

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 430
Tuesday March 15, 2016, 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	Miller	West, Inspector
Dillard		Moye	
Johnston		Sparger	
Hutchinson, V.Chair			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10th day of March, 2016 at 9:41 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.

Mr. Charney explained to the applicants and interested parties that there were only four board members present at this meeting, and if an applicant or an interested party 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 three board members to constitute a majority and if two board members voted no today the application would be neither denied or approved so the motion is considered to have failed. Mr. Charney informed the applicants and the interested parties that he would need to recuse himself from agenda Items 7, 8 and 9. Mr. Charney asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding and no one requested a continuance.

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

MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the Minutes of February 16, 2016 (No. 429).

NEW APPLICATIONS

2567—Kenneth Clark

Action Requested:

Variance to allow more than one dwelling unit on a single lot of record (Section 208); Variance to reduce the required rear yard setback to 25 feet (Section 330, Table 3). **LOCATION:** 8797 East 106th Street North, Owasso

Presentation:

The applicant has requested a continuance to the Board of Adjustment meeting on April 19, 2016 due to additional relief needed.

Interested Parties:

There were interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **CONTINUE** the request for a Variance to allow more than one dwelling unit on a single lot of record (Section 208); Variance to reduce the required rear yard setback to 25 feet (Section 330, Table 3) to the Board of Adjustment meeting on April 19, 2016; for the following property:

ALL THAT PRT E/2 NE NW LYING N CL RD RW LESS S30 THEREOF FOR RD SEC 13 21 13 2.654ACS,RANCH CREEK ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2565—Samuel Gaytan

Action Requested:

Special Exception to allow for a rodeo facility (Use Unit 20) in the AG District (Section 310); Variance of the all-weather material for surface parking (Section 1340.D). **LOCATION:** 13232 North Yale Avenue, Skiatook

Presentation:

Wesley Johnson, Attorney, 624 South Denver Avenue, Tulsa, OK; stated he represents the applicant, Mr. Samuel Gaytan, and he has taken this case only as of last night. Mr. Gaytan owns the subject property and he has owned the property for quite some time. Mr. Johnson stated that the rodeo has been operated on the subject property for years but does not have a proper space for parking.

Mr. Charney stated that Mr. Gaytan had received permission from the Board of Adjustment to operate a rodeo in 2003 and that approval had a time limitation placed on it and that time period has expired. Now Mr. Gaytan is seeking the same relief today.

Mr. Johnson stated that he is a little perplexed by this because Mr. Gaytan was given a three year Special Exception for six rodeos a year, but apparently the relief has never been reapplied for. Mr. Johnson stated that he does not know whether the Board has the responsibility of noticing that the Special Exception has expired. Ms. Miller stated that it is the land owner's responsibility to make sure the property's relief is properly maintained and sought after. Mr. Johnson stated that it is obvious that that has not been done so he would request that Mr. Gaytan be allowed to continue to operate as he has year by year since 2006. Mr. Johnson stated that Mr. Gaytan has kept all the required licenses, i.e., beer license, tax commission permit, etc., have been kept up to date continuously since 2003.

Samuel Gaytan, 8720 North Yale, Sperry, OK; stated he owns the property and would like to continue having the rodeos as he has for the last ten or so years. In the many years he has had the rodeos he has no complaints and no fights. The events that are held there are rodeos, barrel racing, roping, bronco bucking, etc.

Mr. Charney asked Mr. Gaytan if the rodeos ended at a specific time. Mr. Gaytan stated the rodeos end at 10:00 P.M. Mr. Charney asked Mr. Gaytan if the arena is lit at night. Mr. Gaytan answered affirmatively. Mr. Charney asked Mr. Gaytan if the parking lot was also lit. Mr. Gaytan answered affirmatively.

Mr. Hutchinson asked Mr. Gaytan if he had laid down gravel parking in 2003 when he received his approval for the original request. Mr. Gaytan stated that he had laid down gravel from the entry toward the south so there is a road going in and out that is gravel.

Mr. Hutchinson asked Mr. Gaytan if he still held six rodeos a year. Mr. Gaytan answered affirmatively.

Mr. Charney asked Mr. Gaytan if he could abide by the restrictions of six rodeos a year and that all lights are off by 10:00 P.M. if the Board were to approve this request with such restrictions. Mr. Gaytan answered affirmatively.

Mr. Charney asked Mr. Gaytan if he would be willing to lay down gravel for a parking lot if the Board were to place that restriction on an approval if an approval is given. Mr. Gaytan answered affirmatively. Mr. Johnson stated that the parking lot issue would be

an extremely expensive and financial hardship for Mr. Gaytan. Mr. Johnson stated that approximately 60% of the parking area is grass and he grazes his horses on that grass so if the Board places that restriction on the approval it would need to be figured out on how to deal with that.

