a in an IM District to allow a dance hall; and a Variance from the requirement that parking (for special events) be on an all weather surface. **Location:** SE/c of East 61<sup>st</sup> Street North & North Mingo Road

### **Presentation:**

**Blas Gaytan**, 1500 South Columbia, Bixby, OK; stated he was before the Board in 2004 to build a house. Mr. Gaytan thinks now would be an ideal time to start an outdoor entertainment area. He has held festivals and concerts in the past at Expo Square so he is familiar with what is needed to manage an open air festival.

Mr. Walker asked Mr. Alberty if there were noise level restrictions in the County, and Mr. Alberty stated that the County does not have an ordinance or restriction on noise levels. Mr. Alberty stated that the area Mr. Gaytan is proposing to hold the open air festivals is predominately agricultural but there are scattered rural type homes in the area. When Mr. Gaytan was before the Board previously one of the conditions placed on the action was to provide a large sewer service for a permanent structure. Mr. Gaytan is now requesting an open air festival because he does not want to pave for parking, which is required for a dance hall and he has requested a dance hall under one of his special exception requests.

### **Interested Parties:**

There were no interested parties.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall “aye”; no “nays”; no “abstentions”) to **APPROVE** the request for a Special Exception to allow Use Unit 2 in an IM District to allow open air music festivals.

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall “aye”; no “nays”; no “abstentions”) to **DENY** the request for a Special Exception to permit Use Unit 19a in an IM District to allow a dance hall.

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall “aye”; no “nays”; no “abstentions”) to **APPROVE** the request for a Variance from the requirement that parking (for special events) be on an all weather surface, subject to parking as presented by nature; all for the following property:

**N1156.9 BLK 1, NORTHEAST INDUSTRIAL DISTRICT, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2420—F. Darren Francisco**

**Requested Action:**

Use Variance to allow Use Unit 15, business use in an RS zoned district. **Location:**  
2240 South 57<sup>th</sup> Avenue West

**Presentation:**

No presentation was made. The applicant's subject property is located in a City of Tulsa annexation area; County Board of Adjustment does not have jurisdiction. The staff is requesting a refund for \$816.00.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Dillard, Osborne, Tyndall "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a refund for \$816.00.; all for the following property:

**LTS 3 & 4 BLK 2, SECOND WEST TULSA VIEW ACRES SUB, OF TULSA COUNTY,  
STATE OF OKLAHOMA**

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**NEW BUSINESS**

None.

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**OTHER BUSINESS**

None.

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**BOARD COMMENTS**

None.

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There being no further business, the meeting adjourned at 3:14 p.m.

Date approved: 4-17-12

David E. Crowley  
Chair