AGENDA
Regularly Scheduled Meeting
Tulsa County Board of Adjustment
Tuesday, August 20, 2019, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
500 South Denver, Room 119

Meeting No. 472

CONSIDER, DISCUSS AND/OR TAKE ACTION ON:

1. Approval of Minutes of June 18, 2019 (Meeting No. 470).
2. Approval of Minutes of July 16, 2019 (Meeting No. 471).

UNFINISHED BUSINESS
None.

NEW APPLICATIONS

3. 2760—Dan Switzer
   Special Exception to permit a Church Use (Use Unit 5) in a RE District to allow for
   the addition of a gymnasium to New Life Tabernacle (Section 410, Table 1).
   LOCATION: 13007 West 41st Street South

4. 2761—Hunter Sanders
   Variance of the minimum lot area, minimum land area per dwelling unit, and
   minimum lot width in an AG District to permit a lot split (Section 330, Table 3).
   LOCATION: 7370 East 106th Street South

5. 2762—Jason Bomefeld
   Variance of the allowable square footage for an accessory building in the RS District
   from 750 square feet to 1,200 square feet (Section 240.2.E).
   LOCATION: 11431 East 130th Street South

6. 2763—Steven Roberts
   Variance of the minimum frontage requirement on a public street/dedicated right-of-
   way from 30 feet to 0 feet in the AG District (Section 207).
   LOCATION: North of the NW/c of West 41st Street South & South 137th West Avenue
OTHER BUSINESS

NEW BUSINESS

BOARD MEMBER COMMENTS

ADJOURNMENT

Website:  www.countyoftulsa-boa.org                          E-mail:  esubmit@incog.org

If you require special accommodations pursuant to the Americans with Disabilities Act, please call (918) 584-7526.

NOTE: Exhibits, Petitions, Pictures, etc., presented to the Board of Adjustment may be received and deposited in case files to be maintained at Land Development Services, INCOG. Ringing/sound on all electronic devices must be turned off during the Board of Adjustment meeting.

NOTE: This agenda is for informational purposes only and is not an official posting. Please contact the INCOG Office at (918) 584-7526, if you require an official posted agenda.
BOARD OF ADJUSTMENT
CASE REPORT

STR: 9121
CZM: 43
PD:

HEARING DATE: 08/20/2019 1:30 PM

APPLICANT: Dan Switzer

ACTION REQUESTED: Special Exception to permit a Church Use (Use Unit 5) in an RE District to allow for the addition of a gymnasium to New Life Tabernacle (Sec. 410, Table 1)

LOCATION: 13007 W 41 ST S

ZONED: RE

PRESENT USE: Vacant

TRACT SIZE: 1.73 acres

LEGAL DESCRIPTION: W/2 SE SE SE LESS S60 FOR ROAD & LESS TR BEG NEC W/2 SE SE TH W330 S250 E220 S14 SLY TO PT TH E120 N600 POB SEC 21 19 11 1.73AC,

RELEVANT PREVIOUS ACTIONS:

Subject Property: none relevant

Surrounding Property:

CBOA-690-B; on 4.15.14, the Board APPROVED a request for a modification of a previously approved plan for a church in an RE district to add a porch the extends 5'3" from building and to replace the green belt with a screening fence along the west property line. Located: 13107 West 41st St. S.

CBOA-690-A; on 3.15.11, the Board APPROVED a Modification of a previously approved plan for a church use in the RE district to permit the replacement of an existing accessory. Located: 13107 W 41st St S

CBOA-1295; on 9.20.94, the Board APPROVED a Variance of the required setback from the centerline of the street from 85 ft to 77 ft to permit an existing church. Located: 13110 W 41st ST S

CBOA-690; on 9.16.86, the Board APPROVED a Special Exception to allow a church in an RE district and to allow a modular building to be used temporarily; AND the Board APPROVED a Variance of the all-weather surface for parking to allow use of a gravel lot. Modular building and gravel lot limited to 2 years. Located: NW/c of W 41st and 129th W Ave

 ANALYSIS OF SURROUNDING AREA: The subject tract is abutted on the North and East by RE zoning and large lot Residential Uses, on the South by AG zoning and currently undeveloped land, and on the west by RE zoning with a Church use.
STAFF COMMENTS:

The applicant is before the Board requesting a Special Exception to permit a Church Use (Use Unit 5) in an RE District to allow for the addition of a gymnasiurn to New Life Tabernacle (Sec. 410, Table 1).

A Special Exception is required as the proposed church/religious use (Use Unit 5) is a use which is not permitted by right in the RE district because of the potential adverse effect, but which if controlled in the particular instance as to its relationship to the area and to the general welfare, may be permitted. The proposed use must be found to be compatible with the surrounding area.

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the current and future use of the subject lot is compatible with the surrounding area.

Sample Motion:

Approved per conceptual plan on page ______ of the agenda packet.

Subject to the following conditions (if any): __________.

"Move to _______ (approve/deny) a Special Exception to permit a Church Use (Use Unit 5) in an RE District to allow for the addition of a gymnasium to New Life Tabernacle (Sec. 410, Table 1)

Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare."
dredging/classifying system to amend the hours of operation to meet market demand to
the June 17, 2014 County Board of Adjustment meeting; for the following property:

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

0690-B—New Life Tabernacle – Dan Switzer

Action Requested:
Modification of a previously approved plan for a church in an RE District to add a
porch that extends 5'-3" from building and to replace the green belt with a
screening fence along the west property line. LOCATION: 13107 West 41st Street
South

Presentation:
Dan Switzer, New Life Tabernacle, 13107 West 41st Street, Sand Springs, OK; stated
the church wants to extend the porch on the existing building by 5'-3" to allow a
covering for rain. They also want to replace a green belt that has been removed a long
time ago with a fence. There is an existing fence but is barbed wire. The green belt
had been removed several years ago with the neighbors permission, and now the
neighbors would like to have a fence installed.

Mr. Charney asked staff to explain the green belt concept. Mr. West stated that
originally there was a green belt, in 1996, on the orginal case’s site plan. In 2011 it
changed.

Mr. Walker stated that when the original application came before the Board the
neighbors did not want the original area to turn into a concrete area. Therefore, they
requested to have a green belt area between them and the church. Later the neighbors
decided they did not need the green belt area. Mr. Switzer stated the church has a
great relationship with the neighbors.

Interested Parties:
Rebecca Benge, 13209 West 41st Street, Sand Springs, OK; stated she has no
problem with the parking lot but she would like to have a wooden privacy fence
installed. She and the Pastor of the church came to an agreement that the fence would
be the length of the church parking lot. It has also been agreed that the church would
maintain the fence and be responsible for the expense of installing the fence.

Comments and Questions:
None.

Board Action:
On MOTION of WALKER, the Board voted 4-0-0 (Dillard, Hutchinson, Osborne, Walker
"aye"; no "nays"; no "abstentions"; Charney "absent") to APPROVE the request for a

04/15/2014/#407 (15)
3.4
Modification of a previously approved plan for a church in an RE District to add a porch that extends 5'-3" from building and to replace the green belt with a screening fence along the west property line; for the following property:

BEG 660 W SECR SE TH W330 N360 E330 S360 TO POB LESS S50 E/2 SW SE FOR RD SEC 21 19 11 2.348AC. OF TULSA COUNTY, STATE OF OKLAHOMA

2497—Morton Building, Inc.

