

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 391
Tuesday, December 18, 2012, 1:30 p.m.
Aaronson Auditorium
Tulsa Central Library
400 Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair	Dillard	Miller	West, Co. Inspector
Draper	Walker, Vice Chair	Back	
Osborne, Secretary		Sparger	
		Bates	

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13th day of December, 2012 at 10:39 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

Mr. Charney 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. Charney asked the applicants if they understood and asked the applicants what they would like to do. The applicants stated that they would like to proceed with the hearing today.

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.

MINUTES

On **MOTION** of **OSBORNE**, the Board voted 3-0-0 (Charney, Draper, Osborne "aye"; no "nays"; no "abstentions"; Dillard, Walker "absent") to **APPROVE** the Minutes of November 20, 2012 (No. 390).

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 157th West Avenue

Ms. Back stated that Mr. Andrew Shank, with the law firm of Eller and Detrich, had contacted her this morning stating that he had been contacted by Mr. Woods. Unfortunately, Mr. Shank has not had time to review the documents and Mr. Shank requests the Board's indulgence and continue this case to give him time to review the case.

Presentation:

David Woods, 5875 South 157th West Avenue, Tulsa, OK; stated he has engaged counsel to help him with this action and requests a continuance of his case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Draper, Osborne, "aye"; no "nays"; no "abstentions"; Dillard, Walker "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 the January 15, 2013 meeting; for the following property:

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

NEW APPLICATIONS

2449—L & B Dirt Pit, LLC – Bill Mangold

Action Requested:

Special Exception for mining dirt (Use Unit 24) in the AG zone (Section 310, Table 1). **Location:** 1 mile East of Highway 11 on East 106th Street North, west of Hominy Creek

Presentation:

Bill Mangold, 17950 North Peoria, Skiatook, OK; stated the dirt pit has been open for 2-1/2 years and he purchased it about 1-1/2 years ago and it is currently in operation. Since his purchase he has found out that the previous owner had never applied for the special exception, and that is why he before the Board today. Also the previous owners only had a temporary permit from the Department of Mines and he has filed, and been approved for, a permanent permit with the Department of Mines. The Oklahoma Department of Environmental Quality has been out and a WSB3 form has been filed. The Army Corp of Engineers has also been on the site and he is waiting to receive a permit from the Corp of Engineers.

Joe Kelley, 10035 North 177th East Avenue, Owasso, OK; stated he is an engineer and Mr. Mangold contacted him regarding the dirt pit about a month ago. Mr. Mangold had completed a lot of paperwork in regards to the dirt pit. Mr. Kelley stated that Mr. Mangold had already completed and filed much of the paperwork that he would normally do for a client. There have been inspections performed by the Department of Mines, and he has complied with everything that they have required of him. The dirt pit is allowed within a AG zone with a special exception.

Mr. Charney stated that the application covers 73.6 acres but according to an aerial view there is a smaller target area consisting of about 17 acres and he asked Mr. Kelley to address that point with the Board. Mr. Kelley deferred to Mr. Mangold.

Mr. Mangold came forward and stated that the 17 acres is the portion that will be mined and is the portion that is bonded through the Department of Mines. Mr. Charney asked Mr. Mangold if the Board were to choose to approve the special exception would he object to the Board limiting the approval to the 17.06 acres. Mr. Mangold stated that he would not object because that is what he is asking for today.

Mr. Charney asked Mr. Mangold to address the volume produced by the pit and the ingress and egress from the site. Mr. Mangold stated there are about 350 bobtail loads a month hauled off the site. Some months may be a little higher but 350 is an average.

Mr. Osborne asked Mr. Mangold what his hours of operation are. Mr. Mangold stated the hours of operation are 7:00 A.M. to 3:00 P.M., occasionally as late as 5:00 P.M., five days a week with an occasional Saturday.

