

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 431
Tuesday, April 19, 2016, 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
Dillard
Johnston
Hutchinson, V.Chair

Miller
Moye
Sparger

West, Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 14th day of April, 2016 at 11:04 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 at 3:00 P.M. Mr. Dillard will need to leave and there would only be four board members present at that time. 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 Item 3. 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 4-0-1 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; Crall "abstaining"; none "absent") to **APPROVE** the Minutes of March 15, 2016 (No. 430).

NEW APPLICATIONS

2574—Melisha K. Wallace

Action Requested:

Variance of the maximum size of a detached accessory building from 750 square feet to 1,600 square feet in the RS District (Section 240.2.E). **LOCATION:** 6537 North Rockford Avenue East

Presentation:

The applicant has requested a continuance to May 17, 2016; additional relief is needed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

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 **CONTINUE** the request for a Variance of the maximum size of a detached accessory building from 750 square feet to 1,600 square feet in the RS District (Section 240.2.E) to the Board of Adjustment meeting on May 17, 2016; for the following property:

N 126' LT 34 & BEG NWC LT 33 TH S 126' E 36' TH NW TO BEG BLK 2; S 74' OF W 36' LT 33 & S 74' LT 34 BLK 2, PHILLIPS FARMS ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

UNFINISHED BUESINESS

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:

Kenneth Clark, 8797 East 106th Street North, Owasso, OK; stated he owns the subject property and it is 3.12 acres zoned Agricultural. He is currently building a house on the property and would like to have a second dwelling for his wife's sister. His wife's sister is in a wheelchair and she would like to move her here from Arkansas in order to take care of her. Mr. Clark stated that he is proposing a 400 square foot pre-built house that will set on the subject property. There is a drop off at the top of the hill and a structure cannot be placed at the 40 foot limitation; that is why he is requesting 25 feet.

Mr. Hutchinson asked Mr. Clark if the separate dwelling would be hooked into the same septic system as the house. Mr. Clark stated there is the possibility that the second dwelling unit will need a small separate septic system but may be able to tie into the main house's water supply.

Mr. Crall asked Mr. Clark if he was planning on splitting the property. Mr. Clark stated that he only wants the second dwelling and not to split the property.

Interested Parties:

Herb Genatowski, 8913 East 105th Street North, Owasso, OK; stated he represents the Ranch Creek Home Owner's Association. The neighborhood has a couple of concerns on the proposed request. Since the large house has been built on the property the neighborhood seems to be experiencing a lot more runoff to almost a flooding situation as a result. Opening the subject property up to the construction of another home will compound the problem. Another problem is where the driveway is positioned on the subject property, it is positioned in a hazardous place. Mr. Genatowski believes there will be more accidents in the area because of the positioning of the driveway; it is hard to get a clear view of cars coming from the west from that driveway. The neighborhood is opposed to having a second residence on the subject property due to the runoff and the increased traffic that will result in a second residence.

Mr. Charney stated that he wants to make sure that Mr. Genatowski understands the request is not for a residential development, but a request for only one additional dwelling unit on the subject property.

Mr. Dillard asked Mr. Genatowski if he was aware that the proposed second dwelling would only be about 400 square feet in size, because there could be an outbuilding larger than that allowed. Mr. Genatowski stated that the dimensions he saw were 37 x 20. Mr. Crall stated that the dimensions are 14 x 37. Mr. Genatowski stated that he does not believe those dimensions are big enough for another residence.

Rebuttal:

Kenneth Clark came forward and stated he purchased the property in 2010 and has been using the driveway since then. Mr. Clark stated that he does not believe there is anything unsafe about the driveway.

Mr. Charney asked Mr. Clark if the driveway has always been where it is currently located. Mr. Clark answered affirmatively.

Mr. Clark stated that the main house has 1,500 square foot footprint. 2,500 square feet total including the upstairs. Mr. Clark stated that he does not understand Mr. Genatowski's comment about excessive runoff.

Comments and Questions:

Mr. Charney stated that he is familiar with the area and he does not know of another place the driveway could be; it has always been in the current location and has adequate site distance. In regards to the runoff, there is no detention requirement for a building in an AG District for three acres. This benign use in the AG District and it could be a structure that would have a great deal more runoff without coming before the Board for approval.

Mr. West stated that he spoke with County Engineering and they want the land owner to stay out of the statutory right-of-way if possible. Even though a street will not be constructed it is a statutory right-of-way.

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 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). The hardship for this request is the topography and the shape of the lot. This approval requires the landowner to keep either structure out of the statutory right-of-way; for the following property:

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

NEW APPLICATIONS

1803-C—Holliday & Gravel – Michael O'Dell

Action Requested:

Modification of a previously approved Special Exception to permit dredging/classifying permanently in the AG District per previous conditions of the County Board of Adjustment. **LOCATION:** 14253 South 129th Avenue East

Mr. Charney recused himself 1:51 P.M.

