TULSA COUNTY BOARD OF ADJUSTMENT MINUTES of Meeting No. 413

Tuesday, October 21, 2014, 1:30 p.m. Ray Jordan Tulsa County Administration Building 500 South Denver, Room 119

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair

Miller

West, County

Dillard

Moye

Sparger

Inspections

Hutchinson

Walker, Vice Chair

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 16th day of October, 2014 at 10:17 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 1:35 p.m.

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MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the Minutes of September 16, 2014 (No. 412).

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UNFINISHED BUSINESS

2509—Sarah Poston

Action Requested:

<u>Special Exception</u> to allow the Oxford House to accommodate up to ten women and children in a RE District (Section 410, Table 1). <u>LOCATION</u>: 749 West 97th Street South

Presentation:

Sarah Poston, Fredric Dorwart Lawyers, 124 East 4th Street, Tulsa, OK; stated she is before the Board on behalf of The Oxford House. This application may be less common

than the other applications that will be heard today but the authority to grant the Special Exception could not be any more clear. The Board first heard about this case in August 2014 and after hearing from several concerned parties it was decided to continue this case to today. In the interim the neighborhood had an association meeting to which she was invited and she reached out to Laura Johnson to attend that meeting. Today the Board is being asked to waive the Tulsa County zoning code on the related family members requirement to allow Oxford House at 749 West 97th Street in Jenks. And to allow the Oxford House to remain as a place for up to ten women in recovery from alcoholism and drug addiction and their children. This is for two reasons. One, the Federal Fair Housing Act requires the Board to waive the related family members requirement as a reasonable accommodation for the residents of the Oxford House who are as people recovering from addiction protected by that act. Secondly, Oxford House is the functional equivalent of a single family home for zoning purposes, and allowing the house to remain will be in harmony with the spirit and intent of the Tulsa County zoning code and it will not be injurious to the neighborhood or otherwise detrimental to the public welfare pursuant to Section 1680.3 of the code. Under the Federal Fair Housing Act people who are in recovery for drug and alcohol addiction are entitled to equal access to housing. To be clear, the Oxford House residents are people in recovery from drug and alcohol addiction. These people regularly attended meetings of Alcoholics Anonymous or Narcotics Anonymous, or a similar organization, and if they don't attend they are expelled from the house. To the extent that if they use any alcohol or drugs they are immediately expelled from the house. Equal access to housing for people in recovery from addiction means that even though the people are not related to each other by blood, marriage or adoption, they need an affordable place to live in a stable neighborhood like the subject property in Jenks. So local authorities, such as the Board of Adjustment, are obligated to make affirmative steps to make it possible for these unrelated people to live together in recovery to enable their equal access to housing. Numerous cases from the Federal, Trial and Appellate Courts around the country, and a joint statement from the Department of Housing and Urban Development and the Department of Federal Justice, show that when an Oxford House is set up in a single family neighborhood it is the Board's duty is to change or waive the requirements of the zoning code in order to enable affordable housing. The State of Oklahoma has also recognized the need for Oxford Houses by contracting with the Oxford House World Council to establish and oversee Oxford Houses in this state. In 2011 there was an evaluation of the Oklahoma Oxford Houses conducted and it shows the range of people that live in Oxford Houses in this stated and the importance of Oxford Houses, and how effective the Oxford House has been for the residents.

Ms. Poston stated that the subject Oxford House currently houses eight women. There are two children living there full time at this point in time with others that visit their mothers regularly. One of the women in this Oxford House is an Accountant, one manages a bagel store, one works in a plant nursery, and another works at a Braum's. One of the women is a Oxford Chapter Chair which means she represents eight Oxford Houses within the Oxford House organization, and one women will be nominated treasurer for the chapter. An alumni of Oxford House, who used to live there, is on the Oxford House World Council. These women share the household chores and

expenses. They meet once weekly for a structured meeting to make sure the household expenses are being met and the household tasks are being taken care of, and that any concerns involving the household are raised and discussed as necessary. These work to support themselves and their children. They lead sober and productive lives and to help other residents to do the same.

There was a petition presented to the Board, and it was circulated in advance of the last hearing by the owners of the house that is next to the Oxford House. Those owners have now moved away. Ms. Poston stated that she would like to address the complaints in that petition. Many of the complaints centered on how the Oxford House looks, and the Board will hear from the Oxford House representative Laura Johnson, who was there, on how the house looked when the house was purchased by the current owner. Ms. Poston refereed to a notebook that has been prepared for the Board, stating there were photos of the house when it was first purchased and photos of the house as it is today. The Oxford House as an organization is committed to foster good relations with neighbors, and Ms. Poston referred to information that was is the notebook.

Ms. Poston stated the application meets the requirements for a Special Exception. It is important the Oxford House remain in spite of having more than five people unrelated by blood, marriage, or adoption, and it is in harmony with the spirit and intent of the Tulsa County zoning code and will not be injurious to the neighborhood or otherwise detrimental.

Ms. Poston stated there are three complaints that were submitted and they all came from the same person; two of the complaints were on the same day. There was also a petition circulated and Ms. Poston referred to her notebook that she submitted to the Board showing that some of the signatures were not valid. Most of the households on this petition are far outside the 300 foot radius that is considered the residents for notification.

Ms. Poston referred to a photograph in the notebook showing trash by the Oxford House, and a neighbor had said that it accumulated for a week. The facts to that trash incident is there was one night in which animals got into the trash that had been placed outside and that trash was cleaned up the next day. So there is a significant difference of view. There is a photograph outside the Oxford House that had been collected and stacked. Last winter was a brutal and there was brush in every neighborhood in Tulsa so this was a phenominom that everyone dealt with. There have also been complaints about pool parties. There is a pool at the Oxford House that opened July 14th and there were three pool parties. One of the parties was to clean the pool and one was a birthday party for the eight year son of a resident, and that party included friends of the mother and the boy. The petition complained of cases of beer brought to the pool party. That is absolutely false. There has never been a single beer at the Oxford House. That is the fundamental rule of Oxford House, as stated previously, in the way that Oxford House is so successful here in Tulsa, around the country, and around the world in its mission to help in recovery. There is no alcohol and no drugs on the premises and

there never have been and there will not be. There are pools throughout the neighborhood, and Ms. Poston referred to her notebook again of photographs showing nine pools in the neighborhood.