Mr. Charney asked Mr. Mangold if he had ever done business with Mr. Charney's company, either Owasso Land Trust or Capital Homes. Mr. Mangold stated that he has done business with both firms. Mr. Charney then asked if he was still doing business currently with either or both firms. Mr. Mangold answered affirmatively. Mr. Charney stated that he is compelled to recuse himself because of the business relation. Mr. Charney extended an apology but he had not realized until this moment that there is a working business relationship. The law does not permit him to sit on a Board that has a working business relationship, because in theory he could possibly derive some benefit from granting the application. Upon Mr. Charney's recusal there is no one else to present a quorum so the case will be continued to the next meeting.

A woman from the audience asked the Board if they could stop the mining until the next meeting because a lot of damage can be done to the land in the next 30 days if the mining is not stopped. Mr. Charney stated this case must be continued but he will speak to her question. At this point Mr. Charney officially recused himself from the case, but asked Mr. West to speak to the current status of the operation.

Mr. West stated that he had issued a desist order. Mr. Mangold came into the office the very next day and showed proof of the approval from the Department of Mines. In fact Mr. Mangold had all the documents and everything in order to operate the dirt pit with the exception of an approval from the Board of Adjustment for a special exception. Mr. Charney stated that he will allow the remaining to two Board members to decide whether Mr. Mangold can continue to operate his dirt pit.

Mr. Osborne asked the woman from the audience to come forward to the podium and state her concerns.

Interested Parties:

Stacie Sisk, 397014 West 4000 Road, Skiatook, OK; stated her issue is not that Mr. Mangold is mining dirt, but the issue is that he has crossed over into her property. The original T-posts are gone, the survey pins are gone, and she is concerned about the mining operation causing erosion. If Mr. Mangold continues to dig in the current location, which is her property, there will be non-repairable damage.

Mr. Osborne stated that the Board can only address land use. The Board does not have any authority to address violations. If Mr. Mangold is violating rules and regulations that are established by ruling authorities that is an entirely different matter under a different governing authority. The Board does not have any authority to bind Mr. Mangold in anyway regarding a distance from a border or boundary. Mr. Osborne stated that is in the best interest of both parties to work the discrepancy out between them before the next meeting. Mr. Mangold stated that he would stay away from the area under dispute until the next meeting.

Marilyn Sisk, 397010 West 4000 Road, Skiatook, OK; stated she owns the property that is next to the area in question. About seven years ago there was tree theft on her

property, and she is tired of people coming and taking what is not theirs to have. She pays taxes on the property and she wants to see something done. Mr. Watson, who performed her survey, is supposed to send her a copy of the survey she had performed several years ago, but she wants to know how this Board is going to prove which survey company has the correct survey.

Mr. Charney stated that if this truly a boundary dispute, that is a separate issue from a land use dispute. If there is a boundary dispute maybe Mr. Kelley could help determine if a boundary dispute if the core of the issue. If it is a boundary dispute the Board does not have the jurisdiction to resolve a boundary dispute. Mr. Charney asked all parties to gather all their paperwork and bring it to the next meeting for review and discussion.

Mr. Osborne stated, again, the purpose of the Board of Adjustment is strictly to look at land use. That is all the Board has the authority to do under the law. If there are boundary disputes or violations against the land, those are items that should be addressed but it is something this Board has no authority to do anything about. If there is an issue with Mr. Mangold digging on the property the Board wants to hear from all interested parties because the Board is here to serve all the citizens of Tulsa County.

Comments and Questions:

None.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 2-0-1 (Charney, Draper, Osborne, "aye"; no "nays"; Charney "abstaining"; Dillard, Walker "absent") to **CONTINUE** the request for a Special Exception for mining dirt (Use Unit 24) in the AG zone (Section 310, Table 1) to the January 15, 2013 meeting; for the following property:

The N/2 of the NE/4, Section 13, Township 21 North, Range 12 East, Less and Except, Beginning Northeast corner of N/2 of the NE/4, Section 13, Township 21 North, Range 12 East, thence West 980.95', thence South 25', thence Southeasterly 1227.08' to a point, thence East 25', thence North 718.5' to the Point of Beginning, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2450—Nick Lombardi

Action Requested:

Special Exception to permit a store (Use Unit 14) in an IL District (Section 910).