Mr. Johnson asked the Board if it would be possible to have the Board to grant a permanent Special Exception so Mr. Gaytan would not need to come back before the Board. Mr. Charney stated that the Board does have the ability to grant an approval for a period of time or it can be permanently approved. Sometimes it is important for the Board to see how people will perform and know how things affect the surrounding area. Mr. Johnson asked the Board to grant a permanent approval for the Special Exception to Mr. Gaytan based on the 13 years he has operated without any problems.

Mr. Gaytan stated that when he has the rodeos he hires security personnel from the Sheriff's office to control traffic and watch the people attending the event.

Mr. Charney asked Mr. Gaytan if he had received any complaints from the neighbors to the south or to the north of the subject property. Mr. Gaytan stated that he has not. The owner of the property to the north has moved to Seminole and the property owner to the south is having problems with the State, but there have been no complaints.

Mr. Johnston asked Mr. Gaytan how many cars or trucks he parked in the area he designated for parking. Mr. Gaytan stated that it varies but there is usually between 100 and 150 with 200 being the maximum.

Mr. Charney asked Mr. Gaytan if the structure was already built and if the improvements had already been made. Mr. Gaytan answered affirmatively.

Mr. Johnston stated that if gravel is laid down without any type of under laying preparation the gravel will not be there in a month, so he can see Mr. Johnson's concern is for this client. If Mr. Gaytan does a parking lot correctly it will be costly.

Mr. Gaytan stated that the property that he uses for the parking slopes downward and the rain runs into a pond that he uses for the horses.

Mr. Charney stated that it is the Board's responsibility to make certain there is reasonable ingress and egress from a muddy field or a gravel lot. Mr. Gaytan stated that he does not hold the rodeo if it is or has rained. He has cancelled them in the past due to weather.

Ms. Moye stated that there was only one interested party, Avant Properties, Inc., that sent in a letter regarding the rodeo and that letter is in the Board's agenda packet.

Interested Parties:

Commissioner John Smaligo, 633 North Denver, Tulsa, OK; stated that he does not think he has ever had a complaint about the rodeo itself, but he has received complaints

on things like the music. In this case in particular there were complaints that probably never reached Mr. Gaytan and one complaint was about the loud music. The neighbor called on behalf of herself and her neighbors and she was specific in the fact that she was not necessarily complaining about the rodeo itself but the loud music was carrying a fair distance, i.e., the events music that is held at 56th Street North and North Mingo can be heard at Owasso High School four mile away. Mr. Smaligo stated that he is not saying the Special Exception should not be granted, and he does not think there is any concern that he has heard about the Variance for the gravel, but as far as the Special Exception there have been complaints brought to his attention regarding the music. Mr. Smaligo stated that he would like the Board to take that into consideration when making their decision. The only other thing that he has run into as it relates to the rodeos, one in particular at 116th Street North on the other side of Highway 75, there has been times when traffic has backed out from the rodeo grounds onto the ramp going to Highway 75. His concern as a County Commissioner is what are the remedies for the overflow parking, if it is needed? What happens with traffic situations? Mr. Smaligo stated that he is favor of a time frame being placed on the approval if it is given.

Rebuttal:

Mr. Wesley Johnson came forward and stated that he is sure if there were any legitimate complaints they would have been forwarded by letter to Mr. Gaytan, and this is the first he has heard of any complaints about live music. The only rodeo being discussed here is Mr. Gaytan's so any other problems with other venues or rodeo venues or traffic is a waste of time to discuss. Mr. Johnson stated that if there are problems with Mr. Gaytan's rodeo now is not the appropriate time to add that to the complaints, but if the Board wants to consider Mr. Smaligo's presentation he is sure Mr. Gaytan will do whatever is necessary to remediate Mr. Smaligo or any of his constituent's complaints.

Mr. Charney asked Mr. Gaytan how the audio works at his facility and whether there are limits on it and whether it stops at the same time or earlier. Mr. Gaytan stated that he has a stage on the north side of the subject property and a stage on the west side of the property. The west side stage holds an air band, which is a band that never uses speakers. The north side stage holds the big bands so people can dance and they start playing around 8:00 P.M. and usually stop around 9:30 P.M., and he never lets them play past 10:00 P.M. because he knows the police will be called. Mr. Gaytan stated that he would be willing to place the speakers in different directions or turn the music down if necessary.

Comments and Questions:

Mr. Dillard stated that he could support a five year time limit, closing at 10:00 P.M. and six events a year. He is also in favor of the request because Mr. Gaytan has been responsible for all these years; his only fault is that he did not come back before the Board after his first hearing. Mr. Dillard stated that he is not sure about approving this indefinitely because development in the area is moving in that direction and the rodeo might be injurious to the area.