**Action Requested:**

Special Exception to allow a Church with accessory uses (Use Unit 5) in an AG district (Section 310, Table 1). **LOCATION:** South of Highway 64/East 171st Street South between South Garnett Road & South 129th East Avenue

**Presentation:**

Scott Norvell, 7509 East 65th Street, Tulsa, OK; stated he is the Chairman and CEO of Blue Flame 47, Inc. and Pastor of the church. This is a small church which consists of about 75 people including many small children. The primary function of the church is that it is a ministry, and the ministry is provided throughout the world. The church purchased the land in December 2013, and plan to build a church with offices for the church. The congregation meets every Tuesday for services and hold prayer appointments on Friday and Saturday. They would like to have a gathering place where conferences twice per year. The average attendance of the conferences has been about 200 people. The conference are usually four days twice per year. These conferences have been held in the Garnett Road Church of Christ Green Country Event Center for the past four years. The church has been meeting on the subject property in a tent since the purchase. The church chose a design that would match the environment, so instead of a traditional church building it would be similar to a barn with a smaller building for the administrative offices and the prayer appointments. The smaller building would also be able to seat 150 people for dinner which would be used about twice a year.

Mr. Charney asked Mr. Norvell to elaborate about the proposed parking. Mr. Norvell deferred to Mr. Jeff Bonebrake.

**Interested Parties:**

Jeff Bonebrake, Morton Buildings, Inc., P. O. Box 1388, Muskogee, OK; stated that one of the desiring goals is to make the church look like it fit into the area. The church requested that the buildings look like a farm house with a barn behind it. The parking is an issue that has yet to be determined. If it is possible a gravel surface would be preferable because the subject property is in a nonregulatory flood plain. It is proposed to have the front be have a concrete paved area for the handicapped with a paved entry way.
she had hired did not know how to build a building and the structures are not sturdy or reliable. That is why she wants to use her existing garage. The privacy fence in the pictures will stay and be completed, taking down the temporary chain link fence.

Mr. Osborne asked about the dogs using the yard for their potty breaks, and Ms. Ferguson stated she did allow the dogs in the yard for their potty breaks and that she cleaned the yard at least once a day and occasionally three times a day.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of OSBORNE, the Board voted 4-0-0 (Dillard, Osborne, Tyndall, Walker “aye”; no “nays”; no “abstentions”) to APPROVE the Special Exception to permit a home occupation (dog grooming) in an AG district 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:

W368.97 S295.17 SW SE SEC 1 17 14 2.5ACS OF TULSA COUNTY, OKLAHOMA

***************

Case No. 0690-A-Dan Switzer

Action Requested:
Modification of a previously approved plan for a church use in the RE district to permit the replacement of an existing accessory. Location: 13107 West 41st Street

Presentation:
Dan Switzer, 16907 West 58th Place South, Sand Springs, OK; he stated the church has grown and they want to raze the existing 30' x 112' building and replace it with an 80' x 100' family alliance center.

Mr. Osborne asked Mr. Switzer if the building was going to fit into the existing church area, and Mr. Switzer stated it would be a prefab building that would have a brick exterior around the bottom with a brick ledge to cosmetically match what exists. The new building is proposed to be moved back about eight feet to give the church a wider driveway.

Interested Parties:
There were no interested parties present.
Comments and Questions:
None.

Board Action:
On MOTION of DILLARD, the Board voted 4-0-0 (Dillard, Osborne, Tyndall, Walker "aye"); no "nays"; no "abstentions") to APPROVE the Modification of a previously approved plan for a church use in the RE district to permit the replacement of an existing accessory, and is to obtain all proper permits; all for the following property:

BEG 680W SECR SE TH W330 N360 E330 S360 TO POB LESS S50 E/2 SW SE SE FOR RD SEC 21 19 11 IN TULSA COUNTY, OKLAHOMA

NEW BUSINESS:
None.

OTHER BUSINESS:
None.

BOARD COMMENTS:
None.

There being no further business, the meeting adjourned at 1:50 p.m.

Date approved: 4/19/11

Chair

03/15/2011/#370 (4)
Case No. 1294 (continued)

W. J. Robinson, 7008 Leameadow, Dallas, Texas, stated that he owns property across the street from the subject tract and is also concerned with future development of the property.

Comments and Questions:
Mr. Walker noted that that there are other lots in the area that are smaller than one acre.

Mr. Alberty stated that he would be opposed to a subdivision created by future lot splits, but could support the application to split off of the existing house and one acre.

Board Action:
On MOTION of ALBERTY the Board voted 4-0-0 (Alberty, Eiler, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to APPROVE a Variance of the required lot area, land area per dwelling unit and lot width to permit a lot split - SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS - Use Unit 6; per survey submitted; finding that the dwelling is existing and there are smaller lots in the neighborhood; and finding that approval of the request will not cause substantial detriment to the public good, or violate the spirit, purpose and intent of the Code; on the following described property:

E/2, NW/4, Section 36, T-19-N, R-11-E of the IBM, Tulsa County, Oklahoma, less and except the W/2, W/2, NE/4, NW/4, Section 36, T-19-N, R-11-E, Tulsa County, Oklahoma.

Case No. 1295

Action Requested:
Variance of required setback from the centerline of the street 85' to 77' to permit an existing church - SECTION 430. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 5, located 13110 West 41st Street, Sand Springs.

Presentation:
The applicant, Dan Switzer, 13110 West 41st Street, Sand Springs, submitted a plot plan (Exhibit H-1) and noted that the church is in the process of constructing a new building on the subject property. He explained that, after the footings were poured, it was discovered that they could be over the building setback line as much as 8'. Mr. Switzer informed that other nearby development has been constructed at the requested setback.
Case No. 1295 (continued)

Protestants:
None.

Board Action:
On MOTION of ELLER the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to APPROVE a Variance of required setback from the centerline of the street from 85' to 77' to permit an existing church - SECTION 430. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 5; per plan submitted; with a 77' setback from the centerline of 41st Street; finding that the requested setback is consistent with the area, and approval of the request will not be detrimental to the area; on the following described property:

Beginning 660' west of the SE/c SE/4, thence west 330', north 360', east 330', south 360' to POB, less south 50', E/2, SW/4, SE/4, SE/4 for road, Tulsa County, Oklahoma.

Case No. 1296

Action Requested:
Special Exception to permit a home occupation beauty shop/nail salon - SECTION 440.B. HOME OCCUPATION, located 6317 West 37th Street South.

Presentation:
The applicant, Mary Alexander, 6317 West 37th Street, requested permission to operate a nail salon as a home occupation. The applicant informed that she will be the sole operator of the shop and customers will be scheduled by appointment only.

Comments and Questions:
Mr. Alberty asked the applicant if she is familiar with the Home Occupation Guidelines, and she answered in the affirmative.

Board Action:
On MOTION of ALBERTY the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to APPROVE a Special Exception to permit a home occupation beauty shop/nail salon - SECTION 440.B. HOME OCCUPATION; per Home Occupation Guidelines; subject to customers being scheduled by appointment only; finding the use to be compatible with the area; on the following described property:

East 220.86' of west 441.72' of N/2, N/2, S/2, NW/4, SW/4, Section 20, T-19-N, R-12-E, Tulsa County, Oklahoma.
Case No. 690

Action Requested:
Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow a church in an RE District and to allow a modular building to be used for the church building temporarily.