Ms. Poston stated there has been discussion about cars. With the Oxford House there are cars. Residents need them to get to work. Employment is a requirement of the Oxford House. The residents take care to use the driveway whenever possible, or they park on the street. The staff photos that was taken randomly, without any advance notice, show there is adequate space in the driveway and on the street. Ms. Poston requests the Board keep this application in perspective the other potential Special Exceptions in the neighborhood, i. e., a nursing home, a convent, a family day care. Any of those uses would involve more cars than a family of two adults. Of course, if this were a single family residence with children of driving age there could be a lot of cars in the driveway as well. Any neighborhood has a whole variety of households with people who have different schedules and different activities. The Board's duty under the law is to make housing equally accessible to people with disabilities including those recovering from addiction and specifically to make reasonable accomodations under the zoning code.

Mr. Charney stated that the legal standard the Board of Adjustment is asked to apply is whether in granting a Special Exception, is it injurious to the neighborhood or otherwise detrimental to the public welfare. Mr. Charney asked Ms. Poston if she agreed that is the standard the Board of Adjustment is asked to examine the application by. The reason Mr. Chanrey is asking this is because he didn't completely understand the comments made about there being a Federal Fair Housing Act that requires the Board to waive the related family requirement. Mr. Charney asked how that compels or requires this Board to waive that requirement, because if that is so there is no need for a Special Exception in this case. Ms. Poston stated the federal law governs, and Federal Fair Housing Act prohibits discrimination against people with disabilities which includes people in recovery from drug or alcohol addiction. Within that prohibition on discrimination there is a requirement that reasonable accomodations be made by local authorities to enable equal access to housing for people in recovery. Ms. Poston stated there is a letter that had been submitted to Mr. Hoyt of INCOG and it lays out, in some detail, the law from Federal Courts around the country that again and again have held that local authorities such as this Board of Adjustment have the ability to say they will grant a Special Exception under the local zoning code to allow an Oxford House to stay in a neighborhood similar to this one.

Mr. Charney asked Ms. Poston what argument would she make to say that this is not in effect a multi-family unit, whenever there are eight unrelated persons staying in the home. This truly does seem like it triggers the need for a Special Exception, and a series of accomodations could be made to waive that requirement but his initial reaction is this is creating a multi-family unit in a single family zoning. Ms. Poston stated this is a function equivalent of a single family household. While there are more than five, which five unrelated people are permitted to live under the zoning without any Special Exception, are permitted to live in a single family use. This request is for slightly more

than five, but they function like a single family. In this Oxford House, as in other Oxford Houses, the individuals living there have bedrooms with no locks on the doors. They share common spaces. They have meetings. They operate similar to other families, they share in house cleaning requirements, they share errand running, they share respnsibilites. They operate as a single family unit and it should treated that way.

Mr. Charney stated that as he thinks of eight different adults and thinks of this functioning as a single family unit, the first thing that comes to his mind is automobiles. Houses are generally designed with two-car garages with drives, but with eight different vehicles seems to be one area that doesn't function like a single family unit. Ms. Poston stated there are not always eight vehicles at the house because the number of people living in the house fluctuates. There is not a limit of the number of cars that a single family can have. Cars are a necessity for modern life. The pictures reflect there is adequate space for parking in the driveway and on the street.

Mr. Dillard asked Ms. Poston if she had read the letter from the City of Jenks that was presented to the Board today. Ms. Poston stated that she was not aware of a letter from the City of Jenks. Ms. Miller stated the letter missed being placed in the Board's agenda packet. Mr. Charney stated that in fairness to everyone he would like to take a moment for everyone to read the letter from the City of Jenks beause it may bring up an issue that may need to be discussed.

Mr. Charney asked Ms. Miller if the subject property was located outside the City of Jenks. Ms. Miller answered affirmatively. Ms. Miller stated that it is her understanding that a lot of complaints have been received by the City of Jenks about the subject property. Ms. Miller stated that if the Board would look at the map the subject property is surrounded by the City of Jenks but not in the city, it is like a hole within the city limits of Jenks.

Mr. Hutchinson asked Ms. Poston what zoning are the other Oxford Houses located in. Ms. Poston stated the zoning is not going to have the exact same name but they are located in single family areas like the subject Oxford House. Mr. Hutchinson asked if the other Oxford Houses up to ten residents. Ms. Poston stated that it depends entirely upon the size of the house, so no.

Interested Parties:

Laura Johnson, Outreach Coordinator for Oxford Houses in Northeastern Oklahoma, 1608 South Beech Avenue, Broken Arrow, OK; stated she is in support of the application because she herself is a recovering alcoholic. She has been sober since March 8, 2010. The reason why is because she had a desire to attend the 12-step meeting of Alcoholics Anonymous. Also, it is because she had a safe place to live in and come home to everyday. The address she gave is Oxford House Beech in Broken Arrow. She still lives in an Oxford House and has for the entire time of her recovery. The reason she has been able to do this is because there is no time limit on how long it takes a person to recover because everyone recovers at their own rate. Somewhere along the way, for her personally, it became more than a place to live but became a

passion of hers. When she was offered employment with Oxford House she happily took it. The reason Oxford House works is because it is a single family unit in the sense that a person can come home to the ladies for much needed support. Addiction is at epidemic proportions in this country, and there are probably many people in this room whose lives have been touched by somebody in addiction. People in Oxford House are people who have chose to receive help and want to take their lives back in a positive way and have a safe place to live while they do it. Oxford House is an amazing organization that has provided people the opportunity to do so. When she first came to Oxford House she was a busted, broken, beat person and she did not start out life that way. She grew up in Inola, Oklahoma with a very healthy family. Her father is a Deacon in the church and she never saw her parents take a drink or a drug. None of her family suffers from addiction like she does. After high school graduation she entered the Navy and was successful for 11 years and left honorably. After leaving active duty she went to work for Civil Service at Tinker Air Force Base with AWAC where she was a program manager of software communications and weapons systems. Addiction can affect anyone and it certainly affected her. Unfortunately, her time and service with the government came to an end because of her alcoholism. Because of the DUIs she had received and because of the fact that her top secret security clearance had to be taken. Those are things she has accepted but she still wanted to get her life back on track and Oxford House was the way for her to do that. By the time she came to the Oxford House she no longer had a job, did not have a car, did not have a driver's license, and did not have much of anything. Today, almost five years later, she has a car that she is legally licensed to drive. She has a job. She has gone to college and received her education. These are things that were able to happen because she lived in an Oxford House and because the neighborhood allowed the Oxford House to be there.

