TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 9230
CZM: 45

CASE NUMBER: CBOA-2853
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 10/20/2020 1:30 PM

APPLICANT: James Bagwill

ACTION REQUESTED: Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E); Variance to allow a detached accessory building in the side yard. (Section 240.2.E)

LOCATION: 6517 W SKYLINE DR S

ZONED: RS

AREA: West Central Tulsa County

PRESENT USE: Residential

TRACT SIZE: 3.85 acres

LEGAL DESCRIPTION: BEG 550S NEC NE NE TH W277.13 SE381.50 NE120 N272 P0B SEC 30 19 12 1.388ACS; E30 E/2 W330 E660 NE NE LYING N OF SKYLINE DR LESS N594 THEREOF SEC 30 19 12 .314AC; PRT NE NE BEG 550S & 277.13W NEC NE NE TH W52.87 S491.17 TO PT ON NLY R/W LN SKYLINE DR TH NE277.84 NW381.50 P0B SEC 30 19 12 1.509ACS; E/2 W330 E660 NE NE LYING N SKYLINE DR LESS N594 & LESS BEG SWC TH N354.15 E135 S260.58 TO N R/W SKYLINE DR TH SW164.26 P0B & LESS E30 SEC 30 19 12 .638AC,

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-2531 May 2015: The Board approved a Variance of the allowed square footage for accessory buildings from 750 ST to 2,400 SF to allow for two detached accessory buildings; and a Variance of the requirement that detached accessory buildings must be located in the rear yard, on property located at 6831 West 41st Place South.

CBOA-1866 June 2001: The Board approved a Variance to permit an accessory structure on a lot that does not contain a principal dwelling unit to permit a lot split, with the time period to begin construction of five months, on property located at 6505 West 42nd Street South.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts RS zoning to the west, north, and east with residential uses and one parcel to the north appears to be a church use. Parcels to the south of the property have CS zoning with both commercial and residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E) and a Variance to allow a detached accessory building in the side yard. (Section 240.2.E).
Section 240.2.E permits accessory buildings in the RS district; the total square footage of all accessory buildings on the lot cannot exceed 750 SF of floor area. The provision of the Code attempts to establish and maintain development intensity of the district, preserve the openness of living areas and avoid overcrowding by limiting the bulk of structures.

The client has provided the following statement: “Would like to build a 2,400 SF building- storage – shop on my 4-acre lot.”

According to the drawing provided by the applicant, he is proposing to construct a 40’ x 60’, (2,400 SF), detached accessory building northeast of the existing house on the site. The applicant has requested a variance to increase the total permitted square footage of accessory buildings to 2,400 SF. The proposed building will be in the side yard, so the applicant is also requesting a variance to allow a detached accessory building in the side yard.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed accessory building is compatible with and non-injurious to the surrounding area.

Sample Motion:

“Move to _______ (approve/deny) a Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E); Variance to allow a detached accessory building in the side yard. (Section 240.2.E)

Per the Conceptual Plan(s) shown on page(s) ______ of the agenda packet.

Subject to the following conditions, if any: ________________________________.

Finding the hardship to be ________.

In granting a Variance, the Board must find that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and 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.
making for a makeshift community. Mr. Walker stated that he does not see how an AG-R zoned piece of property can support an auto repair shop, though the graphic design business does not bother him.

Mr. Dillard stated that based on the fact that there are no protestants in attendance today and the fact that Mr. Chaffin has conducted business on the subject property since 1998 he thinks to close him down would be an undue hardship. Mr. Dillard stated he can support the continuance of Mr. Chaffin’s business.

Mr. Crall agreed with Mr. Dillard.

Mr. Charney stated the business is behind the home and recessed from the road quite a bit, and given the configuration of the land being a long skinny tract without a lot of frontage coupled with the rural nature of the road he could support this request.

