

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 157
Tuesday, June 15, 1993, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chairman Eller Looney Tyndall Walker		Jones Moore Russell	Glenn, Building Insp.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, June 11, 1993, at 12:47 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Alberty called the meeting to order at 1:30 p.m.

MINUTES:

On MOTION of WALKER, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no, "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the Minutes of May 18, 1993 (No. 156).

UNFINISHED BUSINESS

Case No. 1157

Action Requested:

Variance of the maximum size for a detached accessory building in an RS zoned district from 750 sq ft to 1500 sq ft - **Section 240.2.E. Permitted Yard Obstructions** - Use Unit 6, located 1603 South 168th West Avenue.

Presentation:

The applicant, **Carl Morris**, 6800 Charles Page Boulevard, was represented by **Clarence Vickers**, 1603 South 168th West Avenue, who informed that the application was initially presented at the last Board of Adjustment meeting. He stated that the Board requested that the applicant return with a drawing depicting the proposed and existing buildings on the property (Exhibit A-1).

Comments and Questions:

In response to Mr. Alberty, Mr. Vickers stated that the new building will contain approximately 1500 sq ft of floor space.

Case No. 1157 (continued)

Mr. Alberty stated that he is not supportive of the application, due to the number of accessory building currently on the property.

Mr. Walker stated that he is familiar with the subdivision, and there are numerous accessory buildings on the lots. He added that this practice is prevalent in the area and accepted by the neighborhood.

Protestants:

None.

Board Action:

On MOTION of WALKER, the Board voted 4-1-0 (Eller, Looney, Tyndall, Walker, "aye"; Alberty, "nay"; no "abstentions"; none, "absent") to **APPROVE** a Variance of the maximum size for a detached accessory building in an RS zoned district from 750 sq ft to 1500 sq ft - **Section 240.2.E. Permitted Yard Obstructions** - Use Unit 6; per plan submitted; subject to a the execution of a tie contract between the two lots containing the accessory buildings; subject to the applicant filing of record an agreement that there will be no commercial use on the tract; subject to the barn and shed being removed from the property; finding that other lots in the area have several accessory buildings, and approval of the request will not be detrimental to the neighborhood; on the following described property:

Lots 7 and 8, Block 3, River Valley Estates Amended, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 1160

Action Requested:

Special Exception to permit intensive recreational use (Use Unit 20) - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 20, located south side of 76th Street North and North Memorial Drive.

Presentation:

The applicant, Jerry Stokely, 4806 South Knoxville, requested permission to operate a water ski business on a private lake, which will require the use of one boat with an inboard motor. He added that a ski school will be a part of the operation, with an enrollment of approximately 10 individuals. Photographs (Exhibit B-1) were submitted.

Case No. 1160 (continued)

Comments and Questions:

Mr. Alberty asked if improvements will be added, and the applicant stated that there will be no construction on the property.

Mr. Walker asked if the lake is existing, and the applicant answered in the affirmative. He noted that there was initially a swamp like area on the property, which has been cleared to form the lake.

In reply to Mr. Walker, Mr. Stokely stated that the nearest residence is approximately 1000' from the lake. Mr. Stokely explained that the inboard motor generates much less noise than the jet aircraft flying overhead.

Mr. Tyndall inquired as to the hours of operation for the use, and the applicant stated that he will operate during daylight hours, seven days a week.

In response to Mr. Alberty, the applicant stated that the skiing will be the competition type, rather than recreational.

Mr. Walker asked if rest rooms will be provided, and Mr. Stokely replied that portable rest rooms will be moved to the site when required, and there will be no refreshment sold on the property. He pointed out that there are several restaurants in the immediate vicinity.

Mr. Tyndall asked if competitive events will be held on the lake, and the applicant stated that he does not propose events at this time, but could have in the future. Mr. Tyndall stated that special events could generate an excessive amount of traffic in the area.

In reply to Mr. Walker, the applicant stated that the only signage is a banner, which has been removed.