Variance - Section 240.3 - Use of Yards in R Districts - Request a variance of the all-weather surface for parking to allow use of a gravel lot, located west of NW/c of West 41st Street South and 129th West Avenue.

Comments and Questions:
Mr. Jones submitted a letter (Exhibit E-1) from the City of Sand Springs which stated that no recommendation is being made on the application.

Presentation:
The applicant, Dan Switzer, Box 1346, Sand Springs, Oklahoma, stated that he is the pastor of the New Life Tabernacle and asked the Board to allow the location of a church building on the subject property. He informed that the temporary modular building will be 24' by 50' and will have central heat and air conditioning. Mr. Switzer stated that it will be used for 2 years and then replaced with a brick structure. He asked the Board to allow gravel parking to be used until a permanent structure is built.

Comments and Questions:
Mr. Walker asked the applicant to state the distance from the proposed church building to the nearest residence and he replied that the modular can be placed anywhere on the lot that will be agreeable to the neighbors.

Mr. Alberty asked the applicant if the tract is vacant at this time and he informed that it is a vacant wooded lot.

Mr. Walker inquired as to the size of the congregation and Mr. Switzer stated that the modular building will seat approximately 80 people.

Protestants:
Vern Moore, Route 1, Sand Springs, Oklahoma, stated that he owns the property to the west of the subject tract. He voiced a concern that he was not notified of the meeting and pointed out that the property in question is not served by a city sewer and the soil does not percolate well. Mr. Moore stated that he has been burglarized several times and, in his opinion, the unattended church property would give thieves an opportunity to enter his property. He pointed out that drainage from the church property is directed toward his acreage and asked the Board to deny the application.

A petition of protest (Exhibit E-2) from area residents was submitted to the Board.
Applicant's Rebuttal:
Mr. Switzer stated that the septic system will require Health Department approval and that there will be security lights installed on the property.

Interested Parties:
Louise Strout stated that she is owner of the property in question and is planning to sell it for church use. She pointed out that, in her opinion, the Moore's property would be better protected if the brush was cleared from the lot. Ms. Strout stated that she lives in the area and feels a church is appropriate at this location.

Additional Comments:
Mr. Looney commented that he feels a church is compatible with the area and that security would be improved if the lot was cleared.

Mr. Alberty remarked that he is concerned with the temporary nature of the proposed building.

Mr. Tyndall stated that he would like to review a plot plan and see where the water run-off from the lot would be directed.

Mr. Edwards informed that the modular will be required to be placed on a permanent foundation.

Board Action:
On MOTION of LOONEY, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"); no "nays"; no "abstentions"; none, "abstent") to APPROVE a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205) to allow a church in an RE District and to allow a modular building to be used for the church building temporarily; and to APPROVE a Variance (Section 240.3 - Use of Yards in R Districts) of the all-weather surface for parking to allow use of a gravel lot; subject to a 2-year limitation on the use of the modular building and gravel parking area; subject to the entrance driveway being chained off when not in use and security lighting be provided; subject to filling of a plat and obtaining necessary permits; subject to the parking lot being properly screened and treated to prevent dusting; subject to Health Department approval; subject to proper right-of-way dedication; subject to applicant returning to the Board for approval of a site plan depicting a definite location of the modular building on the property; and subject to a green belt of undisturbed land being reserved between the parking lot and the property to the west; finding that a church will not be detrimental to the area and will be in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

9.16.86:76(14)
3.11
The SE/4 of Section 21, T-19-N, R-11-E of the IBM, Tulsa County: Beginning at a point 660' west of the SE/c of Section 21, west 330', north 360', east 330' thence south to the east line 360' to the Point of Beginning Containing 2.72, acres more or less, Tulsa County, Oklahoma.

**Case No. 691**

**Action Requested:**
Variance - Section 330 - Bulk and Area Requirements in Agriculture Districts - Use Unit 1206 - Request a variance of the required minimum lot area from 2 acres to 1.742 acres for an existing tract, located south of the SE/c of 136th Street North and Mingo Road.

**Presentation:**
The applicant, George Upky, Route 3, Collinsville, Oklahoma, stated that he wants to construct a home on his land and does not have the required 2.5 acres. He informed that a mobile home is located on the property at this time, but will be removed. Mr. Upky stated that there are some lots in the area that are smaller than the subject property.

**Board Action:**
On MOTION of LOONEY, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to APPROVE a Variance (Section 330 - Bulk and Area requirements in Agriculture Districts - Use Unit 1206) of the required minimum lot area from 2 acres to 1.742 acres for an existing tract; finding that there are lots in the area that are smaller than the subject tract; on the following described property:

A parcel of land 230 feet North and South by 330 feet East and West, lying in Section Thirty-One (31), Township Twenty-Two (22) North, Range Fourteen (14) East of the Indian base and Meridian, more particularly described as follows, to-wit:
Beginning 198 feet South of the Northwest Corner of said Section 31, thence 330 feet East, thence 230 feet South, thence 330 feet West, thence 230 feet North to the point of beginning, lying in Tulsa County, State of Oklahoma and containing 1.742 Acres, more or less.
Looking northwest at church from subject property

Looking west from subject property
BOARD OF ADJUSTMENT
CASE REPORT

STR:1314
CZM:11
PD:

HEARING DATE: 08/20/2019 1:30 PM

APPLICANT: Hunter Sanders

ACTION REQUESTED: Variance of the minimum lot area, minimum land area per dwelling unit, and minimum lot width in an AG District to permit a lot split (Section 330 Table 3).

LOCATION: 7370 E 106 ST N
ZONED: AG

PRESENT USE: Agriculture
TRACT SIZE: 5.2 acres

LEGAL DESCRIPTION: PRT NE NW & NW NE BEG 16.5S NEC NE NW TH W324.93 S573.49 E399.02 N540 W74.09 TO PT ON EL NE NW N33.50 POB SEC 14 21 13 5.196ACS,

RELEVANT PREVIOUS ACTIONS:

Surrounding Property:

CBOA-2644 October 2017: The Board approved a variance to reduce the land area per dwelling unit requirement in an AG district to allow two dwelling units of one lot of record, on property located at 7019 East 106th Street North.

CBOA-2593 September 2016: The Board approved a variance of the minimum lot area and land area per dwelling unit to one acre; and a variance of the minimum lot width from 150 feet to 132 feet to permit a lot-split, on property located at 6804 East 106th Street North.

CBOA-2569 March 2016: The Board denied a special exception to allow for a rodeo (Use Unit 20) in an AG district; and a variance of the all-weather material for surface parking because it is intrusive into a developing neighborhood and is not congruent with the existing area which is primarily a dense residential area, on property located at 6801 East 106th Street North.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by large agricultural lots with both agricultural and rural residential uses.

STAFF COMMENTS:

The AG district (Section 330, Table 3) requires a minimum lot area of 2 acres and a minimum land area per dwelling unit of 2.1 acres. The Code also requires a minimum lot width of 150’ in an AG district.
The applicant provided the following statement: "In 2012 I bought the property and built a house. I was not married and had no children. Since then I have gotten married and my son was born. We have outgrown our home. Our home is small and we are building our home next door for our growing family."