**Board Action:**
On **MOTION** of **CHARNEY**, the Board voted 4-1-0 (Charney, Crall, Dillard, Hutchinson, “aye”; Walker “nay”; no “abstentions”; none “absent”) to **APPROVE** the request for a **Variance** to allow a graphic design business (Use Unit 15) and an auto repair business in the AG-R District. The hardship for the request is that the land has a unique nature of being very narrow and long, and the rural nature of the road fronting the property being peculiar characteristics to permit both uses. The approval will have two conditions, one is, that the existing commercial building not be expanded and no additional square footage be allocated to these uses; secondly, that the outside storage and/or repair work be done behind the residential structure away from the road where it will not be seen from the roadway; for the following property:

**W/2 E/2 E/2 SE SW SEC 29-19-10, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2531—Steve Younger**

**Action Requested:**
**Variance** of the allowed square footage for accessory buildings from 750 square feet to 2,400 square feet to allow for two detached accessory buildings (Section 240.2.E); **Variance** of the requirement that detached accessory buildings must be located in the rear yard (Section 420.2.A.2). **LOCATION:** 6831 West 41st Place South

**Presentation:**
Steve Younger, 6831 West 41st Place, Tulsa, OK; stated the last time he was before the Board his presentation was a little vague because there were people that were opposed to the request. Mr. Younger stated that he met with some of the owners in Block 4 to clarify his intent regarding the property where he would like to build the RV drive. The RV building will be over 90 feet from the street and the people from Block 4 agreed that the proposed building would be okay with them. Mr. Younger referred to
pictures showing the wet backyard that he presented to Board. The building will be similar to the one the Mr. Johnny Perkins has at his house which the Board approved previously. Mr. Younger stated that he originally requested a 40'-0" x 50'-0" building and he has pared it down to a 30'-0" x 50'-0" building with a storage shed for a total of 1,900 square feet not the 2,400 originally requested.

Mr. Charney asked Mr. Younger where the storage shed would be located on the property. Mr. Younger stated that it will be behind the house.

**Interested Parties:**

**Erik Nelson,** 6920 West 42\textsuperscript{nd} Street, Tulsa, OK; stated he lives on the adjacent block. His main opposition is the location of the building because it is in the direct view of front yard. It is not acceptable to him to have a view of a building from his front yard. It is his understanding that it is against the zoning, and it is against the covenants. Mr. Nelson stated that he reviewed the latest architectural drawing. Another concern Mr. Nelson stated he has is the size the building. Mr. Nelson stated the property is at the top of a hill, it is not a drainage basin and it is not a watershed. From an engineering perspective, which Mr. Nelson stated he is, there is no drainage issue. Mr. Nelson stated there two similar structures in the neighborhood, and the structures are located at the rear of the properties.

**Rona Ellen,** 6832 West 41\textsuperscript{st} Street, Tulsa, OK; stated she lives in Block 4 and she also owns Lot 1 and part of Lot 2 in Block 4. Those lots are where her family plans to build their future home. Ms. Ellen stated that after the meeting on the 21\textsuperscript{st} she talked with her husband, and the very next they tried to meet with everyone in Block 4 because she feels Mr. Younger did not state his true intent to the Board. Ms. Ellen presented copies of correspondence to the Board and discussed what happened in the meeting, and stated the meeting lasted than 15 minutes. Ms. Ellen stated that she does not care if the Youngers have a 2,400 square foot building or a 1,900 square foot building because he does have a lot of stuff to be stored, but she is concerned on the location. The doors of the proposed building will look into her future kitchen window, and the height of the proposed building will block out the sunrise. Ms. Ellen stated that an outside architect, that offered his services pro bono, stated that the drainage issues could be addressed because all that would be required would be a road to place the building in the rear of the subject property. Ms. Ellen presented pictures of the Younger’s property that she took on Monday morning after storms came through Tulsa and discussed her viewpoints with the Board regarding the pictures. Ms. Ellen asked the Board to have the proposed building placed in the rear of the property.

Mr. Charney asked Mr. Nelson and Ms. Ellen to come forward and point out their properties on the aerial that is in the Board’s agenda packet, and each party came forward. Mr. Charney stated that one property is located west of the subject lot and the other property is across the street to the south.

**Ray Lusk,** 7050 West 42\textsuperscript{nd} Street, Tulsa, OK; stated he has a building that has been referred to by one of the interested parties and that building is land that is outside the
development, and he did so purposely to escape the covenants. Mr. Lusk stated that he owns three lots, one lot is in Block 2 and two lots that he built his house on in Block 3. Mr. Lusk stated he led the charge to change the covenants in Block 2 and Block 3 and that was done some time ago. Mr. Lusk stated that he also attending the neighborhood meeting that was held a few weeks ago. Mr. Lusk stated that from covenant perspectives he believes that the proposed building is covenant compliant because it is on a cul-de-sac. Because on a cul-de-sac what is not facing the road; it is actually facing the road of the cul-de-sac it is facing another road that one would have to go through a lot to get to, and that would be entrance to the development. Mr. Lusk stated that he believes the proposed building is in compliance with the covenants.

