

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 427
Tuesday December 15, 2015, 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	Dillard	Miller	West, Inspector
Crall, Secretary	Johnston	Moye	
Hutchinson, V.Chair		Sparger	

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10th day of December, 2015 at 9:30 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.

Ms. Nikita Moye read the rules and procedures for the County Board of Adjustment Public Hearing.

Mr. Charney explained to the applicants that there were only three board members present at this meeting, and if an applicant would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from all three board members to constitute a majority and if one board member voted no today the application would fail due to the lack of a majority vote. Mr. Charney asked the applicants if they understood and asked the applicants what they would like to do. Everyone nodded their understanding and no one requested a continuance.

MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Charney, Crall, Hutchinson "aye"; no "nays"; no "abstentions"; Dillard, Johnston "absent") to **APPROVE** the Minutes of November 17, 2015 (No. 426).

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UNFINISHED BUSINESS

2556—Luis Antonio Perez Barajas

Action Requested:

Special Exception to permit a manufactured home (Use Unit 9) in the RS District (Section 410, Table 1). **LOCATION:** 7234 North Trenton Avenue East

Presentation:

Michelle Barajas, 7234 North Trenton Avenue, Tulsa, OK; stated the manufactured home has been moved since the last meeting. The new location is in conformity with code for a manufactured home. Ms. Barajas stated that her horse is no longer on the subject property and is now with a friend.

Mr. Charney asked Ms. Barajas if she has done any work on the manufactured home since the last meeting. Ms. Barajas stated that she has all the parts necessary to finish but she does not want to start that work until she receives approval from the Board.

Ms. Barajas stated that there are two other mobile homes in the immediate area that are just like hers, and she is doing everything that is being asked of her so she does not understand. Ms. Barajas stated that she has a generator to provide heat for the manufactured home so she can start working on it but she disposed of the generator because of the issues raised about it. Ms. Barajas stated that she is not the only home with a generator so she does not think there she be any problems especially since she is taking nothing from the neighbors.

Mr. Charney stated the Board understands her position and he is glad she shared it with the Board, but it is the Board's duty to examine each case on its own merit and to make certain whether or not the granting the Special Exception is injurious to the neighborhood.

Interested Parties:

Jeff Kirkham, 1727 East 73rd Street North, Tulsa, OK; stated he lives two blocks east from the subject property. He is strongly opposed to this application and believes it is injurious to the neighborhood. Mr. Kirkham stated this process for him began with two mobile homes in 1986. There have been six or seven hearings that he has participated in and the Board denied all but one of the requests. Last month a member of the current Board expressed uncertainty as to why some cases were approved and some denied. When there was more significant opposition from the nearby residents than support the application was denied. There is no support from the neighborhood for this application. The Board has been very consistent in this over the last 29 years and he cannot understand why the Board would change now. The neighbor's ongoing effort to preserve and protect the integrity of the neighborhood has been dependent on the

Board of Adjustment to make some difficult decisions. Mr. Kirkham asked the Board if the neighbors had not demonstrated significant opposition to this application and if case history not support the opposition.

Mr. Charney stated that the Board does their best to look at the existing neighborhood and the Board sees that there are permitted mobile homes. The Board does not feel that they are controlled or compelled by any particular opinion, but are controlled by legal standards as to whether this application is injurious to the neighborhood. It is not that the Board does not care what people think, but he does not want the public to think an application is automatically to be denied simply because there is a majority opposed to an application. Mr. Kirkham stated that it seems unfair to him that when Mrs. Maxwell applied for a mobile home she was denied because it was injurious to the neighborhood and now a mobile home isn't; this seems inconsistent.

Mr. Charney stated that he is not familiar with the previous application and cannot speak to that. The Board tries to view each case on its merits and there are a multitude of factors, but the Board does their best to review each case.

Mr. Kirkham stated that the alarming precedent that would be set by approving this application would be nearly impossible for the neighborhood to overcome in the future. The neighborhood would be left open to influx of all manners of derelict and dilapidated structures. One member of the Board may not care what a trailer looks like but the neighborhood has to care because they live and own property there.

Danny Teague, 7233 North Trenton, Tulsa, OK; stated he lives across the street from the subject trailer house. Tie downs and skirting will not help this trailer house. He invested in his land and built it up. This trailer house will be decreasing his property value greatly.