As shown on the submitted survey and figures describing the lot sizes after the required dedication of right-of-way, the proposed lot split will create three lots. Tract A will be 1.67 acres and the proposed lot width is 135.02 ft.; Tract B will be 1.55 acres and the proposed lot width is 125 ft.; and Tract C will be 1.72 acres and the proposed lot width is 139 feet. All lots will have frontage along East 106th Street North. The barn on Tract C will be removed.

In order to permit a lot split as proposed the applicant is requesting a variance to reduce the lot area and the land area per dwelling unit requirement to 1.67 acres on Tract A; 1.55 acres on Tract B; and 1.72 acres on Tract C as shown on the attached plan. The applicant has also requested variance of the minimum lot width from 150 ft. to 135.02 ft. on Tract A; to 125 ft. on Tract B; and to 139 ft. on Tract C.

Sample Motion:

"Move to ________ (approve/deny) Variance of the required lot area and land area per dwelling unit in an AG District; and a Variance of the required lot width in an AG district to permit a lot-split (Section 330, Table 3).

- Finding the hardship(s) to be ____________.

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

- Subject to the following conditions ____________.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan."

4.3

REVISED 7/22/2019
NEW APPLICATIONS

2644—Kathryn Taylor

**Action Requested:**  
Variance to reduce the land area per dwelling unit requirement in an AG District to allow two dwelling units on one lot of record (Section 330). **LOCATION:** 7019 East 106th Street North, Owasso

**Presentation:**  
**Kathryn Taylor,** 10906 East 119th Street North, Collinsville, OK; stated she and her mother purchased the subject property approximately three years ago. The land was separated into two parcels, a north and a south parcel. They thought the mother would have a house on the rear parcel and she would have a house on the front parcel. When they started getting contractors it was discovered that the front parcel is like a swamp. She was told that the proposed house for the front parcel would have to be moved back for drainage issues. She applied for a lot combination and now she is in the process of building her family home, but she still would like to have her mother on the property in her own modular house.

Mr. Charney asked if the original tract was still the same total of 2.75 acres. Ms. Taylor stated that was the combination of the two tracts.

Mr. Charney asked Ms. Taylor if she purchased two separate tracts that she closed on or if it was one large tract. Ms. Taylor stated that she was very ignorant to the situation. She knew that there were two tax numbers and two parcel numbers, and her realtor told her she could build two houses on the subject property. She did not realize all the steps in the process. When it was realized that there was such a drainage issue she thought she could just move her house back placing in between the parcels. She has spoken with Mr. West and has learned a lot from him and he was very helpful.

Mr. Charney asked Ms. Taylor what she was thinking about in the way of a house for the mother, because she had mentioned a modular home and in the agenda packet given to the Board it states a manufactured home. Ms. Taylor stated that her mother has not actually picked a house yet.

Mr. Charney asked staff if a mobile home would be allowed on the property. Mr. West stated that a single wide manufactured home would be a use by right.

Mr. Hutchinson asked Ms. Taylor how close the house she is building to the north property line. Ms. Taylor stated it is at least 60 feet from the west side of the property line. The east side of the property is probably in the middle of the actual parcel of land.

Mr. Hutchinson asked Ms. Taylor if she was proposing to place the manufactured home either in the northwest corner of the northeast corner. Ms. Taylor stated she would prefer the northwest corner but there are two ponds.
Mr. Hutchinson asked Ms. Taylor if she had contacted the adjoining property owners. Ms. Taylor stated she has spoken to the owner that owns the east property and they do not have an objection to this proposal. Ms. Taylor stated that she has not spoken to the neighbor on the west side.

**Interested Parties:**
There were no interested parties present.

**Comments and Questions:**
Mr. Charney stated that the Board would frown on any effort to place another home on the subject property.

**Board Action:**
On MOTION of CHARNEY, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE the request for a Variance to reduce the land area per dwelling unit requirement in an AG District to allow two dwelling units on one lot of record (Section 330). The Board finds the hardship to be the topography as well as the subsurface condition on one portion of the property. All the standard requirements for a mobile home are to be followed by the applicant; for the following property:

E230 S526.77 W/2 SE SW LESS E185 N235.46 S251.96 W/2 SE SW & LESS S16.5 THEREOF FOR RD SEC 11 21 13 1.894ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2646—Ryan McCarty

**Action Requested:**
Variance of the required minimum lot area and land area per dwelling unit on Tract "B" to permit a lot split (Section 330). **LOCATION:** 11841 East 121st Street South, Broken Arrow

**Presentation:**
Ryan McCarty, Select Design, 11063-D South Memorial Drive, #351, Tulsa, OK; stated he will be going for a lot split as suggested by INCOG staff. Tract A has 2.18 acres and Tract B was not affected but it smaller than the 2.0 acres required for AG zoning thus the request for a Variance. Tract A and Tract C do comply with the zoning code. The land owner wants the land to remain under the AG zoning to stay in harmony with the surrounding neighbors.

Mr. Charney asked if the same land owner owns Tract A, Tract B and Tract C today. Mr. McCarty answered affirmatively.
Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of CHARNEY, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE the request for a Variance to allow a second dwelling unit on a lot that does not meet the minimum lot area per dwelling unit requirement in the AG District (Section 208 and Section 330). The approval is subject to the subject mobile home be tied down, skirted and have an all-weather parking surface. The hardship is the fact that the lot has an unusual configuration and an excessive amount of frontage. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

BEG 369.26S & 540.78E NWC NW NE TH N131.82 E561.60 TO CL CAMPBELL CK RD SWLY 329 NW223 NWLY 230 NW80 S173.41 W55 N71.85 POB LESS E30 FOR RD SEC 22 19 10 2.300ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2593—J. R. Donelson

Action Requested:
Variance of the minimum lot area and land area per dwelling unit to one acre;
Variance of the minimum lot width from 150 feet to 132 feet to permit a lot-split
(Section 330, Table 3). LOCATION: 6804 East 106th Street North, Owasso

Presentation:
J. R. Donelson, 12820 South Memorial Drive, Bixby, OK; stated he represents the Cherokee Housing Authority. The Cherokee Housing Authority would like create a lot split on the 7.4 acres and construct a single family residence on one acre. The approval of the Variance request will allow the Cherokee Housing Authority to appear before the Planning Commission for the lot split request.

Mr. Charney informed Mr. Donelson that the Board has an allergy against doing this several times. Sometimes people want to split an acre, then another acre, then another acre and that is when the Board feels a plat would be more appropriate. One of the things the Board wants to alert the applicant to this because the Board prefers a platted approach after a single split. Mr. Donelson stated that he and the Cherokee Housing Authority understands.