Rebuttal:
Steve Younger came forward. Mr. Charney asked Mr. Younger if he purchased part of the lot to his west and if he split the lot. Mr. Younger answered affirmatively. Mr. Younger stated that part of the proposed building will be placed on the lot that has been split.

Mr. Younger stated that Mr. Nelson had made a comment that when he walks out his door he will see the garage, but from the where the garage will be placed he will not be able to see very much of it. Yet if Mr. Nelson walks out his front door he can see Mr. Lusk’s garage to his left, and if it was an issue to see a neighboring garage he would not have bought the house. Mr. Younger stated that if he is going to spend $75,000.00 on a garage it is not going to be an eyesore, it will add value to the property.

Mr. Younger presented pictures of poultry which is what he sees when looking out his kitchen window referring the statement made by Ms. Ellen. Mr. Younger stated the covenants plainly state there will be no poultry and Mr. Younger raised issues with that fact so there are a lot of things that are not compliant with the covenants. Mr. Younger stated that he does not think the neighbors have a valid argument, and there are water issues on his property but he does not have the money necessary to build a road or culvert.

Mr. Dillard stated the Board members are only going to decide the land use, they are not psychologists so they are not going to attempt to settle the disputes of the community but will decide what the proper land use is.

Mr. Charney stated that when it comes to private covenant issues there are strong feelings about that; covenants are important. In the Board’s examination and determination the Board does not take private covenants into consideration because it is a private matter between the developer and the home owner. It may be a factor that the Board would concern itself with but it is not a factor that controls the Board’s decision. The Code stipulates there is not to be sideyard detached accessory buildings so in order to vary from that the Code stipulates that the Board must find a hardship for a Variance. Hardships are usually related to matters related to unusual configurations of land or a topographical issue.
Mr. Younger stated that he cannot emphasize enough that there is a water issue in his backyard. There is a natural spring in one area and water flowing from another area so water and mud is an issue.

Erik Nelson came forward and presented two pictures of the view from his front porch to show that he does not have a direct view of the neighboring garage. Mr. Nelson stated that Mr. Lusk’s garage is largely placed back in a wooded area and he has no view of it whatsoever from the side of his house.

Comments and Questions:
Mr. Walker stated that restrictive covenants are a legal matter between the people that own the property, and have nothing to do with the relief requested today. Mr. Younger has also purchased a part of another lot making his lot oversized making that a justified hardship. Mr. Walker stated that he could support this request due to the size of the lot.

Mr. Dillard stated that he is in agreement with Mr. Walker and does not see where it would detract from any home. Mr. Dillard stated that in his background the garage drawings presented to the Board, it is a mansion and he feels this will be good land use. Mr. Dillard stated he can support this request.

Mr. Hutchinson stated that he concurs with Mr. Dillard. Mr. Hutchinson does not think Mr. Younger will do anything that will degrade or devalue his property as well as the other properties.

Mr. Crall stated that the drainage issue in the rear is a special circumstance because the cost to take care of the issue would be prohibitive.

Board Action:
On MOTION of WALKER, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker “aye”; no “nays”; no “abstentions”; none “absent”) to APPROVE the request for a Variance of the allowed square footage for accessory buildings from 750 square feet to 2,400 square feet to allow for two detached accessory buildings (Section 240.2.E); Variance of the requirement that detached accessory buildings must be located in the rear yard (Section 420.2.A.2), with the hardship being the oversize of the basic lot and the drainage situation; for the following property:

LTS 2 & 3 LESS BEG SWC LT 2 TH NW215.31 E65 S180.66 CRV LF 30.25 POB BLK 4 & N315 W245 E905 N711.12 NE NE LESS N100 THEREOF SEC 30 19 12 1.209AC, STRATFORD ESTATES BLK 4, OF TULSA COUNTY, STATE OF OKLAHOMA

2534—Lance Price

Action Requested:
Variance from the minimum land area per dwelling unit requirement from 2.1 acres to 1 acre; Variance from the minimum lot area requirement from 2 acres to 1 acre;
Comments and Questions:
Mr. Hutchinson stated that he agrees with Mr. West, by giving Mr. Burger until the end of April and have Mr. West make a site visit. Then if nothing more is done take the next necessary step.