Arline Maxwell, 1616 East 73rd Street North, Tulsa, OK; stated she lives diagonal from the subject trailer house. In 1996 when she came to the Board of Adjustment, the first thing that was asked about was a building permit, a sewer tap, a water tap, and electric tap. Ms. Maxwell stated that she has called the water office and the Barajas have not requested a water or sewer tap. Ms. Maxwell stated that her mother-in-law moved onto her property in 1980 and they have done a lot of work and invested in the property. Ms. Maxwell stated that Turley is a rundown community. There is no structure there. There are no rules and regulations in the area, and if this is allowed to continue it will be like placing a city dump in the front yard. She and her husband have worked very hard to maintain their property, and she feels like there needs to be a start somewhere. Ms. Maxwell stated that Ms. Barajas is correct when she says there are other mobile homes in the neighborhood, because there is one on the corner of 72nd and Trenton that is a rundown pallet yard home that also uses a generator. This is also decreasing the value of the neighborhood, because if she wants to sell her property and it is observed what is happening in the neighborhood she will not receive anything for her property. Ms. Maxwell thinks that when a person purchases a mobile home it is the owner's responsibility as a citizen to investigate the proper procedures of establishing the mobile

home on a piece of property. Ms. Maxwell stated that she would not have a problem with the mobile home moving in except in 1995 she tried to place a single wide mobile home on her property and had to move it. In 1996 she was permitted to obtain a double wide mobile home because a double wide is like a modular home, but she still had to get a building permit, a sewer tap, a water tap and everything necessary to make it right.

Mr. Crall asked Ms. Maxwell if she would be in attendance if the subject mobile home were a new single wide mobile home. Ms. Maxwell stated that she would probably not attend because it would not bring her property value down. Mr. Crall stated there are things that the Board does not get to determine, but they do determine whether a single wide mobile home can be placed on the property or not. Ms. Maxwell stated that she did not think the Board would feel the same way if they lived in a \$100,000 home and someone moved across the street in a rundown home that would decrease the property values. The Board needs to understand how the neighbors feel. Turley is a very poor community but there are still people living there that are land owners. Ms. Maxwell stated that if this application is approved there will be more to follow because there are a lot of empty lots in Turley and it will continue to get worse.

Rebuttal:

Michelle Barajas came forward and stated that she understands the neighbors concerns. She did not know about this process because she is not from Oklahoma. The subject mobile home is the only home she has. She has already paid for the property. She got the trailer for free from Craigs List. There are other generators in the neighborhood so why are the people only complaining about her generator? Ms. Barajas stated that she is living in the mobile home because she has nowhere else to go. If this mobile home is taken from her she will be living on the street. Everyone that knows her likes her and she has no problem with anyone. There are two other homes in the area that look just like hers. Yes, they are nice but when a person gets property they have to build up the interest in the property. It will take her awhile to make the mobile home look beautiful. She does not have money like most people. She is learning this process just as everyone else. She is just before the Board because Mr. West placed a notice on the property and they are doing everything that everyone has asked them to do. She is young and this is her home. She and her husband are hard workers at the casino and they can build the mobile home to be better and look just like the neighbors. Ms. Barajas stated that if her application is approved she will get the water and electric turned on, but they are using the generator to heat the home. She does not want to spend any money until this is approved.

Mr. Charney stated that the Board does understand her comments. The existence of the generator or the permit does not controlling on the Board's decision today. The Board is compelled by a narrow focus, and that focus is that the subject property did not automatically allow a single wide mobile home to be placed on it. A Special Exception must be obtained. The Board is not supposed to focus on whether the applicant has any other place to live. The Board is not supposed to focus on whether it is an older home or brand new home. The Board is supposed is to focus on a legal test of whether

the Board feels this particular use would be injurious to the neighborhood or not. The Board cares about the people involved, and if the Board approves the application it does not mean that they do not care about the neighbors and if the Board denies the application it does not mean that they do not care about the applicant.

Ms. Barajas stated that she has repaired the window and has pictures on how the mobile home has been moved, and she can show them to the Board if they would like to see them. Mr. Charney believes that if the Board approves this application he believes the applicant will continue to make it nicer, but the Board is focused on the land use issue.

