

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 458
Tuesday, July 17, 2018, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
500 South Denver, Room 119
Tulsa, Oklahoma

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair
Crall, Secretary
Hutchinson, V.Chair
Dillard
Johnston

Miller
Foster
Sparger

T. Tosh, County

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 12th day of July, 2018 at 2:59 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.

MINUTES

On **MOTION** of **DILLARD**, the Board voted 4-0-1 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; Crall "abstaining"; none "absent") to **APPROVE** the Minutes of June 19, 2018 (No. 457).

UNFINISHED BUSINESS

2674—Timothy Borgne

Action Requested:

Special Exception for a Rifle and Skeet Range Gun Club (Use Unit 2 - Section 1202) in an AG District. **LOCATION:** 19501 West 41st Street

Presentation:

The applicant has withdrawn the application.

Interested Parties:

There were interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; none “absent”) to **WITHDRAW** the request for a Special Exception for a Rifle and Skeet Range Gun Club (Use Unit 2 - Section 1202) in an AG District; for the following property:

SE/4 SEC 23-19-10; W/2 SW/4 SEC 24-19-10; NE NE SEC. 26-19-10 LESS 3.86 AC. FOR HWY; NW NE LESS BEG 1047.50S NWC NW TH NE113.78 S273.40 SWLY CRVRT 114.42 N312.02 POB SEC 26 19 10 39.273 ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2686—Nathan Cross

Action Requested:

Use Variance to allow a warehousing use (Use Unit 23) in an AG District (Section 310). **LOCATION:** 2409 West 201st Street South

Presentation:

The applicant has withdrawn the application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; none “absent”) to **WITHDRAW** the request for a Use Variance to allow a warehousing use (Use Unit 23) in an AG District (Section 310); for the following property:

SE LESS 4.83AC E/2 E/2 SE FOR RD & LESS TR BEG 275E SWC SE TH N957 E957 S957 W957 TO POB SEC 10 16 12 134.14ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney informed the audience that there are occasions that a Board member needs to recuse themselves from a case. There are several cases in which Mr. Hutchinson will need recuse and there is one matter in which Mr. Charney will need to recuse leaving four Board members for a decision on an application. That application will need three affirmative votes to have an approval. A tie of a 2-2 vote would not grant the application.

* * * * *

NEW APPLICATIONS

2681—Brian Kannady

Action Requested:

Variance of the minimum frontage requirement; Variance of the average lot-width to permit a lot-split (Section 330). **LOCATION:** 12505 South Elwood West

Presentation:

Brian Kannady, 3809 West 109th Street South, Jenks, OK; stated he is building a house on a flag pole lot, and for the pole portion there is only 20 feet available. Parcel 8 is about as close to the road as reasonably to build a house, and that is the parcel he would like to build his house. There is also a pond on the property and a low-lying area, and that is why the minimum width requirement is diminished.

Mr. Charney asked Mr. Kannady if he owned a simple title to the 21 feet in question and it is not an access easement. Mr. Kannady answered affirmatively.

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, Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Variance of the minimum frontage requirement; Variance of the average lot-width to permit a lot-split (Section 330). The approval is subject to no farther splitting of the property without going through the platting requirements. The Board finds the hardship to be the unique nature of the property; for the following property:

PRT S/2 SW NW BEG 223E SWC NW TH N198 W198.25 N132 E305.75 N330 E APP 989.50 S APP 660 W APP 1097 POB SEC 1 17 12 16.407 ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2687—Mark Nosich

Action Requested:

Variance of the required lot area and the required land area per dwelling unit in the AG District (Section 330); Variance to allow 0 feet of frontage on a public street in the AG District (Section 207). **LOCATION:** 12620 North 129th East Avenue

Presentation:

Mark Nosich, 12620 North 129th East Avenue, Collinsville, OK; stated he wants to sell his back yard, a stretch of land that is 165 feet wide and 650 feet deep, to his neighbor so he can use it as his back yard for his horses. It is unimproved land with no easements, no utilities and it floods so the land can't be used for anything other than recreation.

Mr. Charney asked staff if the applicant is selling off a strip of land to be attached to another portion of land is it important that there is a requirement for frontage. Mr. Foster stated that at the time the application was submitted the only exhibit staff had was the split. If the applicant is intending to combine the property to the neighbor to the north the request for the Variance for frontage is not necessary given that it is actually going to be attached. The Variance for the lot area required for dwelling unit is actually needed for the front tract where the existing house is located, because it will be put out of compliance when the split happens.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance of the required lot area and the required land area per dwelling unit in the AG District (Section 330). The Board finds the hardship to be the conveyance of the rear tract throws the land owner technically out of compliance but the massing of the house on the lot appears not different to any of the surrounding neighbors; for the following property:

S/2 N/2 SE SE SE LESS E50 THEREOF FOR RD SEC 32 22 14 2.311ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2688—Heartland Fireworks, LLC

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in an AG District (Section 310). **LOCATION:** 11508 East 116th Street North

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Questions and Comments:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; none “absent”) to **CONTINUE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in an AG District (Section 310) to the August 21, 2018 Board of Adjustment meeting; for the following property:

W285.2 NE NW NW LESS N16.5 THEREOF SEC 8 21 14 4.213ACS, HOPE CHAPEL, FBC OWASSO MISSION, OF TULSA COUNTY, STATE OF OKLAHOMA

2689—Heartland Fireworks, LLC

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in a CS District (Section 710). **LOCATION:** 11290 West 51st Street

Presentation:

The applicant was not present.

Interested Parties:

Keisha Hilliard, 11234 West 51st Street, Sand Springs, OK; stated she lives on the corner near the fireworks stand, and she is the only residence there. Her problem with the stand are the hours, the noise, the popping of the fireworks right up until midnight, and she does not think it is safe to have a fireworks stand at that area. In the past the stand use to set up right next to her fence and now it is placed a little further away. The property that is right next to the stand is for sale and that is what they use for their parking.

Mr. Charney asked Ms. Hilliard if the fireworks were being set off on the property where the stand is located. Ms. Hilliard answered affirmatively.