Presentation:

Michael M. Harnden, 398173 West 4000 Road, Ramona, OK; stated he is the Plant Superintendent and Sales Representative for the Tulsa area for Holliday Sand and Gravel. He is requesting the Board to approve the dredging and classifying process permanently. He has done studies on the truck traffic and noise and several things to be a good neighbor. Obviously, Holliday Sand is one of three plants in the area and they have 26% of the trucks that travel in the area. Holliday has drawn up a contract for their drivers that haul for Holliday and each driver signed a contract. If the driver were caught speeding, running stop signs, jake braking, etc. they were banned from the operation, which has been done with five of the drivers. Mr. Harnden stated that the problem he has is that the majority of the trucks hauling out of the area are not coming from Holliday Sand but he does get the telephone calls and follows up on it. He has a good response from the other companies in the area but he is the one attempting to enforce the rules and making the calls to the Sheriff's Department. Mr. Harnden stated that whether the request is approved today or not he will continue doing as he is doing today. He wants to help make the neighborhood a better neighborhood. He has held two neighborhood meetings, and the first meeting had more than 40 people that attended and the second had seven people that attended. At the last meeting there was still a complaint about the noise because they thought it was coming from Holliday Sand equipment, and it was determined that the noise was coming from Tulsa Grass and Sod equipment.

Mr. Crall asked Mr. Harnden if the company was going to be changing anything in their process. Mr. Harnden stated that they are not.

Mr. Harnden stated that the company is allowed to pump from 7:00 A.M. to 3:00 A.M. but they are not doing that. As the market increases the peak time for construction increases and there will be times the company needs to bump those hours.

Mr. Hutchinson asked Mr. Harnden to explain about the digital speed limit sign that is in the Board's agenda packet. Mr. Harnden stated that he and Mr. O'Dell thought it might help the drivers think about their speed and their actions.

Mr. Hutchinson asked Mr. Harnden what the implications are for the drivers if they are issued a ticket from the Oklahoma Highway Patrol. Mr. Harnden stated that he knows it affects their insurance rates considerably.

Interested Parties:

Malcolm Rosser, 321 South Boston, Suite 500, Tulsa, OK; stated he represents Steve and Melissa Cox; they own property close to the subject property. Mr. Rosser stated that the truck issues are definitely real and they are a problem, but they are just a symptom. The underlying change that took place two years ago is the expansion hours of operation; dredging and classification operation that involves the pump until 3:00 A.M. five nights a week. That is what causes additional truck traffic and the noise problems. The property is zoned AG and there are only a couple of uses that are allowed as of right without additional permitting; agricultural use, i.e., raising crops or cattle, and single family residences. The activity that is going on right next door to the Cox property is industrial. Removing and processing sand is a heavy industry. If that is going to go on all night there needs to be a good reason. Mr. Rosser stated that the operating until 3:00 A.M. is the real issue. When the application was first filed it was based on the claim that there was a high market demand and the basis on which the approval was granted. Mr. Rosser read the Board of Adjustment meeting minutes from two years ago. Mr. Rosser stated that he does not agree that the change in market demand is a basis for changing operating hours or expanding a Special Exception. Business demands increase or decrease all the time and if every time that happened a client filed an application for needs there would no end to applications like that. Mr. Rosser stated that he compiled permit information from the Cities of Tulsa, Owasso, Bixby and Broken Arrow and found out that in the first quarter of 2014 compared to the first quarter of 2016 in Tulsa the number of permits dropped by \$46 million; Bixby dropped by \$8 million; Owasso dropped by \$1 million; and Broken Arrow rose about \$14 million. Consolidated on a net basis there is a decline in building permit activity of over \$41 million or a 14% decline. If the market is to be used as the justification or basis for granting the application it is not justified by the market. Mr. Rosser stated that his client is not asking that the sand plant be shut down completely, but only that it be shut down at the end of the work day so he does not have to hear the equipment run all night from his house. Mr. Rosser's client knows this company is injurious to his property; to the enjoyment of it as well as the market value. The Board should not allow the injury to continue in this situation.

Mr. Crall asked Mr. Rosser if he had a theory as to why Holliday Sand would want to dredge if they cannot sell the product. Mr. Rosser stated that the company can always sell the product and stock pile the sand as any other commodity. Mr. Crall asked Mr. Rosser if his theory is that the company is stock piling the product. Mr. Rosser stated that he did not know what they are doing with the sand, but he does know the market has declined.

Mr. Crall asked Mr. Rosser if he knew how late the other two sand companies dredged. Mr. Rosser stated that he spoke with Mr. Cox, his client, and Mr. Cox said the other companies do not dredge at night and that is why Holliday Sand is a problem for him.

Mr. Hutchinson asked Mr. Rosser if he had to be the subject to hear the dredge noise. Mr. Rosser stated that he had not. Mr. Hutchinson stated that he had visited the subject site and when he was there he could not hear the dredging.

Steve Cox, 14503 South 129th East Avenue, Tulsa, OK; stated he lives right behind the sand plant and the dredging can be heard. Mr. Cox showed the Board where his house is on a map in relation to the sand plant. Mr. Cox stated that he believes the original operating hours were established for a reason. He thinks the noise level would have been the motivator. He does not think that market demand should be the basis to cause injury to him or the neighborhood. This approval was given two years ago to either fill the demand or get the neighbors use to the noise. The neighbors are not use to the noise and the demand has been filled so he does not see the reason to keep it going. Night time is when a person needs peace. He would ask the Board to vote no on this request.