Mr. West stated that is where the issue enters into a different realm because the property has actually changed ownership. Mr. West stated that if nothing is done he will need to cite the owner.

Board Action:
On MOTION of DILLARD, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Charney "absent") to CONTINUE the request for an Appeal determination of an Administrative Official that a Salvage Yard is operating in an AG District to the Board of Adjustment meeting on May 19, 2015. Thus allowing Mr. Burger until April 30, 2015 to complete the property clean up. The Board requested Mr. West to make a site visit prior to the May 19th meeting and present a report on the property’s condition; for the following property:

NE NE NW LESS N50 THEREOF FOR RD SEC 25 21 13 9.247ACSF, OF TULSA COUNTY, STATE OF OKLAHOMA

*************************
NEW APPLICATIONS

2531—Steve Younger

Action Requested:
Variance of the allowed square footage for accessory buildings from 750 square feet to 2,400 square feet to allow for two detached accessory buildings (Section 240.2.E): Variance of the requirement that detached accessory buildings must be located in the rear yard (Section 420.2.A.2). LOCATION: 6831 West 41st Place South

Presentation:
Steve Younger, 6831 West 41st Place, Tulsa, OK; stated the application is for a 40'-0" x 50'-0" RV garage and a 20'-0" x 20'-0" building in the rear yard. The 2,400 square feet figure is a little inflated and he is not sure the 20'-0" x 20'-0" building should even be on the application. Originally he wanted a 40'-0" x 50'-0" building so he could have an indoor basketball court/RV garage. But he thinks it would be easier for the Board to approved a 30'-0" x 50'-0" RV garage for the side of his house and in line with his house. The proposed garage will be 96 feet from the street and 84 feet away from the nearest lot. The proposed garage will match the façade of his house which is brick and will comply with the covenants. He will also have trees planted between his house and the closest lot. The location of the proposed garage is so that it will not be visible,
except for maybe the top, from the Nelson’s property. Mr. Younger presented pictures
to the Board for their review. Once the trees are planted or a barrier fence is erected
the garage will not be visible from 69th West Avenue. The garage will not face the cul-
de-sac, it will face west as his house does. Mr. Younger presented a picture of Mr.
Johnny Perkins’s RV garage which is brick with a shingled roof and it does not detract
from the value of the Perkins property in his opinion. Mr. Younger stated that if he is
approved today his proposed RV garage will be similar to the Perkins RV garage, brick
with a shingled roof.

Mr. Walker asked Mr. Younger if the Perkins garage was attached to their house. Mr.
Younger stated that it is not. Mr. Walker asked if the Perkins garage faced the street.
Mr. Younger stated the Perkins garage faces 73rd West Avenue. Mr. Walker asked Mr.
Younger if the Perkins had received approval from the home owner’s association for the
covenants. Mr. Younger stated there is not an HOA but there are some covenants.
There are four blocks in Stratford and each block has its own covenant. There are a lot
covenants being broken but the breaking of covenants is not what is under discussion
today.

Mr. Younger stated that he purchased Lots 1 and 2 that are next to this property, and
sold Lot 1. Then he did a Lot Split on Lot 2 and he kept about 68% of Lot 2 and added
it to his existing property. The proposed RV garage will be partially on the newly
acquired lot but it will mostly be on his .86 acre lot that he owned previous to the
addition.

Mr. Walker stated that restrictive covenants do not impact the Board and does not make
a determination for them. The Board looks at land use only.

Mr. Younger stated there are some people that are opposed to the proposed RV garage
and some people in favor of it. Mr. Ray Lusk owns a 14,000 square foot house in the
neighborhood and called with his support. Mr. Younger stated that Mr. Lusk even gave
him some tips about the garage. Mr. Younger stated that Johnny Perkins is his friend
and he believes he would support the building of the RV garage. Mr. Younger stated
the Perkins would be the property looking straight at the garage and have the most view
of it. Mr. Younger stated that there will always be someone objecting to something. But
as time passes nobody cares if Johnny has his garage and nobody cares if Ray has his
garage, it’s funny as you a person lives through this that people want to complain for
whatever reason. He wants to improve his property and make things better.