Mr. Hutchinson asked staff if it was legal to set off fireworks at a fireworks stand. Ms. Tosh stated that would be under the Fire Marshall's direction and she would imagine that it is not legal.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in a CS District (Section 710) to the August 21, 2018 Board of Adjustment meeting; for the following property:

LOT 8 BLK 2, BUFORD COLONY SECOND ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2691—Gene Williams

Action Requested:

Special Exception to allow a single-wide mobile home in a RS District (Section 410); Variance of the minimum side setback requirements (Section 430); Special Exception to permit a fence to exceed 4 feet in height in the front yard setback (Section 240.2). **LOCATION:** 5845 South 61st West Avenue

Presentation:

Julie Jalbert, P. O. Box 150167, Tulsa, OK; stated she represents Gene Williams. Mr. Williams would like to have a single wide mobile home on the subject property. The mobile home is on the property because she thought the mobile home facility that the home was purchased from was taking care of all the necessary permitting. Ms. Jalbert did not discover that the building had not been taken care of until she tried to have the natural gas turned on for the property.

Mr. Charney asked Ms. Jalbert if it was after the mobile home had been delivered, set up and went to hook up the utilities she realized there was an issue. Ms. Jalbert answered affirmatively.

Ms. Jalbert presented pictures that she took of the area and commented that the subject property's back yard backs up to another property with a single wide mobile home on it.

Mr. Charney asked Ms. Jalbert if she or Mr. Williams had spoken to the neighbors. Ms. Jalbert stated that the lot next door is a vacant lot, and she had spoken to the other neighbor, but she is now deceased. Ms. Jalbert stated that Mr. Williams is in discussion with the children of the lady that lived next door to purchase that lot.

Mr. Charney asked Ms. Jalbert if she was leasing the land from Mr. Williams. Ms. Jalbert stated that Mr. Williams is her father-in-law and she is not leasing the land.

Mr. Charney asked Ms. Jalbert if she would be living in the mobile home. Ms. Jalbert answered affirmatively.

Mr. Charney asked Ms. Jalbert why she wants the taller fence. Ms. Jalbert stated that she has a 95-pound Husky that will walk over any shorter fence.

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, Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Special Exception to allow a single-wide mobile home in a RS District (Section 410); Variance of the minimum side setback requirements (Section 430); Special Exception to permit a fence to exceed 4 feet in height in the front yard setback (Section 240.2), finding that it will not be injurious or detrimental to the surrounding area. The approval is conditioned that the mobile home is to be skirted and tied down, the parking surface is to be concrete or asphalt. The Board finds the hardship for the Variance to be the length of the structure and the unusual configuration of the lot. The Board finds that the existing fence is not injurious or detrimental to the overall neighborhood; for the following property:

LT-12-BLK-2; LT-10-BLK-2; LT-11-BLK-2, NEW TANEHA, OF TULSA COUNTY, STATE OF OKLAHOMA

2692—AAB Engineering – Alan Betchan

Action Requested:

Variance to reduce the number of required parking spaces in the CH District (Section 1213.4) to allow for a Retail Trade & Service Establishment (Use Unit 13).

LOCATION: South of the SW/c of East 66th Street North & Highway 11

Presentation:

Alan Betchan, AAB Engineering, P. O. Box 2136, Sand Springs, OK; stated a Dollar General store is being relocated to this site. Dollar General stores are not heavily parked because it is not a high volume use store. This site is unique because of a natural gas line that is a significant pressure line that requires a larger setback than was anticipated. There is room for the parking to fit on the site behind the building, but the issue is safety by having an unmonitored screened parking behind the building. This

would create an unsafe environment for the employees, and the store does not want customers parking in the rear and coming around the building.

Mr. Charney asked Mr. Betchan to state the number of parking spaces required by Code and what he is seeking. Mr. Betchan stated that 48 is required and he is requesting 29 spaces. Mr. Betchan stated that a Dollar General prototype only requires 27 parking space for a plus store because it is not a high volume use store.

Mr. Betchan stated this is a re-use of a parcel to improve the area and it is a good fit for the area.

Mr. Hutchinson asked Mr. Betchan where this store was being relocated from. Mr. Betchan stated that it is being relocated from 56th Street North. Part of the program is when there is a successful store they make a larger offering with a plus store. This store is a little larger with a few more offerings; i.e., a few more coolers, more goods than what is offered in the current facility.

Mr. Charney asked Mr. Betchan if the drive could be extended along the side of the building and to the rear to expand the parking area if it became problematic. Mr. Betchan answered affirmatively. Mr. Betchan stated there is an unopened street right-of-way that has been paved as a parking and is a common access point between the pawn shop to the south and what used to be a restaurant. That will be reconstructed as part of the access and there is room to go to the rear if necessary.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a **Variance** to reduce the number of required parking spaces in the CH District (Section 1213.4) to allow for a Retail Trade & Service Establishment (Use Unit 13). The Board finds the hardship to be the unusual configuration of the land and the existing high-pressure gas line on the rear of the lot that forces the parking to be both minimized and moved forward into the lot; for the following property:

LT 5 LESS BEG SECR TH W9 NLY50.1 E6 S50 POB BLK 2; LTS 1 THRU 4 LESS PRT LTS 3 & 4 BEG SECR LT 4 TH W6 NELY70.3 S70 POB BLK 2; LTS 6 & 7 LESS BEG SECR LT 7 TH W13 NLY95.1 E9 S95 POB BLK 2; LTS 8 9 BLK 2, NORTH TURLEY ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2693—Vernon Bearden

Action Requested:

Special Exception to allow fireworks stand in a CS and AG zoned district (Use Unit 2 & Section 1202.2); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** NE/c of North Peoria Avenue East & East 56th Street North

Presentation:

Vernon Bearden, P. O. Box 161, Morris, OK; stated he has had a stand at this location for 50 years. He has an agreement with the people across the street to use their asphalt lot for parking and it will hold about 20 cars plus there is a five-acre parcel that he uses for parking. The closest residence is about a block away and they are the people that operate his fireworks stand.