Mr. Charney asked Ms. Johnson about the rules and regulations against alcohol, drugs, Ms. Johnson stated that as the Outreach or parties; the day-to-day operations. Coordinator for all the Oxford Houses in Northeastern Oklahoma, she is currently administratively responsible for 34 different houses: 26 of which are in Tulsa while others are located in Claremore, Muskogee, Owasso, Broken Arrow and Jenks. Of the 34 houses 31 of them are located in Tulsa County. Her day-to-day operations consist of making sure the houses are doing what they are supposed to do. The three main charter requirements of every Oxford House are that it must be democratically ran by the members who reside there, the house must immediately expel anyone who returns to drinking or using, and each member of the house is required to pay an equal share of expenses to reside in the house. The biggest issue she sees at the house is in helping administratively the residents to keep up with the rules and they know what to do. Every month there are two new member orientations held which covers the rules and requirements needed to live in the house. Relapses do happen at the house, but the rules state that when a person has relapsed they must leave the premises within 15 minutes, and they have up to 30 days to get their personal belongings. Ms. Johnson stated that she has been called to a house at 2:00 A.M. to perform a drug test, a breathalyzer test, and those fail then behavior is taken into consideration. If it is determined that a person has relapsed they will be evicted. If a person is aware of an occupant of the house relapsing and the aware person does not take the action to

protect the house by calling a house meeting the aware then becomes subject to eviction also. She is proud to say that the Oklahoma houses are above the Oxford House standards; out of 600 beds in Oklahoma Oxford Houses 87% of the occupants are staying sober monthly.

Mr. Hutchinson asked Ms. Johnson how large the house is in Broken Arrow where she lives. Ms. Johnson stated the house she resides in is a nine woman house with a usual number of eight. The house is about 2,500 square feet and this house is a woman only house not women with children full time. However, there are children that stay overnight or on weekends.

Mr. Charney asked Ms. Johnson if overnight visitors are permitted. Ms. Johnson stated if they are family members they are allowed to stay overnight. In the women only or the women and children houses, there are no overnight visitors of a significant nature allowed. There are three reasons for this rule. One, a woman who comes from a background of addiction is much more likely to have suffered sexual trauma. Two, there are frequently children at the house. Thirdly, because the women care about being good citizens and good neighbors, therefore, they care about their reputation in the neighborhood, the treatment centers, and other referral sources.

David Iski, 118 West 114th Street, Jenks, OK; stated has had experiences with an Oxford House. He has lived in his neighborhood for approximately 25 years and the neighborhood was not fully built. His neighborhood now has lease homes in it and there are parties that go on and are loud. Neighborhoods tend to have different types of people who live in them and this makes up a normal neighborhood. In the non-owner occupied houses the lawns are not well kept that is a normal part of a neighborhood. He has a loved one who has had the opportunity to be in an Oxford House and has had the opportunity to be inside an Oxford House at different times of the day because of this relationship. His loved one came out of inpatient hospitalization for his problem and he had to be allowed to move into the Oxford House. He had to be accepted by the people who lived in the Oxford House. If he had not known about an Oxford House and an Oxford House was being proposed for his neighborhood, and he heard the words addict or alcoholic he would not want such a house in his neighborhood. Those are uncomfortable and scary connotations. This Oxford House is not in his neighborhood but he wish it were. He knows the house is run by the residents. They are people that struggle to stay sober moment by moment, and with that they are learning tools to live. His loved one did not make it living in an Oxford House a week because he broke a rule and he was expelled. He was expelled because he was late on his early curfew, early curfew because he was a new resident. A little while later he entered another Oxford House that is in Stillwater and he lived in that house with the rules.

Mr. Charney asked Mr. Iski if he had an opinion as to whether an Oxford House is not injurious to the neighborhood or otherwise detrimental to the property owners of the area. Mr. Iski stated that his current neighborhood in Jenks is loud, overgrown, parties, disruptions and police. Those are normal family units in the neighborhood and those are people that he considers to be injurious to his peace and quiet. He raised four

children in the house and at times there were six cars at the house. Again, that is normal life growing up. Cars in a neighborhood does not equate to being injurious to a neighborhood.

Amber Duke, 707 West 97th Court, Jenks, OK; stated she is in support of the Oxford House. She is married to an Oxford alumni and he has four years of sobriety. Ms. Duke stated that she has three and a half years of sobriety. She and her husband currently attend multiple meetings and have a book study at her house every week. There are at least ten people who attend these meetings so there are guite a few cars in front of her house. There is a family that lives across the street from her that has a lot of children and there are a lot of cars in the driveway and on the street due to parties for the children. Her husband drives by the subject Oxford House on his way to Highway 75 and he notices the house on his way out of the neighborhood. He has never noticed any cars on the street that people could not get around them. There was one point in time when there were a lot of limbs or brush piled up next to the curb because of a storm. It was several weeks before the trash service got everything picked up, but that was normal for almost every house in the neighborhood. There are Oxford House members and alumni that come to her house for book studies and they do attend pool parties at the subject Oxford House. The women, or men, that are in an Oxford House do their best to get back on their feet to recover. She does not want to see these women not have a place to go to, especially in the heart of Jenks.

