

TULSA COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 384

Tuesday, May 15, 2012, 1:30 p.m.

Aaronson Auditorium

Tulsa Central Library

400 Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair
Dillard
Draper
Osborne, Secretary
Walker, Vice Chair

Alberty
Sansone
Sparger
Back

West, Tulsa County

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10th day of May, 2012 at 9:44 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. Sansone explained the rules and procedures for the County Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **WALKER**, the Board voted 4-0-1 (Charney, Dillard, Osborne, Walker "aye"; no "nays"; Draper "abstaining") to **APPROVE** the Minutes of April 17, 2012 (No. 383).

UNFINISHED BUSINESS

Case No. 2425—Zelda Weathers

Action Requested:

Special Exception to permit a Go-Kart Track within Use Unit 20 in an AG district.

Location: 9600 North Harvard Avenue

Presentation:

Zelda Weathers, 10210 North Harvard, Sperry, OK; stated she wants to have a family-oriented place for people to come to with their families, and play with mock Nascar go-karts. The proposed building would be a club house for the go-kart owners and their children. The ownership of a go-kart teaches the children mechanical skills and responsibilities. There has been concern over the dust, and the track is watered down when the go-karts run. Ms. Weathers stated she has obtained a race schedule from another go-kart track approximately one and a half hours away from the subject property, and it shows that races can be run and completed in about four hours. There are no lights around the track so the go-karts will not be running at night. Ms. Weathers stated that she is willing to install privacy panels around the outdoor toilets to make them aesthetically pleasing.

Steve Huff, 1779 Oak Knoll, Sperry, OK; stated he has been racing since he was seven years old and there are many good aspects about racing. Children with disabilities that are limited to staying at home to play video games can race go-karts, with a few modifications completed on the go-kart. Racing is a structured competition for any age, five years to 70. Go-kart racing is an inexpensive entertainment, from lower-middle class upwards can enjoy this sport. Children as young as ten years old can fabricate, weld and repair their own go-karts after an accident, so the sport is also a teaching tool. The noise level of the go-karts is approximately 105 decibels, about the same as a lawnmower, which is lower than an emergency vehicle siren. If the go-kart is equipped with a muffler the noise level can be lower than 100 decibels, which is equivalent to a Skil-saw or chainsaw. The cars are designed and built to go about 37 miles per hour, which is sufficient for the subject track size.

Ms. Weathers came forward and stated that neighbors have expressed a concern about traffic. Ms. Weathers stated that at one of the established tracks there were about 16 trailers, and that is because there are other tracks around the area. There has been a double-wide gate installed to allow the traffic to pull into the property and be totally off the street before stopping. Therefore, traffic should not be an issue. The port-a-johns are serviced the Monday after the race, so they should not be an issue. Races will never be more than twice a month, and this year they would only be once a month because it is already late in the season.

Mr. Huff came forward and stated the average amount of laps per feature is eight or twelve laps. The laps consist of a qualifying round then a feature round. The qualifying round is eight laps, the feature round is twelve laps, and the only cars in the feature laps are the ones that won in the qualifying round. The qualifying round is approximately five minutes and the feature round is approximately eight minutes long. In regards to traffic, many people will have two or three cars in the bed of a pickup truck. Mr. Huff stated that these go-karts are also raced year-round. During the winter the races are run inside an arena such as the Quik Trip Center in Tulsa.

Ms. Weathers came forward and stated that this track started out as a family playground for the grandchildren. Ms. Weathers stated that she is from a family of 12 children, so in her family there are about 200 members. In her personal family there about 35 immediate family members, so when there is 10 or 15 cars seen at her house, it is family not the public. She believes in teaching children to widen their horizons, and open their eyes to a bigger and better world. She tries to teach the children that anything is possible if one is willing to work and try hard. If this track is permitted to be open to the public, there are very few people who actively go-kart race,

Mr. Charney asked Ms. Weathers if there would be other times, other than the twice a month for races, the track would be used, i.e., practices or tuning up the go-kart. Mr. Huff came forward and stated there is a hot-lap session, and it is run for about an hour at our discretion. Ms. Weathers came forward and stated that once the club house is built it would be used for meetings without the go-karts. The children who would be on the track, other than the race times, would be her grandchildren or her children using their four-wheelers. That would be a personal use and would have nothing to do with the commercial use of the track.