Mr. Charney asked Mr. Bearden what his hours of operation are for the stand. Mr. Bearden stated that he opens around June 15th from 9:00 A.M. to 9:00 P.M. Around June 27th he opens from 9:00 A.M. to 10:00 P.M. On July 1st through July 4th he opens at 8:00 A.M. to 12:00 midnight.

Mr. Hutchinson asked Mr. Bearden if he allowed fireworks to be shot off at his stand. Mr. Bearden stated that a person is to be 500 feet away by state law and he does not even allow that.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to allow fireworks stand in a CS and AG zoned district (Use Unit 2 & Section 1202.2); Variance of the all-weather surface material requirement for parking (Section 1340.D). The Board finds that given the location and the sparse residential activity that it will not be injurious to the neighborhood. The approval will have a time limit of five years, July 2023. The hours of operation will be as follows: 9:00 A.M. to 9:00 P.M. June 17th to June 26th, 9:00 A.M. to 10:00 P.M. June 27th to June 30th, 8:00 A.M. to 12:00 midnight July 1st through July 4th; for the following property:

SW SW OR GOV LT 7 LESS S58 W388 THEREOF & LESS S16.5 E710 THEREOF & LESS BEG 58N SWC SW TH E40 N192 E10 N1130 TO PT ON NL SW SW W50 S1264 POB & LESS N20 SW SW LESS W50 THEREOF & LESS STRIP 50 EITHER SIDE CL BEG 759.7W SECR GOV LT 7 TH NWLY CRV RT788., OF TULSA COUNTY, STATE OF OKLAHOMA

2694—Vernon Bearden

Action Requested:

Special Exception to allow fireworks stand in an AG District (Use Unit 2, Section 1202.2); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** SE/c of South Mingo Road & East 171st Street South

Presentation:

Vernon Bearden, P. O. Box 161, Morris, OK; stated he has been at this location for 30 years near Carmichael's Pumpkin Patch. The stand is in the country, but he abides by the City ordinances to keep the Fire Department happy. There is a hard surface parking lot that will hold about 50 cars that Carmichael's let him use for parking.

Mr. Charney stated that with the hard surface parking available to this site the requested Variance is not needed.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to allow fireworks stand in an AG District (Use Unit 2, Section 1202.2). The Board finds that this stand will not be injurious to the neighborhood or the overall area nor detrimental to the public welfare. The approval will have a time limit of five years, July 2023. The hours of operation will be as follows:

9:00 A.M. to 9:00 P.M. June 17th to June 26th, 9:00 A.M. to 10:00 P.M. June 27th to June 30th, 8:00 A.M. to 12:00 midnight July 1st through July 4th; for the following property:

W/2 NW & SE NW LESS BEG NWC NW TH S65 E1155.3 SE20.6 E130 N70 W TO POB & LESS W24.75 FOR RD SEC 31 17 14 116.380ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2695—Wayne Buckley

Action Requested:

Special Exception to allow fireworks stand in a CH District (Use Unit 2, Section 1202.2); Variance of the all-weather surface material requirement for parking

(Section 1340.D). **LOCATION:** NW/c of East 56th Street North & North Lewis Avenue East

Presentation:

Wayne Buckley, 5604 North Garrison Court, Tulsa, OK; stated there has been a stand at this location for many years. There is a graveled area near the stand that was made by the City that was made for their heavy equipment while the street was being repaired and that area handles all the parking for his customers. He has five stands and two containers for the inventory on the location.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a **Special Exception** to allow fireworks stand in a CH District (Use Unit 2, Section 1202.2); **Variance** of the all-weather surface material requirement for parking (Section 1340.D). The Board finds that this will not be injurious to the neighborhood or detrimental to the public welfare. The approval will have a time limit of five years, July 2023. The hours of operation will be as follows:

9:00 A.M. to 9:00 P.M. June 17th to June 26th, 9:00 A.M. to 10:30 P.M. June 27th to June 30th, 8:00 A.M. to 12:00 midnight July 1st through July 4th; for the following property:

LT 1 LESS BEG SECR LT 1 TH W28 NE39.78 S28 POB FOR RD BLK 2, BELFLOWER HGTS, OF TULSA COUNTY, STATE OF OKLAHOMA

2696—Tyrel Slagle

Action Requested:

Variance to reduce the frontage requirement in an AG District to allow construction of a new single-family home (Section 430.1). **LOCATION:** 8320 North Delaware Avenue East

Presentation:

Tyrel Slagle, 13746 North 131st East Avenue, Collinsville, OK; stated he is originally from Wyoming growing up on his family's large cattle ranch, so living in town is not something he wanted to do and has found a piece of land in the Owasso School District. He purchased the property in 2016 and started working with a builder after a year. He works for Phillips in Bartlesville and a couple of months ago he was told there is a chance that he may be transferred to Houston so it will be on him to find a buyer. He asked a neighbor if he was interested in purchasing the property and he is. When the

neighbor tried to get a permit to build on it he was told that the property could not be built on because it sets back off the road with a 20 acre tract between the subject property and East 86th Street.

Mr. Charney asked Mr. Slagle if there is a long driveway from 86th Street back to the subject property. Mr. Slagle answered affirmatively and stated that he has a legal easement and the mortgage company has even seen it and said it was fully legal.

Mr. Slagle stated that when he purchased the property there was a double wide trailer on it and the previous owner had sold the double wide but it had not been moved off. When he closed on the land the double wide was still on the property for a few days, and he bought the property in full faith that there would be no problem in building a house. There is an identical 10 acre tract next to the subject property that shares the east fence line, and there is a brick stick built house on that property; they use the same easement to 86th Street that he would use. Mr. Slagle stated there are two more residences now on either side of the gravel easement road. There is a shop with utilities, a septic tank and an inground storm shelter because there use to be a residence there from the mid-80s. Because of the flood zone there is only one good place to build a house.