Mr. Crall asked Mr. Cox if he knew the dredging hours of operation for the other two companies in the area. Mr. Cox stated the other companies close at 5:00 P.M.

Rebuttal:

Michael Harnden came forward and stated that the facts and figures presented by Mr. Rosser are a small part of who Holliday Sand sells to. There is bridge work, highway work, turnpike work, etc. The Muskogee Turnpike is going to be done in four phases three months at a time and will require approximately 95,000 tons of sand. Holliday Sand has not been able to keep up and stock pile sand to get ahead. Holliday Sand does not want to dredge until 3:00 A.M., it is just as needed. His employees do not want to work a second shift.

Mr. Hutchinson asked Mr. Harnden how often he ran the two ten-hour shifts in the last two years. Mr. Harnden stated that he would need to consult his records, but there were a couple of weeks in the winter that the dredging could not be done and there were several days of rain. The maintenance on the equipment because of the coarse product being dredged is never ending.

Mr. Hutchinson asked Mr. Harnden if he had been to Mr. Cox's property to hear his concerns. Mr. Harnden stated that he went to Mr. Cox's property to help him with a downed tree and brought dirt to the property to fill in the hole left by the tree.

Mr. Johnston stated that he looked at the report from Dr. Shadley and it states that from the parking lot of an outdoor sports field the dredging operation is basically and entirely inaudible. Mr. Johnston asked Mr. Harnden if something had changed since that test was performed. Mr. Harnden stated that nothing has changed.

Mr. Crall asked Mr. Harnden if the other plants in the area shut down by 5:00 P.M. Mr. Harnden stated the plant to the north have operation hours of 7:00 A.M. to 5:00 P.M., and the plant to the south, Anchor, will fire up their equipment before 7:00 A.M. but he

does not what their permit states. Mr. Harnden stated that he knows they have trucks running after and before Holliday Sand, as early as 6:00 A.M. Mr. Harnden stated currently Anchor has more trucks running than Holliday Sand, but that is subject to change.

Malcolm Rosser came forward and stated that unless he is misreading the report none of the sound levels were taken on Mr. Cox's property. Trucks are a problem but the night time dredging is the real problem. That is what causes injury to the neighborhood.

Comments and Questions:

Mr. Dillard stated that there are not very many citizens that would create an extensive log as Mr. Harnden has done. He has logged every one of his complaints. He has proven that he wants to be a good citizen. He had a sound study performed. There are not masses of protestants here today. Mr. Dillard stated that he can support the request to continue on with business.

Mr. Hutchinson stated that he agrees with Mr. Dillard. Mr. Harnden has done a tremendous amount and helped out people. He has spent a lot of money on the operation. He has hurt his business by banning some of the drivers. He does a great job.

Mr. Johnston stated that he believes Mr. Harnden has been trying very hard to take care of business and concerns of the neighbors. Mr. Johnston stated that he does not know how the noise level at night could be taken care of any more than it already has been taken care of.

Mr. Crall stated that he is a business man. He does not pay overtime and he does not make people do things unless he needs them or can sell something. Mr. Crall believes market demand may not be market demand. Mr. Crall believes that Holliday Sand will not run until 3:00 A.M. unless they have a reason. Mr. Crall believes that since Holliday Sand knows how the neighbors feel they certainly have a reason not to run until 3:00 A.M. unless they have to.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-1 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; Charney "abstaining"; none "absent") to **APPROVE** the request for a Modification of a previously approved Special Exception to permit dredging/classifying permanently in the AG District per previous conditions of the County Board of Adjustment, subject to the previously approved conditions in Case #CBOA-1803-B, as follows:

1. Loading will be 7:00 A.M. to 4:00 P.M., Monday through Friday, except legal calendar holidays;
2. Trucking will be 7:00 A.M. to 4:00 P.M., except legal calendar holidays;
3. Dredging will be two ten-hour shifts from 7:00 A.M. to 3:00 A.M., Monday through Friday with an eight (8) hour make-up day on Saturday which would be 7:00 A.M. to 3:00 P.M.

4. Holliday Sand is to continue to enforce the rules that the drivers have voluntarily signed.

The Board has found that the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief per Code; for the following property:

NE NW LESS E1/2 E1/2 E1/2 NE NW & NW NW & W.10 A. OF E.20 A. LT 2-W.20 A. LT 2 SEC 16-17-14,, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney re-entered the meeting at 2:37 P.M.

2571—James Hansen

Action Requested:

Special Exception to permit Use Unit 5 (Community Service & Similar Uses) in the RS District (Section 410, Table 1). **LOCATION:** 6701 North Trenton Avenue East

Presentation:

James Hansen, 1064 Pruitt Drive, Oklahoma City, OK; stated the subject property was purchased by his parents in 1946 and the adjacent parcel was purchased in the 1980s. The stewardship of the land is part of the issue to him. Mr. Hansen stated that he has not taken proper care of the property in recent times and the monks in Oklahoma City were seeking a piece of wooded land in Tulsa so he offered the land to the monks gratis. This proposed use would be the establishment of a Buddhist meditation retreat center. Mr. Hansen stated that he has received complaints about the proposed use, i.e., there would be too much noise. Mr. Hansen stated that there would be three to five meditating monks on the property, which to him is not a great deal of noise. Mr. Hansen stated that the Turley Rodeo Center is adjacent to the subject property and it creates quite a bit of noise. Mr. Hansen stated that the neighbors have also told him that the streets would not be able to handle the traffic load the proposed use would create.