Mr. Hutchinson asked Mr. Younger if he was planning on a 30’-0” x 50’-0” RV garage
and a 20’-0” x 20’-0” shed in the back. Mr. Younger stated that he understands he
could have 24’-0” x 20’-0” because anything larger requires a Variance, and it is his
mistake for putting the shed on the application. Mr. West stated that it still needs to be
addressed because there is a maximum of 750 square feet which is a 25’-0” x 30’-0”,
and the applicant wants relief for the 50’-0” x 30’-0” also it is the combined square
footage of the accessory buildings. Mr. Younger stated that he is at 1,900 square feet.
Interested Parties:
Dewey Miller, 6655 West 42nd Street, Tulsa, OK; stated he is the developer of Stratford Estates. Mr. Miller presented the Board with materials for his presentation. Mr. Miller showed a piece of paper stating it is the official plat for Stratford Estates and that there are six lots. All the lots are sold or occupied. Lots 3, 4, 5, and 6 have homes built on them. Lots 1 and 2 are vacant. A number of years ago the Youngers acquired Lots 1 and 2 from another individual. Subsequently, the Youngers who live on Lot 3 sold the property to the Ellen’s that live on Lot 4. Mr. Miller presented a plat of the County of the property just east of the Youngers and that lies outside Stratford Estates. Over the years the Youngers purchased property from Dennis Sadler. Mr. Miller stated that Mr. Younger stated he would like to have the property behind his so he either build on it or know that no one is behind his property. As a developer he is more interested in the process and like to follow the process so the development has integrity and coherence. There are rules and regulations for Stratford Estates that Mr. Miller presented to the Board. Mr. Miller stated that the Youngers sold Lots 1 and 2 to the Ellen’s. About a year ago after the sell of the lots there was a lot split, splitting Lot 2. Item #5 of the covenants specifically states that there is to be no lot splits unless it is approved by the developer. Mr. Miller stated that he understands the Board does not take covenants into consideration, but he is also under the impression that the Board does not take steps to undermine the covenants. If a Variance is granted on top of an existing error it will compound the issue because the developer has the wherewithal to either approve or disapprove of lot splits. The developer should more involved with the granting of Variances, and he has granted Variances. Mr. Perkins went through the process that is outlined in the covenants to receive his Variance. The Youngers received a set of covenants when they purchased the property and they signed them. Everybody else has adhered to the covenants and went through the necessary steps to receive a Variance. Mr. Miller stated that what took place in Mr. Lusk’s case is that he recognized he did not want to adhere to the covenants so he bought an acre directly behind his house outside of Stratford Estates and built an RV garage. Everybody was under the opinion that the Youngers were going to do the same thing. Mr. Miller stated that he wants to maintain the integrity of Stratford Estates. At this point in time Lot 2 can be sold but it cannot be built on because the minimum square footage has been reduced to where it cannot have a septic system. Mr. Miller stated that the Youngers never spoke to him about a lot split. There are numerous steps through which a Variance can be granted. There is a mechanism within the covenants that would allow the Youngers to request a Variance through the people that live in Block 4. The Youngers should follow the described path that the covenants clearly lay out and receive a Variance based on pre-existing conditions. Mr. Miller hopes that the Board would respect what everyone else has gone through because these homes are hundreds of thousands of dollars. The Youngers can amend their covenants by going to their neighbors and then coming before the Board to request a Variance. The process has not been followed and there is no justice for what everyone else has gone through.

Rona Ellen, 6832 West 41st Place, Tulsa, OK; stated she lives on Lot 4 and she owns Lot 1 and a portion of Lot 2. She bought the lots before they purchased the house they are living in. She asked the Youngers to sell her Lot 2 so she could build a house. She
did not know the lots could not be split. The Youngers agreeably sold them a portion of the lot but would not sell the entire lot. She owns two lots in Block 4 and from her current lot from her front porch she can see where the Youngers would like to erect the RV garage. Ms. Ellen stated that the developer could not tell her anything about the proposed RV garage, i.e., the materials being used. The side the Youngers would like to build the RV garage is on the side of their house that has no windows so they will not have to visually see the garage except from their pool and backyard. Ms. Ellen stated that from her current home she have to stare at it, and from the home that she would like to build her kitchen window, pool patio, and outdoor kitchen will face it. That is something that she does not want to see. The trees the Youngers stated they have planted are one gallon trees currently and are tiny trees. Ms. Ellen stated the Youngers have a habit of letting their friends park their RVs in the cul-de-sac and they can be there for three days, and the Youngers have never discussed this with the neighbors. Ms. Ellen presented a picture to substantiate the statement. Ms. Ellen stated that she does not necessarily care about the size of the proposed RV garage but Mr. Younger has 2.73 acres for it.

