

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 467
Tuesday, April 16, 2019, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
500 South Denver, Room 338
Tulsa, Oklahoma

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

Wilkerson
R. Jones
Sparger

Canavan, County

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 11th day of April, 2019 at 10:18 a.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 **HUTCHINSON**, the Board voted 3-0-2 (Dillard, Hutchinson, Johnston "aye"; no "nays"; Charney, Crall "abstaining"; none "absent") to **APPROVE** the Minutes of March 19, 2019 (No. 466).

Ms. Jones read the rules and procedures for the Board of Adjustment Public Hearing.

UNFINISHED BUSINESS

2728—Jennifer Lawson

Action Requested:

Variance of the minimum required frontage from 30 feet to 0 feet in an AG District to permit a lot split (Section 207). **LOCATION:** South of the SW/c of West Wekiwa Road and South 193rd West Avenue

Presentation:

The application was withdrawn by the applicant.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No action required by the Board; for the following property:

E231.66 W821.1 GOV LT 1 SEC 11 19 10 7AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2733—Will Wilkins

Action Requested:

Variance to allow an accessory building to exceed 750 square feet in an RS District (Section 240). **LOCATION:** 21521 West 14th Street South

Presentation:

William Wilkins, 21521 West 14th Street, Sand Springs, OK; apologized to the Board for being drawn into a civil spat regarding the legal standing of the Home Owner's Association which should have never been a factor. Mr. Wilkins presented documents to the Board in relation to the Home Owner's Association. Mr. Wilkins stated that he forwarded additional material for the Board's consideration last week plus copies of five other previous Board of Adjustment requests for similar action, and not one of the requests was denied. All have been found to conform to the harmony and spirit of the neighborhood. The materials for those requests were all the same, metal buildings. Mr. Wilkins stated that his request is for nothing more than what has been requested by the others, some of whom have been in protest of his application. The majority of the people that are in opposition to his request do not even drive by the subject property, and that majority that do have signed a letter of support. Mr. Wilkins stated that he only seeks to enjoy the same ranks and privileges of others in the neighborhood.

Mr. Charney asked Mr. Wilkins if there was any productive discussion between himself and any of the members who are in opposition in the intervening thirty days. Mr. Wilkins

stated that immediately following the last meeting he had a discussion with Mr. Dennis Strait and his only opposition is that he does not want to look at a metal building across the street. Mr. Wilkins stated the subject property was for sale for over a year and no one else seemed to want the property so he purchased it because he could not purchase the lot to the west of his house. Had he been able to do so he would have sought to have the building on that lot and Mr. Strait stated that he would not have had a problem with a metal building located on that property. Mr. Wilkins stated that he also spoke to Mr. Mock who owns the property behind him, and he does not want a metal building or any kind of accessory building on the property. Mr. Wilkins stated that he did speak with other interested people in his end of the neighborhood, and they are in support of his request to the best of his knowledge. Mr. Wilkins stated that past Board of Adjustment actions have allowed for such accessory structures approaching almost 1,600 square feet, with the largest being 1,560 square feet that was approved in 2014. Mr. Wilkins stated that if the Board feels it is necessary he would be willing to go down to 1,600 square feet, a 40 x 40 structure.

Mr. Charney stated that historically the Board does not delve into legitimacy or the legal documentation regarding to either HOAs or with regard to the precise construction of covenants. The Board does care about those but that is not what this Board has been charged to do whenever they accepted their appointments to the Board. The Board's inquiry is rather narrow and there are some legal tests that are before the Board that need to be examined and the Board does their best as a volunteer Board to see whether a particular application fits against the legal tests the Board is given. The Board only confines their inquiry to is what people in the neighborhood have to say and the Board does their best to apply the test to the request. The Board cares immensely about the legal tests. In regards to other applications that have come before the Board, they may be relevant to something in a matter but they are not binding or controlling on the Board. Facts differ in each case and the Board takes the information and makes as best a decisions as they can as a volunteer Board.

Mr. Charney stated the purpose in the last continuance in this case was to get a full Board to hear the case. Mr. Charney stated that Mr. Hutchinson was the Chair at the last meeting and he asked if there were any new comments or new information in this case that will make a difference.