Robert Bell, Planning Director for the City of Jenks, 211 North Elm, Jenks, OK; stated he is representing the City of Jenks. The City received notice of this hearing and the City has received telephone calls concerning the subject house. Three things stood out to him in this matter. Two of those things have been skirted on, and that is the number of vehicles at the house and the change of character. A single family dwelling is only allowed to have two parking spaces, and ten cars could have an impact on the street. The neighborhood is on a septic system, and that number of people in one household could have an impact on the septic system. It has been customary for the houses in the area to request annexation into the City of Jenks because of the issue with the failure of the septic systems in the area. The third thing, and the most important to him, is that the fair housing is a trap. Those are federal government requirements and that is not what is being looked when looking at the zoning code whether it is in the City of Jenks or in the County. The city or county looks at what is the definition of a family. His interpretation of this is that the County Board of Adjustment is being asked to make a different interpretation of the definition of a family for this case. He questions whether this is the correct venue at this point. He believes it is the County Commissioners responsibility to whether Tulsa County is going to change the definition of a family, because nowhere in the code does he find that a Special Exception would allow for this. He does not see a Special Exception as part of the application process for reasonable accommodation of the Oxford House. He thinks they are asking the Board to change the code from five persons to ten persons. He believes that would be precedent setting. He believes that is not a Special Exception as specified as within the Tulsa County zoning code.

Mr. Charney stated that he understands Mr. Bell's position, and he believes what the Board is going to try to limit their inquiry to whether the action is injurious to the neighborhood. The Board has the power to waive certain requirements as a reasonable accommodation that may be required under the Federal Fair Housing Act. This Board does not know how they are going to vote because they are still gathering information but he understands Mr. Bell's point. Mr. Bell stated that he does not think it is fair to ask the Board to make a determination whether or not something is in compliance with the fair housing laws of the federal government. What the Board is being asked to do is decide whether this is a use or injurious as related to the zoning code. Mr. Bell stated that the neighbors in the area have a right to expect that the laws under which they purchased their houses are applied from the local jurisdiction. He believes the entire Tulsa County Zoning Code meets the fair housing market.

Lori Hamilton-Hobbs, 10226 South Sandusky Avenue, Tulsa, OK; stated she owned the house next door to the subject Oxford House. She and her husband had been trying to sell the house for over two years and had many offers. In the beginning they were unaware of the subject property being an Oxford House, but when they did find out about it they felt morally obligated to disclose this fact with the prospective buyers and she and her husband had a positive attitude about the Oxford House. The interaction she had with the people residing there was very good and they were always nice. She started sending e-mails to the Washington, D.C. office when they one negative response to trash. She became very concerned about the Oxford House when she had a bid placed on the house at a considerable loss and the reason for the low bid was the Oxford House next door. At one time there had been many inoperable cars and lawn mowers in the driveway, broken furniture and junk, and the yard had high weeds in it. The property had become inhabitable. After many calls to the Tulsa County Health Department the owner was cited and given 30 days to get it cleaned up. That home owner then sold the subject house to the current owner, and she was willing to give the new owner 30 days to get the property cleaned. But it took almost a year to do so and only after telling the owner that she was going to call the health department. Then new people moved into the subject house and they started cleaning up the area. She and her husband sold their house within a week of the subject house being cleaned up. Ms. Hobbs stated she took a petition around the neighborhood, and some of the neighbors did not want to sign because they did not want to speak out. The County Environmental Group shows the subject house septic system is designed for a three bedroom house which is probably not adequate for ten or more people. Ms. Hobbs stated that she had called Ms. Johnson about the multiple cars in the driveway and parking on her property in the driveway and across the lateral lines for her house. Ms. Johnson did not seem very sympathetic to the complaint. Ms. Hobbs stated that she informed the Oxford House that a surveyor was coming out as part of the sales contract on her house, but she could not get to a rear corner of the property because of the area on the Oxford House side was so overgrown. Ms. Hobbs stated that she had a family member that went through very expensive rehabilitation, but he did not make it so she knows about addiction.

Denise Grimm, 734 West 98th Place, Jenks, OK; stated that she would like to address comments that were made by Counsel. Counsel said that there would not be any more cars at the subject house as if it were a family daycare. Ms. Grimm stated there are restrictive covenants in Gregory Circle. The restrictive covenants provide that no trade uses or obnoxious or other offensive activities shall be permitted or carried upon on any lot. So the family daycare could not go into the neighborhood. The addition is designed for one attached private garage for not less than two or more than three cars. When Counsel says ten people are going to reside in the subject house and they all have their own cars, ten is substantially more cars than three. Additionally, the children of the residents could drive cars too. There does not have to be minor children in residence. especially if they can stay there forever. Ms. Grimm stated that she walks her dog through the neighborhood and there are two or three cars routinely parked in the street. Those cars also park in the bar ditch too, because this addition does not have formal streets, sidewalks and curbing like other neighborhoods. A person cannot walk on that side of the street because the cars are halfway into the street. There are usually three or four cars in the driveway also. It was stated that 62 households in the addition signed the petition, that is probably half of the entire section of houses and it is a very small subdivision. Assuming that each woman that moves into the house has one child; that would be ten women and ten children. That is too much of a load for the septic tank. Routinely people have problems with the septic tanks in the area and that would be injurious to the health of the public if a septic tank is overflowing and it is not discovered for a period of time. Ms. Grimm stated that she is not aware of a policy by Oxford House on the number of children allowed, but routinely people who have drug addictions have a number of children. They do not have just one or two. What if a woman has six children? How many people are going to be allowed to live in a house and say it is not injurious to the neighborhood? This is a single family residential neighborhood.

Mr. Charney asked Ms. Poston if he was correct in understanding that this request was for up to ten women and children max, women and children combined. Ms. Poston stated is chartered for ten adults maximum. However, there are five bedrooms in the house. In each bedroom there can be a maximum of either two adults or one adult with one or two children maximum. The children may not be over the age of 12. There is a cap on the number of children and the age of the children, and the number of children per adult. There will never be more than four children in the house at one time.

Ms. Miller stated the request is to allow the Oxford House to accommodate up to ten women and children. The application before the Board today is for a total of ten. Mr. Charney thought that was the case but he wanted to make certain this was clarified. He wants to make certain that is how the Board understood the application to be processed.