Mr. Hutchinson stated that he could support a three year approval, closing at 10:00 P.M. and six events a year because the area is an area of transition.

Mr. Johnston stated that he could support the parking lot as it is because Mr. Gaytan has stated that he does not hold rodeos when it is raining, and he could approve four years.

Mr. Charney stated the time limit is important but he wants to see how the path of growth continues in the area. The music is a factor and wants to be able to gather information on how important the music issue may be as the path of growth goes westerly out of Owasso.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a Special Exception to allow for a rodeo facility (Use Unit 20) in the AG District (Section 310); Variance of the all-weather material for surface parking (Section 1340.D). This approval is subject to a four year time limit, March 2020 and there is to be a limit of six events per year. All music, lights, all activity except people leaving the property is to stop at 10:00 P.M. There is also to be professional security hired to work the six events per year. The Variance for the all-weather material surface is granted due to the fact that the rodeo has been in operation and there have not been any major problems in the past 13 years so the parking sufficiently works as it is. The Board has found that this will not be injurious or detrimental to the public welfare; for the following property:

TR BEG 1979.3S NEC OF SEC TH W508.10 TO E R/W US HWY 75 TH SWLY402.7 E625.6 N385 POB LESS E30 FOR RD THEREOF SEC 33 22 13 4.735ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

UNFINISHED BUSINESS

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 was not present.

Mr. Charney asked Ms. Moyer if she had heard from the applicant. Ms. Moyer stated that she has not.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **DENY** 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) due to non-appearance on more than one occasion; 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

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NEW APPLICATIONS

2564—Robert Rainey

Action Requested:

Special Exception to permit a mobile home in the AG-R District (Section 310, Table 1). **LOCATION:** North of the NW/c South 161st West Avenue & West 61st Street South, Sand Springs

Presentation:

Robert Rainey, 6126 East 28th Place North, Tulsa, OK; stated that he would like to move a mobile home on the subject property for a five year period in order to build a house. He will place the mobile home 80 feet back from the front of the property and it will not be visible to the neighborhood across the street. The mobile home will be on an aerobic system because the land did not perc sufficiently for a septic system.

Mr. Charney asked Mr. Rainey if he currently owned the mobile home. Mr. Rainey answered affirmatively.

Mr. Rainey stated the mobile home is 11 years old with vinyl siding and a composite roof, and has been very well kept. There is an existing mobile home across the street from the subject property.

Mr. Charney stated that if the Board were to grant this request for a period of time it is Mr. Rainey's duty to remove the mobile home at the end of the granted time period, and if the house is not complete it will be at Mr. Rainey's peril. Mr. Rainey stated he is a

truck driver and he is gone quite a bit. When he is not on the road he will get a project lined out to be completed and that is the reason for the five year plan.

Interested Parties:

Don Miller, 5927 South 167th West Avenue, Sand Springs, OK; stated he lives in the subdivision immediately west of the subject property. Mr. Miller presented exhibits to the Board to substantiate his presentation. Mr. Miller stated that staff report says there is a mobile home on the northeast corner of 61st Street and 163rd West Avenue and there are mobile homes east of there on the north side of 61st Street. There are houses at the top of the hill immediately west of the subject property and there are two houses that share a common property line with the subject property. The exhibits show examples of houses in the subdivision west of 61st Street. The staff report states there is no previous relevant action based on this case. AG-R allows a Special Exception for two years for construction of a property but during that two years there must be an active pursuit of construction on the proposed house. A Special Exception is required for the mobile home because it is a use that is not permitted by right in the AG-R District because of potential adverse impact. Mr. Miller stated that if a person were to look at the mobile homes along 61st Street and look at the houses in the subdivision there is quite a discrepancy of the curb appeal in the two property areas. Over the past several years people have been moving west of the river and Tulsa Hills has been developed. Property values and available houses and property in Sand Springs have come in demand. Angus Valley is nearly full and there have been six new house starts in his subdivision in the last year and three of those are currently under construction. The houses are \$250,000 on up to \$600,000 in his neighborhood. Mr. Miller stated that he would respectfully ask the Board to deny this request because he does not believe a mobile home on the subject property is in harmony with the spirit and intent of the Code. Mr. Miller thinks it will have injurious affect on future development because the subject property is one lot away from the intersection of 61st Steet and 161st West Avenue. If the Board grants this for the subject property there will be a precedent set and there will be another request for another mobile home on another piece of AG-R property. Mr. Miller the Board needs to stick by the Code and mobile homes in AG-R are not permitted except for a limited period of time during active construction. Mr. Miller would respectfully request this request be denied.

Lacey Elleman, 6015 South 164th West Avenue, Sand Springs, OK; stated she represents her subdivision of Pleasant Oak and they share a property line with the subject property. Ms. Elleman presented a petition with over 50 signatures that oppose the placement of a mobile home.