Mr. Charney asked Mr. Hansen if overnight stays or living on the subject property would part of the program for the Buddhists. Mr. Hansen answered affirmatively.

Mr. Johnston asked Mr. Hansen where the rodeo was located. Mr. Hansen stated the rodeo is located on Victor which the next street over toward the east and a little bit north so that the two corners of subject property and the rodeo property meet. Mr. Hansen stated that as far as he is aware no one has complained about the noise generated by the rodeo.

Mr. Dillard asked Mr. Hansen how many living units would be on the subject property. Mr. Hansen stated that the total number of monks would be three to five. Mr. Dillard asked if each monk would have his own living quarters. Mr. Hansen stated that he was told by the permit office to take the long range view and plan for that.

Mr. Charney asked Mr. Hansen if the Buddhists can have a meaningful WAT facility where there are no dwelling units or where residential structures do not exist or is that part of the nature of the facility. Mr. Hansen deferred to Mr. Keidle.

Richard Keidle, 649 Crescent Circle, Midwest City, OK; stated he is on the Board of Directors for WAT Oklahoma City. Mr. Keidle stated there are no requirements that the monks have individual living quarters. The monks are monastic, which means the monks live in a community. The Thai monks cannot drive cars; they cannot handle money unless there is no one else there to help. The Christian monks live in a monastery and that is where they stay, within those walls, except for business that requires them to leave the monastery. There will be three to five monks on the subject property either living in one building or in separate structures. There is no predetermined solution other than the monks being monastic requiring them to be residents of the property; otherwise, they would be faced with driving to and from Oklahoma City. Mr. Keidle stated that in Oklahoma City there is a large dwelling where there are five monks; four of those monks live in one building and the Abbot lives in the dwelling that was on the property when acquired. The Abbot lives in the house along with any visiting monks. Mr. Keidle stated that most WATs have a single structure for the monks and they may have a structure for the Abbot to stay in as recognition of their position. This is a non-profit organization so whatever the Code allows and the Asian community can support is what it will be.

Mr. Charney asked Mr. Keidle if there was a Board that governs the operation of the WATs, i.e., for the proper lawn care maintenance. Mr. Keidle stated that all of the WATs have well built and well maintained properties. The monks spend their day on contemplation and meditation but they also do maintenance and work on the property. But a lot of the community members will come in and provide maintenance help because they believe that by doing service brings them grace. Mr. Keidle stated that no matter what community the monks are in the properties are well maintained.

Mr. Charney asked Mr. Keidle if there would be industrial or commercial activity occurring on the property. Mr. Keidle stated there would not because it is a non-profit community service. Mr. Keidle stated there are donations that go into the temple for maintenance and supplies. There is a Board, if approval were given, one of the things that the community could do, would be to appoint or elect a Board to govern the WAT. This will be a precedent until the community decided they wanted somebody else to govern.

Mr. Hutchinson asked Mr. Keidle if there would be outdoor events and what the hours of operation would be for the temple. Mr. Keidle stated the WAT is a central fixture within the Asian culture, i.e., before Thailand developed a perfect school system education was performed in the WAT up through high school then the student moved in the university. The WAT is the central element of the Asian community life and that is why they are interested having the WAT here. The WAT will close its gate at 8:00 P.M. so there will not be people coming and going and it is not a 24 hour operation. The

Buddhist do celebrate traditional Asian community holidays. People will come in on those days, have a communal meal, make an offering to the temple for operation, the monks will give a sermon, and the people will socialize then leave around 2:00 or 3:00 in the afternoon. Then, as in every organization, the clean up begins.

Mr. Johnston stated that he has counted 45 parking spaces on the proposed site plan and he asked Mr. Keidle what is anticipated for the daily or weekly use. Mr. Keidle stated the monks are not allowed to cook for themselves so people bring food every day, and they are only allowed to eat one meal a day. Typically what is seen is that two to five people show up daily to bring the monks food and then clean up. Unless there is a holiday it is unlikely a person would see more than five people on the property.

Mr. Johnston asked Mr. Keidle what the actual construction of the meditation chamber would be. Mr. Jansen stated it would be a single bedroom and a bathroom for a monk. Mr. Johnston asked if it would be a hard build framed structure. Mr. Jansen answered affirmatively.

Mr. Crall asked if it was sleeping quarters that were just described. Mr. Jansen answered affirmatively.

Mr. Dillard left the meeting at 3:02 P.M.

Mr. Keidle stated that there have been two monks living on the subject property and have been doing work on the property. They have cleared the brush on several acres of the subject property and bagged drug paraphernalia and many other things and placed it in an area on the property so it can be disposed of. The monks are already performing a lot of maintenance on the property. If the monks are allowed to stay the property will be well maintained and there won't be illicit activities happening.

Mr. Johnston asked Mr. Keidle if he was aware the property is located in the flood plain. Mr. Charney stated that to him it looks as though the flood plain is in the northwest corner of the subject property. Mr. Keidle answered that it is his understanding that it is the northwest corner of the property that is prone to flooding.