Mr. Alberty asked the applicant if the proposed operation will be his primary source of income, and he replied that it is a hobby and not his job.

Interested Parties:

John Wixon, PO Box 361, Owasso, Oklahoma stated that he owns property to the east of the subject tract and is not opposed to the use, but wanted the Board to be aware of the fact that the property is located in a floodplain.

Case No. 1160 (continued)

Protestants:

Joyce Hall, 7833 North 88th East Avenue, Owasso, Oklahoma, informed that she lives northeast of the subject property, and questioned if the proposed use would cause additional flooding in the area. Ms. Hall stated that she is not opposed to private use of the lake, but is not supportive of special events that will generate a lot of noise and traffic. Ms. Hall added that she would be opposed to any expansion of the lake.

Applicant's Rebuttal:

Phyllis Stokely, 4806 South Knoxville, assured the protestant that the size of the lake would prohibit the use of more than one boat. She stated that the lake has already been expanded, and further expansion is not proposed.

Additional Comments:

Mr. Tyndall inquired as to the size of the lake, and the applicant stated that it is 2000' long and 250' wide.

Mr. Glenn informed that there is a portion of the subject tract where development could occur with proper elevation.

Mr. Alberty remarked that he is supportive of the proposed use, with no special events.

Mr. Jones informed that the applicant will be required to provide parking, and platting or a plat waiver will also be required. He added that a site plan will be needed for the platting process.

In regard to signage, Ms. Stokely noted that the 3' by 20' banner has already been prepared, and requested permission to continue to use it. She informed that the banner is tied in the trees that are located on the subject property.

Board Action:

On MOTION of LOONEY, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit intensive recreational use (Use Unit 20) - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 20; subject to the school being limited to 10 students; subject to only boats with inboard motors being used on the lake; subject to no competitive events; subject to signage being limited to the existing banner (3' by 20'); subject to a minimum of 10 parking spaces being provided; subject to a subdivision plat being filed on the property, or a waiver of plat being acquired; finding that a large portion of

Case No. 1160 (continued)

the land is located in a floodplain; and finding the use, per conditions, to be compatible with the area, and in harmony with the spirit and intent of the Code; on the following described property:

E/2 NW/4 less the NE/4, NE/4, NW/4, Section 36, T-21-N, R-13-E, Tulsa County, Oklahoma.

Case No. 1161

Action Requested:

Variance to permit two dwelling units on one lot of record, and a variance of the minimum land area per dwelling unit - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD and Section 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6 and 9, located 4615 South 81st West Avenue.

Presentation:

The applicant, **Jim Saldeen**, 4615 South 81st West Avenue, stated that his mother, daughter and grandchildren have moved into his home and he is in need of addition living space. He requested permission to install a mobile home on his property until the construction of two rooms is completed.

Comments and Questions:

Mr. Alberty informed that the Sand Springs Board of Adjustment (Exhibit K-1) voted 4-0-0 to approve the application, per conditions.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 3-2-0 (Eller, Tyndall, Walker, "aye"; Alberty, Looney "nay"; no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit two dwelling units on one lot of record for **five** years only, and a **variance** of the minimum land area per dwelling unit - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD and Section 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6; per plan submitted; subject to Health Department approval and a building permit; finding that the temporary use will not cause substantial detriment to the public good, or violate the spirit, purpose and intent of the Code; on the following described property:

South 170.21' north 340.29' W/2 Government Lots 3 and 4, less west 24.75' for road, Section 30, T-19-N, R-12-E, Tulsa County, Oklahoma.

Case No. 1162

Action Requested:

Variance of the required frontage on a public street or dedicated right-of-way from 30' to 0' - **Section 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 1.5 miles north of Highway 51 and East Coyote Trail.

Presentation:

The applicant, **Jim Coleman**, Box 351, Mannford, Oklahoma, informed that he is creating a subdivision on a 10-acre tract located on a dedicated County road that is not maintained by the County. He explained that the existing road is gravel, and a 24.75' road with a hard surface would be required to comply with County specifications.