Mr. Charney asked Mr. Slagle how many properties use the access easement that he will also be using. Mr. Slagle stated it would be three not counting the property that it runs through; the easement runs through one property, there is a cemetery that the Cherokee Nation owns, then runs across a ten-acre tract and goes to his property.

Interested Parties:

Scott Chandliss, P. O. Box 475, Owasso, OK; stated he is the previous owner of the subject property. Mr. Slagle did a good job of summarizing the issues are for the property. From a historical context it is his understanding that in the mid-80s a double wide was moved onto the property, and in the mid-90s the owner intended to sell the property which he purchased the property from. At that time a mortgage company required a legal easement from 86th Street all the way to the property. Mr. Chandliss stated that when he purchased the subject property he had extensive conversations with attorneys and office staff of the land and title company he went through to make sure he had legal access to the subject property and that was assured. Mr. Chandliss stated that he knows Mr. Slagle's mortgage company had the same requirement to establish the legal easement and when they determined that the easement existed. Mr. Chandliss stated there have never been any issues of ingress or egress for the property.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request

for a Variance to reduce the frontage requirement in an AG District to allow construction of a new single-family home (Section 430.1). The Board has found the hardship to be the locale of the land and the fact that it sits back off 86th Street North. The Board has found that there is a recorded mutual access easement giving the property ingress and egress and it is tantamount to roadway frontage; for the following property:

W/2 E/2 SE NW SEC 29 21 13 10AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2697—Monty Kapchinsky

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in an RS District (Section 410); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** NW/c of West 7th Street South & South 65th West Avenue

Presentation:

Monty Kapchinsky, P. O. Box 2326, Claremore, OK; stated he has had a fireworks stand at that location since 2013 with no complaints. There is an existing gravel lot nearby that his customers use for parking.

Mr. Charney asked Mr. Kapchinsky if there were any residential houses nearby that are impacted by the business. Mr. Kapchinsky stated there are not.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an RS District (Section 410); Variance of the all-weather surface material requirement for parking (Section 1340.D). The Board has found that there are no protestants and the fireworks stand has operated for years with no complaints. The Board finds that this will not be detrimental to the public welfare. The Board finds there is a gravel parking lot that has been in existence for many years and it is tantamount to a hard surface. The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023; for the following property:

BEG 145.86N SECR SE SE TH SW168.67 NW116.32 SW119.64 N81.51 SW384.91 N307.96 E746.50 S415.14 POB LESS E30 THEREOF FOR RD 5.959ACS; BEG SECR SE SE TH W776.50 N228.04 NE384.91 S81.51 NE119.64 SE116.32

**NE168.67ILESS E30 FOR RD POB SEC 6 19 12 3.23ACS, OF TULSA COUNTY,
STATE OF OKLAHOMA**

2698—Kim Barber

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** SW/c of East 101st Street South & South 193rd East Avenue

Presentation:

James Barber, 7675 Frankhoma Road, Tulsa, OK; stated he has a fireworks stand at this location for six years. The stand is on the corner of the lot and there are no residences around.

Mr. Charney asked Mr. Barber about the gravel parking lot. Mr. Barber stated the gravel lot has been in existence for quite some time and he has placed four to six loads of gravel on the lot each year to maintain it and expand it a little.

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, Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D). The Board finds this will not be detrimental to the neighborhood or otherwise injurious to the public welfare. The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023; for the following property:

**NE & N/2 SE LESS BEG 400S NEC NE TH S3570.62 W55 N1328.15 E5 N2242.47
E50 TO POB SEC 25 18 14 235.747ACS, SEVEN OAKS SOUTH II, SEVEN OAKS
SOUTH, SEVEN OAKS, COUNTY LINE FOOD MART, OF TULSA COUNTY, STATE
OF OKLAHOMA**

2699—Kim Barber

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in an RS District (Section 410); Variance of the all-weather surface requirement for parking. **LOCATION:** 1065 West 4th Street North

Presentation:

James Barber, 2218 South 113th West Court, Sapulpa, OK; stated he has this location for 20 years. The fireworks stand is actually in an individual's front yard. There are residences around but there have been no complaints. Mr. Barber stated that he does not have a gravel surface for parking for this stand because it is in an individual's front yard; the driveway of the house, which there is a driveway on both sides of the house, is used for parking and occasionally the front yard is used.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an RS District (Section 410); Variance of the all-weather surface requirement for parking. The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023. The Board finds this will not be injurious to the public welfare; for the following property:

LT 11 BLK 1, VALLEY VIEW ESTATES, OF TULSA COUNTY, STATE OF OKLAHOMA

2700—Kim Barber

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in a CS and AG zoned District (Section 310 and Section 710); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 13722 West Highway 51 South

Presentation:

James Barber, 2218 South 113th West Court, Sapulpa, OK; stated he has this stand for ten years. There are two businesses, one on each side, and there is gravel in place for the parking. The stand is right off the highway and there are no residences in the area.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in a CS and AG zoned District (Section 310 and Section 710); Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023. The Board finds this will not be injurious to the neighborhood; for the following property:

LT 2 BLK 1, TODD'S CORNER, OF TULSA COUNTY, STATE OF OKLAHOMA

2701—Bradley McWilliams

Action Requested:

Use Variance to permit Storage, Not Elsewhere Classified [NEC] (Use unit 23), for the parking and storage of a commercial vehicle on an AG zoned lot (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 7845 North 71st Avenue East

Mr. Charney recused and left the meeting @ 3:01 P.M.

Presentation:

Bradley McWilliams, 12052 East 69th Street North, Owasso, OK; stated he has five acres with a shop and he would like to build a house on it for his permanent residence, and he would like to be able to park his dump truck on his property.

Mr. Hutchinson asked Mr. McWilliams if that was the only piece of equipment he wanted to park on the subject property. Mr. McWilliams answered that is the only piece of equipment he would like to park outside.

Mr. Hutchinson asked Mr. McWilliams when he would be starting construction on the house. Mr. McWilliams stated that he would like to start in the next six to ten months.