Interested Parties:
There were no interested parties present.
Comments and Questions:  CB0A-2593

Board Action:
On MOTION of CHARNEY, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE the request for a Variance of the minimum lot area and land area per dwelling unit to one acre; Variance of the minimum lot width from 150 feet to 132 feet to permit a lot-split (Section 330, Table 3). The hardship being the significant water feature on the larger tract and one acre is necessary to conclude the underlying transaction; for the following property:

E/2 NW NW NW & W/2 NE NW NW & W/2 E/2 NE NW NW LESS W337 THEREOF & LESS N16.5 THEREOF FOR RD SEC 14 21 13 7.209ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2594—J. R. Donelson

Action Requested:
Special Exception to allow weddings and other outdoor events (Use Unit 2); Special Exception to allow commercial recreation, intensive (Use Unit 20); Special Exception to allow community services and similar uses (Use Unit 5); Variance of the all-weather material for surface parking (Section 1340.D). LOCATION: 19501 West 41st Street South, Sand Springs

Presentation:
J. R. Donelson, 12820 South Memorial Drive, Bixby, OK; stated the piece of property to be discussed today has been known in the past as Discovery Land. What initiated the initial application to the Board of Adjustment is the new owner of the properties was in the process of cleaning and upgrades on a project. He was informed by the Tulsa County Building Inspections that the property had never gone through the Board of Adjustment process to even allow the Discovery Land venue on the property. Mr. Donelson stated that he and the owner sat down with the County Commissioners, the Inspection Department, and the INCOG staff and worked on a number of ideas that could possibly be on the property so that the owner would not need to come back to the Board of Adjustment again. As a result of those meetings there was a list of things that could possibly be used on the subject property presented to the INCOG staff and the Board of Adjustment. The property owner presently has approximately 900 acres but this application only covers 450 acres which is Discovery Land and a little bit more. When the "possible functions" is mentioned it is possible functions. The owner is presently attempting to upgrade and clean the existing Discovery Land facility and he would like to have functions that would allow activities during the day not only evening functions. The owner has also been in contact with the Tulsa County Sheriff’s Department in regards to training for search and rescue. The owner has been approached about riding mountain bikes on the property. Several other functions were discussed, i.e., corporate parties, the Native American Pow Wow thus the list of Use
Action Requested:
Special Exception to allow for a rodeo (Use Unit 20) in an AG District (Section 310);
Variance of the all-weather material for surface parking (Section 1340.D).
LOCATION: 6801 East 106th Street North, Owasso

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

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

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

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

Debbie King, 4105 East 96th Street North, Sperry, OK; stated she owns the property across the street; her sister lives on five of the acres and her daughter lives on seven acres. Her family has owned the property since the 1920s or earlier and she would hate to see a rodeo in the area. She does want to have her grandchildren subjected to that
type of environment. She was quite surprised that someone would propose a rodeo to be placed in the middle of all the houses in the area. There have also been many fatality accidents at the intersection of 106th Street North and Sheridan and a rodeo will bring more traffic that will be asking for more wrecks and deaths. Ms. King hopes the Board will deny this request.

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

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

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

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

Commissioner John Smaligo, 633 North Denver, Tulsa, OK; stated he asks the Board to keep in mind the concerns raised by his constituents from the previous rodeo request that was made and understand that they are even more intense and more numerous in this particular request. The requests are relatively close together, 3 or 4 miles apart, but
the intensity in this area is not as congruent with a rodeo given the fact that the previous application was along Highway 75 in an area that will eventually become much more commercialized and industrialized. The subject area is away from the highways and because of that the intensity that a rodeo will bring and what has been dealt with in rodeos from this particular applicant in the past, in particular the music, it becomes problematic for those who live nearby. Increased traffic is one of those things that everyone will be most concerned about. This route goes from Highway 75 directly to Bailey Hospital and is a hospital route also for St. John’s Owasso so that raises concerns.

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

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

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

Orlando Perez, 1819 Woodrow, Owasso, OK; stated he is Antonio Perez’s son. Before the rodeo idea ever happened his father purchased the property next to it and there are plans to build three houses there for family. Mr. Perez stated that they understand house values because the family will be there also. The rodeos will be seasonal and currently they only have two a year. The previous location was not a permitting problem but it was the ingress and egress that was a problem. Mr. Perez stated that there has been discussion of making an indoor arena so there can be music inside. The events usually run until 9:00 P.M. and the music stops at 9:00 P.M., and everyone should be
gone by 10:00 P.M. The property is 57 acres so he does not think traffic will be an issue.

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

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

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

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

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

Mr. Hutchinson stated that he is very familiar with both areas. The previous application is in an area where there are not many houses. This application is in an area that is not in a transition area because it already exists. Mr. Hutchinson stated that he cannot support the request.
The 3rd lot is going to be for my wife's parents home that they are going to build.

On Mon, Jul 15, 2019 at 4:19 PM Jones, Robi <rjones@incog.org> wrote:

Thank you!

Hi Robi,

In 2012 I bought the property and built a house. I was not married and had no children. Since then I have gotten married and my son was born. We have out grown our home. The barn is going to be removed from the property.

On Monday, July 15, 2019, Jones, Robi <rjones@incog.org> wrote:

Hunter – One more question, did you say the barn on Tract 3 is being torn down?

Hunter,

I have not received your hardship for CBOA-2761. Would you please send it to me soon. I am preparing your case.

Thanks,
Required Dedication of Right-of-Way

Section 10-060.6 Review and Approval Criteria

B. Access, Streets, and Trails

2. When lots proposed to be split contain areas that do not comply with the street right-of-way requirements of the *Major Street and Highway Plan*, the lot split/adjustment may not be approved, except upon a finding that one or more of the following conditions are met:
   a. Adequate assurances are in place to ensure that the needed right-of-way is dedicated;
   b. All utilities are already in place or the additional right-of-way is not required for utility placement;
   c. The public has, by statutory easement or suitable roadway dedication, right-of-way sufficient to allow the placement of pavement of a width necessary to meet the standards of the *Major Street and Highway Plan* for the particular street and sidewalk involved; or
   d. Existing structures are located within the right-of-way proposed by the *Major Street and Highway Plan*.

Name of Street: E. 106th St. N.  
Type of Street: Secondary Arterial

Required Right-of-Way: 50 feet

<table>
<thead>
<tr>
<th>Tract A</th>
<th>Tract B</th>
<th>Tract C</th>
</tr>
</thead>
</table>
| Square feet: 77432.60 | Square feet: 71686.25 | West portion of Tract C  
Square feet: 37226 |
| ROW Width: 135.02 | ROW Width: 125.00 |  
Required ROW: x 33.50 |  
Required ROW: x 33.50 | ROW Width: 64.91  
Required ROW: x 33.50 |
| Total: 4523 | Total: 4187.5 | Total: 2174.5 |
| Total square footage less required ROW dedication:  
Square Feet: 72909.6 | Total square footage less required ROW dedication:  
Square Feet: 67498.75 | Total square footage less required ROW dedication:  
Square Feet: 75060.1 |
| Acres: 1.67 | Acres: 1.55 | Acres: 1.72 |
CERTIFICATION

I, BRYAN C. SANDLIN, A REGISTERED LAND SURVEYOR IN THE STATE OF OKLAHOMA, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID PROPERTY, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

WITNESS MY HAND AND SEAL THIS DATE

JULY 3, 2019

BRYAN C. SANDLIN
OKLAHOMA REGISTERED LAND SURVEYOR 1483

SHEET 1 OF 2
ORIGINAL LEGAL DESCRIPTION AS PROVIDED:

A TRACT OF LAND THAT IS PART OF THE NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) AND THE NORTHWEST QUARTER (NW/4) OF THE NORTHEAST QUARTER (NE/4) OF SECTION FOURTEEN (14), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) FOR 16.50 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE S89°05'37"W ON A LINE THAT IS PARALLEL WITH AND 16.50 FEET SOUTH OF THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) FOR 324.03 FEET; THENCE S01°36'24"E PARALLEL WITH THE EASTERLY LINE FOR 573.49 FEET; THENCE N89°05'45"E PARALLEL WITH THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) FOR 359.02 FEET; THENCE N01°30'34"W PARALLEL WITH SAID EASTERLY LINE FOR 540.00 FEET; THENCE S89°05'46"W ON A LINE THAT IS PARALLEL WITH AND 80.00 FEET SOUTH OF THE NORTHERLY LINE OF SAID NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) FOR 74.09 FEET TO A POINT ON THE EASTERLY LINE OF SAID NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) THEN TO THE NORTHEAST QUARTER (NE/4) ALONG SAID EASTERLY LINE FOR 33.50 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.