Interested Parties:

Joel Smith, 11799 South 351st West Avenue, Bristow, OK; stated he married into the Thai community 13 years ago. He knew nothing about them but he has learned they are a very tight knit community and they take care of everything. They make sure their area is clean. Mr. Smith stated that the first time he visited the subject property he could not see three feet in front of himself because it was so overgrown. Now there is two or three acres that has been completely cleaned and it is almost like a park. Mr. Smith stated he is honored to be a part of the Asian community and this will be great for the community. It will benefit everyone near and around the WAT.

John Carrigan, 6028 East 32nd Street, Tulsa, OK; stated he has been a resident for about five years and part of the community. He has helped clean up the subject property and almost 2,000 pounds of garbage and debris has been picked up. There has been a lot of work put into the land and the work has all been performed by volunteers. This will not help the Thai community but it will help everyone. The area is starting to look like a park. Mr. Carrigan he drives to Oklahoma City now but this will be nice to have in Tulsa for the community. Mr. Carrigan stated that the monks have been staying in tents on the property and he has spoken to a few of the neighbors to answer any of their concerns.

Paula Clark, 6733 North Trenton Avenue, Tulsa, OK; stated she has lived there for over 23 years. All the property from 66th Street North to Sperry is in a flood zone not just a piece of the subject property.

Mr. Johnston asked Ms. Clark if the area is a flood zone or a flood plain. Ms. Clark stated that it is a flood zone.

Ms. Clark stated the Turley community is present and she has presented a signed petition that represents 65 households opposing this request. Ms. Clark asked if the new future property will be responsible for the Board's decision after Mr. Jansen places the property in the name of the future property owner. Ms. Clark stated that the rodeo that was mentioned has an event about six times a year. It is not an everyday or an every weekend or an every month occurrence it is only occasionally. The neighbors are opposed to the application because it is being proposed in a residential community. The neighbors are not opposed to a temple but they are opposed to any organization that would be placed in the middle of the neighborhood that is something other than a single family residence. This proposal will increase the traffic in the neighborhood because the 45 parking spaces do not make sense otherwise. Like any church they will want to grow and have big events. The existing road is 22 feet wide and people can barely pass two cars at a time now. The road is actually pedestrian and children friendly although she would not let them go out unsupervised. She believes this will create more traffic the neighborhood does not need. And there will be more traffic on 66th Street North that has just been replaced due to damage that heavy trucks have caused. She is concerned that this proposal could cause increased risk of flooding, depending what is placed on the property in the form of buildings, in an already at risk flood area. Ms. Clark is concerned about the decrease in property values. The people live in the area because they enjoy the quiet country atmosphere. Ms. Clark stated that she would like to have purchased the property but there was never a for sale sign placed on the property and no one contacted the neighbors. Ms. Clark stated that the neighbors do not want anything other than a single family residence on the subject property. Ms. Clark stated that she will be placing her property up for sale if the temple is approved. Ms. Clark stated that she did research on the internet to see what type of activities are held at a Buddhist temple and they constantly have celebrations and events so she does not understand how they can say there will only be three or five people on the property.

Mr. Charney stated that it is very common for a current property owner to come before the Board to receive permission for a land use before the property is conveyed to another party. The Board's permission follows the land not the owner. In regards to any stormwater or flooding components there will be a requirement prior to a building permit being issued, if the Board were to grant this request, which addresses the stormwater runoff with great precision. Stormwater is not a factor that the Board considers because there are plenty of departments that come behind the Board's decision and the study of stormwater runoff is one of those departments.

Sherry Yeldell, 6901 North Trenton, Turley, OK; stated she live 1 ½ blocks away from the subject property on four acres and the family has been there over 40 years. Ms. Yeldell stated this area is a flood zone. The tall large concrete cones in O'Brien Park are drains that accept flood waters so everything is in a flood zone. Ms. Yeldell stated that the neighborhood has cleaned the subject property many times because no one else would do so. The house has been broken into and vandalized. The house has burned. The house has not been taken care of. Ms. Yeldell stated that in regards to the proposed 45 parking spaces on the site plan means 45 people until you put two people in each car or four people in each car means 180 people. What if four buses that have 15 people on board, or a travel van, that does not require a CDL driver there will be 120 people. All this could mean that there could be up to 400 people attending one event. O'Brien Park was built for that reason. Everyone in the neighborhood lives on a ¼ acre with a chain link fence around their property. This is suburb and this proposal is not appropriate for the area. Ms. Yeldell read letters from neighbors that could not attend today's meeting. The area has no street lights, no sidewalks and the streets are narrow. The location of the proposed temple absolutely flows against the residential livelihood of homes thus bringing more destruction and disrespect to the people of the neighborhood. Ms. Yeldell urges the Board to keep the property listed as it is listed, RS for a single family property.

Roylene Tibbs, 14115 North Sheridan Road, Collinsville, OK; asked if the Buddhist believed in Jesus Christ. Ms. Tibbs wanted to know if the organization was saying the community is their group or are they expecting to convert the people in Turley and help them with their finances. Ms. Tibbs wanted to know what the monument is that is depicted on the site plan; is it a monument of Buddha.