Mr. Charney asked Ms. Elleman if the names on the petition were residents of her subdivision. Ms. Elleman answered affirmatively.

Ms. Elleman presented the Board with photos of the shared property line and the entrance to the subdivision. Ms. Elleman stated the proposed mobile home would be visible when approaching the entrance to the neighborhood and that would be injurious to the neighborhood's property values. Ms. Elleman stated that the average sold price

of property in the neighborhood is \$256,250 and presented an exhibit to substantiate this statement. The neighbors do not think a mobile home would fit in.

Mr. Charney asked Ms. Elleman if the mobile homes that are in existence are across the street and the others are along West 61st Street. Ms. Elleman answered affirmatively and stated that they are not at the entrance to the neighborhood but across the main road for the subdivision.

Mr. Charney asked for a show of hands from the audience who was in attendance that signed the petition presented by Ms. Elleman. Many hands were raised. Mr. Charney asked the group if anyone disagreed with anything Ms. Elleman said and no one raised their hand nor had an objection.

Tracy Phillips, 6003 South 164th West Avenue, Sand Springs, OK; stated she lives in Pleasant Oak Addition and her property does not touch the subject property but it is visible from her back yard. Ms. Phillips stated that the rules for the two year time limit on a mobile home she could accept but five years is out of the question. This will decrease property values and her house is currently for sale, and she thinks a prospective buyer may be deterred by this proposal. Ms. Phillips presented pictures of houses that can see the subject property.

Toby Moreland, 5830 South 164th West Avenue, Sand Springs, OK; stated he is currently trying to sell his house and he has a current Tulsa County tax rate of \$264,000. If this happens will Tulsa County lower everyone's property values and lessen the taxes. To have a mobile home at the entrance of the neighborhood would be a detriment and would cause significant property values to go down.

Kenda Skaggs, 17105 West 59th Street, Sand Springs, OK; stated she has lived in the neighborhood 14 years and at the time the house was built she was told there would be no additional mobile homes would be in the area. All the mobile homes seen in the photos are on the east side of the street and at 61st Street there is a large house. Up the hill from the proposed mobile home placement there is a house valued at \$1.2 million dollars. Additionally, if a person goes farther into the neighborhood there is a house valued close to \$1 million dollars. There is a mean average for houses that have sold but that is not a reflection for the residents who have not sold their houses. To build a house in Pleasant Oak there are certain requirements, i.e., the house must be greater than 3,000 square feet, the house must be at least 50% to 75% hard surface on the front of the house, the driveway has specific criteria; there are very strict requirements to be met in order to build a new house in the neighborhood. Ms. Skaggs stated she is opposed to a mobile home going in anywhere near the entrance to the neighborhood. Ms. Skaggs stated that where the mobile home is proposed to be placed is the entrance to the neighborhood and no matter how far back the mobile home is placed it will be seen from the street.

Wayne Wilson, 5941 South 164th West Avenue, Sand Springs, OK; stated his property is just to the north of the subject property. He does not want to see a mobile home placed on the subject property.

Mr. Charney asked Mr. Wilson if he had a single family home on his property currently. Mr. Wilson answered affirmatively.

Mr. Charney asked Mr. Wilson if there was a structure on the property just south of the subject property. Mr. Wilson stated there was not.

Rebuttal:

Mr. Robert Rainey came forward and stated that his property is not at the main entrance to Pleasant Oak, he believes the main entrance to that addition is farther north. His property is at the back entrance to the subdivision because it is a county road that goes up the hill while the main entrance has a very nice brick structure at the front main entrance. Mr. Rainey stated that he spoke with Sand Springs before he purchased the property and discussed all the pertinent issues that needed to be discussed. He was told by Sand Springs there would be no problem placing a mobile home on the subject property for a period of time. Mr. Rainey stated that the requirements and criteria mentioned for building a house in the subdivision would not apply because his property is not in the subdivision. Mr. Rainey stated that he understands the two year rule in the Code but he would ask for three years.

Mr. Charney stated that the Board understands this property is an unplatted tract not subject to the subdivision covenants that is to the west of the subject property. That is a factor the Board would not directly consider. The subject property may be within the fence line of the City of Sand Springs and in their school district but the governing body is the County of Tulsa not the City of Sand Springs.

Mr. Rainey stated that he plans on building a house of approximately 2,500 square feet not the 3,000 square feet that was mentioned by an interested party.

Ms. Kenda Skaggs came forward stated that she has lived in the neighborhood for 14 years and with all due respect 61st Street is a main entrance to the neighborhood. It is not a back country road.