CONTAINING 519 ACRES MORE OR LESS

LEGAL DESCRIPTION TRACT A:

A TRACT OF LAND THAT IS PART OF THE NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) OF SECTION FOURTEEN (14), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

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CONTAINING 1.77 ACRES MORE OR LESS

LEGAL DESCRIPTION TRACT B:

A TRACT OF LAND THAT IS PART OF THE NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) OF SECTION FOURTEEN (14), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

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CONTAINING 1.65 ACRES MORE OR LESS

TRACT C:

A TRACT OF LAND THAT IS PART OF THE NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) AND THE NORTHWEST QUARTER (NW/4) OF THE NORTHEAST QUARTER (NE/4) OF SECTION FOURTEEN (14), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

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CONTAINING 1.77 ACRES MORE OR LESS
BOARD OF ADJUSTMENT
CASE REPORT

STR:7405
CZM:63
PD:

Case Number: CBOA-2762

HEARING DATE: 08/20/2019 1:30 PM

APPLICANT: Jason Bornefeld

ACTION REQUESTED: Variance of the allowable square footage for an accessory building in the RS district from 750 SF to 1,200 SF. (Section 240.2.E)

LOCATION: 11431 E 130 ST S ZONED: RS

PRESENT USE: Residential TRACT SIZE: 0.83 acres

LEGAL DESCRIPTION: LT 10 BLK 6, WILLOW SPRINGS WEST ADDN

RELEVANT PREVIOUS ACTIONS:

Surrounding Property:

CBOA-2309 October 2008: The Board approved a Variance of the maximum permitted square footage allowed for accessory building in the RS district from 750 sq. ft. to 2,717 sq. ft., on property located at 11752 East 128th Place South.

CBOA-1820 March 2001: The Board denied a Special Exception for Use Unit 5, Community Services (Emergency Shelter) Transitional Living Center in an RS district; a Variance to permit two dwelling units on one lot of record; and a Variance to permit a detached accessory building of 1454 sq. ft., on property located at 12827 S. 117th E. Ave.

CBOA-1402 March 1996: The Board approved a Variance to permit a detached accessory building to exceed the maximum allowable floor area of 750 sq. ft. to 1,080 sq. ft. per plot plan submitted; subject to no commercial use; subject to TMAPC approval of access to Garnett Rd.; subject to removal of all other accessory buildings (1,080 sq. ft. maximum for accessory buildings); finding that the storage building, per conditions, will not be detrimental to the area; located at 12856 S. 144th Avenue East.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a neighborhood setting surrounded by RS zoning and residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a variance of the allowed square footage for accessory building(s) from 750 SF to 1,200 SF (Section 240.2.E). Section 240.2.E permits accessory buildings in the RS district; the total square footage of all accessory buildings on the lot cannot exceed 750 SF of floor area. The provision of the Code attempts to establish and maintain development intensity of
the district, preserve the openness of living areas and avoid overcrowding by limiting the bulk of structures.

The applicant provided the following statement: "I am wanting extra storage. My house garage is full. I am needing extra storage so I can teach my three boys how to work on vehicles and to do other projects (wood, technical, electrical, etc.)."

According to the drawing provided, the applicant is proposing to construct a new 1,200 SF detached pole barn north of the existing house on the site. It will meet all setback requirements.

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed accessory building is compatible with and non-injurious to the surrounding area.

Sample Motion:

"Move to ________ (approve/deny) Variance of the maximum permitted size of detached accessory buildings on an RS zoned lot (Section 240.2.E).

Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: ________________________________.

Finding the hardship to be ________.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan."
**Board Action:**

On Motion of Walker, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Special Exception to permit a home occupation in an AG district (Section 320.1); finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;

Mr. Cuthbertson had a question on the motion, as to the Board's intention to approve a catering home occupation.

On Amended Motion of Walker, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Special Exception to permit a catering business as a home occupation in an AG district (Section 320.1), with conditions for no outside employees; no customer traffic; no signage, 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;

On Motion of Charney, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Variance of the permitted maximum floor area from 500 sq. ft. to 600 sq. ft. (Section 440.B.7) for a home occupation, in the existing detached structure; finding the space already exceeds the allowable area in the 1,200 sq. ft. building, on the following described property:

PRT SE NW BEG 200S NWC SE NW TH E653.7 S100 W217.9 S100 W435.8 N200 POB SEC 29 19 12 2.50ACS, Tulsa County, State of Oklahoma

*******

**Case No. 2309**

**Action Requested:**

Variance of the maximum permitted square footage allowed for accessory buildings in the RS district from 750 sq. ft. to 2,717 sq. ft. (Section 240.2.E), located: 11752 East 128th Place South.

**Presentation:**

Tom Sexton, 11752 East 128th Place South, Broken Arrow, Oklahoma, proposed to build a shop for personal use in addition to existing buildings. He plans to store a collection of cars inside. His lot is 48,290 sq. ft., which would be 5.6 % coverage of the property.
Comments and Questions:
Mr. Walker asked why he needed 12 ft. sidewalls. Mr. Sexton responded that he would like a ten-foot door for access from neighboring property. He obtained permission to access his property. He would not be able to haul things in through his seven-foot carport. Mr. Sexton mentioned a number of his neighbors have larger structures. He stated he showed his neighbors the plans and they were in support.

Interested Parties:
There were no interested parties who wished to speak.

Board Action:
On Motion of Dillard, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Variance of the maximum permitted square footage allowed for accessory buildings in the RS district from 750 sq. ft. to 2,717 sq. ft. (Section 240.2.E), as presented, finding the large size of the lot, on the following described property:

LT 8 BLK 4,WILLOW SPRINGS WEST ADDN, Tulsa County, State of Oklahoma

**********

Case No. 2310
Action Requested:
Special Exception to permit a home occupation in an AG district (Section 320) to permit a catering and cooking business; and a Variance to permit the business in a travel/concession trailer (Section 440.B.3), located: 913 East 161st Street North.

Presentation:
Mike Beard, 8345 South Pittsburg, represented the applicant, Ada Scott. She proposed to run a home occupation out of a concession trailer. The cooking would all be in the trailer and she would take it to other locations for business. The trailer would be parked on a paved pad on the home property, which is about 160 acres (Exhibit B-1). He indicated there would not be much traffic. He stated the parking spot would not be visible to the neighbors.

Interested Parties:
There were no interested parties who wished to speak.

Board Action:
On Motion of Charney, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Special Exception to permit a home occupation in an AG district (Section 320) to permit a catering and cooking business; as presented, with conditions for no outside employees; no more customer traffic than ten per week; finding the special
football in the yard. She added that the younger children in the day care are in her home, and they go outside one hour in the morning and one hour in the afternoon to play. She commented there have been no complaints to the homeowner’s association or to her. She pointed out that she has a large circle drive and there are only four cars that pick up children.

