

**TULSA COUNTY BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 390  
Tuesday, November 20, 2012, 1:40 p.m.  
County Commission Room, Room 119  
County Administration Building  
500 South Denver Avenue

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

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

Miller  
Back  
Sparger  
Bates

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 15<sup>th</sup> day of November, 2012 at 2:03 p.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.

Ms. Back explained the rules and procedures for the County Board of Adjustment Public Hearing.

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**MINUTES**

On **MOTION** of **WALKER**, the Board voted 3-0-2 (Charney, Dillard, Walker "aye"; no "nays"; Draper, Osborne "abstaining"; none "absent") to **APPROVE** the Minutes of October 16, 2012 (No. 389).

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**UNFINISHED BUSINESS**

**2438—David Woods**

**Action Requested:**

Variance from the requirement that a lot have a minimum of 30 feet of frontage on a public street or dedicated right-of-way (Section 207). **Location:** 5875 South 157<sup>th</sup> West Avenue

**Presentation:**

The applicant was not present. Mr. Charney moved this case to the end of the meeting to allow the applicant time to arrive.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

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**NEW APPLICATIONS**

**2444—Edgar Duesenberg**

**Action Requested:**

Special Exception to allow a manufactured home in an RE District (Section 410, Table 1). **Location:** 5205 East 94<sup>th</sup> Street North

**Presentation:**

**Edgar Duesenberg**, Box 106, Ramona, OK; stated this application for a special exception is for a single-wide mobile home. The home will sit on 2-1/2 acres and is in a rural setting with cattle, horses, chicken, and other animals in the area. There is an existing single-wide mobile home in the area. He does not want the new home to be injurious to the neighborhood so he will make the home look nice.

Mr. Charney asked Mr. Duesenberg if he had heard anything negative from any of his neighbors. Mr. Duesenberg stated that he did not know too many of the neighbors yet, but he has planted some trees on the land and he met a few of the neighbors then. The neighbor closest to him did voice some concerns but after he spoke with the neighbor they were happy and said they would not even attend today's meeting.

Mr. Osborne asked Mr. Duesenberg if he planned to have this land as a permanent residence. Mr. Duesenberg stated that at this point in time he plans to save and then build a wood frame constructed home on the land. After the newly constructed home is complete the single-wide mobile home will be removed.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **OSBORNE**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a **Special Exception** to allow a manufactured home in an RE District (Section 410, Table 1). This approval is conditioned on the requirement that the mobile home have the appropriate ties downs, skirting or screening, paved parking and meets DEQ approval; finding the Special Exception 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:

**PRT NW BEG 1018.06E & 440.40S NWC NW TH E259.03 S440.38 W259.03 N440.38  
POB LESS S25 THEREOF FOR RD SEC 22 21 13 2.47AC, OF TULSA COUNTY,  
STATE OF OKLAHOMA**

**Case No. 1303-A—John Davis**

**Action Requested:**

Modification to previously approved Special Exception (CBOA-1303) to permit a church in an AG District for proposed expansion of existing Sanctuary for new Fellowship Hall. **Location:** 12215 North Garnett Road East

**Presentation:**

**John Davis**, P. O. Box 227, Owasso, OK; stated the church has a master plan for future plans but the goal today is the proposal of adding 3,000 square feet to the rear of the existing building. The church is located near German Corner in the Owasso area.

Ms. Back stated that church has a master plan, and if the Board is so inclined they would like to have the master plan adopted so they can go directly to Mr. Terry West, County Inspector.

Mr. Charney asked Mr. Davis if he is asking the Board to approve and adopt the conceptual master plan for the church’s future renovations. Mr. Davis gave affirmation.

**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, Draper, Osborne, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a **Modification** to previously approved **Special Exception** (CBOA-1303) to permit a church in an AG District for proposed expansion of existing Sanctuary for new Fellowship Hall and to **ADOPT** the conceptual site plan as submitted as the new governing document for future growth. Finding the Special Exception 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:

**LT 1 BLK 1, NEW LIFE ASSEMBLY OF GOD, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2445—Robert Myers**

**Action Requested:**

**Special Exception** for mining dirt (Use Unit 24) for a pond in the AG zone (Section 310, Table 1). **Location:** 14898 North Lewis Avenue East

**Presentation:**

**Robert Myers**, 15360 State Highway 20, Skiatook, OK; stated he is in the excavation business and his friend wants to have a pond. The friend would like to sell the excavated materials as the pond is dug out. The pond will be approximately one acre in size with sloped banks, and be approximately 12 to 15 feet deep. There will be an approximate 60,000 cubic yards of shale excavated.

Mr. Osborne asked Mr. Myers if there is a specific purpose for the pond. Mr. Myers stated not really, the friend just wants a pond.

Mr. Charney asked Mr. Myers if there was any drainage into the proposed pond. Mr. Myers stated that it would collect water just from the sloped sides.

Mr. Draper asked Mr. Myers if any of the excavated materials was intended to stay on the owner's property. Mr. Myers stated no.

Mr. Walker stated that this is not a pond, it is just a hole and the owner is trying to sell the material. Mr. Charney concurred.