Ms. Grimm stated that she has lived in the addition sporadically since approximately 1972. She lived in the addition while she went to school and has since built a house in the addition. There have always been complaints about the water lines in the old Gregory Circle not being big enough. That is one of the reasons the new addition had

to be on the City system, not only because of the septic tanks but the water lines are not large enough to provide water in case of a fire. Even if there are only ten women and children allowed in the house, how many overnight visitors are they allowed? Presumably if there are ten adults there could be four or five family members from each adult to be in the house. The implications are extreme. Ms. Grimm stated that she does not have anything against the practices of the Oxford House, it's just that this is a different neighborhood from a city neighborhood with city sewer systems and city water systems. This is a neighborhood that has existed for a very long time and has septic tanks that many of them do not work. Houses have been forced to connect to the city system because the septic are not designed properly. The Oxford House may be appropriate if it were in the city of Jenks where there are city services, but this is not the appropriate place because it is detrimental to the neighborhood. It should not be allowed to stay in the neighborhood.

Tim Hart, 9901 South Maybelle Avenue, Jenks, OK; stated that it is difficult to know beforehand what might be injurious to a neighborhood. In this case the applicant has given evidence that they are not supposed to violate any rules and regulations. This is a single residence home and they have said in essence they do not care. The rules do not apply to us, we will do as we want and ask permission later. There is a bus stop located right there that has kindergarteners through twelfth graders. Are there guidelines on how close to schools these houses can be? This bus stop is a place where the City of Jenks has essentially said this is a safe place for children to get on and off the school bus. This is an extension of the school in the subject neighborhood. If there are guidelines for halfway houses close to schools wouldn't they apply to bus stops as well? The bus stop has been at the intersection for approximately six years. The house is approximately 200 feet from the bus stop and that could be injurious to the children and the neighborhood.

David Randolph, Attorney, a partner with Conner & Winters, 745 West 99th Street South, Jenks, OK; stated that as a resident he shares the experiences that some of the other residents have spoken about. The Oxford House has not cited any authority for the reasonable accommodation to reinterpret the traditional definition of family to include residents in this family like structure. They cited two cases from the U. S. District Court in New Jersey where it was mentioned some family like aspects of the Oxford House but they don't dispute them. They also cited one U. S. Supreme Court case which also mentions it. The U.S. Supreme Court case is interesting. The City of Washington, the Oxford House, the only holding in that case was whether the zoning question, which was very similar to here, said there could be an unlimited number of family members and five additional non-family members. Is that the maximum occupancy limit because if it is there cannot be more than 12 people living there that is exempt from the Fair Housing Act law. The case did not find that reasonable accommodation was for all the people must live there. It was remanded back. There was no further case law that he found on how the result was cited. So there is a Supreme Court case about this topic but it does not this is a reasonable accommodation that you must do this. What is reasonable accommodation? The law requires that it be both reasonable and necessary. The purpose of the 1988 amendments to the Fair

Housing Act was to allow disabled persons to continue to live in their homes. That is not being disputed; this is a useful program. The real concern is the number of residents that there are in the Oxford House. If the house were staying within the zoning laws and have five non-family members in residence there would be no issue. None of the guoted cases have said that it must be done or to allow unlimited or ten or more residents to live in a situation as this. In the City of Edmond's case, the U.S. Supreme Court is they recognized that counties and cities can still have land use restrictions, whether it is single family housing, multi-family group homes, etc. This has already been done by the adoption of a zoning code. There are provisions on community group homes, family homes, etc. There is land use that is constitutional, it is valid, and has survived challenges. Smith and Lee Associates, the City of Taylor out of the sixth circuit, recognized that spot zoning and the commissioners there did not want spot zoning. The commissioners said to have spot zoning would overall defeat the zoning code. Oxford House of Baton Rouge had an issue of are the residents really disabled. The Fair Housing Act statue does not address drug and alcoholic recovery but the CFR case does identify it specifically. The Baton Rouge case was very interesting because the District Court tried to rewrite the zoning code to allow disability and the sixth circuit court said the courts cannot do that. It had to be remanded and it had to be decided whether it was a reasonable accommodation. To request that a reasonable accommodation that must be made is really a novelty argument. It has not been done before. There are cases on point that say this exactly what was done for this type of disability. There are other cases with other types of disabilities, whether it is mental challenges or other physical limitations where there is discussion on the number of occupants in a house. He believes all of the cases cited have fewer than ten people Ten plus children exceeds what all the cases have cited what is happening around the country. The Board is free to follow its own zoning codes and to consider infrastructure needs. The Board should not feel obligated to redefine what a family is.

Mr. Dillard left the meeting at 3:24 P.M.

Susan Looman, 2325 West E Street, Jenks, OK; stated she lives directly across Main Street and was surprised when she received the notice because she did not know the house was there. Her first thought was that it was a strange place for that house because there is no public transportation. She knows the residents have to attend AA meetings, go to work, go to support groups, and many of them have drug court dates that they must attend. She is concerned over the number of people placed in one house. She is familiar with Oxford House and she knows they have a relationship with the State of Oklahoma because many of the people released from the Oklahoma prisons often reside in Oxford Houses. She has concerns over who is coming to the house to visit, who is picking up the residents when they don't have a driver's license, and how the residents are getting places without access to public transportation. She knows there are rules about who lives at the house but she is concerned about who is at the house other times. She bought her house about 18 months ago not expecting to

have a multi-family house near her. There are reasons for zoning codes. She would ask the Board to think about if this house was near their house would they consider this type of a property injurious to their neighborhood.

Mr. Dillard re-entered the meeting at 3:28 P.M.

Joe Blasdel, 738 West 97th Street South, Jenks, OK; stated he lives directly across the street from the subject house and has lived there over 40 years. He has a concern about the parking because he does see cars in the street often. Today there are no cars in the street but there are two cars in the driveway of the house east of the subject house. That house is not occupied and has not been occupied for awhile. The people use parking spaces that are not theirs. The driveway of the subject house is long and can probably hold six cars but that does not really work. He never sees more than three or four cars in the driveway because someone has to move cars to let someone out, so the residents park in the street. It has been a problem a few times. He has missed his mail delivery because there was a car parked in front of his mailbox, which is on the subject house's side of the street. Parking is a real issue. The house has a large enough back yard that a parking could be made there. The Oxford House has been operating for at least 18 months without the proper zoning and he would question why the proper zoning was not requested before they moved in. That shows a real disregard for the neighbors and anybody in the county. The pool is a popular place when there are parties and there are lots of cars there when they have a pool party. As for the maintenance of the property it is minimal. The trees in front of the house have a lot of dead limbs and one day a limb fell and almost fell onto one of the resident's car. The trees need some work because the limbs are falling out and have been dead for quite awhile.