Comments and Questions:
Mr. Tyndall asked where the sign is located. She replied that it is on the house right by the front door. Mr. Walker asked if they planned to move. She responded that they started to sell the home, but they have refinanced and the house was taken off the market about two weeks ago. Mr. Alberty mentioned that Mr. Rainwater indicated the restrictive covenant has expired. She stated that she went to the courthouse and found that the date on it has expired and no one has been able to tell them if a new one has been taken to the courthouse. Mr. Tyndall asked about the hours of operation. She replied 6:00 a.m. to 6:00 p.m., and sometimes someone will arrive fifteen or twenty minutes earlier or later, Monday through Friday.

Board Action:
On MOTION of Dillard, the Board voted 5-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Special Exception to permit Use Unit 5 (children’s nursery) in an RE zoned district, allowing the existing sign and limited to care of 5 children, finding that it 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, on the following described property:

Lot 9, Block 1, Cimarron Run, Tulsa County, State of Oklahoma.

************

Case No. 1820
Action Requested:
Special Exception Section 410 to permit Use Unit 5, Community Services (emergency shelter) Transitional Living Center in an RS district. SECTION 410.
PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5 & 6; a Variance Section 208 to permit two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; and a Variance to permit a detached accessory building of 1454 sq. ft. SECTION 240.2.E.
YARDS, Permitted Yard Obstructions, located 12827 S. 117th E. Ave.

Presentation:
Micaela D. Godbey-Miller, 12827 S. 117th E. Ave., Broken Arrow, submitted a packet of exhibits including photographs (Exhibit C-1). She refers to a second residence on her property that under the Code is labeled an emergency shelter. She would like to protect the neighborhood from the use of that structure as
emergency shelter, should their ministry move and sell it. She added that they
never intend to use it for rental property, but strictly for the ministry. She asked
Terry Ewing to speak for this application.

Interested Parties:

Terry Ewing, 9252 E. 58th Pl., stated he is the founder of Plumbline Ministries. He
stated that this ministry is intended to be an extension of local church ministries
and a counseling center. The counselors function as pastoral counselors by
referral from church pastors. They will not be treating psychiatric patients or
mentally retarded individuals. The housing would be for one individual or one
family of up to three members at a time, not a multi-family dwelling. The resident
would be in counseling and accountable to the ministry.

Donnie Davis, 12716 E. 136th St. S., Broken Arrow, Oklahoma, stated he is the
associate minister in this ministry. He described his personal family experience as
recipients of the ministry. He pointed out that this facility would provide safety,
safety, and other help that may not otherwise be available.

Robert Roach, 11453 E. 128th Pl. S., Broken Arrow, Oklahoma, stated that he
does not live within 300' of the subject property. He stated his concern that this
facility might cause a decrease in the value of surrounding homes. He also
mentioned concern for how future owners might use it.

Gordon Holmes, 12822 S. (inaudible), stated his objection to a second dwelling
on the property and the impact on the value of his home. He indicated that a
second dwelling would not be compatible with the neighborhood.

Rick Payne, 11743 E. 128th Pl., stated same concerns as above.

Judy (inaudible), 11454 E. 128th Pl., Broken Arrow, stated concern for children and
families in the neighborhood. She stated there were a lot of pedestrians and
children playing outside. She indicated that people going through divorce and
similarly emotional troubles are more likely to cause disturbances that could
jeopardize the safety of other residents in the area. She commended the
applicant for his efforts, but she thought it was not the right location.

Bonnie Mitchell, 12807 S. 117th E. Ave., stated that she and her husband have
lived in Willow Springs for twenty-eight years. She stated that they appreciate the
open spaces. She stated the lots are not designed for two dwellings; they have
septic systems that require more space for lateral lines. She was also concerned
about family disturbances.

Ruthie Wade, 11707 E. 128th Pl. S., spoke in support of the application. She
stated that it is policy to place anyone in a situation where violence is a concern in
Day Spring Villa. They also do not deal with drug addiction at this site. She stated
that she understands the neighbors' concerns, and she would be even more concerned about having a violent person living with her. She stated that she already has a building permit for an accessory building that would be used for a garage, storage and woodworking. The permit is for a building slightly larger than the one in this application. Her daughter lives with her to help care for her husband. She stated that her neighbors next door, across the street, and others close by have been very positive about the application but they could not be present. She has looked into sanitary systems and decided that an aerobic system would probably be her choice.

Board Action:
On MOTION of Tyndall, the Board voted 5-0-0 (Albery, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to DENY Special Exception Section 410 to permit Use Unit 5, Community Services (emergency shelter) Transitional Living Center in an RS district; a Variance Section 208 to permit two dwelling units on one lot of record; and a Variance to permit a detached accessory building of 1454 sq. ft., finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

* * * * * * * *

Case No. 1821
Action Requested:
Variance of the required 30' frontage on a public street to 0' to get a lot split. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located 20357 S. Peoria.

Presentation:
Jerry Shanns, 20209 S. Peoria, stated he gave his daughter and son-in-law a five-acre tract with access easement.

Comments and Questions:
Mr. Albery asked if the front portion of the property is developed. Mr. Shanns replied that it is not. Mr. Hutson asked about the easement. Mr. Shanns responded it has already been recorded on the deed for 35' for ingress/egress, and utilities. Mr. Albery asked if he planned to divide the land any further. Mr. Shanns replied that he had no plans for further division of the property. He further stated that the property has been in his family for many years. Mr. Walker asked for the applicant to point out the property lines on the map.

Interested Parties:
There were no interested parties present who wished to speak.
Case No. 1401 (continued)

Presentation:
The applicant, Milbon Walls, 9422 North Lewis Avenue, Sperry, Oklahoma, submitted a plot plan (Exhibit A-4) and requested permission to install a mobile home for his mother-in-law who needs assisted care (Exhibit A-1). The applicant stated that a septic system, lateral lines and utilities are in place and this area is separated from the existing dwelling by a creek. A plat of survey was submitted (Exhibit A-3).

Protestants:
Harold Conner, 9409 North Lewis Avenue, informed that the road is a dead end road and he is concerned that the installation of a mobile home for rental purposes will deteriorate the neighborhood.

Applicant’s Rebuttal:
Mr. Walls stated that the property will only be used as a residence for his mother-in-law and will not be used for rental purposes. He stated he has owned the property since June 1995, and is not aware of the type of dwelling that was previously on the property.

Board Action:
On MOTION of TYNDALL, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to APPROVE a Variance to permit 2 dwelling units on one lot of record - SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; a variance of the required lot area from 2.0 acres to 1.25 acres; and a variance of the required land area from 2.2 acres to 1.25 acres to permit a mobile home in an AG zoned district - SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS - Use Unit 9, per plan submitted; subject to the mobile home being used for family members only; subject to Health Department approval and a building permit; finding that there had previously been two dwelling units on the property; finding that the property is divided by a creek; and finding that approval of the request will not be detrimental to the area or violate the spirit and intent of the Code; on the following described property:

SE/4, NE/4, NE/4, NE/4, Sec. 19, T-21-N, R-13-E, I.B.M., Tulsa County, Oklahoma

Case No. 1402

Action Requested:
Variance to permit a detached accessory building to exceed the maximum allowable floor area of 750 sq ft to 1080 sq ft - SECTION 240.2.E. PERMITTED YARD OBSTRUCTIONS - Use Unit 6, located 12856 South 114th East Avenue.
Case No. 1402 (continued)

Presentation:
The applicant, Ronald Huisenga, 12856 South 114th East Avenue, Broken Arrow, Oklahoma, submitted a plot plan (Exhibit B-1) and requested to replace a shop building that was destroyed by a storm. He informed the new structure will be 36' by 30', and will be 50% larger than the previous building. Mr. Huisenga stated the new facility, which will have access on Garnett Road, will be used for storage of an antique car, boat, yard equipment and a recreational vehicle.