Mr. Charney asked Mr. Myers if he or the land owner could live with a time limit should the application be approved today. Mr. Myers stated that he had four to six weeks on the application, but the job he was going to sell the material to fell through. Now the excavated materials could take a year or more to sell. Mr. Myers stated the hole would only be dug as the materials are sold.

Mr. Walker asked Mr. West if the hole was already started when his office went out for an inspection. Mr. West stated that the hole was already in the process of being dug. Mr. Myers had come to the office a couple of weeks prior to the inspection to dig the pond, which was not an issue. But due to the size of the pond and the amount of material that is to be removed the project fell under Use Unit 24. That is when inspection office shut the project down and told him that he needed to make an application with the Board of Adjustment.

Mr. Myers stated that he knew of the Board of Adjustment but he was hoping to slide by but he stopped the project as soon as the County Inspection Office told him to cease operation.

Mr. Osborne asked Mr. Myers what the status is of the other permits required for the project. Mr. Myers stated he has his bond required by the Mining Commission, and the only other permit he is aware of is the county inspections.

Mr. Charney asked Mr. Myers if he had any fencing up around the project. Mr. Myers stated that it is not required. Anything that could possibly wash into the pond will stay there.

Mr. Charney asked Mr. Myers if he was using North Lewis as his ingress and egress. Mr. Osborne asked Mr. Myers what size of truck he is using to haul the product away. Mr. Myers stated that most times ten-wheeler box trucks are used for hauling out the product, but occasionally there are eighteen-wheelers.

Mr. Draper asked Mr. Myers what the maximum size of pond could be excavated by the Mining Commission regulations. Mr. Myers stated the Mining Commission will allow for a two acre pond, but the land owner only wants a pond approximately one acre in size.

**Interested Parties:**

There were no interested parties:

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DRAPER**, the Board voted 4-1-0 (Charney, Dillard, Draper, Osborne "aye"; Walker "nay"; no "abstentions"; none "absent") to **APPROVE** the request for a **Special Exception** for mining dirt (Use Unit 24) for a pond in the AG zone (Section 310, Table 1). This approval is subject to the conditions that the pond be no greater than the

Mining Commission has permitted, which is a two acre pond. The pond is to have a 4:1 slope and seeded upon completion. The operation involved with completing the pond end within one year from today's date of November 20, 2012. The excavated materials are not to be held on the property and the material is to be loaded as excavated; for the following property:

**N/2 NW SE SE & S/2 SW NE SE & N60 S/2 SE NE SE SEC 19 22 13 10.91ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**Case No. 2446—Joe Henski and Cecily Bryan**

**Action Requested:**

Variance of the 30 feet of frontage required on a public street to permit a dwelling in an RE/AG district (Section 207). **Location:** 13119 East 1<sup>st</sup> Street North

**Presentation:**

**Joe Henski and Cecily Bryan**, 11021 North 159<sup>th</sup> East Avenue, Owasso, OK; Mr. Henski stated he has entered into a contract on the subject 5-1/2 acre tract of land and he would like to build a house and a shop building for his personal use. Currently there is an existing structure that is a trailer house with many constructed additions attached that he wants to remove. There is also a dilapidated pole barn that will be torn down and removed.

Mr. Charney asked Mr. Henski if he had the proper easement of record documentation for the property he is proposing to purchase. Mr. Henski stated that he did have the proper easement of record and there were three other property owners that are served by the easement. Mr. Charney asked if the document speaks to sharing maintenance of the easement. Mr. Henski stated there is no mention of maintenance or sharing maintenance. The people that actually own the property borders the south fence of the subject property, so the 50 foot wide easement is actually a 50 foot wide piece of property that leads into the owner's property and they actually own the 50 foot wide strip of land but allow others access.

**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, Draper, Osborne, Walker "aye"; No "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance of the 30 feet of frontage required on a public street to permit a dwelling in an RE/AG district (Section 207); for the following property:

**N 432.7 E 565 SE SW NW SEC 33-21-14, OF TULSA COUNTY, STATE OF OKLAHOMA**

**Case No. 2447—Crown Hill Funeral Home**

**Action Requested:**

Use Variance to allow for a funeral home (Use Unit 11) in an AG District (Section 310, Table 1). Location: 1821 East 66<sup>th</sup> Street North

**Presentation:**

**Michael McConnell**, 2455 North Boston Avenue, Tulsa, OK; stated he would like to receive a license from the state funeral board to operate a full service funeral home. He would also like to have the ability to embalm. For the most part funeral homes do not perform their own in-house embalming because it is now outsourced. The state funeral board wants funeral homes to have the capability of doing so in case of a disaster or large emergency. He would like to be able to show and sell caskets and provide a price list for funeral services.

Mr. Charney asked Mr. McConnell if he was a prospective buyer or if he currently owned the property. Mr. McConnell stated that he has a lease with option to purchase and he does intend to purchase the building if he is allowed to use the funeral home. He has no reason to purchase the building without the use of the funeral home.