Interested Parties:

Chris Leach, 7840 North 75th East Avenue, Owasso, OK; stated this is not simply the parking and storage of a dump truck. There are multiple trucks on the subject property; Mr. McWilliams has employees that come to the site, operate the truck, repair and maintain the truck. Mr. Leach handed pictures of alleged activity on the subject property. Mr. Leach stated that moves this into a trucking establishment use because it is not just one truck being parked there. Mr. Leach stated the trucks are worked on all hours of the day and night, and on holidays. The trucks idle for hours, and if they are not idling the truck beds are raised and the trucks are driven back and forth banging the tailgate. Mr. Leach stated that Mr. McWilliams buys and sells trucks so there are trucks coming and going at all times. There are even wrecked trucks brought to the property and they are dismantled right next to the fence line. When the trucks are dismantled they use chop saws, cutting torches and impact tools to do so. This area is transitioning to residential and it is served by a very small County road. Mr. Leach stated that trucks speed up and down the road all day long and there are children walking on that road to get to the school bus or to get home. There is industrial land on the other side 76th Street that Mr. McWilliams could use.

Mr. Hutchinson asked Mr. Leach if his house was north of the subject property. Mr. Leach stated that his house is to the east of the subject property.

Mr. Dillard stated that the applicant has stated there is no commercial activity being conducted on the subject property, and Mr. Dillard asked Mr. Leach if he disagreed with that. Mr. Leach stated that he strongly disagrees with that statement. Mr. Leach played a short video for the Board to watch and listen to the activity on the subject property.

Kim Leach, 7840 North 75th East Avneue, Owasso, OK; stated she does not know why the building was built on the subject property. There are multiple doors that face her property and all the work noise is being done in her direction and the building amplifies the noise. Ms. Leach stated the building was built in 2016 and then trucks started coming, then semi-trucks, then buses and then other vehicles were parked on the property. Ms. Leach stated that after awhile it became too much because the noise happened all the time and the banging of the gates. Ms. Leach stated that she walked over and asked someone if it was their property and she was told she would need to speak to "Brad". She found Mr. McWilliams telephone number and would call or text him about the noise, and he was always neighborly and had it stopped within ten or twenty minutes. Ms. Leach stated she has been working with the County since January to get this situation addressed. Ms. Leach stated that she and her husband then decided to talk to Mr. McWilliams directly to see if an agreement could be reached. A day or two after the contact with Mr. McWilliams a Sheriff came to her house and issued a citation for a court appearance because Mr. McWilliams was pursuing a restraining order. Ms. Leach stated that it was very hurtful and terrifying, but they did spend an entire day in court and the Judge dismissed the case. Ms. Leach stated that for Mr.

McWilliams to be a successful business man he needs to move this operation to an industrial property. Ms. Leach stated that this needs to stop and asked the Board for help.

Johnny West, 7077 East 76th Street North, Owasso, OK; stated he has lived at this location for 41 years. Mr. West stated he moved there because he wanted to get away from all the stuff that happens in the city. Mr. West stated there was a person in the area that builds motorcycles and the neighbors use to hear all the time but they moved. Now there are trucks coming in at 6:00 A.M. and going out about the same time. Mr. West stated he is not against progress but this needs to be in an industrial area. Mr. West stated that he never received any kind of notice about the subject building being built on the subject property, but he gets the impression that a person can do what he wants then ask for forgiveness afterwards. Mr. West stated there are children walking and playing on that road and he is afraid for their safety. Mr. West stated he is not against anyone and not against progress, but there is a place for it. Mr. West stated there is a new housing addition being built and there will be new young families moving in, and if this isn't stopped now it will be a continuous string of complaints.

Ms. Miller stated that the County Inspector's office received a petition of support and photos from property owners in the area and they were e-mailed to Amy Ulmer, who is on vacation, so they did not get into the agenda packet or given to the Board. Ms. Miller said they are not the same photos that were presented today.

Martha Thierry, 7840 North 71st East Avenue, Owasso, OK; stated she read the notice and the action requested stated the applicant wanted this for parking and storage of a commercial vehicle. Ms. Thierry stated that if it is "a" commercial vehicle where are the other vehicles coming from? This is a business, and it won't be just "a commercial vehicle". The noise level will continue to get worse, the streets are already busy and they are traveled at a high rate of speed. Her complaint is that this is not needed.

Ms. Miller stated that knowing her conversations with Ms. Ulmer and the way it was advertised and the way it is written here, it is her understanding that it was just one commercial vehicle. That may be a question for the applicant.

Russell Pironti, 7979 North 71st East Avenue, Owasso, OK; stated he has a copy of the letter of support from the neighbors, and he handed it to the Board for review. Mr. Pironti stated he purchased the subject 20 acre property in 2010, and before he sold it to anyone he was concerned about the usage of the property. Later is split the 20 acres into 5 acre tracts, and Mr. McWilliams purchased the first 5 acre tract, later Mr. Hancock, who has signed the letter of support, purchased the second 5 acre tract, and he kept a ten acre tract. To his knowledge Mr. McWilliams only has one dump truck at this time. There is traffic going down North 71st East and he believes the neighbors think it is Mr. McWilliams creating that traffic. Mr. Pironti stated that he did not finish building his house until one year ago, and his construction traffic was going up and down North 71st, which goes north from 76th Street North. Mr. Pironti stated that since he has finished his construction Mr. Hancock has started building a house, so now there

is Mr. Hancock's construction traffic using North 71st East Avenue. Mr. Pironti stated that he does not hear the noise that other people have spoke about today and he lives 600 feet from Mr. McWilliams. During Mr. Hancock's construction Mr. McCulley started construction of a new house and a pool on North 71st East Avenue.

Mr. Crall asked Mr. Pironti if it was his contention that the noise and traffic is from other construction going on in the area. Mr. Pironti answered affirmatively.

Mr. Crall asked Mr. Pironti what he considered a commercial property. Mr. Pironti stated that is not his place to say.

Mr. Dillard asked Mr. Pironti to look at the photos presented, and asked him if there was only one dump truck on the property. Mr. Pironti stated that Mr. McWilliams had truck loads of dirt brought in to level his property, and he does not know when the pictures were taken. Mr. Dillard stated the trucks in the pictures are parked. Mr. Pironti stated that he believes this has become personal between the Leaches and Mr. McWilliams.