Mr. Dillard stated that Ms. Ellen needs to speak with her attorney because everything she hears is not possible. Mr. Dillard stated that he can take some exception to some of the information that has been given, specifically on a lot split. Find out what can happen to that property by speaking to an attorney.

Ms. Ellen stated that she is asking the Youngers to stick to the covenants and place the proposed building behind their house. She thinks that RV garage would detract from future buyers of her home. She is sure that he could find a place in the rear of his property that does not have a drainage problem to build the garage.

Mr. Crall asked Ms. Ellen if she would agree that Mr. Younger has a drainage problem issue. Ms. Ellen stated that she does not think Mr. Younger has any more of a drainage problem than anyone else, and if a high spot had to be located it would be closer to Mr. Miller’s house in the very back of the property. Ms. Ellen stated that Mr. Younger has already started putting in an access road in the cul-de-sac, he has rough grade gravel poured.

Linda Younger, 6831 West 41st Place, Tulsa, OK; stated that Ms. Ellen originally wanted to build her house a certain size, have chickens and goats, and build the house to the property line. Ms. Younger informed Ms. Ellen that she could not build as close to the property line as she wanted, and Ms. Ellen’s response was “I guess you will have to sell me half of what you have”. Ms. Younger stated that there are no covenants that are being enforced in the neighborhood, and her husband and Mr. Ellen should probably have done that but they did not think about it. They both agreed to split the lot and her husband agreed to sell part of the lot to her and her husband. Ms. Younger stated that she looks at Ms. Ellen’s chickens and by the covenants there can not be any chickens. Ms. Younger stated that her port-co-chere faces the Ellen’s chicken dump area and they have to smell it. Ms. Younger stated the Ellens did erect a nine foot fence, which is against the covenants, but they did so the chickens would not come into her yard any
longer. Ms. Younger stated that their houses are worth $600,000.00 or more and she did not move there to look at chickens. She and her husband want to build something nice and the reason they did not want it behind the house is because they do not have road access. Ms. Younger stated that there is a river that comes through the property when it rains and Ms. Ellen does not own the property so she does not know. Ms. Younger stated that Ms. Ellen is concerned how an RV garage will look but she has chickens and a chicken coop.

Rebuttal:
Steve Younger came forward and asked the Board to look at page 5.10 in the packet. That page shows the drainage of 41st Street and all the water from the area funnels down to his house. There is no access to the rear area and he can't drive back there after it rains plus he can't afford to build a road. Mr. Younger stated that he had spoke to Mr. Dewey Miller about using Mr. Miller's driveway to access the area closer to Mr. Miller's house, and at one time Mr. Miller said yes and then at another time he said no.

Dewey Miller came forward and stated that there is a buildable area in the rear, but again as a developer it is the process that a person follows and it is the legal steps that are in place which everybody has adhered to at this point. When the process is not followed it opens up a lot of problems. He does not want to set a precedence of having someone else use his driveway, and if he should sell his house that places the future home owner in an awkward position.

Mr. Younger stated that Mr. Dewey Miller has done a good job since taking over the development from his father. Mr. Younger stated that Mr. Miller is bringing up some valid points on his side, but he is not enforcing the covenants. The covenants are not being enforced whatsoever, everybody is doing their own thing. Even he has chicken manure washing across his yard and he smells chickens in the summer time or after a rain he can live with that. There is no reason a nice garage can't be built because there is plenty of space next to the house, and it will only increase the value. Ms. Ellen complained about someone parking an RV in the cul-de-sac, but he thought the Wades were her friend as well. The Wades have parked there a few times but it is not going on all the time, and he can't believe she even brought that subject up. Mr. Younger stated that he does not know what Ms. Ellen is talking about when she mentioned one gallon plants, because he has not planted any plants.

Mr. Walker stated the Board is here to address the land use situation and that all the Board is going to address. Mr. Younger stated that he understands and offer his apology for bringing up the soap opera stuff.

Mr. Younger stated the land issue is that the garage will be approximately 100 feet from the street and Ms. Ellen's house if it is built.
Comments and Questions:
Mr. Crall stated the Board must determine if there is an exception to the rule, because Mr. Younger has extraordinary circumstances. No one has denied that he cannot build behind his house because he has a drainage issue.