Interested Parties:

Melissa Wilkins, 21521 West 14th Street South, Sand Springs, OK; stated she is Will Wilkins wife. She stated that in going through some of the previously approved structures that have been allowed in the neighborhood, one of those applications noted that there was a boat that had to be stored and a truck that was broken into. Those type of issues continue in the neighborhood and a large part of why they would like to have a building is because she has inherited a vehicle and has possession of all her mother's belongings and she needs storage for all this. Ms. Wilkins stated that she wants to be able to securely store her belongings on her property and to insure that they are not being stolen or vandalized. Ms. Wilkins stated that she has done a lot to maintain a beautiful landscaped yard and that will continue to the proposed accessory

building because it will be in her back yard. Ms. Wilkins stated that she has heard concerns about devaluation of surrounding property, and when she looks at some of the surrounding neighbors she is not doing anything to decrease home values that they have not already done to themselves and how they maintain their homes.

Steven Brown, 21607 West 13th Place, Sand Springs, OK; stated he has lived there for over 30 years and he has never been robbed or threatened. He does not want the Board to think the neighborhood is an outlaw community that everyone is worried about. Mr. Brown stated that Mr. Wilkins has stated that he has the majority of the people behind him and in favor of his request but there is documentation to prove that is not the case. This is a nice subdivision.

Rebuttal:

Will Wilkins came forward and stated he is not painting a lawless picture of his neighborhood, he knows it is not and that is why he moved there. He enjoys his community, however, there are cases where work trailers have been stolen and there are porch pirates. He is trying to find a way that he can safely secure his property, and not have it piled up in his yard because that will diminish property values. He wants a nice clean yard.

Mr. Charney asked Mr. Wilkins to state the hardship for his request. Mr. Wilkins stated that under the previous applications the hardship has always been stated "lot size in relation to accessory structure". It has always been predicated on two lots of similar size necessitates the ability to have a larger structure, to have ample storage and not make the lot look out of context with the neighborhood. By having a one acre parcel, which is three lots combined, this structure size he believes would be in harmony and the spirit of the neighborhood. Mr. Wilkins stated that in order to keep with the harmony and spirit of the neighborhood, the lot size demands a slightly larger structure.

Mr. Hutchinson asked Mr. Wilkinson if this would interfere with addresses in the neighborhood. Mr. Wilkinson stated that he cannot speak to addresses but all it does is add land area together, unless there is a reason for addressing the structure facing 13th Street, the actual mailing address would remain the same as it is now.

Mr. Hutchinson asked Mr. Wilkins if the shop were brought farther south along the easement, doesn't he think that would be more in context with the rest of the neighborhood? With the structure sitting out front and facing a different road it will not look like it is part of the Wilkins property. Mr. Wilkins stated that from the face of the asphalt to the face of where he would place the building is 73 feet. According to the site plan there is 67 feet from the front of the property line to the front of the building as displayed on the plan. Mr. Wilkins stated that he has a swimming pool in his backyard and he wants to maintain ground space for his children to be able to play.

Comments and Questions:

Mr. Dillard stated that in any approval it should be a win-win, and he does not think anything that this Board does will make everybody happy. There are personality

conflicts that have to be put aside so the Board can decide what is to be done on the land use for the property.

Mr. Hutchinson stated that the only way he could support this request is if the proposed building were placed back closer to the easement where it looks like it is part of the house and leaves enough room in the front in the event something ever happens.

Mr. Johnston stated that he drove the neighborhood and this particular building shown on Exhibit 3.52 is east of the Wilkins property, and in looking at the other applications that have been made he wonders why there were no other protestants at those cases. Why are there so many protestants regarding this request? The approved 1,560 square foot building is one of the larger buildings in the neighborhood, and it sits closer to the street and it is just east of the subject property. Mr. Johnston stated that he thinks if the proposed building were pushed back toward the easement and have access from the front of the existing house it would really be an accessory building to the property.

Mr. Charney stated that an accessory building is accessory to a residential structure in a residential neighborhood. If someone were driving on 13th Street the proposed building would not feel like an accessory building, potentially. To mitigate that, where does it get access from and potentially moving the building farther south.

Mr. Dillard stated that he sees a concession from the property owner in that he is willing to cut the size and is willing to move it back, with those two concesssions he can support this request. Mr. Dillard stated that he does not have a problem with the applicant having access to the structure in both directions, from his house as well as from 13th Street.