Mr. Dillard asked Ms. Leach when the pictures that she and her husband presented were taken. Ms. Leach stated that the picture with the semi-trucks and the eight or nine trucks were taken in March 2018, and there is one that was taken July 2, 2018.

Mr. Pironti stated that there are businesses around the Leach residence, but they don't seem to be too concerned about those businesses. Mr. Pironti stated that people have shops in the back of their residences. Mr. Pironti stated that he just wants the Board to understand that there is construction going on in the area and it has been going on for awhile.

Shane Rhames, 12150 Skyline Drive, Collinsville, OK; stated he is a lifelong friend of Mr. McWilliams and has spent a lot of time on the subject property. Mr. Rhames stated that he has no doubt that some of the trucks that are in the pictures were on the property or that they were parked there during that time. However, what he contends is that there is no noise ordinance in the County and that is where the subject property is located. There are several residences there that conduct activity that produces a lot of noise. Mr. Rhames looked at the pictures that had been presented with the Board's permission, and stated the pictures were not taken in 2018 but were taken in 2017 because one of the trucks in the pictures was wrecked, dismantled, sold, and there is a police report on file and the insurance provided paperwork showing it was taken care of. Mr. Rhames stated that Mr. McWilliams is unable to perform the work on his own due to being in a wheelchair, so it necessitates that he ask for help. So there is someone that comes to the property to repair his truck. Mr. Rhames stated that he volunteers to go out to help Mr. McWilliams, but the biggest issue in the pictures has been taken care of and Mr. McWilliams is in compliance. Mr. Rhames stated this property is zoned agriculture, even if there were tractors and the ground was being tilled it would disturb Mr. & Mrs. Leach but it would be lawful and rightful. Dirt is 99.9% of what the trucks are hauling. This is not a commercial property nor is it a commercial industry because that is not what is going on at this time.

Kim Leach came forward and stated that it has been said there is only one truck, but the pictures clearly show there is not just one truck. Obviously it is being said that the trucks using 71st East Avenue are the same as the trucks parked behind the building being worked on, and she does not see how those two are alike. Ms. Leach stated that as long as there is one truck on the subject property there is a business because Mr. McWilliams is paying someone to drive that truck and the vehicles are worked on there.

Rebuttal:

Bradley McWilliams came forward and explained to the Board what they were seeing the pictures presented to them. Mr. McWilliams stated that he has spoken with Mrs. Leach to find out what her concerns were and Ms. Tosh had called to tell him that she had a "Cease and Desist" order because he was running a business. Mr. McWilliams stated that he has one man, a contract laborer, that drives his one truck, so he sent that out and hauled everything off that was on his property that was truck related. Mr. McWilliams stated he does have friends that have dump trucks that stop by his shop occasionally. Mr. McWilliams stated he is not running a business.

Mr. Crall asked Mr. McWilliams to tell the Board what else is in the 7,500 square foot building. Mr. McWilliams stated he has a bass boat, an RV, a race car. Mr. Crall asked Mr. McWilliams if there was a reason the truck could not be parked inside the building. Mr. McWilliams stated he could park his one truck inside the building and does not have a problem with doing that.

Mr. Crall asked Mr. McWilliams if the person driving his truck is contract labor. Mr. McWilliams answered affirmatively and stated the driver hauls out of the rock quarry on 66th Street. Mr. Crall asked Mr. McWilliams if he considered the driver an employee. Mr. McWilliams answered affirmatively and stated that is because he cannot drive the truck himself and that is how he makes his living.

Mr. McWilliams stated that he has complied with everything Ms. Tosh has wanted.

Mr. Hutchinson asked Ms. Tosh about the permit for the subject building. Ms. Tosh stated the property is zoned agriculture, so a shop, which can be used for whatever purpose and store anything, can be built before a house is constructed. A building in this zoning is not contingent on building a house, where in residential zoning the house must be constructed before an accessory building.

Mr. Hutchinson asked staff if this building would be considered commercial if it has only one truck operating. Ms. Tosh stated the County would not say the building was commercial if someone drove their truck home, because there are so many people drive their work vehicle home each night.

Comments and Questions:

Mr. Hutchinson stated he does not have a problem with one truck, but he does have problem with several trucks because that is more of a commercial application. Under

the circumstances, where the applicant cannot drive his own truck, he see this to be okay.

Mr. Dillard stated that in the Staff Report it is written that the applicant has stated that no commercial activity is being conducted on the property currently. The pictures presented tell a different story, so he has to believe the pictures. It appears there is commercial activity happening on the subject property. Mr. Dillard stated he cannot support this request.

Mr. Johnston stated the Variance request is for the parking and storage of "a" commercial vehicle. Even though there is no noise ordinance, the noisy activity could take place inside the building.

Mr. Crall stated that there should be enough space in the 7,500 square foot building to store the truck inside. Mr. Crall stated that he does not think the interested parties that gave verbal support to Mr. McWilliams at today's meeting seem to change their testimony too much. Mr. Crall stated that he would not support this request.

Mr. Hutchinson asked staff if the parking of a commercial vehicle only pertains to parking the truck inside or does it pertain to outside as well. Ms. Miller stated that a Use Variance would not have been asked for if it was for inside storage.

Mr. Hutchinson asked staff if the applicant agreed to park the truck inside the building could he withdraw this application? Ms. Miller and Ms. Tosh both answered affirmatively.

Mr. McWilliams stood up and stated that he would agree to parking the truck inside his building and requested to withdraw his application.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-1 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; Charney "abstaining"; none "absent") to **ACCEPT** the **WITHDRAWAL** of the request for a Use Variance to permit Storage, Not Elsewhere Classified [NEC] (Use unit 23), for the parking and storage of a commercial vehicle on an AG zoned lot (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D); for the following property:

S/2 SE NE SW SEC 26 21 13 5ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney re-entered the meeting @ 3:52 P.M.