Mr. Charney stated that when the Board is studying a land use the particular faith a person has and who they worship or don't worship is not relevant in the land use planning decision. He knows it is important to many people in the community and he is respectful of it being important to people but from the Board's standpoint, when looking at land use planning the Board does not look at a person's faith as being relevant.

D. R. Cromer, 6748 North Trenton, Tulsa, OK; presented maps to the Board of the flood plain in the subject area. Mr. Cromer stated that he has some issues about what the applicant says he is supposed to do; they are to have a detailed site plan drawing with dimensions and there were no dimensions on the site plan.

Mr. Charney stated that there is a difference in a site plan when a person is seeking a building permit and a general site plan for an understanding of how a plan is going to be situated on a piece of property in regards to the land use. Mr. Cromer stated that he is referring to a code that states it is to accompany the application for a Variance.

Mr. Charney stated that historically when seeking a building permit there is a great deal of specificity that is required. At this hearing the Board may reference a site plan generally.

Mr. Cromer stated that the roads are in poor condition and only 20 feet wide. All of the side streets are narrower than the 20 feet and the roadway base is crumbling or gone. These streets will not handle any extra traffic. Mr. Cromer asked if there were restrictions of the monument that is proposed to erected, i.e., is there a height restriction and can it be visible from the roadway. Mr. Charney stated that when a building permit is sought there are a multitude of things that have to be met, and the Board does not speak to the nature of all of the construction specifications. The Board speaks only to the land use permitting. The specific nature of what is permitted to be built is done with a different body.

Mr. Cromer stated that the purpose of a RS residential single family district is to preserve single family. This proposed plan has no residence listed on the plan so where will the monks be residing. He didn't think the applicant was to do anything to or on the property until the Variance had been approved but they have been living on the property for two months or more. Mr. Cromer stated that he did not see a structure for a toilet facility so will the port-a-john stay on the property. Mr. Charney stated the way the Board reviewed that is the Board saw a church structure, some residential structures for housing so if the Board were to approve this application; it is the Board's understanding that there is to be a church structure or community structure per plan.

Mr. Cromer stated that a church building on the site would be fine but not a residence for people to be staying there 24 hours a day. Mr. Charney stated that he sees the plan as saying there is a place, Item G says "church", and that is what the other Board members saw. Mr. Charney stated that Item A, the meditation chambers, is stated to be a place if permitted for individual monks to live. There would be living quarters with appropriate facilities if the Board were to approve this application. Mr. Charney stated that he does not think the facilities would receive a building permit if they don't have the actual appropriate per Code plumbing facilities required. This application is not to that stage as of yet. This is a land use planning request and before any structure is built there would be an extensive review of the plans. Mr. Charney stated that he cares about Mr. Cromer's comments and he understands them regarding whether this is an appropriate land use on the subject property.

Mr. Cromer stated there is a canteen listed on the site plan and wanted to know if that was going to be a catering truck or what it was going to be. Mr. Charney stated the building permit would reflect that structure but at this point he does not know.

Mr. Cromer asked if the plans were reviewed before it comes to the Board for consideration of the request. Mr. Charney stated the Board does review the proposed site plans but the Board does not speak to the details of the building specifications.

Mr. Cromer asked the Board what the proposed roadway on the site plan is to be constructed of. Mr. Charney stated there are hard surface requirements that the building permit stage requires for the driving and parking surfaces.

Mr. Cromer stated that the subject property is zoned RS and is not a multiple family dwelling or multiple person dwelling. A monastery would have to be a different Use Unit. Mr. Charney stated that the staff will look at the proposed use when the application comes in and they have determined the request today is the proper request for the proposed use. Mr. West stated that Use Unit 5 is a community service type building or structure.

Mr. Cromer stated the Use Unit 5 is not supposed to change the requirements on the uses of the property other than single family units. There is not supposed to be a bunch of people living on the property. Mr. Charney stated the applicant has requested a Special Exception to permit something on the 5 acre lot which says instead of RS uses they would like to do something that is permitted under Use Unit 5. The Board has not approved that request and may not. Mr. Cromer stated that he understands Use Unit 5 does not say anything about residing on the property.

Nelson Sager, 1410 East 73rd Street North, Tulsa, OK; stated he is from the Turley Fire Department. He understands what the property is supposed to be. Mr. Sager stated that he is not opposed to the church but he is opposed to how much of the property is going to be used because it seems like neighboring houses will be right up next to the proposed use. Mr. Sager stated that he has worked with Mr. West in the past and he (Mr. Sager) believes that the property to be used as a church should be connected to the residential part of it. If this does not happen there will be too many structures on the property which he believes there can only be two structures and an outbuilding can only be 750 square feet. Mr. Sager stated that he would like to be involved in this application if it is approved as a Fire Department member. Mr. Sager he understands the property being re-evaluated for another use but there are several churches throughout the community and they were platted long before the properties were subdivided.

Thomas Chavez, 6651 North Trenton, Tulsa, OK; stated he has five children and his parking place is right next to the subject property. He has lived in his house for 12 years. He is not sure what is proposed for the property and it makes him afraid for his family.

Raymond Cavely, 1638 East 75th Place North, Tulsa, OK; stated he has lived in Turley since 1980 and his mother grew up in Turley. Turley is a quiet neighborhood with a lot of churches. He doesn't believe the land use would be a good church use. Mr. Cavely wondered if the land owner wants to donate the subject property, donate it to the community of Turley. Mr. Cavely stated that he will clean up and maintain the property.