Board Action:

On **MOTION** of **HUTCHINSON**, 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 allow a 40'-0" x 40'-0" accessory building with an additional ten foot set back as shown on page 3.34 for the proposed accessory building. The building is to be ten feet off the southerly easement. The accessory building is compatible and non-injurious to the surrounding area. The Board has found the hardship to be that the applicant has three lots which is almost an acre in size, and it is an excess amount of square footage in the combined lot configuration, 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; for the following property:

LT 15 BLK 2; LTS 6 & 7 BLK 2, CANDLESTICK BEACH, OF TULSA COUNTY, STATE OF OKLAHOMA

2741—Karen & Wayne Bridgeman

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2); Variance from the all-weather parking surface requirement (Section 1340.D) for a period of 10 years.

LOCATION: 4515 East Pine Street North

Presentation:

Wayne Bridgeman, 1932 North Delaware Place, Tulsa, OK; stated he and his wife have had a fireworks stand at this location for nine years. Mr. Bridgeman stated that he actually has a fireworks tent and not a stand. The tent is placed on a large lot in Dawson within the County.

Mr. Charney asked Mr. Bridgeman if he has had any complaints from any of the surrounding neighbors. Mr. Bridgeman stated that he is not aware of any.

Mr. Charney asked Mr. Bridgeman what his hours of operation will be. Mr. Bridgeman stated that he shuts down around 10:00 P.M. except for the 3rd and 4th.

Mr. Charney asked Mr. Bridgeman when he normally opens the tent for the season. Mr. Bridgeman stated that he opens June 15th and closes at the end of July 4th.

Mr. Charney asked Mr. Bridgeman about the parking for the tent. Mr. Bridgeman stated that he uses the former Ingersoll-Rand parking lot for placement of the tent, but the grass has grown over the lot and there is no standing water when it rains.

Mr. Hutchinson asked Mr. Bridgeman if he would have an issue if the Board placed a three year time limit on his request and if the Board were to approve this request he could come back at the end of the three years. Mr. Bridgeman stated that he would like ten years but he has no problem with a three year approval.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Dillard stated that he could support this request for five years.

Board Action:

On **MOTION** of **DILLARD**, 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 permit a fireworks stand (Use Unit 2); Variance from the all-weather parking surface requirement (Section 1340.D) for a period of 5 years, April 2024. The Board finds the hardship for the Variance to be the temporary nature of the use and the subject property has been used for the fireworks stand for the last ten years. The Board finds that the fireworks stand will not be detrimental to the public

good or impair the purpose, spirit and intent of the Code and it will not be injurious to the neighborhood; for the following property:

**W 270 S 240 SW SE SE LESS S 50 FOR ST. SEC 28-20-13; PRT SW SE BEG 50N
SECR SW SE TH W226 NE242.74 E160 S233.59 POB SEC 28 20 13 1.03AC, OF
TULSA COUNTY, STATE OF OKLAHOMA**

NEW APPLICATIONS

2743—Derek Canady

Action Requested:

Use Variance to allow sale of equipment trailers (Use Unit 17) in an AG District (Section 310, Table 1) for a period of six months. **LOCATION:** 9005 West 51st Street

Presentation:

Derek Canady, 9637 West 51st Street, Tulsa, OK; stated five years ago his father came before the Board for this subject site and was approved to sell the trailers on the site for five years. The five years has now expired, and his father passed a couple of years ago. When his father passed, he took over the business and kept it going for the families. He would like a six-month extension to the time limitation to allow time for him to prepare the new location and move to the new location.

Mr. Charney asked Mr. Canady if he thought six months would be enough time for him to finish the new site and move. Mr. Canady answered affirmatively.

Mr. Charney asked Mr. Canady if he would continue with the same sort of operations as have been done in the past in the next six months and with the same conditions that were approved at the last hearing. Mr. Canady answered affirmatively.

Mr. Crall asked Mr. Canady how soon he thought he would start moving to the new property. Mr. Canady stated that he would like to start the move in the next three or four months.

Interested Parties:

Devon Rogers, 9333 West 51st Street, Tulsa, OK; stated he started the company with his partner five years ago, and he has pictures of the new property if the Board would like to see them. Mr. Charney thanked Mr. Rogers but declined to take the photos because he does not think it is relevant to the information being analyzed today.

Comments and Questions:

Mr. Crall thinks a one-year time limit would be better that way if there are any issues that arise the applicant would have time to work through them.

Mr. Hutchinson thought a time limit to the end of 2019 would be sufficient and allow time for the weather.