Interested Parties:

Tom Baker, 12315 East 86th Street North, Owasso, OK; stated he lives less than a mile from the track. This application, if approved, would be absolutely devastating to the neighborhood. The area is all single-family housing, farms, ranches, livestock, and people who have moved to the country to escape this type of development. When he looked at the application initially the applicant seemed to express concern for the residents of the area, but the track is built and in place. The track was built, moving dirt, and placing tires around the track without consulting the neighborhood or the Board of Adjustment. There has been racing on the track, and he understands that the Sheriff came out to the site and shut it down. This track was completed without much fore-planning or consideration to the neighbors. There is an empty race track about three miles from this track, at 66th Street North and Highway 75. There are other safer and less intrusive places the children and adults can race. If three of these cars can fit into the bed of a pickup, how many cars can be fit into one of the trailers? It has already been said that about 15 trailers would be at a race, how many cars is that at one race? Or multiple the car count by their 200 family members. This is a neighborhood that basically sustains ranching and farm use. This is not consistent with the existing use of the properties. There is not commercial use within a mile of the subject property, and it is a little over a mile away from Highway 75. This request absolutely does not fit into the neighborhood and would be absolutely devastating to the existing use.

Gary Juby, 3296 East 96th Street North, Owasso, OK; stated his property is south of the proposed track and across 96th Street. He is not against helping or teaching young children, but at what level does one impact the geographical area to give a select number of individuals an outlet to race their go-karts? When there was racing last fall the noise level was like a chain saw outside the windows of his home for two or three hours, and it was non-stop. Mr. Huff stated that he does not see a problem with the race track but he lives five miles away. It does not impact him, because he can come

over to the track to race and then leave. The track does not affect his property value. He does not need to look out a window to see a line of trailers or trucks on the road or parked in a field. He does not need to look out a window to see a row of port-a-johns lined up in a field. But that track is something that Mr. Juby lives with every day. The four hour racing window that was discussed may sound feasible on paper but in reality that is not the case, because there would be an impact on the area beyond the four hour window every other Saturday. No one can accurately predict what property values will be in a year or ten years from today, let alone if there is a commercial go-kart track across the street. This is a serious concern.

April Bown, 9912 North Harvard, Owasso, OK; stated she lives about a quarter mile north of the race track. She does not have a problem with children but the major concern she has where the track is located. There is a major intersection located there, 96th and Harvard just off Highway 75, and it is very busy. The day the races were run last fall it was very noisy with lots of dirt in the air. When 66th Street North race track was operating she could hear it at her house, and that is three miles from her house. She originally thought the race track was for their private family use, then she started looking at the business plan on-line. This is going to be a business with outside people coming into a residential area. She too is concerned about property values. Most people have lived in the area for years, and to have a family come in and try to establish a racetrack in the middle of the community is a major concern.

Bing Wines, P. O. Box 580052, Tulsa, OK; stated his father bought the property near the proposed race track in the 1930s and he and his siblings now own the 215 acres southeast of the subject property. He too is concerned about property values. He does not understand why this track cannot be placed in a commercial or industrial area. What he does not want to see is the land, which is potentially for single-family use, become a commercial tract.

Rebuttal:

Ms. Weathers came forward and stated that she would like to address two or three items that were brought up by the protestants. The port-a-johns that were discussed were on the property for three days. She made sure that they were picked up as early on Monday, after the race, as possible. If the Sheriff was called to the property because of the racing she was not aware of it, because no one came to tell her that the race was being shut down. The track was on the property prior to this proposed application. It was there strictly for family use. The other children on the property were friends of the family. On the west side of the road there is commercial business less than a mile from the subject property. As for the noise factor, there is a baseball diamond down the street that can be heard while the games are being played. That noise, to her, is joy because the kids are happy and off the streets. The lawnmower engines of the go-karts are loud but it is not unbearable. That noise is for the cause, the children should be allowed to race like they want. Ms. Weathers stated that she was not aware of a noise ordinance for the area. Her family plays on four-wheeler vehicles on that track, and they installed chain link fence around the track to make sure no one drove through the barbed wire fencing that is near the track. The chain link fence was also installed to

protect the animals that are around the property. The track is for everyone, and if they want to play on the track they must sign a waiver. It was designed for everyone to have a safe place to play. There is nothing in Sperry for the children to do other than sports and not all children are interested in sports.