Mr. Hutchinson recused from the next four application requests and left the meeting at 3:52 P.M.

Ms. Miller left the meeting at 4:00 P.M.

2702—Sherry Barbour

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in an AG District; Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 17316 South Memorial Drive East

Presentation:

Sherry Barbour, 18622 South 62nd East Avenue, Bixby, OK; stated this is location is her first location. She purchased this 10 acre piece of land about 25 years ago and have been at this location about 30 years. The back portion of the land is in a flood plain and she has spoke to Oklahoma State University about doing Agri-tourism, similar to Carmichael's, on the property. Ms. Barbour was told that she needed to come before the Board of Adjustment for permission to operate the fireworks stand with a permit, and she was dismayed that the large corporate businesses have not been at this meeting. If this is for all the small fireworks stands it needs to happen for all the large companies too. The subject property is outside of the city limits, to the south is a small section the city encompassed, and to the north is city. There is only a neighbor to the south and north of the stand, and one behind. Ms. Barbour stated that the interested party that is going to speak today will protest because he tried to place a fence on her property by one foot and she let him know that the fence needed to be moved. She did have an attorney send him a letter regarding the fence line. Ms. Barbour stated that she does a parking area and she has had gravel brought in and it is well established. The County has brought out dirt about 15 years ago so she could expand the parking area and she has placed larger gravel on the parking area because she has found out that it does not sink. There is a small area between the road and the stand that puddles, but she has been very careful to direct the water to the rear of her property. She received a dirt permit so she could place dirt back on the property the previous owner had removed. Mr. West told her that she needed a hydrology report to do that.

Ms. Miller re-entered the meeting at 4:08 P.M.

Interested Parties:

Terry Hackler, 7505 East 174th Street, Bixby, OK; stated he lives south and west of the subject property. The property is in a flood zone and the Barbour's hauled in about 200 loads of dirt for the fireworks stand and a second time dirt was being hauled he asked Mr. Barbour if he had a permit to bring in the dirt and Mr. Barbour stated he did not need a permit. Mr. Barbour then asked him (Mr. Hackler) to leave his property. Mr. Hackler stated he then called the County and the County stopped any more dirt being hauled in, but the County did not make them remove any of the fresh dirt.

Mr. Charney stated that in regards to this application the Board cannot review flood water issues. The Board is to study whether the existence of the fireworks stand itself is injurious to the area. The Board has to focus on that use.

Mr. Hackler stated that he would request that the parking lot is maintained, whether it be a hard surface or gravel, but it should not be permitted. Mr. Hackler presented a petition to the Board of signatures against a fireworks stand and against a hard surface parking area for the fireworks stand.

Mr. Charney asked Mr. Hackler how long he had lived on his property. Mr. Hackler stated that he has lived there since 1978.

Leonard Anglin, 17398 South Memorial Drive, Bixby, OK; stated he lives south of the fireworks stand. His complaint is the traffic and the noise. Mr. Anglin stated anytime dirt or anything is hauled in it raises the fireworks stand and put the water back on his property. Mr. Anglin stated that he has lived there for 20 years and he never used to get water in his barn until after the Barbour's hauled in dirt.

Rebuttal:

Sherry Barbour came forward and stated she abides by the rules that set by the State Fire Marshal for clearances. Ms. Barbour stated she does not keep anything on the property other than three buildings and storage truck; there are no fireworks stored there. Ms. Barbour stated that she does not condone, in any way, the igniting of fireworks on the property. Ms. Barbour stated that she had a complaint from one of the neighbors about her lights, so she took down half of them and keeps it to a minimum.

Mr. Charney asked Ms. Barbour if there was a culvert along South Memorial Drive that people pull over in order to get to the stand. Ms. Barbour answered no.

Comments and Questions:

Mr. Dillard stated this property has been used for a fireworks stand for 30 years so he has no problem with the request.

Mr. Charney stated that he does not have an issue with the request given the long standing use. Mr. Charney stated that the Board requires all state laws to be followed and the Board does want there to be sufficient gravel to make ingress and egress appropriate, but the Board is not directing the applicant to bring in more gravel and if that means a law is being violated then the fireworks stand cannot operate.

Mr. Crall agreed with Mr. Charney and Mr. Dillard.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-1 (Charney, Crall, Dillard, Johnston "aye"; no "nays"; Hutchinson "abstaining"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an AG District; Variance of

the all-weather surface material requirement for parking (Section 1340.D). The Board finds that a hard surface for parking would be detrimental to the surrounding area, but the parking is to be an impervious properly laid gravel. The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023. The Board finds this will not be injurious to the neighborhood; for the following property:

S330 NE NE SEC 35 17 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2703—Sherry Barbour

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in an AG District; Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 17948 South Highway 75

Presentation:

Sherry Barbour, 18622 South 62nd East Avenue, Bixby, OK; stated she has a fireworks stand at this location for about 10 years. There is no residential near the area and there are ingress and egress points from Highway 75 because they share a driveway way with the recycler that is north of the stand.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-1 (Charney, Crall, Dillard, Johnston “aye”; no “nays”; Hutchinson “abstaining”; none “absent”) to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an AG District; Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023. The Board finds this will not be injurious to the neighborhood; for the following property:

N/2 E/2 SW SE LESS HWY ON E SEC 34 17 12 9.69AC, TRUE LIFE TABERNACLE, COTTON CREEK MINI-STORAGE, OF TULSA COUNTY, STATE OF OKLAHOMA

2704—Sherry Barbour

Action Requested:

Special Exception to allow fireworks stand (Use Unit 2) in a CS District and IL District; Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 1510 North Vandalia Avenue

Presentation:

Sherry Barbour, 18622 South 62nd East Avenue, Bixby, OK; stated this property has been a fireworks stand location for 75 years. Ms. Barbour stated that she leases the site from Mr. Martinez. It has a very hard packed parking area, and asked Mr. Martinez to bring in extra gravel to cut down on the dust.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-1 (Charney, Crall, Dillard, Johnston “aye”; no “nays”; Hutchinson “abstaining”; none “absent”) to **APPROVE** the request for a Special Exception to allow fireworks stand (Use Unit 2) in a CS District and IL District; Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023. The Board finds this will not be injurious to the neighborhood; for the following property:

E 125 W 495 S 240 SW SE SE LESS S 50 FOR ST. SEC 28-20-13, WEE RANCHO ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2705—Sherry Barbour

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in an RS District and IL District. **LOCATION:** 524 North 49th West Avenue

Presentation:

Sherry Barbour, 18622 South 62nd East Avenue, Bixby, OK; stated she has a fireworks stand at this location about 15 years. Prior to her having this location there was a fireworks stand there for about 20 years. There is parking in front of the fireworks stand and there is parking across the street. The land owner has six or seven parking spots in front of his shop the stand workers can park in, because there is usually no more than six adult volunteers at the stand at a time. The parking area in front of the stand is

gravel under grass and it has been that way for many years. Ms. Barbour stated she has added gravel to that site about 10 years ago as requested by Mr. Terry West. Ms. Barbour stated a soccer group operates this stand and they take turns staying awake at this location, and there is no RV parked at this location.

Interested Parties:

Tina Jones, 4904 West Edison Street, Tulsa, OK; stated she has complaints about the subject fireworks stand. The stand is approximately 87'-7" from her house; 49'-0" from the stand to her fence that is between her house and the fireworks stand. That leaves 38.7 feet from the fence to her house. The people that are there are up 24 hours a day because they blow the firecrackers outside the stand at all hours of the night. For the last two years she has called the Sheriff out. There is no gravel because her husband mows the site. Cars are parked behind the fireworks stand and between the fireworks stand and the fence. On July 3rd there were 20 cars parked between the fireworks stand and the fence, and on the 4th there were 21 cars. There is no gravel or hard surface there. When the car lights are turned on they shine into her house. There are three fireworks stands plus a storage container for the inventory, and all of those have lights behind them and those lights shine into her house as well. The people that are at the stands smoke and she is getting tired of it. There doesn't seem to be any respect for her because they do not stop activity at midnight. The people shoot off fireworks in front of the fireworks stand or go across the street eastward to shoot off the fireworks, and the Sheriff has a record of that. Ms. Jones stated she is afraid that if her insurance company finds out about the fireworks stand they will cancel her home owner's insurance policy. She thought a fireworks stand had to be 500 feet away from a residential property, and those stands are only 87'-7" from her house. This has become a large public nuisance for these two weeks of the year, especially the last two nights of the season. This stand is not good. Ms. Jones stated she was not aware there was a fireworks stand on the site when she bought her property about 10 years ago. The fireworks stand is not safe especially since it is so close to her house. There are other locations where the fireworks stand could be placed that are not adjacent to a residence.

Rebuttal:

Sherry Barbour came forward and stated she has spoken with the owner because he lives on the subject property, and he never told her about the neighbor complaining. Ms. Barbour stated that she did notice the cars parking near the fence this year when she visited and she will get it stopped because there is plenty of parking across the street. As for smoking she was not aware of any smoking on the site, and the Fire Marshal says smoking is to be done at least 50 feet away from the stand. Ms. Barbour stated that when people purchase fireworks they set them off, and her people know that there is a penalty being issued by her and the possibility of them not returning the next year. The soccer group wants to be there and they will comply with whatever is asked of them. This is the first she has heard of any noise issue. Ms. Barbour stated that she has met the Sheriff at the site in the past because the operators are very vigilant about calling the Sheriff's office. Ms. Barbour stated that she will do whatever it takes to keep this stand operating because it has been there a long, long time. This stand is one of

the last ones in and one of the first to be taken out because she wants to be a good neighbor.

Mr. Johnston asked Ms. Barbour if there was a privacy fence between the stand and the house. Ms. Barbour stated it is not a privacy fence but a chainlink fence.

Comments and Questions:

Mr. Johnston stated he has concerns about the stand being so close to the residence.

Mr. Dillard stated the stand has been operating for 15 years, but he would only approve this for two years to make sure the neighbor is happy.

Mr. Charney stated that Ms. Barbour has expressed a willingness to no longer permit the parking at the stand.

Mr. Crall stated that maybe Ms. Barbour can get under control who she is leasing to and enforcing the rules because it sounds like there are rules in place.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-1 (Charney, Crall, Dillard, Johnston "aye"; no "nays"; Hutchinson "abstaining"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an RS District and IL District. There is to be no smoking on fireworks stand site. There is to be no parking behind, to the west, the fireworks stand; parking is to be done in the front of the fireworks stand or across the street. There is to be no discharge of fireworks on the site. The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a two-year time limit, July 2020; for the following property:

TR.13 BG.24.75 S. & 1200 E.NW COR. LT 1 OR NE NE TH. S.330E.98.4 N.330 W.99.25 TO BG.SEC.5-19-12, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Hutchinson re-entered the meeting at 4:53 P.M.

2706—Neil Swanson

Action Requested:

Variance to reduce the side setback to allow for a carport (Section 420.2); Special Exception to allow for a carport in the side yard (Section 240.2-H). **LOCATION:**
12821 East 132nd Street South

Presentation:

Neil Swanson, 12821 East 132nd Street South, Broken Arrow, OK; stated he would like to have a carport to protect his motorhome. He lives west of 129th East Avenue and is

subjected to a 50 foot setback from the centerline of 129th East Avenue and a 35 foot setback because the property is a corner lot.

Mr. Charney asked if the carport would be in the utility easement. Mr. Swanson stated that it would not be in the utility easement.

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, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance to reduce the side setback to allow for a carport (Section 420.2); Special Exception to allow for a carport in the side yard (Section 240.2-H). The Board finds the hardship to be the peculiar nature of a side yard lot having a larger setback requirement than normal and this is a corner lot; for the following property:

E175 S328 N595 E295 N/2 NE LESS S25 & E25 THEREOF FOR RD SEC 8 17 14 1.217ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 5:00 p.m.

Date approved: 8/21/18

David E. Charney
Chair