Freddie Muniz, 763 West 98th Place South, Jenks, OK; stated he lives a couple of blocks south of the subject house. He does a lot of bicycle riding and he rides on the subject street and goes by the residence. For the first six months after the Oxford House moved things were not up to par, the garage door that was in disrepair on move in day was still in disrepair six months later. If these women really wanted to make an impact on their lives they should take the initiative and take ownership. What is the deadline for the women once they have reached sobriety? How long do they stay at the residence? On his arrival home one morning about 5:00 A.M. he saw one of their vehicles canvassing the area and he has an issue with that. He knows it was the same vehicle he has seen parked in front the subject house. He has seen men at the subject house at 6:00 A.M. It was said that men do not spend the night, but what is called the night? Do visitors have a curfew?

David Markham, 744 West 98th Place South, Jenks, OK; stated he lives in the subject neighborhood. He appreciates the work that the people of Oxford House is doing and has done. He hates what alcohol and drug addiction has done to his family. He is concerned about his main asset which is his house. He is doing everything in his power

to keep the value of the neighborhood, and that is also one of the reasons he joined the neighborhood association. The neighborhood association raised enough money to fix up the front of the neighborhood as a person drives in so there is a good first impression. The first block a person drives through is where the subject house is located. His concern before the Oxford House, and still is, is the upkeep of the property. He drove by the house before coming to today's meeting and it was cleaned up some but the weeds are still knee deep. He would like to see the residents help the neighborhood by keeping the house value up and maintaining the property.

Mary Graham, 9867 South Maybelle, Jenks, OK; stated she built the subject house and it is the third house she has built in the subdivision. It became very apparent that her house in the neighborhood of the subject house had septic problems. The septic problems were so bad that when it rained the bar ditches would smell. She spoke to the city about getting onto the sewer system and found the neighborhood is in the county not in the city. She went door to door asking people to get their house onto the city sewer system and they would not because it was too expensive. In her talks with the city she found out the water lines were too small to fight a fire, and she knows of one house that burned in the subdivision because of low water pressure. There are problems in this subdivision. The school bus comes into the neighborhood from Maybelle and makes a turn on the street where the subject house is located. When the kids get off the bus they must walk around the cars at the subject house and that creates a traffic problem. She would like for the Board to consider what they are deciding to do to the neighborhood.

Louise Hamilton-Hobbs came forward. She stated that she can attest to the fact that the Oxford House lowers home values. She had to keep lowering the price of her house to get it sold and lost a considerable sum of money.

Rebuttal:

Sarah Poston came forward. She stated that in respect to the letter from the City of Jenks and the words of Mr. Bell with the City of Jenks, the Oxford House is not within the city limits of the City of Jenks. The City of Jenks does not have authority here and the letter deserves minimal weight if any. She is not even sure if the City of Jenks authorized this letter or caused this letter to be sent. Ms. Poston stated the Board also heard from an attorney at Conner and Winters who spoke to some legal issues that she would like to address. She would refer the Board to the lengthy letter of June 11, 2014 and that letter addresses most of what Mr. Randolph said. She would like to make one particular comment, he noted that there had not been any cases in which local zoning authorities had been asked or required by courts to reinterpret or waive family size as is being asked today. That is not correct. Ms. Poston stated that she herself was involved in the Oxford House case in Connecticut some years ago. That case was cited on page 6 of her letter to Mr. Hoyt at INCOG which is in the Board's agenda packet on page 2.14. That and the case in Baton Rouge specifically addressed family size. In general her letter has three pages of cases cited in which courts have found municipalities liable for failing to make reasonable accommodations as being asked for today, for failing to treat Oxford Houses as single family residences.

Mr. Charney asked if that is for failing to waive the relationship of related family requirement. Ms. Poston stated two of the cases cited had to do with that in particular. What she is saying is that there are three cases with citation in cases which courts have required municipalities to treat Oxford Houses as single family houses in various ways. Fire Code ways, Building Code ways, and other sorts in ways which Oxford Houses have been cited and then courts have said local authorities must treat them as single families.

Ms. Poston stated that the last time this case was before the Board in August, the President of Oxford House had planned to be attending today but she is ill today.

Ms. Poston stated that in listening to the neighbors she heard a lot about how the house has been improved since it became an Oxford House. She heard that the house had been repaired or fixed up when the neighbors asked. She heard about positive interaction with the residents of the Oxford House. With respect to the neighbors in general and the neighborhood she heard a gentlemen request the Oxford House become a member of the neighborhood association and she wants the Board to know that the Oxford House is a member, paid its dues to the neighborhood association, is working on an overgrowth issue that affects the fence between the neighborhood and the road. The neighborhood association has made efforts to clean up on the road side of the fence. A number of properties have overgrowth that is on the fence, and the Oxford House has a plan to fix their part of it.

Mr. Charney asked if the Oxford House leased the house from the property owner. Ms. Poston answered affirmatively and stated that is how Oxford House operates everywhere.

Mr. Dillard asked if the home owner was a member of the home owners association, or is it the Oxford House. Ms. Poston stated the Oxford House is the member of the home owners association. She is not positive if the home owner is a member as well.

Ms. Poston stated there was a question about why is the Oxford House now asking for a Special Exception. Tradition is that federal law permits the Oxford House to located where it is. There are 26 Oxford Houses in Tulsa County. The great majority of the Oxford Houses are established in single family neighborhoods and do not have legal problems. They aren't reports to zoning authorities and they are not required to those procedures. Oxford House does it because the federal court upheld that Oxford House must adopt local administrative proceedings. The residents of the house make every effort to use the driveway as much as possible. They coordinate amongst themselves to minimize the presence of cars on the street. The property is .069 acres. The house itself is over 2,700 square feet. There are five bedrooms in the house and three bathrooms. The garage is used for storage.

