

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 247
Tuesday, December 19, 2000, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty
Tyndall
Walker, Chair
Dillard
Looney

Butler
Fernandez

West, Zoning

The notice and agenda of said meeting were posted in the Office of INCOG, 201 W. 5th St., Suite 600, Thursday, December 14, 2000 at 9:50 a.m., as well as at the City Clerk's office, City Hall.

After declaring a quorum present, Chair Walker called the meeting to order at 1:32 p.m.

MINUTES:

On **MOTION** of Tyndall, the Board voted 5-0-0 (Alberty, Dillard, Walker, Looney, Tyndall "aye"; no "nays", no "abstentions"; no "absences") to **APPROVE** the Minutes of November 21, 2000 (No. 246).

UNFINISHED BUSINESS

Case No.1787

Action Requested:

Variance of required 30' street frontage to 0' for lot split. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 3/6, located E of NE/c E. 66th St. N. & 129th E. Ave.

Presentation:

David Charney, 202 S. Cedar, Owasso, OK, stated he was the attorney for the property owner, Bradley McWilliams. He stated his client is in his twenties and wheelchair bound. Mr. Charney stated that since the last hearing he has discussed the issues of this case with the City of Owasso regarding 30' easement, turn-around, gravel road. He stated that he obtained agreement with the City of Owasso for these items. He added that he has received no protests to the

Case No. 1787 (continued)

application from any of the neighbors. He stated that the hardship is that without the lot split the client cannot convey or mortgage the four-acre tract.

Comments and Questions:

Mr. Alberty asked if the client owned the tracts to the east. Mr. Charney replied that Mr. McWilliams did at one time own them, but not now. Mr. Looney asked if the right-of-way narrows at the end of Tract 2 to 20'. Mr. Charney responded that it does. Mr. Looney asked if the applicant was going to meet the request of the City of Owasso to increase the right-of-way to 30'. Mr. Charney stated that he would commit for the record, that if the City of Owasso requires 30' all the way back to Tract 1, then they will get an extra 10', and if their concern was only at the point of frontage his client would prefer to leave it as it is. Mr. Charney stated that whatever the City says, the applicant would be willing to accommodate.

Interested Parties:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required 30' street frontage to 0' for lot split, as applied for and subject to the conditions imposed by the City of Owasso, with the applicant being responsible to clarify point one (30' access easement), finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

The E/2 of the SW/4 SW/4 less and except the E 331.00' and less the S 790' thereof, in Section 33, T-21-N, R-14-E of the IBM, Tulsa County, State of Oklahoma.

Case No. 1797

Action Requested:

Special Exception to permit auto sales in a CS district; a Variance of screening requirement. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS; and a Variance to permit open-air storage of merchandise offered for sale within 300' of an R district. SECTION 1217.3. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions, located 6841 N. Peoria.

Presentation:

Bob Hennessey, 6841 N. Peoria, stated he and his wife are the owners of the property. He stated that there have been different businesses on the property for 50+ years. He described their desire to have a car lot and to live on the property in a structure identified as a storage building.

Comments and Questions:

Mr. Walker asked the applicant what the open-air storage would be. Mr. Hennessey responded that the only outside storage would be cars for sale. Mr. West, the Zoning Officer informed the applicant that the structure where he proposes to live is zoned CS and does not permit residential. Mr. West stated that where he is now living is zoned CS and considered a non-conforming use and a residence is not allowed. Ms. Fernandez stated that the application was only for the commercial use of the property as was the site plan. It was not advertised for a residential use. Mr. Dillard asked about the number of cars he plans to have on the lot for sale. Mr. Hennessey replied he planned for eight cars at a time. Mr. Dillard inquired about the size of the lot, the number of structures and number of cars for sale on the property. The applicant responded that the property consists of one acre. Mr. Walker noted that the application indicated six cars. Mr. Hennessey responded that he would be agreeable to that number. Mr. Alberty stated the requirement for screening fence on the east and south. He added that the applicant had not addressed that. The applicant responded that he was agreeable to put up a screening fence.

Interested Parties:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit auto sales in a CS district; and a **Variance** to permit the display of six automobiles only, offered for sale, within 300' of an R district, on condition that it be limited to display of six automobiles at any one time, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and to **CONTINUE** Case No. 1797 to the hearing on January 16, 2001, to re-advertise for necessary relief for residential use, on the following described property:

The N 53' of the N 80' of Lot 7 and the S 27' of the N 80' of Lot 7 and the N 120' of the S 220' of Lot 7, all in Block 10, Golden Hill Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No.1798

Action Requested:

Special Exception to AG zone: Use Unit 20, Commercial Recreation – Intensive: Paintball Field. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 20; a Variance to permit 75 paved parking spaces; and an Appeal of Administrative Official's Notice to stop and remove all

Case No. 1798 (continued)

business activity and related equipment dated October 16, 2000, located 12919 N. 110th E. Ave.

Presentation:

Ms. Fernandez stated that a request was made for a Continuance until January 16, 2001 for Case No. 1798. She added that technically the legal description would include more property than what was advertised.

Interested Parties:

The interested parties that were present did not have an objection to the Continuance.

Board Action:

On **MOTION** of **Looney**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 1798 to the next hearing on January 16, 2001.

Case No. 1799

Action Requested:

Special Exception to permit a mobile home in an RS district; and a Variance of Section 208, one single-family dwelling per lot to permit two dwelling units. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 9, located 5300 W. 29th St.

Presentation:

Ty Inman (no address given) stated that he was speaking for his daughter, Jill Akin. He stated that he owns the land adjacent to the subject property. He has planned to clear off the subject property and build a house and in the mean time place a mobile home there for up to three years. He added that the land belongs to his mother-in-law, and a septic and utilities are there from a previous mobile home. The mobile home would be a second dwelling unit on the same lot of record. Mr. Inman expressed desire to keep the extended families close together on the lots, without changing ownership.