Mr. Charney asked Mr. McConnell if the site was served by sanitary sewer or septic system. Mr. McConnell stated the property is on sanitary sewer. Mr. Charney asked if Mr. McConnell knew if there is a sufficient infrastructure in place from to handle the embalming process. Mr. McConnell stated there is a sufficient infrastructure in place, and stated the state funeral board has seen the building several times. He has not been able to obtain the occupancy permit then the license for the funeral home. The Board of Adjustment is the last step in the process so that all the permits can be obtained and in place.

Mr. Draper asked Mr. McConnell if the existing church/school use intended to continue, or is the building intended to totally become a funeral home. Mr. McConnell stated there is a very large chapel on site and it has been used for weddings. There is no school, and at one time there was a church renting the chapel.

Mr. Charney asked Mr. McConnell if any of the surrounding neighbors has expressed any concerns in regards to the funeral home. Mr. McConnell stated that he has heard overwhelming support from the neighbors for the proposed project.

**Interested Parties:**

**John Smaligo**, 633 North Denver Avenue, Tulsa, OK; stated that he appeared before the Board of Adjustment several years ago in regards to a halfway house at the subject location. It was decided by the Board, very wisely, that the level of intensity of the type

of use did not fit the surrounding area. Mr. Smaligo mentioned the petition from the neighbors in the surrounding area, that they recognize this as an opportunity for this facility to be used in a positive way and a good business opportunity for the community. Mr. Smaligo stated that Mr. McConnell has gone out of his way to visit with some of the homeowners of the area and tell them about his plans. Mr. McConnell has been very open about this process and garnered quite a bit of support, which is well deserved. Mr. Smaligo encourages the Board to approve this application.

**Jeff Kirkham**, 1727 East 73<sup>rd</sup> Street North, Tulsa, OK; stated he believes in Mr. McConnell. He believes that Mr. McConnell will do as he says he is going to do. He believes Mr. McConnell will continue to improve the subject property. He knows Mr. McConnell will be an asset to the community.

**Comments and Questions:**

Mr. West suggested that Mr. McConnell have the property platted, which would clean up the property for the County.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker “aye”; No “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Use Variance to allow for a funeral home (Use Unit 11) in an AG District (Section 310, Table 1). Finding that the peculiar nature of the structure as it is situated on the land has a limited potential use. This hardship will allow the Board to grant the use variance given the unusual nature of the structure on the site and the overall size of the property; for the following property:

**W250 E/2 SW SW SE LESS S50 THEREOF FOR RD SEC 31 21 13 3.501ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2448—Larry D. Vaughan**

**Action Requested:**

Variance to allow 1,500 square foot accessory building (pole barn) in an RS District (Section 240.2.E). **Location:** 4701 West 27<sup>th</sup> Street South

**Presentation:**

**Larry Vaughan**, 4701 West 27<sup>th</sup> Street South, Tulsa, OK; stated there is an existing 750 square foot pole barn that is approximately 40 years old and it is riddled with termites. He has attempted to make repairs to the barn but it is not cost effective. He would like to build a 1,500 square foot pole barn to the north of the existing barn and after the new structure is complete he will raze the old barn.

**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, Draper, Osborne, Walker “aye”; No “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Variance to allow 1,500 square foot accessory building (pole barn) in an RS District (Section 240.2.E). The hardship is that 1.687 acres is much greater than the minimum 7,000 square foot lot that would automatically house the 1,500 square foot pole barn. Upon completion of construction of the new 1,500 square foot pole barn the old 750 square foot pole barn will be razed and removed from the property; for the following property:

**W344 E/2 N/2 S/2 NW SW LESS W99 & LESS S30 FOR RD SEC 16 19 12 1.687ACS,  
OF TULSA COUNTY, STATE OF OKLAHOMA**

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**UNFINISHED BUSINESS**

**2438—David Woods**

**Action Requested:**

Variance from the requirement that a lot have a minimum of 30 feet of frontage on a public street or dedicated right-of-way (Section 207). **Location:** 5875 South 157<sup>th</sup> West Avenue

**Presentation:**

No presentation was made; the applicant was not present.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **DILLARD**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to **CONTINUE** the request for a Variance from the requirement that a lot have a minimum of 30 feet of frontage on a public street or dedicated right-of-way (Section 207) to December 18, 2012. The Board requests staff to write a letter to the applicant stating the applicant will face denial if not in attendance with the proper documentation at the December 18, 2012 meeting; for the following property:

**N220 E495 NE SW SW SEC 32 19 11 2.50ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

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**NEW BUSINESS**

**Case No. 2442—Rob Walenta**

**Action Requested:**

Refund request.

Ms. Back stated that the applicant withdrew the application because they could not obtain a lease for the subject property.

Mr. Charney asked if the expenses shown on the refund request were true third party out-of-pocket expenses. He does not understand why the request is for only a \$100.00 refund.

Ms. Back stated that the legal news notification had been published. The mailing of notification had been completed to the 300 foot radius property owners. Staff had completed the site visits and most of the work on the project. So, the \$100.00 refund is justifiable.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to **REFUND** the request for a \$100.00 application refund.

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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 2:38 p.m.

Date approved:

David E. Charney  
12/18/12  
Chair