Jane Farrow, 11766 South 85th East Avenue, Bixby, OK; stated she is the mother of Robert Rainey and she does not like what is going on in this meeting. She has tried to tell her son not to live in that kind of community because it would be nothing but trouble. They are snobs. Ms. Farrow stated she does not want her son living there and they do not want him there they can buy him out. Ms. Farrow stated that she is concerned because this is something that her son has really wanted to do, and for people who think they have more money to push a person out means his American given rights are gone.

Kelly Gentry, 16414 West 58th Street, Sand Springs, OK; stated that it is not Mr. Rainey that is not wanted in the neighborhood it is the mobile home, just the mobile home.

Comments and Questions:

Mr. Charney stated there is an existing zoning category on the subject property that says absent of the Special Exception a mobile home is not permitted, it does not matter who it is. Zoning exists on pieces of property across the County and this property has a zoning on it that does not permit the mobile home. That is the legal standard that the Board has to study, whether there is a potential for it to be injurious or detrimental to the neighborhood. He wants everyone to recognize this. That is the standard the Board analyzes. The person who asks for the Special Exception has the burden so if it is denied it has nothing to do with the person, it has everything to do with the land use. The Zoning Code was in existence long before the land was acquired.

Mr. Hutchinson stated that he cannot support the request.

Mr. Johnston asked about the two year limitation. Mr. West stated a mobile home would normally be allowed during construction in AG zoning. AG-R zoning does not allow a single wide mobile home use by right, though Mr. Rainey could place a double wide on the property by right because it is considered the same as a stick built house when there is a permanent foundation. Mr. Johnston stated that he could support two years but not the five years requested.

Mr. Charney stated that given the nature of the development on one boundary he understands the two year limitation, beyond that he does not know given the legal standard he could not support more than two years.

Mr. Charney asked Mr. West if this application were denied today and the applicant came back and requested a two year permit could that be handled outside the Board's purview? Mr. West stated that it could not because if the Special Exception is denied the AG-R requires a Special Exception for the single wide mobile home use.

Mr. Charney asked Mr. Rainey if the Board were to grant the request for a two year period does he understand there would be certain conditions attached, i.e., an all weather parking surface, can he work with the conditions. Mr. Rainey stated that he could handle the two year condition under the legal terms stated by Mr. West.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 3-0-1 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; Dillard "abstaining"; Crall "absent") to **APPROVE** the request for a Special Exception to permit a manufactured home in the AG-R District (Section 310, Table 1), subject to a two year limitation from the issuance of the permit while a single family residence is built. The manufactured home is to be tied down, skirted, tied into an aerobic waste system, and have an all weather surface for parking; for the following property:

N166.70 S363.40 E/2 SE SE SEC 31 19 11 2.53ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2566—John Wyrrick

Action Requested:

Variance of the required 30 feet of frontage on a public right-of-way to 0 feet (Section 207). **LOCATION:** 16527 East 171st Street South, Bixby

Presentation:

John Wyrrick, 11905 South Pittsburgh Avenue, Tulsa, OK; stated that when he was going through the permit process he was made aware of the Variance needed, and he deferred to Mr. Bill Westmoreland at this point.

Bill Westmoreland, 1213 West 108th Street, Jenks, OK; stated he wants to be able to build a new home on the subject property and the property is right on the top of Leonard Mountain. There are two easements of record; there was one when the property was purchased and there has been an additional easement acquired in 2013. The house will be a single family residence and he plans to install a large cul-de-sac in front of the house so emergency vehicles can turn around if need be.

Mr. Charney informed Mr. Westmoreland if someone asked him to build an additional house on the tract that the tract is only for a single house. Mr. Westmoreland stated that is his plan, only one house.

Mr. Hutchinson asked Mr. Westmoreland if he had stated that he has a 30 foot easement. Mr. Westmoreland stated that he does have a 30 foot easement. He has 20 feet of record when he purchased the property and has 10 more feet that was granted by his neighbor to the east.

Mr. Charney asked Mr. Westmoreland if the easements were side by side, one being for utility and the other being for access. Mr. Westmoreland answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a Variance of the required 30 feet of frontage on a public right-of-way to 0 feet (Section

207), given the existence of the easement and the house is set back substantially off the publicly dedicated right-of-way; for the following property:

N/2 W/2 SE SW SEC 26 17 14 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney recused himself from Agenda Items #7, #8 and #9 at 3:09 P.M. and left the meeting.

2568—Jode Lingle

Action Requested:

Variance of the minimum lot area from 2 acres to 1.81 acres 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:** 6410 East 106th Street North, Owasso

Presentation:

Jode Lingle, 13643 South Highway 170 West, West Fork, AR; stated he wants to divide the property which is 3.8 acres and that is slightly smaller than the required 4 acres required for a lot split. There are two existing houses on the property and if he is able to divide the land each house will have their own lot.