Location: 5630 North Peoria Avenue East

Presentation:

Clint Herrington, 28 Morris Lane, Texarkana, TX; stated the proposal is for general retail development, a Family Dollar store. There is a current open barn structure that will be removed from the site. The land is currently platted and in an IL district.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DRAPER**, the Board voted 3-0-0 (Charney, Draper, Osborne, "aye"; no "nays"; no "abstentions"; Dillard, Walker "absent") to **APPROVE** the request for a **Special Exception** to permit a store (Use Unit 14) in an IL District (Section 910). This approval is subject to all development requirements of the Tulsa County zoning code. 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:

A Part of Tract Two (2), KRUGER TRACTS, a Subdivision of the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat No. 2162, being more particularly described as follows to wit: COMMENCING at the most Westerly Southwest Corner of Tract Two (2), KRUGER TRACTS, a Subdivision to the City of Tulsa, Tulsa County State of Oklahoma, according to the Recorded Plat No. 2162 thereof, thence N 00'07'00" E along the Westerly Line of said Tract Two (2) a distance of 312.60 feet to a point; thence N 89'42'00" E a distance of 486.82 feet to the POINT OF BEGINNING; thence N 89'42'00" E a distance of 200.00 feet to a point on the Easterly Line of said Tract Two (2); thence S 00'00'00" E along said Easterly Line a distance of 236.60 feet; thence S 89'42'00" W a distance of 200.00 feet; thence N 00'00'00" W a distance of 326.60 feet to the POINT OF BEGINNING, containing 1.0863 acres more or less, OF TULSA COUNTY, STATE OF OKLAHOMA

2243-A—Brian Curthoys

Action Requested:

Special Exception to permit a private airstrip in an AG District (Section 310).

Location: 5415 East 191st Street South

Presentation:

Brian Curthoys, 601 South Boulder, Suite 400, Tulsa, OK; stated he would like to operate a private airstrip. He was before the Board in 2007 and the Board at that time approved the airstrip with a five year limitation, and it has been over five years since that hearing. His client has discontinued the use of airstrip until he receives approval from the Board again. The client has made the area a little larger than when first requested but the use will remain the same. The previous application had an area shaped similar to a hockey stick and the southern area of the property was approximately 160 feet wide. With present application more property has been acquired and the site is now rectangular in shape that is 330 feet wide and 2,260 feet long. One of the

requirements in the first application approval was that his client keep a rough log of take offs and landings which Mr. Curthoys presented to the Board for their review. In the previous application the private strip was to be a grass airfield for private use with no lighting and no instrument take offs or landings. In 2007 there were only three take offs and landings, in 2008 there were only five, and in 2009 a few more take offs and landings. In 2011 his client built a new aircraft so the frequency of the take offs and landings increased, but it then declined in 2012 until the client discontinued the use of the airstrip. The airstrip is registered with, and recorded by, the Federal Aviation Administration under FAA #20L2. Mr. Curthoys client will continue to comply with all FAA requirements for this private airstrip.

Mr. Charney asked Mr. Curthoys if the terminology "private airstrip" meant the airstrip was only to be used by the owner of the airstrip, or would it permit other usage. Mr. Curthoys stated that his client has had friends that have come to visit him and they have used the airstrip. His client would not want to limit the ability to have other private owners but there would never be any commercial applied to this airstrip. There would never be any fuel that would be bought or sold at the airstrip. The airstrip would be for private citizens who have an ultra-light or a single engine aircraft.

Mr. Charney asked if the land next to the airstrip were to be platted would the land owner have an expectation that any future surrounding land owner would have use of the airstrip. Mr. Curthoys stated that if a future surrounding land owner had a plane that met the standards that are being set, an ultra-light or single engine plane, yes his client would want that capability.