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 Use Variance to allow sale of equipment trailers (Use Unit 17) in an AG District (Section 310, Table 1) until December 31, 2019; for the following property:

SW SW SW LESS W231 SEC 25 19 11 6.50ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2744—Greg Ables

Action Requested:

Variance of the minimum lot area in the AG District (Section 330, Table 3);
Variance of the minimum land area per dwelling unit (Section 330, Table 3) to permit a lot split. **LOCATION:** 1384 East 163rd Place South

Presentation:

Greg Ables, 16355 South Peoria, Bixby, OK; stated that about five years ago he divided the subject property into 2.5 and 2.4 acre lots. He would like to subdivide the back acreage into a Tract A and a Tract B. There is a four-inch water line that runs through the property which was confirmed by Creek County. Mr. Ables stated he owns the house located at 16355 South Peoria Avenue, and it is located on the corner of Peoria and 163rd Place. He would like to be able to build a house on Tract A, and the small barn that is currently located on Tract A will be removed. The survey shows that there is a dwelling on Tract B, but it is actually a barn not a dwelling. The reason he wants to split the property into Tract A and Tract B is so that if any of his family members would like to build near him, they could do so.

Mr. Charney asked Mr. Ables if today’s application is separate and a-part-from the former application that was approved by the Board. Mr. Ables answered affirmatively. Mr. Ables stated that the property was vacant at the time of the previous case and he built a house on the front portion. Mr. Charney asked Mr. Ables if he was wanting to have four buildable sites on the property. Mr. Ables stated that it would be three.

Mr. Ables stated there are lots similar to his about ¼ mile away; they are 1-1/4-acre tracts. The Board just approved a new subdivision on Elwood which is about two miles away and they are ¾-acre tracts.

Mr. Charney stated the Board gets antsy when a piece of ground is divided significant times, but then it implicates all the platting requirements that would normally be seen and necessary. The Board would not to have another request for a division because that seems like a platted sub-division and the Board does not like to do that.

Mr. Charney asked Mr. Ables if he owned any other property adjacent to the subject property. Mr. Ables stated that he did not.

Mr. Ables stated that he has spoken with Permitting and was told he could build a house on Tract A with no problems because it meets all the specifications.

Mr. Crall asked Mr. Ables if the subject property faced 163rd . Mr. Ables 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 lot area in the AG District (Section 330, Table 3); **Variance** of the minimum land area per dwelling unit (Section 330, Table 3) to permit a lot split given the rural nature of the area and the significant vacant and open land around the subject property this would not be detrimental to the public welfare or impair the purpose or spirit of the Code. The Board has found the hardship to be the relatively large piece of land as it exists prior to the lot split; for the following property:

S306.1 N/2 NW SW NW LESS W361 & N5 THEREOF SEC 30 17 13 2.049ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

Robi Jones, INCOG staff, came forward and reminded the Board of the Special Meeting on Monday, May 13th at 1:30 P.M. in Room 119. This meeting will pertain to an Appeal that was given back to the Board because the findings were not quoted at the end of the Board action. The Board of Adjustment action language is in Section 1670.3 for Variance and Section 1680.3 for Special Exceptions. Ms. Jones stated that she includes those findings at the end of her staff reports.

Mr. Charney stated he respects that and wants to say that he thinks the Board tries to be as precise as possible, even though a finding is cited in a rambling manner throughout the Board's discussions. Sometimes it is done in a less rambling manner in the motion themselves. There is room for more precision even though he thinks the Board's underlying intent flushes it out with the underlying discussion.

Nolan Fields, District Attorney's Office, Tulsa County, 500 South Denver, Suite 800, Tulsa, OK; came forward and stated the Special Meeting is effectively a remand from the Appeal of a previous Board of Adjustment decision. The only new information that will be reviewed by the Board will be the Journal entry from the Judge which directs the Board of what its scope is at the Special Meeting. A copy of the Journal entry will be provided to each Board member for their review. The Judge clearly delineates the two things that includes the limited purpose of that Special Meeting. He does not think that right now is the proper time to go into a lot of detail, but for the most part the Journal entry provides the road map of what the Board will do at the Special Meeting. Notices will be sent out just like is done for any public meeting and the newspaper notice will be published.

Mr. Charney asked Mr. Fields if any Board member would be allowed to call him with any questions after reviewing the Journal entry. Mr. Fields answered affirmatively. The only thing he would advise is that the Board members do not discuss this amongst themselves because the Board does not want to create a quorum outside of the meeting, which would be an open meeting that was not given proper notice to the public. Mr. Fields stated he is here to represent the Board and guide them as much as possible.

NEW BUSINESS
None.

BOARD COMMENTS
None.

There being no further business, the meeting adjourned at 2:47 p.m.

Date approved: _____

5/21/19

Chair