Interested Parties:

Debbie King, 4105 East 96th Street North, Sperry, OK; asked if Mr. Lingle is allowed to split his property will it apply to the whole area or will it be just for his property. Mr. Hutchinson stated that this request will only apply to Mr. Lingle's property.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 3-0-0 (Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Crall "absent") to **APPROVE** the request for a Variance of the minimum lot area from 2 acres to 1.81 acres 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. The hardship is that there are houses that exist on the property and will not cause a detriment to the area; for the following property:

PRT NE NE NE BEG NEC THEREOF TH S370 W460 N370 E460 POB SEC 15 21 13 3.907ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2569—Antonio Perez

Action Requested:

Special Exception to allow for a rodeo (Use Unit 20) in an AG District (Section 310);
Variance of the all-weather material for surface parking (Section 1340.D).

LOCATION: 6801 East 106th Street North, Owasso

Presentation:

James B. Smiley, Architect, 6006 East 57th Place, Tulsa, OK; stated he is representing Mr. Antonio Perez. Mr. Smiley stated this project is similar to the case that was heard earlier in today's meeting. Mr. Smiley presented drawings of the proposed project. The utility easement is along 106th Street North and the water is provided by Washington County RWD #3. The stormwater drainage is controlled by bar ditches only and too much paving could interfere with the storm water runoff.

Interested Parties:

Carl McCarty, 10535 North Sheridan, Sperry, OK; stated that he lives across the street from the proposed project. He can hear the other rodeo from his house and it is at least three miles away and to have a rodeo across the street will disturb the quiet. Mr. McCarty believes this proposed rodeo will also affect property values because no one wants a rodeo across from their house. Rodeos are loud and normally built away from housing. This community is growing and there are new houses going in that range up to \$500,000 in value. Mr. McCarty stated that he does not want the traffic that the rodeo will bring to the area. The proposed rodeo does not have access because of the neighborhood.

Mark Freeman, 10517 North Sheridan, Sperry, OK; stated he lives almost across the street from the subject property in a new house. He and his wife built the house and built it with the intention of retiring there so he is not excited about the proposed rodeo. He will be able to see the rodeo from his back patio and the rodeo will bring light and noise pollution with it. Sheridan and 106th Street North is no place for the type of congestion a rodeo would bring. There is development after development up and down Sheridan Road with beautiful houses being built. This is not the neighborhood for the proposed rodeo.

Karen Dearth, 10548 North 117th, Owasso, OK; stated she bought the property right next to the proposed rodeo last year with the plans of building her retirement family home. She is strongly opposed to the proposed rodeo because she chose the property for the quiet. Ms. Dearth stated she has numerous signatures on a petition of residents in the area who are against the proposed rodeo. The traffic, lights and noise will be a problem living right next to a rodeo and she hopes the Board denies the request.

Debbie King, 4105 East 96th Street North, Sperry, OK; stated she owns the property across the street; her sister lives on five of the acres and her daughter lives on seven acres. Her family has owned the property since the 1920s or earlier and she would hate to see a rodeo in the area. She does want to have her grandchildren subjected to that

type of environment. She was quite surprised that someone would propose a rodeo to be placed in the middle of all the houses in the area. There have also been many fatality accidents at the intersection of 106th Street North and Sheridan and a rodeo will bring more traffic that will be asking for more wrecks and deaths. Ms. King hopes the Board will deny this request.

Charles Edwards, 5911 East 106th Street North, Owasso, OK; stated he has spoke with quite a few of his neighbors and everyone is concerned about the increase in traffic, noise and trash that such an event as a rodeo would bring to the area. Mr. Edwards stated that he has concerns over his and the residents security. He has owned his property for 17 years and traffic used to be very light on 106th Street North until about three years ago. Since the traffic has increased there have been a lot of thievery in the area and he has had several major items stolen, i.e., a bucket truck, and his house and travel trailer has been broken into. The police have been no help in recovering any of his or his neighbor's property. Mr. Edwards would request the Board deny this request.

John Odom, 10914 North Sheridan, Sperry, OK; stated he lives about 1/8 of a mile from the proposed rodeo and has lived there since 1978. He agrees with everything that has been presented to the Board today. This will be a hindrance to the quiet neighborhood and requests the Board to deny the request.

Amos Adetul, 5000 East 94th Street North, Sperry, OK; stated he owns property across the street from the proposed rodeo and has lived in the general area for about 30 years. Mr. Adetul stated that Mr. Perez has run a troubled rodeo in the past and now he is trying to bring that problem into a peaceful neighborhood. He has a pending contract with a developer on 20 acres who wants to build a house and now the developer is thinking about backing out of the contract because of the proposed rodeo. This is a quiet neighborhood and to allow a rodeo will plummet the property values. He requests the Board deny the request.