Comments and Questions:

In response to Mr. Alberty, the applicant stated that he is dedicating an additional 5.25' of his land to make a standard 60' section line.

Mr. Alberty asked if the County Engineer is in agreement with the application, and he answered in the affirmative.

Protestants:

None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required frontage on a public street or dedicated right-of-way from 30' to 0' - **Section 207. STREET FRONTAGE REQUIRED** - Use Unit 6; per plan submitted; finding that the County section line is a dedicated road, but is not maintained by the County; on the following described property:

A tract of land in the NE/4 NE/4 of Section 7, T-19-N, R-10-E, Tulsa County, Oklahoma, more particularly described as follows: Beginning at the NE/c of NW/4 NE/4 NE/4 of said Section 7, thence S45°03'01"W a distance of 650.15' to a point, thence N89°52'18"W a distance of 717.60' to a point, thence north a distance of 460.35' to the north line of the said Section 7, also known as W. 11th St. S., thence S89°52'18"E a distance of 1176.7 to the POB, Tulsa County, Oklahoma.

Case No. 1163

Action Requested:

Use Variance to permit Use Unit 3, Agriculture (raising emus) in an RS zoned district - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 6, located 12816 East 131st Street South.

Presentation:

The applicant, **Fred McMillan**, 12616 East 131st Street, Broken Arrow, Oklahoma, requested permission to raise two pair of emus on his property. He explained that he has a large lot in an RS zoned area, and the birds would be compatible with surrounding agricultural uses. Mr. McMillan pointed out that the area has residential developments, but is basically agricultural in nature. He informed that the birds are not noisy, do not fly and are not dangerous.

Comments and Questions:

In response to Mr. Alberty, the applicant stated that the birds are used for pets and are grown for food. He informed that his intent is to hatch the eggs and sell the young birds.

Mr. Alberty asked if the birds will be caged, and he answered in the affirmative.

A petition of support (Exhibit D-1) was submitted, and numerous nearby property owners were in attendance to support the request.

Mr. Glenn informed that the curator of the Tulsa Zoo advised his department that the emus are not considered to be dangerous birds, and that he does not feel they should be classified in the same category with an ostrich or cassowary. He requested that the raising of ostriches and cassowaries be restricted.

Protestants:

None.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Use Variance** to permit Use Unit 3, Agriculture (raising emus) in an RS zoned district - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 6; per plan submitted; subject to two pair of adult emus only; subject to no ostriches or cassowaries; finding that the property was previously zoned AG and, although there are some residential developments in the area, the character of the land remains agricultural; and finding that the

Case No. 1163 (continued)

birds are not dangerous and the use will not be detrimental to the neighborhood; on the following described property:

Tract B west 200' of east 495' of north 595' N/2, NE/4 less north and south 25' for roads, Section 18, T-17-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1164

Action Requested:

Variance to permit two dwelling units per one lot of record, and a variance of the land area per dwelling unit - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD and Section 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6 and 9, located 1564 East 156th Street North.

Presentation:

The applicant, **Russell Swayne**, 1564 East 156th Street North, Skiatook, Oklahoma, 74070, informed that he owns two 2½-acre tracts of land, and requested permission to install a new mobile home for his dwelling and retain an existing mobile for rental purposes. He pointed out that, although both mobiles are on one tract, the rental unit is just across the fence from the vacant 2½ acres. The applicant noted that a creek runs through the property, which restricts development on the land. A plot plan (Exhibit E-1) was submitted.

Comments and Questions:

Mr. Walker inquired as to the use of the adjoining 2½ acres, and Mr. Swayne replied that he has a few cows on the vacant property.