There are too many other properties that would be more appropriate for the temple than this neighborhood setting. The land would be better used for another dwelling for a family. The property owner has not maintained his property and it should not be the responsibility of monks to clean up a piece of property. Mr. Cavely stated that he does not know anything about the Buddhists and their beliefs, he has nothing against them but the land needs to be used as a residential piece of property. Mr. Cavely stated that Turley does not need another church built in the neighborhood.

Paula Clark came forward and asked the applicant not to build and asked the Board not to approve this. She does not want to move.

Rebuttal:

James Hansen came forward and stated that he believes a lot of the comments are religiously based.

Richard Keidle came forward and stated that he appreciates the community of Turley expressing their concerns. He understands because he went through something similar in Oklahoma City regarding an apartment complex that was bitterly fought over. He cannot predict there will not be any issues in the neighborhood regarding the use but there are none in Oklahoma City in regards to a WAT of similar size. This has worked in similar communities all over the country and there are literally hundreds of temples in the United States and Canada. The people that attend them typically do not have a lot of money. They look for opportunities. They do not preach Christ. They do not preach a God. They preach a way of living that is compatible with all Christianity. Mr. Keidle stated that monks have improved the property so far and they will continue to do so given the opportunity.

John Carrigan came forward and stated that in regards to the traffic. It is true the street is very narrow but the only people that go to the WAT are volunteers, ladies that actually cook meals for the monks because they do not cook for themselves. The WAT community is small because no one knows about them. Yes it will grow eventually by word of mouth. In regards to property value he believes this will bring property values up because there will be no one squatting on the subject property. The noise will be minimal. There will be five or six cars at one time on the subject property. This is an opportunity for the monks to have a place.

Joel Smith came forward and stated there will be five people living in a house that may not be married and they may not be family but they are family.

Susan Miller left the meeting at 4:20 P.M.

Comments and Questions:

Mr. Crall stated that this is difficult for him to support because he does see the disharmony. The Code is residential living and he does not know if he is ready to go against that.

Mr. Hutchinson stated that he could support this request. He realizes that most churches are in neighborhoods. What better neighbor than a church. Mr. Hutchinson stated that his community has 26 churches. He can support this request.

Mr. Johnston stated that he has mixed emotions about this case because he has had this experience in his personal practice. When churches want to come into a residential district there is opposition a lot of times and usually the opposition is seeking a more defined plan in order to understand what is going on. He has seen requests approved per site plan and that approval usually comes after a more developed plan with the developer and the applicant meeting to resolve any issues. Sometimes it is not successful even after lots of money has been spent on site plans. Based on what he has seen he would have a hard time supporting this request because is concerned with the 24 hour operation.

Mr. Charney stated that there is an existing RS zoning and that is the status before the Board. Someone is seeking a Special Exception for a use. He thinks it is a wonderful use and a beautiful philosophy from what he has read and knows of it. He understands the concerns over the site plan. Mr. Charney stated that in order to make a finding that this is something that will not destroy the harmony of the neighborhood he would need more site plan specificity. Mr. Charney stated that he cannot think of a better non-conforming use than this non-conforming use in an RS District. He believes if the Board were to see a more definite site plan that showed how the residential component would be configured he could make a more intelligent decision on this request.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-1-0 (Charney, Hutchinson, Johnston "aye"; Crall "nays"; no "abstentions"; Dillard "absent") to **CONTINUE** the request for a **Special Exception** to permit Use Unit 5 (Community Service & Similar Uses) in the RS District (Section 410, Table 1) to the Board of Adjustment meeting on May 17, 2016 for a limited scope of reviewing a revised more detailed site plan showing how the bedrooms would be contained in one structure. The Board strongly encourages a meeting with the community leaders and the neighborhood; for the following property:

S 1/2 NW SE SW SEC 31-21-13, OF TULSA COUNTY, STATE OF OKLAHOMA

2572—Jason Marietta

Action Requested:

Special Exception to permit a fireworks stand (Use Unit 2) in the CS District (Section 701); Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 15508 North 169 Highway East, Collinsville

Presentation:

Jason Marietta, 1500 East 27th Terrace, Pittsburg, KS; stated he represents Jake's Fireworks. A local group in Collinsville wants to operate a fireworks stand on the subject property.

Mr. Crall asked if the ingress and egress was from the highway. Mr. Marietta stated that it is from the highway.

Mr. Hutchinson asked Mr. Marietta if the fireworks stand was going to be in the building or if it was going to be in a tent. Mr. Marietta stated the fireworks stand will be in a tent and will not be in the building as the building would have to have sprinkler system and meet building and fire codes.

Mr. Charney asked Mr. Marietta what the hours of operation would be for the fireworks stand. Mr. Marietta stated the tent will open around June 24th and close to the end of July 4th, from 9:00 A.M. to 9:00 P.M. except for July 3rd and 4th.