Mr. Draper stated that according to the plan that was presented to the Board, there is a general admission parking area with an overflow parking area designated. What is the count for these proposed areas? Ms. Weathers stated there is plenty of pasture to park in. There is ten acres and the track utilizes about a quarter of an acre. Mr. Draper asked how many vehicles is the general admission parking designed to hold. Ms. Weathers stated that parking would hold about 100 vehicles but there would probably only be about 50 vehicles in the lot. Ms. Weathers stated that she has no intention of making the area a concrete world. Once the club house is built it would only be used as a concession with bathrooms for participants.

Mr. Draper asked how many people were anticipated in the four hour racing window. Mr. Huff stated there would probably be about 75 people, because it depends on people's schedules. Sometimes there would a few more, other times a few less.

Comments and Questions:

Mr. Charney stated that he respects and appreciates the alternative means to get children off the couch and away from the video games. He thinks that the entire Board is respectful of the mission of Ms. Weathers and Mr. Huff for young people. However, the Board's focus is confined to land use planning. Whether the request is of the most noble of causes or a cause the Board may not agree with, the Board must determine and analyze the request in terms of land usage. The Board must determine that there is no adverse or injurious effect to the neighborhood.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions") to **DENY** the request for a Special Exception to permit a Go-Kart Track within Use Unit 20 in an AG district, finding that the proposed use does not fit into the agricultural zoning. The use would not be harmony and spirit of the code, and it would be injurious and detrimental to the neighborhood; for the following property:

TR BEG SECR SE SE TH W326.7 N333.5 W229.2 N TO PT ON NL S/2 SE SE E555.9 S POB SEC 17 21 13 6.668ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2424—Phil Frazier

Action Requested:

Special Exception to permit sand extraction within Use Unit 24 – Mining & Mineral Processing – in an AG District (Section 310). **Location:** SE/c of 151st Street South and South Mingo Road

Mr. Sansone stated that this case is a continuation from the last Board of Adjustment meeting on April 17th. Since that continuation a letter has been received from the applicant that changes the operation. In the letter it was stated that there is not enough sand located in the river at the point of extraction to allow the sale of the sand to the public. The applicant will address this change today.

Presentation:

Phil Frazier, 1424 Terrace Drive, Tulsa, OK; after the hearing on the 17th of April there were four issues that the protestants raised and that the Board had questions about. The original application was filed to extract sand, and at that time he had advised the Board that the sand is a special type of sand; there are only a few places where this type of sand can be found. The sand is used in the growing and the placement of sod. The Easton family has operated the sod farm for the past 35 years, and since they have been growing the Patriot Sod they have been buying their sand. The purchase of that sand meant there were trucks hauling in sand and leaving empty, thus increasing traffic on the road. Since the last meeting it has been discovered that there is not the depth of sand that was anticipated, so no sand will be sold to public entities. The only sand trucks hauling sand will be when the sand is being hauled out because it is required for a specific job.

Mr. Frazier went on to address issues that were raised in the last meeting. As to the road condition, Mr. Easton has already improved the road by installing an asphalt composition on the road. As to the traffic and dust, the asphalt composition will curtail the dust significantly. The traffic will be reduced because there will no longer be trucks hauling in sand nor will there be commercial sand trucks leaving. Noise was also a concern raised at the last meeting. The reduction of traffic will reduce the noise, and there will not be diesel powered barge equipment used for the sand extraction as planned. There will be a drag and the drag line will be used when the river is low; when the river is up there will be no mining. In regards to the debris, Mr. Easton allowed the City of Tulsa and Tulsa County to dump massive amounts tree limbs that had been broken out of trees during the ice storm a few years ago. Most of the tree debris will be ground up or burned, but most of it will be ground into mulch. Mr. Easton will continue to deplete the tree debris regardless of the decision on his application. Mr. Frazier believes this operation will enhance the neighborhood, as opposed to the last previous plan presented, with less truck traffic, the road improvements, and debris removal.

John Easton, 11225 South 90th East Avenue, Bixby, OK; stated that is not that sand will be hauled out to other projects; this business venture is getting into athletic turf business. Athletic turf fields have sub-drains installed underneath the fields and they want a sand based sod. He will be building sand based fields and growing the sod on that field. There will be a few instances where the sand will be required to be brought in, because some people like to keep the sand the same as what was originally installed, and he does not anticipate but 100 loads or less a year leaving his property. This process is done a football field at a time.