It was the consensus of the Board that the applicant has sufficient acreage to accommodate two dwelling units, and that the second unit would be permitted by right if it was located 40' to the west of the current location.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit two dwelling units per one lot of record for a period of 10 years only, and a variance of the land area per dwelling unit - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD and Section 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6 and 9; per plan submitted; subject to Health Department approval and a building permit; finding a hardship demonstrated by the existing creek, and the fact that the

Case No. 1164

applicant owns the abutting vacant tract to the west; and finding the mobile unit would be permitted by right if located 40' to the west; on the following described property:

Beginning at the NE/c, NE/4, NW/4 thence west 208.34' south 523' east 208.34' north 523', Section 19, T-22-N, R-13-E, Tulsa County, Oklahoma.

Case No. 1165

Action Requested:

Special Exception to increase aggregate height limitation for an antenna from 60' to 180' - **Section 220.C.3.c. HEIGHT EXCEPTIONS** - Use Unit 4, located 22222 West 22nd Street.

Presentation:

The applicant, **Cellular One**, 5509 North Pennsylvania, Oklahoma City, Oklahoma, 73112, was represented by **Ron Ripper**, who requested permission to install a monopole tower on the subject property. He explained that the proposed location is not near residential development and would not have a detrimental impact on area. A plat of survey (Exhibit F-1) was submitted.

Comments and Questions:

In response to Mr. Alberty, Mr. Ripper stated that the tower will be 300' from the highway or abutting property.

Protestants:

None.

Board Action:

On **MOTION** of **ELLER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to increase aggregate height limitation for an antenna from 60' to 180' - **Section 220.C.3.c. HEIGHT EXCEPTIONS** - Use Unit 4; per survey submitted, and all applicable County requirements; finding the use to be compatible with the area; on the following described property:

W/2, W/2, NE/4, NW/4 and E/2, NE/4, NE/4, NW/4, NW/4, and NE/4, SE/4, NW/4, NW/4, lying south of highway, Section 15, T-19-N, R-10-E, Tulsa County, Oklahoma.

Case No. 1166

Action Requested:

Special Exception to permit an existing school in an AG zoned district - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 5, located 3100 East 201st Street South.

Presentation:

The applicant, **Imel and Graber Architects**, 5200 South Harvard, was represented by **David Martin**, superintendent of Liberty School. He informed that the school was initially constructed in 1917, and a remodeling project is proposed, which will add two classrooms and a new cafeteria.

Comments and Questions:

In response to Mr. Alberty, Mr. Martin informed that the school is a nonconforming use and has not been previously approved at this location.

Protestants:

None.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit an existing school in an AG zoned district - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 5; per plan submitted; finding that the school has been at the current location for many years, and the proposed addition will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

A tract of land in the SW4 of Section 8, T-16-N, R-13-E, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof, more particularly described as follows to-wit: Beginning at the SE/c of said SW4 of Section 8, thence along the following courses and distances: N0°04'21.3"W a distance of 1,540.00', N89°52'44.3"W a distance of 880.00', S0°04'21.3"E a distance of 880.00', S89°52'44.3"E a distance of 25.00', S0°04'21.3"E a distance of 25.00", N89°52'44.3"W a distance of 260.00', S0°04'21.3"E a distance of 635.00' to a point on the south line of said section 8, thence S89°52'44.3"E a distance of 1,115.00' to the POB, Tulsa County, Oklahoma.

Case No. 1167

Action Requested:

Variance of the required frontage on a dedicated street or right-of-way from 30' to 0' to permit the construction of a single-family residence - **Section 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located south and east of the southeast corner of South 129th East Avenue and East 181st Street. South.

Presentation:

The applicant, **Paul Clayton**, 908 North Ivy, Jenks, Oklahoma, stated that he is proposing to purchase and construct a dwelling on the property in question. He informed that the land is accessed by a perpetual easement. He informed that the property is approximately 400' from 132nd East Avenue, which is maintained by the City of Bixby.

Comments and Questions:

Mr. Alberty asked if the easement is recorded, and Mr. Clayton stated that this will have to be determined before the closing date.