Nelson Sager, 1410 East 73rd Street North, Tulsa, OK; stated that the issue he has with the application is that the mobile home is a single wide. He has always an issue with single wide properties. The properties with the single wide mobiles homes on the south side and the north side, and he attended the hearings, promised the Board that within two years they would have a double wide on the property. That never happened. He started with a pre-existing small house on his property and has built on it. A single wide mobile home is out of character for the neighborhood. Mr. Sager stated that if the Board does approve the application he would like to have a stipulation placed on it that a double wide mobile home will be placed on the property in the future in a certain amount of time.

Mr. Charney stated that he has not seen the Board do a conditional approval conditioned upon an additional mobile home or by adding on to the home. Mr. West stated that normally conditions are placed on a Variance.

Ms. Miller stated that the minutes for the two mobile homes that were approved do not reflect any such condition.

Danny Teague asked the Board how many more people have to show up to a meeting to prove that single wide mobile home is out of character for the neighborhood. Mr. Charney stated that he cannot answer that question, because the Board has never had a strictly numbers issue. It is a factor that has never been solely controlled by the number of people, pro or con.

Mr. Teague asked if the decision was to be made on the factor of being injurious to the neighborhood. Mr. Charney stated that the Board tries to balance that based upon what has happened previously. The Board is given minutes of meetings of previous decisions in the area where things were permitted or not permitted. The Board hears things from the applicant, and hears things from the neighbors, and the Board does their very best as a volunteer board to try and make decision. Mr. Charney stated that he understands Mr. Teague's position.

Ms. Barajas stated that she understands the double wide rules, but on the corner where she lives there are two mobile homes just like hers. She does not understand why the neighbors are making a deal out of hers. The Board and the neighbors need to give her

time to build up the mobile home and to make it look better. Ms. Barajas stated that she got the trailer "as is" for free and she is fixing it. She does not want to spend any more money until the application is approved because if they do they will lose everything if it is denied.

Comments and Questions:

Mr. Hutchinson stated that he could approve the application for a period of time, 3 to 5 years. He understands where everyone is coming from and he understands the dilemma regarding the utilities. PSO cannot set the meter; the water department won't give a meter, etc. until this application is approved and Mr. West says the Barajas can go forward. He also understands that there are other manufactured homes in the area, and that a double wide is a use by right but there are other single wide mobile homes in the area.

Mr. Crall stated that the neighbors have been very consistent in trying to improve their neighborhood. The people are trying to change their neighborhood and he believes the Board should allow them to change it. He could not support a single wide on the subject property.

Mr. Charney stated that he is respectful of Mr. Hutchinson's and Mr. Crall's thoughts. He is in the middle of both those thoughts. He is inclined to think that the applicant would make it nice after a period of time. Mr. Charney believes reasonable people can differ and both of them have right on their side. This is not an easy case for him. The Board could make a motion along the lines of Mr. Hutchinson's and Mr. Crall's thoughts and proceed from that point.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 2-1-0 (Charney, Hutchinson "aye"; Crall "nay"; no "abstentions"; Dillard, Johnston "absent") to **APPROVE** the request for a **Special Exception** to permit a manufactured home (Use Unit 9) in the RS District (Section 410, Table 1), with a time period of three years. The approval would be based on a follow-up from Mr. West and a review by the Board; for the following property:

S115 LT 1 BLK 6, GOLDEN HILL ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

The Motion Failed due to a lack of a majority vote.

2557—Shelby Oakley

Action Requested:

Variance to reduce the required 30 feet of frontage on a public road or right-of-way to 0 feet (Section 207). **LOCATION:** SW of the SW/c of East 131st Street South and South Peoria Avenue, Glenpool

Presentation:

The applicant requested a continuance to the January 19, 2016 Board of Adjustment meeting.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Charney, Crall, Hutchinson "aye"; no "nays"; no "abstentions"; Dillard, Johnston "absent") to **CONTINUE** the request for a Variance to reduce the required 30 feet of frontage on a public road or right-of-way to 0 feet (Section 207) to the January 19, 2016 Board of Adjustment meeting; for the following property:

PRT NE BEG 826.4N SWC NE TH N165.27 E1321.55 S165.19 W1321.63 POB SEC 12 17 12 5.01ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

2552—Rhonda Roberson

Action Requested:

Special Exception to permit a manufactured home (Use Unit 9) in the RS District (Section 410, Table 1). **LOCATION:** 6650 North Peoria Avenue East

Presentation:

Rhonda Roberson, P. O. Box 1185, Chouteau, OK; stated there is an existing mobile home on the subject property and she would like to replace that mobile home with a newer one. The new mobile home is a 14 x 80 and the older mobile home is a 14 x 72. Ms. Roberson stated that she does not know if the older mobile home can be repaired.