Mr. Charney asked Mr. Curthoys if the current land owner owned land on either side of the airstrip. Mr. Curthoys deferred to his client, David Haas.

David Haas, 5415 East 191st Street South, Bixby, OK; stated he is the owner of the subject property. The only property he owns is the land that is before the Board today. If someone were to purchase the land next to his, and wanted to develop it he would discuss with them the ability to have access to the airstrip. As of this moment he has no plans of doing anything like that. He has no desire to turn the airstrip into a business.

Mr. Draper asked Mr. Haas if the FAA or the Tulsa Airport Authority provided any other requirements or recommendations for the airstrip. Mr. Haas stated that the only limitations he has from the FAA are the altitude limitations and to stay out of the Tulsa International Airport flight path. As for development or operations there are no limitations imposed.

Interested Parties:

Jim Ferris, 12345 South Memorial, Bixby, OK; stated he is an attorney representing several landowners in the area that are adjacent to the subject property. He understands that some of the surrounding property has been sold. He has not searched the land records to verify this, but according to several of his clients the surrounding land is being sold with one of the amenities being the use of the airstrip as

a part of their property. If that is true it would indicate there is going to be multiple owner and multiple aircraft used on the subject airstrip. The present circumstances of the airstrip being used by one aircraft owner is not terribly offensive, however, his clients are ranchers and live in an agriculture zone to enjoy the benefits of that zoning. The major concern is the multiple pilot use of the subject property. There would be noise that would disturb the expensive horses and cattle being raised in the area. Use of the airstrip by more than one pilot would be injurious to the property owners in the area and not compatible to the surrounding area. His clients would request the denial of this application. Mr. Ferris presented letters of various opinions on the application to the Board to become a part of the official record.

Royal Crabtree, 5420 East 191st Street South, Bixby, OK; stated he spoke in 2007 against the airstrip. He had concerns about the noise and the safety of the airstrip, and he still has those same concerns because his home is directly south of the north/south configured airstrip. He is concerned about the discussion of multiple aircraft use, because that would create a tremendous amount of noise coming and going directly over his house. He stated that one aircraft can be tolerated, but multiple aircraft would be too much. His opposition of this application should not reflect on the character of the applicant but it is his fear of multiple aircraft coming and going, and the possibility of accidents.

Pauline Boatman, 115220 East 171st Street South, Bixby, OK; stated she owns the property immediately north of the subject property. She leases the property for cattle grazing and several planes flying over her land would be disruptive to the well-being of the cattle. She is in opposition to the airstrip.

Russell Pearce, 5722 East 186th Street South, Bixby, OK; stated he has property adjacent to the subject airstrip, and has lived there for 42 years. He has not had any problems with the occasional flight that has taken off or landed on the airstrip, and he is glad to hear that there will not be any commercial activity whatsoever on the subject property. What he wants to know is the volume of air traffic that will be operating from the airstrip and if the airstrip could be used as a training field for other airports. He would object to the use of the airstrip for touch and go landings. He is a pilot and he would also like to know about the flight patterns.

Rebuttal:

Mr. David Haas came forward and stated that he understands people's concerns. His intention is to be a good neighbor. He does not have any intentions of developing the property right now. People have asked him about the use of the airstrip and his response is that it is a single use field currently. In regards to the flight path, he always tries to take off at an angle so he will not be flying over any persons house. When he has visitors he always tell them not to come in low because of the expensive livestock in the area. He wants to be able to fly his airplane while being a good neighbor.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Draper, Osborne “aye”; no “nays”; no “abstentions”; Dillard, Walker “absent”) to **CONTINUE** the request for a **Special Exception** to permit a private airstrip in an AG District (Section 310) to the January 15, 2013 meeting; for the following property:

E/2 E/2 NW/4 NE/4 SW/4 less & except the North 610’ & E/2 E/2 SW/4 NE/4 SW/4 & E/2 E/2 NW/4 SE/4 SW/4 & E/2 NE/4 SW/4 SE/4 SW/4 & W/2 NE/4 SW/4 SE/4 SW/4 less and except the North 280’ & SE/4 SW/4 SE/4 SW/4 less & except the South 50’ Public Highway dedication to Tulsa County, Section 3, Township 16 North, Range 13 East of the Indian and Meridian, Tulsa County, State of Oklahoma

And

W/2 SE/4 NW/4 NE/4 SW/4 & E/2 SE/4 NW/4 NE/4 SW/4 less and except the South 50’ & W/2 E/2 SW/4 NE/4 SW/4 & W/2 E/2 NW/4 SE/4 SW/4 and W/2 E/2 SW/4 SE/4 SW/4 less and except the South 380’ Section 3, Township 16 North, Range 13 East of the Indian and Meridian, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2451—Mat Dossett

Action Requested:

Variance of the land area per dwelling unit (2.1 acres) and lot-area (2 Acres) to 1.3 acres to allow a Lot-Split (Section 330). **Location:** 8404 East 80th Street North

Presentation:

Mat Dossett, 8404 East 80th Street North, Owasso, OK; stated he would like to have a lot split and sell off 1.3 acres from the 19 acre tract.

Mr. Charney stated that in the past there has been a hesitancy by the Board to allow a request such as this. Mr. Dossett stated that this is the only piece that he wants to sell.

Mr. Osborne stated that he has concerns about a future sub-division because it looks like there has been a piece already sold out of the original tract. Mr. Dossett stated that he had sold a 2-1/2 acre piece a few months ago but that did not require coming before the Board of Adjustment.

Mr. Charney asked staff if this were an application for 2-1/2 acres what would happen. Mr. Brad Bates stated that it would be allowed by right, but the applicant would need to go before the Planning Commission to request a waiver of sitelot lines but everything else would be allowed by right. Mr. Bates stated that Mr. Dossett could split the property by state statute up to four times.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Draper, Osborne "aye"; no "nays"; no "abstentions"; Dillard, Walker "absent") to **APPROVE** the request for a **Variance** of the land area per dwelling unit (2.1 acres) and lot-area (2 Acres) to 1.3 acres to allow a Lot-Split (Section 330). The hardship is the location of an antique structure that the property owner does not want to lose prevents a larger tract. There are to be no further lot splits under the Tulsa County zoning code bulk and area requirements. Finding that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

SE/4 NW/4 SW/4 & SW/4 NE/4 SW/4 LESS N25' THEREOF FOR RD & LESS BEG 317.94' N SWC SE/4 NW/4 SW/4; TH N 317.94'; TH E APPROX 29.97'; TH S 317.94'; TH W APPROX 29.97' to POB SEC25 T21N R13E 19.024ACS. Less and Except: Commencing at the NW comer of the SW/4 of S25-T21N-R13E, I.B.& M; Thence S1°28'28" E a distance of 685.93 ft. to a point on the west line of said SW/4; Thence N 88°41'09" E a distance of 1318.63ft. to the POINT OF BEGINNING: Thence S 1°35'54" E a distance of 305.47 ft; Thence N 88°41'10" E a distance of 329.82 ft; Thence N 1°37'45" W a distance of 305.47 ft.; Thence S 88°41 ' 09" W a distance of 329.66 ft. to the Point of Beginning, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

None.

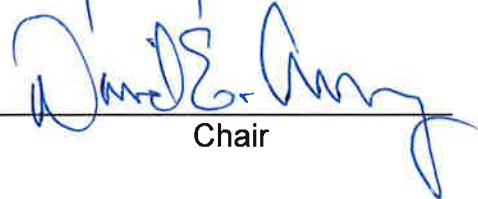
BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:45 p.m.

Date approved: _____

1/15/13



Chair