Mr. Alberty asked if the property to the north is located in a floodplain, and the applicant stated that a creek runs through the area and crosses his property.

In response to Mr. Alberty, Mr. Glenn informed that the 20 acres in question is a part of a 40-acre tract.

Interested Parties:

Allen Locke, 13222 East 183rd Circle, Bixby, Oklahoma, stated that his lot abuts the subject property to the north, which is a portion of a 320-acre parcel of land. He explained that the access to the property was totally wooded until approximately six months ago when it was cleared to auction the land. Mr. Locke stated that he is supportive of development on the property, but would like to see it developed properly. He informed that utilities are not available to serve the subject tract.

Additional Comments:

In response to Mr. Alberty, Mr. Jones informed that the property can be split, but the owners will not be issued a building permits if the lots do not comply with Code requirements.

Mr. Alberty advised that the owner of the lands appears to be subdividing his land without going through the proper process.

Case No. 1167 (continued)

Board Action:

On MOTION of LOONEY, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a Variance of the required frontage on a dedicated street or right-of-way from 30' to 0' to permit the construction of a single-family residence - **Section 207. STREET FRONTAGE REQUIRED** - Use Unit 6; finding that the applicant failed to present a hardship that would warrant the granting of a variance; on the following described property:

E/2, SE/4, NW/4, Section 4, T-16-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1168

Action Requested:

Variance of the maximum square footage for a sign from 32 sq ft to 80 sq ft - **Section 402.2.C.(2) - Accessory Use Conditions, Signs** - Use Unit 5, located 4920 West Easton.

Presentation:

The applicant, **Gus Talburt**, 4720 West 8th Street, submitted a sign plan (Exhibit H-1) and stated that the name of the church has been changed, and a new sign is being installed. He explained that a larger sign is requested to assure visibility from the expressway, and direct motorists to the church. Photographs (Exhibit H-2) were submitted.

Comments and Questions:

In response to Mr. Alberty, the applicant stated that the new sign will be on the southwest corner of the church property.

Mr. Alberty asked if there is a sign currently on the property, and the applicant stated that there is a small sign that was in place when the building was purchased.

Mr. Alberty noted that the case report and notification to surrounding property owners states that the sign is 80 sq ft; however, the actual size, per the submitted plan, is 160 sq ft.

Mr. Talburt stated that he is willing to take the risk that the installation of the sign will not be contested, and asked the Board to approve the 160 sq ft sign.

Mr. Jones informed that the church was constructed on the interior of a neighborhood approximately 40 years ago, and has poor access and visibility. He pointed out that the location would not be favorably considered for church

Case No. 1168 (continued)

use under current zoning, because of the interior location, limited access and visibility. Mr. Jones advised that these existing conditions could be considered as a hardship.

Protestants:

Dessie Buckner, 4915 West Easton, stated that she is not opposed to the church, but is opposed to the location of the sign. She pointed out that the large billboard type sign will be visible from the front of her home.

Applicant's Rebuttal:

Mr. Talburt pointed out that the sign will be installed at an angle, and Ms. Buckner will be viewing the side and not the face of the sign.

In response to Mr. Alberty, the applicant stated that the church is proposing to retain the three existing signs.

Mr. Glenn informed that the church has frontage on three streets, and would be permitted three signs by right.

Board Action:

On MOTION of ELLER, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** to **Variance** of the maximum square footage for a sign from 32 sq ft to 80 sq ft - **Section 402.2.C.(2) - Accessory Use Conditions, Signs** - Use Unit 5; per sign plan submitted; finding a hardship demonstrated by the interior location of the church, and the fact that the church property abuts the expressway; 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:

Part of Government Lot 1, Beginning 542.7' south and 330.5' southwest NE/c, NE/4, thence west 305.8', south 113.25', east 305.72', north 116.3', Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:16 p.m.

Date Approved

July 20, 1993
Wayne Alberty
Chairman