Mr. Walker stated the hardship would be the drainage of the land is such that Mr. Younger would need to build someplace else other then behind the house. Mr. West stated the topography of the land would be a legitimate hardship.

Mr. Crall asked Mr. West if the topography is something that he would go out on. Mr. West stated no, unless he was asked to do so.

Mr. Dillard stated that any time he sees neighbors disgruntled as these are today, then a continuance should be made so they have a discussion. Mr. Dillard stated that if the proposed RV garage were next to his house he would not have a problem because Mr. Younger has much at risk in losing his house. In regards to the lot split, he heard a lot of BS and there should be a discussion with an attorney about lot splits. In the banking business, as well as every other business, every one is an expert real estate attorney but the neighbors really need to use an expert attorney that is willing to give an opinion and write a decision on it. The Youngers may decide to attach the proposed RV garage to their house and that puts it under a different criteria. Mr. Dillard stated he is in favor of a continuance for 30 days.

Mr. Hutchinson stated he agrees with Mr. Crall and Mr. Dillard, he thinks the neighbors should try to resolve the issues because the hardship of the drainage is valid. Mr. Hutchinson stated that he also thinks this case should have a continuance.

Mr. Walker stated the Board is here to look at land use. This about a Variance on a piece of property, whether it was done by the book or by the record or by the restricted covenants. That is for a civil court to decide. This Board is here to only address the land use. Is it inappropriate to erect a building on this acreage, and if there is a drainage problem that would be justification.

Mr. Crall asked the applicant if he thought harmony is possible because the Board likes harmony. Ms. Younger stated they have tried.

Mr. Younger stated that if the Board were to approve this request the next step for him would be to convince Mr. Dewey Miller that the garage is not a bad deal. Mr. Younger stated that he would not want to build the RV garage if everyone is going to be against it.

Mr. Dillard stated to Mr. Younger that harmony can be achieved, especially if it is going to hit everyone’s pocketbook.

Ms. Ellen stated the Youngers never came to them to discuss the garage, and the first time she knew anything about it was when the notice in the mail arrived. Ms. Ellen
stated she asked her neighbor if they knew anything about it and they said they did not. Ms. Ellen stated that Mr. Younger only texted her husband last evening and it was a hostile text.

Mr. Walker stated the public portion of the meeting has been closed and the Board is not going to hear any more from the public. Mr. Walker asked the ladies to quit arguing amongst themselves. Mr. Walker stated the Board is going to make a decision. This case will either be continued or the Board will decide an outcome. Mr. Walker stated he would entertain a motion from a Board member.

Mr. Dillard stated that the neighbors need have some harmony and if that cannot be achieved the Board will make the decision whether the RV garage can or cannot be built. Mr. Dillard stated that maybe buying back the lot is an option. Mr. Dillard stated the developer is angry because he did not get to sell the lots, and that was messed up by the lot split which should not have been done. Mr. Dillard stated that is why he highly recommends everyone speaks to an attorney because everyone will see what happens to a piece of property when it is split improperly.

**Board Action:**
On **MOTION** of DILLARD, the Board voted 3-1-0 (Crall, Dillard, Hutchinson “aye”; Walker “nay”; no “abstentions”; Charney “absent”) to **CONTINUE** the request for a **Variance** of the allowed square footage for accessory buildings from 750 square feet to 2,400 square feet to allow for two detached accessory buildings (Section 240.2.E); **Variance** of the requirement that detached accessory buildings must be located in the rear yard (Section 420.2.A.2) to the May 19, 2015 Board of Adjustment meeting; for the following property:

**LTS 2 & 3 LESS BEG SWC LT 2 TH NW215.31 E65 S180.66 CRV LF 30.25 POB BLK 4 & N315 W245 E905 N711.12 NE NE LESS N100 THEREOF SEC 30 19 12 1.209AC, STRATFORD ESTATES BLK 4, OF TULSA COUNTY, STATE OF OKLAHOMA**

2532 – Ralph Manry

**Action Requested:**
**Special Exception** to permit a dirt mine (Use Unit 24) in an AG District (Section 310, Table 1). **LOCATION:** West of the SW/c of North Highway 11 and East 176th Street North, Skiatook

**Presentation:**
**Ralph Manry,** 11908 North Cincinnati, Skiatook, OK; stated this is an existing dirt pit. The Department of Mines has approved everything and everything is legal.