Mr. Draper asked Mr. Frazier if the applicant was proposing to improve the road with the same type of materials as it is currently built with. Mr. Frazier stated the road is an asphalt composition.

Mr. Osborne asked what an asphalt composition consisted of, i. e., black top, granular, or something else. Mr. Easton stated that the composition was made from asphalt that has recycled. Most of the road had an asphalt surface but there was an area that the road had eroded and it was gravel. But he has taken the recycled asphalt, rolled it, and blended it in to the existing road and looks good. There is no dust.

Interested Parties:

Gloria Cravens, 9723 East 151st Street South, Bixby, OK; stated she lives at the corner of 151st Street and Mingo about 50 feet from the road. The road has large black top composition clumps right up to her yard. She believes that Mr. Easton will be using the road for more than he is saying today; for example, when the elementary school was built he supplied sand to the contractors for the school. Then Mr. Easton allows dumping on his land; for example, when the tennis court was taken out the tennis court debris was hauled onto his land by large trucks. All of those trucks were using that road. Today the traffic has been reduced but she does not believe it will last.

Mr. Charney stated that there are a couple of things the interested parties and the Board need to keep in mind with this case. What is being examined today is a request to mine sand from the river, and that is the special exception that is before the Board today. There are means by which an interested party can complain about wrongful uses or for noxious activity on a piece of property, and that is to contact the County. Today the Board is here to only examine the ability to extract sand from the river, and the sand that will be exported. Some of the complaints in this case cannot be addressed by this Board.

Ms. Cravens stated that the residents of the area have tried. There have been calls to the County and even calls to the EPA. There is nothing done.

Mr. Walker asked Ms. Cravens about the trucks she has seen hauling sand out, where does she think the sand is coming from since Mr. Easton has stated that he does not have enough sand. Ms. Cravens stated that she assumed it was coming from the river because that is the direction the trucks are coming from when they are using that road.

Mr. Frazier asked Ms. Cravens if she understood that Mr. Easton could haul out sod from his property if he chose to do so. Ms. Cravens nodded in affirmation, and stated that the trucking of sod is fine.

Mr. Osborne asked Ms. Cravens if she had seen sand trucks coming into the property and leaving the property. Are they loaded when they are coming in or going out? Ms. Cravens stated that the trucks are usually loaded with junk or trash when they are coming in. Mr. Osborne asked if she had seen sand being brought into the property.

Ms. Cravens stated that she had not seen sand brought in lately, but the sand is leaving the property.

Rebuttal:

Mr. Frazier came forward for a rebuttal.

Mr. Charney stated that the Board has heard some concern that there has been a fair amount of sand extraction thus far and that is the current operation. Mr. Charney asked Mr. Frazier to present his client's prospective on that view. Mr. Frazier stated that there has been one instance where there was a composite of sand that was removed from the property, not the river. That composite was not mined, there was a hole dug and the composite was hauled out. In regards to the debris from the elementary school, that was a one-time episode and that was in conjunction with the composite material. The rock was brought in and it was used for riffraff along the riverbank to keep the bank from washing away. The EPA did come to investigate that incident, and they gave Mr. Easton a "clean bill of health".

Mr. Charney stated that if the Board were to approve this less intrusive mining application, if volume were an important factor in that decision and based on the roadway that exists, would his client understand a restriction on the volume of sand extraction. Mr. Easton stood and stated that he did not have a problem with a volume restriction because there is not enough sand available at his spot on the river to operate a commercial business.

Mr. Draper asked staff if the proposals being voted on today need to have criteria added to them by the Board, i.e., limiting it to what has been presented today or has the application been revised. Mr. Alberty stated that when a presentation has been made, and an applicant offers conditions, if the Board agrees to those conditions they need to be stated in the motion. Of course, there is always the possibility of making the motion more restrictive or adjust the conditions to the Board's motion. Mr. Draper asked if the application before the Board is based on Mr. Frazier's last letter, the letter contents should be included in the motion. Mr. Alberty gave affirmation.