Mr. Dillard asked Ms. Poston who is the record owner of the subject property. Ms. Poston stated it is an LLC. Mr. Dillard stated that the LLC is the owner but he wanted to

know who the principals of the LLC. Ms. Poston stated the principals of the LLC are Freeman Born Trader.

Ms. Poston stated there were comments made about parties, guests and beer. The Board has heard the guest policy and there is a clear understanding on this. There are a lot of beverages that come in cans and many of them are not alcoholic. It clearly was a mistake; there simply has not been alcohol on this property. The reason people are here, in part, is the notion that they do not have a problem with the mission but they don't want it in their backyard. Mr. Iski stated he would have it in his neighborhood and he can have it in his neighborhood if he wants it. All neighbors and all neighborhoods were to come with that attitude and the Board was to support and decide accordingly Oxford House would not be able to exist. That would be a tragedy given what Oxford House does.

Ms. Poston stated that given statistics that there are in this neighborhood, as in all neighborhoods, there are people struggling with addiction. It is everywhere. Ms. Poston stated that she has an Oxford House in her neighborhood. She has a very close friend who has lived in an Oxford House. This is a really important mission and there should be no doubt in your mind concerning legal question of is it necessary for people to justify the Federal Fair Housing Act to have an option like Oxford House, the answer is yes.

The question now before the Board respectfully is whether you as a Board will support the women in this house who are attempting to live in a sober and responsible way, being the best neighbors they can be, will the Board fulfill their obligation under the law and exercise the authority that you clearly have with the zoning code given that this is consistent with the nature of the neighborhood and is fully in your authority to grant the Special Exception. She would ask that the Board do so.

Mr. Hutchinson asked Ms. Poston to speak to septic tank issue that has been brought up a couple of times. Ms. Poston stated there have been historic septic tank problems, but this septic tank was checked at the time the property was purchased and there has never been a problem.

Mr. Dillard stated that anyone that is really sharp will take copies of the Board's records because this will taint every property in the subdivision, because everyone has said the water is too small and the septic tanks are no good. So everyone here that has spoken, spoke against their own property.

Mr. Charney asked Ms. Poston if ten is the number of people needed in a house in order for the financial model to work, or because there is a core group needed for the family support concept to work. Ms. Poston stated there are two reasons for the number. At almost no point have there been ten adults living in the subject house. The bedroom capacity is what it is and the house will always abide by the limits of how many people can reside in it. There are two reasons for that, one is economic viability. People that come into this process very rarely have significant financial means and it is

very important for them to be in an affordable, stable environment. Secondly, it is important that there be a minimal mass for therapeutic purposes.

Mr. Charney stated that what Ms. Poston had just elaborated on is important to know, but he would like more information from her and he asked Ms. Poston to give some further information on the number of residents required at a house. Ms. Poston stated there is a limit. Oxford House itself accesses a house, the space, and the bedrooms available and determines what is the limit of people that can reasonably live in a house. The limit is ten. In her experience with Oxford House, over the years, most commonly limits are not actually met. Houses mostly are a little below the limit.

Mr. Dillard stated that the way the application reads is that it is up to ten women and children, so to him that means ten. That does not mean ten plus two, eight plus four. That means ten, just ten. The application says up to ten women and children, it does not say plus children so there is a conjunction there.

Mr. Charney asked staff to comment on what Mr. Dillard just said and how they intended this Board to read the application. Ms. Miller stated that Mr. West has been dealing with this for quite some time, and staff met with the County Attorney and really looked at the case. INCOG then received Ms. Poston's letter addressed to Mr. Jay Hoyt citing the Fair Housing Act. Staff then met, discussed and tried to decide what the most appropriate request would be for Ms. Poston to make the application. Ms. Miller stated that it may not be exactly a community group home but it is sort of like one which is a Special Exception. It was decided that the most appropriate request would be a Special Exception for the specific use of an Oxford House. Mr. West stated that the original request for reasonable accommodation was for ten, so that is how the number of ten was decided upon.

Mr. Charney stated that the way the Board is reading this application is ten total, and that is how it was received in the Board's agenda packets and how the Board has interpreted this application. Mr. Charney stated that he would allow Ms. Poston to respond to this.

Ms. Poston conferred with her client and stated they accept the Board's reading.

Comments and Questions:

Mr. Walker stated that he resents the argument that there is no reason for them to appear before the Board, because federal law trumps everything. In his looking over the Fair Housing Act, he reads it as saying that a Board cannot handicap people that are handicapped, i.e., an alcoholic or people in recovery. As long as the County rules and the Board of Adjustment rules do not present a stumbling block to somebody that is in recovery he does not see a reason for the Board to be compelled to change the rules to accommodate the Oxford House. He did not see anything in the Tulsa County zoning law that excluded people that are recovering addicts. He is struggling with the changes the Board can make. The size of the house is one of the determining factors but for

him, this does not look like a family. Ten does not look like a family. He likes five as stated in the zoning code.

Mr. Dillard stated that most everything he heard he discounted. The septic tank problems should have been disclosed to the people before the property was purchased. Now everyone is saying the septic does not work and the water is no good. That is not germane to this but is germane to the value of the property if it is spread as rampant as the neighbors say it is. He does not have a problem with the use proposed but he does have a problem with being told that the federal government tells this Board what we have to do.

Mr. Hutchinson stated that he thinks ten is too many for the house. This is a very, very difficult situation. He could support five adults and two children.

Mr. Charney stated that this Board handles every Special Exception that comes before them by analyzing the legal test of whether it is injurious to the neighborhood or detrimental to the public welfare. The concept of enlarging the related family requirement or waiving the family requirement is possible, because this is sort of like a family that finds themselves in this difficult situation. He could deem it a family unit. He struggles with the number of ten adults.

Ms. Miller stated the Board could reduce the number of occupants as a condition in the motion.

Mr. Dillard stated that he could support ten, but he could really support eight individuals. He does not see the economic feasibility being different if there were only five or eight. He has rental properties and most renters take ownership, so living in a community home he still thinks they have ownership. So this comes down to two questions; one, is economic feasibility and two, is it fair for all concerned.