Mr. Crall asked Mr. Manry how long he has been operating the dirt mine. Mr. Manry stated he started operating in December and he thought everything was approved.
equipment. He owns four lots, and his house is on one of them. He stated that the building would be 260' from the street and at the bottom of a six-foot drop-off to prevent disrupting the view for anyone. He added that he would be willing to put in trees for screening. He discussed with neighbors and they are in support.

Comments and Questions:
Mr. Alberty asked for a hardship. Mr. Shipman stated the hardship would be security. A number of things have been stolen from him. Mr. Alberty asked what type of business Mr. Shipman has. He replied it is a siding business. Mr. Alberty asked where he runs his business. Mr. Shipman replied he runs it out of his home. He takes customer phone calls and goes out to the customers home, the customers do not come to his home.

Interested Parties:
There were no interested parties present who wished to speak.

Board Action:
On MOTION of Tyndall, the Board voted 3-0-0 (Alberty, Tyndall, Hutson “aye”, no “nays”; no “abstentions”; Walker, Dillard “absent”) to DENY a Variance of Section 240.2.E to permit an accessory building of 2,400 sq. ft. in an RS district; and a Variance to permit the accessory use on a lot adjoining the principal dwelling unit (under common ownership) as the principal and only use on the lot, for lack of hardship and finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

**********

NEW APPLICATIONS

Case No. 1866

Action Requested:
Variance to permit an accessory structure on a lot that does not contain a principal dwelling unit to permit a lot split. SECTION 420, ACCESSORY USES IN RESIDENTIAL DISTRICTS -- Use Unit 6, located 6505 W. 42nd St.

Presentation:
Ms. Fernandez, informed Board that a letter was submitted to the Board regarding the Sand Springs Board of Adjustment action in support of the application.

Gene Crawford, 6505 W. 42nd St., stated he built a garage without a permit and was not aware of the restriction. He wanted to get a lot-split to build a new house on the other lot.
Comments and Questions:
Mr. Albery asked for the schedule for construction. Mr. Crawford responded that it is eminent.

Interested Parties:
Ron Wirch, stated he is a broker and represents Stratford Estates subdivision. He is aware of the garage Mr. Crawford has built. The homes in this area are custom-built 2,900 to 3,000 square foot homes. They have already purchased property around this property for residential development. They are interested in the type of home to be built. He spoke in favor of the variance judging the quality of the garage Mr. Crawford built.

Board Action:
On MOTION of Tyndall, the Board voted 3-0-0 (Albery, Tyndall, Hutson "aye", no "nays"; no "abstentions"; Walker, Dillard "absent") to APPROVE a Variance to permit an accessory structure on a lot that does not contain a principal dwelling unit to permit a lot split, with the time period to begin construction of five months, finding the lots would be compatible with others in the area, on the following described property:

A strip, piece or parcel of land lying in the E 330.00' of the NE/4 NE/4 of Section 30, T-19-N, R-12-E, Tulsa County, State of Oklahoma, said parcel being described as follows: commencing at the NW/c of said E 330.00' of the NE/4 NE/4; thence S 00°45'13" E along the W line of said E 330.00' of the NE/4 NE/4 a distance of 140.00'; thence N 88°58'52" E parallel to the N line of said NE/4 NE/4 a distance of 175.00'; thence N 88°58'52" E a distance of 29.52'; thence S 85°14'29" E a distance of 126.06' to a point on the E line of Section 30, said point being 152.69' S NE/c of Section 30; thence S 00°45'13" E along said E line a distance of 218.00' to the POB, thence continuing S 00°45'13" E a distance of 179.31'; thence S 88°56'52" W a distance of 330.00' of the NE/4 NE/4; thence N 00°45'13" W along said W line a distance of 106.56' to a point of curve; thence along said curve to the left from which a tangent bears S 58°21'14" E with a radius of 37.5' a distance of 52.15'; thence N 75°41'42" E a distance of 290.44' to the POB.

**********

Case No. 1867

Action Requested:
Special Exception to allow 190' cellular tower in an AG zoned district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT -- Use Unit 4; and a Special Exception of the required 110% from AG zoned district from 210' to 59' on north and 48' on south (this is a monopole design). SECTION 1204.3. USE UNIT 4. PUBLIC
Looking northwest onto subject property from W. Skyline Dr.

Looking northwest from intersection of W. Skyline Dr. & S. 65th W. Ave.