Les Riker, 11051 North Sheridan, Sperry, OK; stated he lives about 3/8 of a mile north of the subject property. From his porch he will be able to see the rodeo and grounds and with the south winds his house will be the direct beneficiary of all the dust from the rodeo. He moved out of Owasso because his property, at that time, was near the Wal-Mart being built. He moved his family to get away from the noise, lights and traffic and now it is coming again. There is a residence on the subject property currently that has a stables but it is only a stable and never has been used for entertainment. The man that built the stables trained horses and they did not hold events or shows. The property values in the area have increased steadily in the past 12 years and he could see them falling again.

Commissioner John Smaligo, 633 North Denver, Tulsa, OK; stated he asks the Board to keep in mind the concerns raised by his constituents from the previous rodeo request that was made and understand that they are even more intense and more numerous in this particular request. The requests are relatively close together, 3 or 4 miles apart, but

the intensity in this area is not as congruent with a rodeo given the fact that the previous application was along Highway 75 in an area that will eventually become much more commercialized and industrialized. The subject area is away from the highways and because of that the intensity that a rodeo will bring and what has been dealt with in rodeos from this particular applicant in the past, in particular the music, it becomes problematic for those who live nearby. Increased traffic is one of those things that everyone will be most concerned about. This route goes from Highway 75 directly to Bailey Hospital and is a hospital route also for St. John's Owasso so that raises concerns.

Mr. Dillard asked Mr. Smaligo what his preference would be; would he prefer the rodeo not be in the area? Mr. Smaligo stated that he struggles with issues like this because he does believe in a person's ability to determine the use for their own property. At the same time he looks at a situation, where we are right now, and that fact that people have purchased houses and presuming they have performed their due diligence looked at the zoning for what is and is not permitted in a particular area, that same standard should apply to Mr. Perez who owns the subject property. Mr. Smaligo stated that Mr. Perez understood the risk and presumably what hoops he would have to jump through to have this happen, therefore, if he (Mr. Smaligo) were on the Board he would look at the application and say that given the increased intensity for the particular area and the understanding that everybody purchased their property with these particular zonings in place he would look at this situation and say that those property rights of the people who are seeking to keep things a particular way in accordance with the County Plan and the current zoning should override those of individuals who purchase property looking for a different use for property than the zoning that existed at the time of the purchase. Mr. Smaligo stated that if he were in the Board's position he would more than likely vote to deny the request. Mr. Smaligo stated that in his opinion this application should be denied based on the concerns that have been raised.

Mr. Amos Adetul came forward and stated that he had been told by a friend that Mr. Perez was going to build a house on the subject property, and this friend was surprised by the request for a rodeo.

A male stood up in the audience and stated that the subject property is two different pieces of property and the property the Perez's were going to build a house is behind the property being discussed for the rodeo.

Orando Perez, 1819 Woodrow, Owasso, OK; stated he is Antonio Perez's son. Before the rodeo idea ever happened his father purchased the property next to it and there are plans to build three houses there for family. Mr. Perez stated that they understand house values because the family will be there also. The rodeos will be seasonal and currently they only have two a year. The previous location was not a permitting problem but it was the ingress and egress that was a problem. Mr. Perez stated that there has been discussion of making an indoor arena so there can be music inside. The events usually run until 9:00 P.M. and the music stops at 9:00 P.M., and everyone should be

gone by 10:00 P.M. The property is 57 acres so he does not think traffic will be an issue.

Ms. Debbie King came forward and stated traffic is an issue. There is no way traffic cannot be a problem especially knowing about the deaths. Her daughter, because of her job goes to bed by 8:00 P.M. so the noise will be a factor. There will be things going on that have never gone on in the area. There is no way a rodeo can be quiet. There are going to be events and there will be problems that come with those events.

Tracy Pipkin, 7211 East 106th Street North, Owasso, OK; stated he lives two pieces of property to the east of the subject property. One of his concerns about any activity that would happen has to do with the fact that two properties are adjoined. What access will the Perez's have to the 57 acres for the parking because they have to go farther east to access the 57 acres? There have been no plans for using the 57 acres as parking but the son has mentioned it as a possibility so that raises his concerns even more because the properties are joined. Obviously concerns are what is to be next? Mr. Pipkin stated that he does not think the County has any funds for road improvements and he doesn't think there are any plans for it, so he does not understand how the ingress/egress issue is being addressed.

Rebuttal:

Mr. James Smiley came forward and stated that the subject property is zoned with permission for equestrian use and Mr. Perez was looking at the rodeo as an extension of that equestrian use. Mr. Perez is going to use the stables as a training area through the year for Mexican style rodeo, which is different than the American rodeo, and have two rodeos through the year. The plans are also to hire off duty policemen to direct traffic during the rodeo events. The rodeo will not be like a Wal-Mart where there is constant traffic 365 days a year; the rodeo will only be twice a year, the spring and the fall.