Mr. Charney stated that he appreciates the comments and asked staff if the Board could place a time limit on Special Exceptions. Ms. Miller stated the Board can place a time limit on the request as one of the conditions if the Board chose to do so.

Mr. Charney stated there have been comments made as to how the property was kept and attended to. The Board members are not expert fact finders and he thinks it is fair to say that in order to grant the Special Exception as not being injurious those sorts of things are important. Outward appearances of the house; the yard being maintained; these are things that are wanted by all concerned.

Mr. Walker stated that Ms. Johnson stated that the house she lived in was loved by the neighbors, if these residents in the subject house would cultivate a relationship with the neighbors then there would not be this large crowd in attendance at today's meeting wishing these residents would go away. A good relationship makes the neighborhood a family not just the house being a family. If the residents do not know how to become a part of a neighborhood family let's teach them.

Mr. Dillard stated that if the neighbors in Broken Arrow love the Oxford House this Oxford House should be schooled in the same kind of relationship so that in the future there will be love and it will be a nice neighborhood.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-1-0 (Charney, Dillard, Hutchinson "aye"; Walker "nay"; no "abstentions"; none "absent") to <u>APPROVE</u> the request for a <u>Special Exception</u> to allow the Oxford House to accomodate up to eight total individuals in a RE District (Section 410, Table 1). This approval is for only one year or until the Board of Adjustment meeting in October 2015. The Board will review this request in one year as to whether there has been appropriate attention to the care and maintenance of the home. 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:

LT 6 BLK 2, GREGORY CIRCLE ACRES, SECTION 23, T-17-N, R-14-E, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

2513—Summer Jones

Action Requested:

<u>Variance</u> to reduce the required 30 foot street frontage to 0 feet (Section 207), <u>LOCATION:</u> 16803 West 19th Place South

Presentation:

Summer Jones, 16803 West 19th Place South, Sand Springs, OK; stated her Mother and Father live right in front of the location where she would like to have a house. The property is agriculture and definitely not residential. There is a perfect place for a road with no problem with the access. While the previous case was being heard she spoke with her neighbors in the hallway about what she is trying to get accomplished and they have now all left because they now understand what she would like to do.

Mr. Charney asked Ms. Jones if she was stating there is no technical street in front of the subject property today. Ms. Jones answered there is a driveway. People think it is a County maintained road, but it does state in the legal description that it is their driveway. The company that paved the subject driveway made a mistake and went to the end with the hard surface. When they discovered their mistake it was decided that it would cost more money to remove the hard surface so they left it as a nice driveway.

Mr. Walker asked Ms. Jones if she was wants to go closer to the river. Ms. Jones stated that she wants to go all the way back. There is another five acres that is rectangular in shape that is her uncle's land.

Mr. Walker stated that in the petition that was presented to the Board there were concerns over the camping trailer and the motor home that is already sitting on the property. Ms. Jones states that one of the trailers is very old and is used to store horse feed and saddles. Her property is shielded from the neighborhood and there is a privacy fence worked into the loan, so no one will be able to see her area.

Mr. Walker asked Ms. Jones where her driveway would be if she splits off 2.1 acres on the north end. Ms. Jones stated that it would be between Carl Jones and Jay Jones properties on the west side.

Mr. Dillard asked Ms. Jones if she was going to obtain a loan on the subject property. Ms. Jones answered affirmatively. Mr. Dillard stated the loan will not be approved because she will need to have a recorded of record dedicated right-of-way so there is ingress and egress for the property at all times.

Interested Parties:

Jay Jones, 16803 West 19th Place South, Sand Springs, OK; stated he lives on the southern portion of the property and is the former land owner of the subject property. He is willing to grant an easement to Ms. Jones, his daughter, so she can access the property along his westerly boundary.

Mr. Charney asked Mr. Jones what kind of legal access he has to his property. Mr. Jones came forward and pointed it out to the Board on a map that was in their agenda packet.

Ms. Jones stated that all the land in the area is land locked, and she allows them to access their property through her gate. Mr. Charney encouraged Ms. Jones to understand where the precise legal access is to her property and suggested hiring a good real estate attorney to prepare the easement document.

Mr. Dillard suggested to Ms. Jones to get title insurance because if an attorney gives her an opinion and he makes a mistake the title insurance will cover her. The title insurance will make sure that everything is correct and that she is protected.

Ms. Miller informed the Board that there is a pending lot split application on the subject property.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a <u>Variance</u> to reduce the required 30 foot street frontage to 0 feet (Section 207), subject to the receipt of a roadway easement from the public roadway known as West 19th Place up to the subject property filed of record with the County Clerk. Finding the hardship to be the unique configuration of the land and the slope of the land on the rear requiring the home to placed in the proposed site; for the following property:

E/2 BEG NWC SE TH E353 S1271.73 NWLY360.9 N1197.13 POB LESS S50 FOR RD SEC 7 19 11 4.869ACS, RIVER VALLEY ESTATES AMD, OF TULSA COUNTY, STATE OF OKLAHOMA

2514—Rick Block

Action Requested:

<u>Variance</u> to reduce the required rear yard set back to 20 feet; <u>Variance</u> to reduce the required side yard setback to 5 feet (Section 403, Table 3). <u>LOCATION:</u> NE/c lot on North 256th West Avenue, Sand Springs

Presentation:

Rick Block, 7026 East 70th Street, Tulsa, OK; stated the property is located at The Bluffs on Keystone Lake and is on the end of the cul-de-sac.

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, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a <u>Variance</u> to reduce the required rear yard set back to 20 feet; <u>Variance</u> to reduce the required side yard setback to 5 feet (Section 403, Table 3). The hardship is the highly unusual topography and the configuration of the land; for the following property:

LT 21, BLUFFS, THE, OF TULSA COUNTY, STATE OF OKLAHOMA

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New Business None.
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OTHER BUSINESS None.
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BOARD COMMENTS

Mr. Charney asked staff if the Chair has the prerogative to say there is one case on the agenda that is going to be quite lengthy in time and then change the agenda to accommodate the other cases. Ms. Miller stated that she has seen that done and she does not see a problem in handling an agenda in that manner in the future.

There being no further business, the meeting adjourned at 4:50 p.m.

Date approved:

boir