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, Crall, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the request for a Special Exception to permit a fireworks stand (Use Unit 2) in the CS District (Section 701); Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation will be from June 15th through July 15th starting at 9:00 A.M. to 9:00 P.M. The hours of operation for July 3rd and 4th will from 9:00 A.M. to 11:00 P.M. The hardship for the Variance is that this is a temporary use and the fact that the subject has a hard surface highway for ingress and egress. This will not be injurious to the neighborhood and will be in harmony with the surrounding area; for the following property:

PRT N/2 NE BEG 1322.92W & 622.14N SECR N/2 NE TH E661.56 N331.37 W661.60 S331.07 POB LESS BEG 662.75N & 661.48W SECR N/2 NE TH N331.37 W134.32 SWLY ALG CRV LF 405.81 E366.19 POB SEC 21 22 14 3.120ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2573—Stephanie Gilstrap

Action Requested:

Variance of the minimum lot area and land area per dwelling unit requirement in the AG District to allow two homes on the subject tract (Section 330); Variance to allow more than one dwelling unit on a single lot of record (Section 208). **LOCATION:** 14337 East 156th Street North, Collinsville

Presentation:

Stephanie Gilstrap, 14337 East 156th Street North, Collinsville, OK; stated she is the care taker for her mother and would like place a mobile home on the property to live in. Her mother lives in the existing house on the property.

Mr. Hutchinson if the mobile home was going to be on the same septic system as the house. Ms. Gilstrap answered affirmatively. Mr. West stated that would be subject to DEQ, which they will determine if the existing system is large enough to handle the additional residence.

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, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **APPROVE** the request for a Variance of the minimum lot area and land area per dwelling unit requirement in the AG District to allow two homes on the subject tract (Section 330); Variance to allow more than one dwelling unit on a single lot of record (Section 208). The hardship is that the triangular shape of the land still permits a large enough tract that there is ample room around it. The manufactured home is to be tied down, skirted and meet all DEQ requirements. The parking space is to be a hard surface; for the following property:

**PRT SE SE BEG 247.83W SECR SE TH N659.95 W247.54 S659.96 E247.83 POB
LESS BEG 247.83W SECR SE SE SE TH W247.83 N144.85 NELY225.90 NE51.44
NELY100.93 NE33.89 S470.86 POB SEC 16 22 14 1.983ACS, OF TULSA COUNTY,
STATE OF OKLAHOMA**

2575—Faulk & Foster for USCOG of Greater Oklahoma, LLC

Action Requested:

Special Exception to permit a wireless tower and ground equipment (Use Unit 4) in the AG District (Section 310). **LOCATION:** 3911 South Campbell Creek Road, Sand Springs

Presentation:

Tracy Malone, 678 Front Avenue, Grand Rapids, MI; stated this proposal meets the telecom requirements. The tower height is 220 feet and the self-support lattice structure and that type of structure is necessary to cover the expanse for the coverage objectives. This facility is to provide better telecom services, both data and voice, between the existing site that is west of Prattville and Keystone Dam. The nearby uses in this case is an electric substation is adjacent to the subject parcel across the street and there are high tension lines and low tension lines that run across the parent parcel in proximity to this use. Ms. Malone stated there are some houses to the east of the proposed site near the substation. The tower is set back from the road to meet all applicable setbacks from residential in the required distancing. The surrounding topography is rolling hills and forested acreage and the subject parcel is also forested which will help to obscure the tower. There are other lattice and tall structures in the area of the tower and this use will be similar to the utility uses at the substation and the power lines. The equipment structure is proposed to be a crushed stone aggregate to match with the natural environment. The tower is well equipped and structurally adequate for additional users. The tower is also built to sustain the wind in the community. Access to the tower is planned off Campbell Creek Road. The tract site is large, 146 acres, and mature trees are on the parcel shielding the tower in most directions.

Mr. Hutchinson asked Ms. Malone if there would a fence around the tower. Ms. Malone answered affirmatively. Ms. Malone stated the fence will be a six foot tall chain link fence with three strands of barbed wire around the top for a total height of seven feet.

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, Crall, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Dillard “absent”) to **APPROVE** the request for a Special Exception to permit a wireless tower and ground equipment (Use Unit 4) in the AG District (Section 310). The Board has found that the tower will be in a very rural area and will not be injurious to the surrounding area. Additionally, Section 1204.3.E provides the following:

1. Factors to be considered in granting a special exception. In addition to any other requirement of this section, the following factors shall be considered in the determination to grant or deny a special exception for an antenna or tower:
 - a. Height of the proposed tower;
 - b. Proximity of the tower to residential structures, residential district boundaries and existing towers;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. The total number and size of antennas proposed and the ability of the proposed tower to accommodate collocation;
 - h. Architectural design of utility buildings and accessory structures to blend with the surrounding environment;
 - i. Proposed ingress and egress;
 - j. The need of the applicant for a communications tower within the immediate geographic area to provide an acceptable level of communications service to the area;
 - k. The size of the tract and the most likely future development as indicated by the Comprehensive Plan, planned infrastructure, topography and other physical facts.
 - l. Landscaping
2. Collocation. Collocation of facilities should be encouraged wherever practical by allowing reasonable extra height or tower diameter necessary to support multiple antennas; for the following property:

SE NE & E/2 SE & W/2 SE LY E OF MUD CR RD SEC 22 19 10, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 4:47 p.m.

Date approved: _____

5/17/16

D. King
Chair