Mr. Crall asked Ms. Roberson if she just recently acquired the property. Ms. Roberson stated that the property is owned by Randy Frailey and she is representing Mr. Frailey today because he is unable to attend today's meeting.

Mr. West stated that the existing mobile home is okay but to take it off and bring in a new mobile home in takes a Special Exception because a legal non-conforming use cannot be extended.

The gentleman that will live in the mobile home will be the owner of the mobile home but he works for Mr. Frailey as security.

Ms. Roberson stated that the existing mobile home faces north and south placing it close to the south property line, and the newer mobile home would be placed facing east and west.

Interested Parties:

Nelson Sager, 1410 East 73rd Street North, Tulsa, OK; stated he was not aware of this mobile home going in until last night. Mr. Sager stated that he has an issue with a single wide mobile home and that it is on a major highway or street. Mr. Sager stated that he does not think a single wide is appropriate for a residential area. If the mobile home were back on the property out of sight he might have a different opinion.

Rebuttal:

Rhonda Roberson came forward and stated that the newer mobile home will not be an eyesore. The new mobile home will be quite an improvement compared to the eyesore that is sitting on the property currently. By turning the newer mobile home to face east and west only one end of the mobile home will be seen as opposed to the whole front of the mobile home.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Charney, Crall, Hutchinson "aye"; no "nays"; no "abstentions"; Dillard, Johnston "absent") to **APPROVE** the applicant's request for a Special Exception to permit a manufactured home (Use Unit 9) in the RS District (Section 410, Table 1). Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

BEG 440N & 148.5W SECR SE TH W224.6 NE110.7 TO PT 356.65W EL SEC TH E TO WL ST SWY 11 SWLY TO PT 228.9SWLY FROM PT ON WL R/W 660N & 72W SECR SE TH NWLY10 SWLY5.7 POB SEC 36 21 12 0.618ACS, IN TULSA COUNTY, STATE OF OKLAHOMA

2559—Sack & Associates – Ted Sack

Action Requested:

Variance of the required frontage in the IM District from 200 feet to 143 feet to permit a lot split (Section 930). **LOCATION:** 4444 West 51st Street South

Presentation:

Ted Sack, Sack & Associates, 3530 East 31st Street, Tulsa, OK; stated he is representing Aspen Land and Exploration who are the owners of the subject property. Tract B is a non-conforming piece of property; it has no frontage and no access. Tract B was purchased from a railroad company and is a very unique piece of property.

There is a 100 foot right-of-way on one side and an additional 200 feet of right-of-way that was originally granted for a stock yard adjacent to the railroad. The property to the south is now part of the interstate and ODOT's property. Tract A2 has frontage of only 143 feet but the IM zoning requires 200 foot. There will be a lot combination to combine Tract A2 and Tract B, and combine Tract A1 with Tract C so there will not be another tract without 200 feet of frontage.

Mr. Charney asked Mr. Sack if there were current improvements on Tract A2. Mr. Sack stated that there are no structures on the property and is used for storage.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Crall, Hutchinson "aye"; no "nays"; no "abstentions"; Dillard, Johnston "absent") to **APPROVE** the request for a **Variance** of the required frontage in the IM District from 200 feet to 143 feet to permit a lot split (Section 930), based upon the peculiar unusual circumstances and the existing configuration of the old non-conformity of the existing use having no frontage coupled with the improvement of 143 feet of frontage to an entire tract; for the following property:

PRT NE NW BEG 25S & 301.76 E NWC NE NW TH E289.22 SW ALG RR RY 127.39 NW43.4 SW168.4 W TO PT NE257.64 POB SEC 33 19 12 1.022ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:51 p.m.

Date approved: _____

1/19/16

David E. Charney
Chair