Comments and Questions:
Mr. Walker asked if the facility will be used as commercial property, and Mr. Huisenga reiterated that it will be used for storage purposes only.

In reply to Mr. Walker, the applicant replied that he owns approximately 1.5 acres.

Mr. Gardner advised that there could be "limits of no access" on Garnett Road recorded on the subdivision plat and, therefore, any access to Garnett would require Planning Commission approval. He stated that there is a concern that large buildings of this type could be used for commercial purposes.

Mr. Looney inquired if the applicant could enter this property from the front of his lot and he answered in the affirmative.

Mr. Tyndall asked what type of construction this building will be, and Mr. Huisenga stated that it will be a manufactured steel building, concrete floor and full foundation, one 10' by 12' door, two 8' by 7' doors, and one 3' by 7' passage door.

Protestants:
None.

Board Action:
On MOTION of WALKER, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to APPROVE a Variance to permit a detached accessory building to exceed the maximum allowable floor area of 750 sq ft to 1080 sq ft - SECTION 240.2.E. PERMITTED YARD OBSTRUCTIONS - Use Unit 6; per plot plan submitted; subject to no commercial use; subject to TMAPC approval of access to Garnett Road; subject to removal of all other accessory buildings (1080 SF maximum for accessory buildings); finding that the storage building, per conditions, will not be detrimental to the area or violate the spirit and intent of the Code; on the following described property:

Lot 6, Block 7, Willow Springs West Addition, Tulsa County, Oklahoma
Looking north from East 130th St. S. at subject property
BOARD OF ADJUSTMENT
CASE REPORT

STR: 9121
CZM: 43
PD:

CASE NUMBER: CBOA-2763

HEARING DATE: 08/20/2019 1:30 PM

APPLICANT: Steven Roberts

ACTION REQUESTED: Variance of the minimum frontage requirement on a public street/dedicated right of way from 30 ft to 0 ft in the AG district. (Section 207)

LOCATION: North of the northwest corner of West 41st Street South & South 137th West Avenue

ZONED: AG

PRESENT USE: Vacant

TRACT SIZE: 20 acres

LEGAL DESCRIPTION: S1/2 NWSW SEC.21-19-11,

RELEVANT PREVIOUS ACTIONS: No relevant history

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by AG zoned properties with some residential uses on large parcels.

STAFF COMMENTS:

The applicant is before the Board requesting a Variance of the minimum frontage requirement on a public street or dedicated right of way from 30 ft to 0 ft.

The Code requires that any property intended to be utilized for residential purposes contain at least 30 ft of frontage on a public street. The Code attempts to ensure that each residentially used parcel has unfettered access and emergency access. The Code also attempts to prevent wildcat subdivisions.

The subject property, as it exists, does not have frontage on a public street. Please refer to the Site Plan provided by the applicant. The site plan shows an easement and the applicant provided a notarized statement of permission to access the easement.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed accessory building is compatible with and non-injurious to the surrounding area.

Sample Motion:

"Move to ________ (approve/deny) a Variance of the minimum frontage requirement on a public street/dedicated right of way from 30 ft to 0 ft in the AG district. (Section 207)"
Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: ________________________________.

Finding the hardship to be ________.

In granting a Variance, the Board must find that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.
STEVEN ROBERTS
3808 S 137 W Ave
Sand Springs, OK 74063
Parcel # 99121912138750

Tony KoSo

proposed home

775'

Easement Road

Susan Roberts

6.5
EASEMENT

FOR AND IN CONSIDERATION of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Susan Roberts, ("Grantor") hereby grants and conveys to, Steve Roberts, ("Grantee"), its successors and assigns, a perpetual, non-exclusive right of way and easement ("Easement") in, upon, over and through the private road on property described in Exhibit "A" attached hereto and incorporated herein by reference ("Property")..

1. **Ingress and Egress.** The Easement granted hereby shall be for ingress and egress to, from, upon and over the private road as described in Exhibit A.

2. **Soil.** The Grantee shall take no action which shall cause the soil to sink or wash away, and if such occurs, the Grantee shall fill such area with soil and shall regrade the area to its prior level and condition.

3. **Termination.** This Easement shall be terminated at any time by an instrument executed for such purposes and signed by the parties.

4. **Amendment.** This Easement shall be amended only by a written and recorded instrument signed by the parties or the then current owner of the Property and the Easement.

5. **Binding Effect and Benefits.** This Easement shall be binding upon and inure to the benefit of the parties and each one’s successors and assigns, heirs, beneficiaries and personal representatives.

6. **Governing Law.** This Easement shall be governed by and construed and enforced in accordance with the laws of the State of Oklahoma.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed an agreement to be effective as of the 17th day of July, 2019.
OKLAHOMA NOTARY ACKNOWLEDGMENT

State of Oklahoma
County of Tulsa

The foregoing instrument was acknowledged before me on this 17th day of July, 2019 by Susan Roberts.

Signature of Notary Public

My commission expires:
EXHIBIT "A"

20 ACRES
(PROPERTY OF STEVE ROBERTS)

LEGAL DESCRIPTION 5 ACRES
(PROPERTY OF SUSAN ROBERTS
3810 S. 137TH W. AVE.)

A TRACT OF LAND SITUATED IN THE SW/4 OF THE NE/4 OF THE SW/4 OF SECTION 21, T19N, R11E,
IB&M, TULSA, OKLAHOMA, DESCRIBED AS FOLLOWS;

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE SW/4 OF THE NE/4 OF THE SW/4 OF
SAID SECTION AND THE CENTERLINE OF SOUTH 137TH TH WEST AVENUE; THENCE S88°43'19"W
ALONG THE SOUTH LINE OF SAID SW/4 OF THE NE/4 OF THE SW/4 A DISTANCE OF 468.37 FEET TO THE
SW CORNER THEREOF; THENCE N01°04'11"W
ALONG THE WEST LINE OF SAID SW/4 OF THE NE/4 OF THE SW/4 A DISTANCE OF 394.08 FEET; THENCE
N77°57'13"E ALONG THE OF A PRIVATE ROAD FOR A DISTANCE OF 358.33 FEET TO A POINT OF CURVE TO
THE RIGHT, HAVING A RADIUS OF 200 FEET, THENCE
ALONG SAID CURVE A DISTANCE OF 68.97 FEET;
THENCE S92°51'16"E CONTINUING ALONG THE
CENTERLINE OF SAID PRIVATE ROAD A DISTANCE
OF 173.68 FEET TO THE CENTERLINE OF SAID
SOUTH 137TH WEST AVENUE; THENCE S14°15'19"W
ALONG SAID CENTERLINE A DISTANCE OF 454.00
FEET TO THE POINT OF BEGINNING, LESS AND
EXCEPT THE SOUTH 30 FEET THEREOF,
CONTAINING 5.0 ACRES.

SOUTH 137TH WEST AVENUE