Comments and Questions:

Mr. Dillard stated this request is different than the previous application everyone has referred to. The previous application was in existence and the public bought their property knowing the rodeo was in existence. This application is different because the people had their property and the rodeo is coming into their area. This is changing the resident's world and he cannot support the request.

Mr. Johnston has the same issue and the property is not close to a major highway. Mr. Johnston stated that he has difficulty supporting the request.

Mr. Hutchinson stated that he is very familiar with both areas. The previous application is in an area where there are not many houses. This application is in an area that is not in a transition area because it already exists. Mr. Hutchinson stated that he cannot support the request.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Charney, Crall “absent”) to **DENY** the request for a Special Exception to allow for a rodeo (Use Unit 20) in an AG District (Section 310); Variance of the all-weather material for surface parking (Section 1340.D) because it is intrusive into a developing neighborhood and is not congruent with the existing area which is primarily a dense residential area; for the following property:

SE SW SW LESS S16.5 THEREOF FOR RD SEC 11 21 13 9.750ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2570—CFS Properties, LLC

Action Requested:

Special Exception to permit mini-storage (Use Unit 16) in the CS District (Section 710, Table 1). **LOCATION:** NE/c of East 96th Street North & Highway 75, Sperry

Presentation:

Herman Van Wye, 13625 East 66th Street North, Owasso, OK; stated that CFS Properties, LLC is a partnership of four local businessmen and these businessmen would like to build a mini-storage. The proposed mini-storage will be on 14 acres on 96th Street North between Highway 75 and Yale. To appease the neighbors it was agreed to rezone only the western half which would be 6.9 acres and to accept the CS zoning. The mini-storage will be built in a corridor that is already designed and designated for business.

Mr. Hutchinson asked Mr. Van Wye what his plans were for the looks of the mini-storage or will it be a sheet metal building? Mr. Van Wye stated that right it is intended to be a sheet metal building. There is a similar mini-storage on the west side of 96th Street and the proposed building will look much like that one which is sheet metal.

Mr. West stated there was one issue that the Engineering Department was concerned about and it is the ingress and egress along 96th Street because it is the Oklahoma Department of Transportation’s right-of-way. Mr. West asked Mr. Van Wye if that had been addressed by ODOT. Mr. Van Wye stated he is working with ODOT and they are looking at the existing right-of-way being available.

Mr. Hutchinson asked Mr. Van Wye if the rear of the building was going to have a fence or screening. Mr. Van Wye stated that there either be a fence of the rear of the building will be the screening.

Mr. West stated the screening would only be required if the subject property is abutting an R District, which he believes this has been rezoned from AG to CS.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 3-0-0 (Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Crall "absent") to **APPROVE** the request for a **Special Exception** to permit mini-storage (Use Unit 16) in the CS District (Section 710, Table 1), subject to the two buildings adjacent to the entrance and the far southwest building having a masonry wainscot with stucco fascia above the masonry; for the following property:

A tract of land located in the South Half of the Southeast Quarter of the Southeast Quarter (S/2 SE/4 SE/4) of Section Sixteen (16) of Township Twenty-one (21) North and Range Thirteen (13) East of the Indian Base and Meridian (I.B.&M.), according to the U.S. Government Survey, thereof, Tulsa County, State of Oklahoma; being more particularly described as follows: Commencing at the SE corner of the SE/4 of Sec. 16, T-21-N, R-13-E, I.B.&M.; Thence S 88°38'05" W along the south line of said SE/4 a distance of 175.93 feet to the present right-of-way of U.S. Highway 75; Thence N 01°21'58" W along said present right-of-way (until otherwise noted) a distance of 33.00 feet; Thence N 83°03'05" W a distance of 377.67 feet to the Point of Beginning; Thence N 83°03'05" W continuing along said present right-of-way (until otherwise noted) a distance of 430.83 feet; Thence S 88°38'05" W a distance of 162.85 feet; Thence along a curve to the right having a radius of 21365.90 feet, a central angle of 00°10'19", a chord length of 64.11 feet, a chord bearing of N 01°02'30" W, for a distance of 64.11 feet; Thence N 10°51'00" E a distance of 152.10 feet; Thence along a curve to the right having a radius of 21335.90 feet, a central angle of 00°48'04", a chord length of 298.27 feet, a chord bearing of N 00°06'23" W, for a distance of 298.27 feet to the north line of the S/2 SE/4 of said SE/4; Thence N 88°37'20" E leaving said present right-of-way and along the north line of said S/2 SE/4 SE/4 a distance of 549.56 feet; Thence S 01°24'52" E a distance of 573.39 feet to the Point of Beginning, and containing 6.914 acres, more or less, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 4:05 p.m.

Date approved:

4/19/16



Chair