Comments and Questions:

Mr. Walker stated that he is pleased with the reduced intensity of the application. He believes Mr. Easton has shown good faith by attempting to address some of the complaints prior to this meeting.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a Special Exception to permit sand extraction within Use Unit 24 – Mining & Mineral Processing – in an AG District (Section 310), with the following conditions. Statements contained in the letter from Mr. Frazier dated April 25, 2012 will be applicable, see attached Exhibit A, pages 3.5 and 3.6. No more than 100 loads of sand to be exported from this mining operation per year. The applicant will ensure the road that is used to access the

property, 151st Street, shall be maintained, whether it is through private efforts or through efforts with Tulsa County, for reasonable and appropriate use for truck and suitable for standard automobile traffic. This special exception will have a time limit of one year from today's date, May 15, 2012. The debris on the property is to be depleted or removed. Finding that the approval of the special exception, the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

GOV LTS 3 4 6 & 8 & 27AC ACCRETED LAND LESS BEG SWC GOV LT 4 TH N466.69 E466.69 S466.69 W466.69 POB & LESS BEG 1322.52N & 92.15E SWC SE TH NE103.37 NE163.69 E280.39 E255.57 E501.27 ELY572.66 SE157.78 S154.42 W1991.50 TO POB SEC 19 17 14 119.08ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 2429—Ronnie VanLandingham

Action Requested:

Variance to permit a detached accessory structure in an RS District larger than 750 square feet (Section 240.2.E); Variance to permit a detached accessory structure in the side yard (Section 420.2.A.s). **Location:** 1325 South 214th West Avenue

Presentation:

Ronnie VanLandingham, 13255 South 214th West Avenue, Sand Springs, OK; stated he has joined two lots together. He has visited with all the neighbors and explained to them what he wants to do and why he wants to do it. The side yard variance request is because he has a GRDA non-active power line in the back yard with a 145'-0" easement so he cannot build anything in the back yard. The reason he wants to build a larger building, larger than 750 square feet, the building will have the appearance of a house in the middle of the lot instead of a small out-building in the middle of the lot. The building will be a steel building on a steel frame, with a four foot brick wall around three sides. There will also be vinyl siding across the front of the building. Eleven out of the twelve neighbors within the 300'-0" radius are in favor of his request being approved, and the twelfth neighbor lives about 250'-0" away from the subject property. The home owners association has also seen his proposed plan and they have given their approval for the building pending the approval from the Board of Adjustment.

Mr. Walker asked what Mr. VanLandingham planned to do with the carport and the additional storage building in the backyard. Mr. VanLandingham stated that he had installed the carport to protect his boat but they are still deteriorating, and that is one of the reasons for the proposed building. The additional storage building was on the property when he purchased the house and he plans to demolish that building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a Variance to permit a detached accessory structure in an RS District larger than 750 square feet (Section 240.2.E); Variance to permit a detached accessory structure in the side yard (Section 420.2.A.s). The new building is not to be larger than 1,600 square feet. The approval of the accessory structure in the side yard is due to the exceptional conditions placed upon the applicant due to restrictive easements on the property related to the existing powerline structures. The existing carport and storage facility on the property shall be demolished or removed no later than six months after the completion of the new building; for the following property:

Lots 3 and 4 BLK 3, CANDLESTICK BEACH, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2430—Glenn Harden

Action Requested:

Special Exception to allow a temporary mobile home in an AG District (Section 310);

Request to extend the time limit from two years to three years (Section 310.6).

Location: 16709 West 41st Street South

Presentation:

Glenn Harden, 16709 West 41st Street, Sand Springs, OK; stated that approximately 20 years ago his brother and wife bought the subject property. Mr. Harden, with his mother, then moved onto the property to live in a second mobile home. Since then his mother and his brother have passed away, and the brother's wife still lives on the property. Mr. Harden's sister-in-law currently lives in a double-wide mobile home on the property and has asked him to move back onto the property to help her. He would like to do so and move a mobile home into the spot where the second mobile home was previously located.

Mr. Charney asked Mr. Harden if there are other mobile homes in the area, and Mr. Harden stated that there are several. Mr. Charney then asked Mr. Harden if he knew of other lots in the area that held two mobile homes on the same lot. Mr. Harden was not quite sure if there were, but he thought there might be on the side road west of the property.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a **Special Exception** to allow a temporary mobile home in an AG District (Section 310); **Request** to extend the time limit from two years to three years (Section 310.6). There will be a time limit of three years from today's date, May 15, 2012. The mobile home will be placed on the property per site plan on page 5.6, and is to have tie downs, skirting, and meet all DEQ requirements. All driving and parking surfaces shall have an all weather surface. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

Lots 3 and 4 BLK 3, CANDLESTICK BEACH, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS


None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 3:33 p.m.

Date approved: 6-19-2012


Chair