Comments and Questions:

Mr. Walker asked about the hardship. Mr. Alberty stated the lots were large enough to permit the density of more than two dwelling units on one lot of record, but it appears they want to keep the legal description intact.

Interested Parties:

None.

Case No. 1799 (continued)

Board Action:

On **MOTION** of **Looney**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a mobile home in an RS district; and a **Variance** of Section 208, one single-family dwelling per lot to permit two dwelling units, for a period of three years, to allow for clearing the land to construct a stick built home, finding the hardship that the size of the land is adequate for two dwelling units and the conditions for required permits, tie-downs, and skirting, on the following described property:

W/2 SW SE & SW NW SE, less N 100' SW NW SE SE, Section 17, T-19-N, R-12-E, Tulsa County, State of Oklahoma.

Case No. 1800

Action Requested:

Special Exception to allow fireworks stands in a CH zoned district and to allow them for 20 years at this location. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2, located 5522 W. Skelly Dr.

Presentation:

Lonnie Bassey, 4732 S. Columbia Pl., stated he came as an associate of William Manley for the request of a Special Exception to allow the sale of fireworks on the subject property. Mr. Manley purchased the property in 1980 with the intent to sell fireworks at that location.

Comments and Questions:

Mr. Alberty asked about the previous use of the property. Mr. Bassey replied that currently there is a billboard, and it has been leased to a trucking firm to park semi-trailers. Mr. Alberty asked if there were gasoline sales adjoining the property. Mr. Bassey replied there was not. Mr. Walker asked where the applicant's main warehouse facility was located. He replied that it was across the street. Mr. Alberty asked if the plan was to place three stands on the property as per the site plan. He replied in the affirmative.

Interested Parties:

John Moody, 7146 S. Canton, stated he represented John Ellsworth, the owner of the Oklahoma Truck Supply Company. This company is located at 5526 S. 48th W. Ave., directly west of the subject property. Mr. Ellsworth has concerns that the three temporary structures, which are on the property, obstruct the view, and could be there for as much as twenty years. Mr. Moody stated that he understands the property is zoned CH and other structures could be constructed there. He noted that these temporary structures are only allowed to be open for limited periods of

Case No. 1800 (continued)

time per year. He asked if the approval could be limited to one year with a re-evaluation at that time. He added that they do not believe it is appropriate to allow an open-air activity of this type to be approved for twenty years. He stated their concern that it could prejudice other planning for redevelopment for commercial and industrial uses in the area. Mr. Moody stated that they also request that it only be allowed to be open for the thirty days and that there be no more than one of these structures on the property. He continued that they consider it inappropriate to store such structures on this property, because of the problem with transients occupying them.

Richard Record, 5522 W. Skelly Dr., stated that he owns the property across the street from the subject property. He pointed out that his own address was the address used on the agenda for the subject property. He stated his protest of the application for temporary structures to be placed on a permanent basis at this location, and because of the transients trying to occupy them. He also stated concern that they may be used to store fireworks. Mr. Record commented that there is not enough room for parking for that many stands.

Applicant's Rebuttal:

Mr. Bassegy stated that the semi-trailers obstruct the view as much as the fireworks stands. He pointed out that the area is zoned heavy commercial and industrial.

Comments and Questions:

Mr. Alberty asked if the applicant intended to sell fireworks all year round. He replied that they plan to sell during the dates allowed by the state, and would not be used for storage. Mr. Alberty asked if the applicant wanted to make any other statements in response to the protests. Mr. Bassegy declined.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow fireworks stands in a CH zoned district for a period of three years and the three stands requested be permitted on the site only during the time of sales, for the two periods in June and December as permitted by State law, and other than those times only one stand would be permitted to remain on the site, on the following described property:

Lots 15, 16, and 17, Block 6, Opportunity Heights Addition as platted in Section 33. T-19-N, R-12-E, Tulsa County, State of Oklahoma, less and except that portion of said lots taken by the State of Oklahoma as described in Deed dated March 10, 1979, recorded in Book 3926, page 29, County Clerk's office, Tulsa County, State of Oklahoma, and in Deed dated March 10, 1970, recorded in Book 3926, page 31, County Clerk's Office, Tulsa County, State of Oklahoma, and Deed dated

Case No. 1800 (continued)

March 9, 1970, recorded in Book 3926, Page 33, County Clerk's Office, Tulsa County, State of Oklahoma.

Case No. 1801

Action Requested:

Special Exception to permit a home occupation in an AG district. SECTION 320.1. ACCESSORY USES IN AGRICULTURAL DISTRICTS, Accessory Uses Permitted – Use Unit 6, located 3131 W. 111th E. Ave.

Presentation:

Jessie Ghere, 3131 W. 111th, stated that she teaches art and would like to give lessons and have a studio in her home.

Comments and Questions:

Mr. Walker asked if there was a room set aside for this use. Ms. Ghere replied that her house burned down, and she has a large room in the building plans for the art studio. She added that she would also have a large u-shaped driveway for parking, and classes would be limited to five students. Mr. Walker asked if she would have a sign. She replied that she would have a small sign by the house.

Interested Parties:

None.

Board Action:

On **MOTION** of **Looney**, the Board voted 5-0-0 (Walker, Alberty, Tyndali, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a home occupation in an AG district, 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:

Beg. 1163.41' E, SW/c SW; thence N 820' E 398.42' S 820' W 398.42' to POB, Section 27, T-18-N, R-12-E, Tulsa County, State of Oklahoma.

Case No. 1802

Action Requested:

Variance to allow two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6; and a Variance to lot area of two acres and land area of 2.2 acres per dwelling unit, located N of NE/c E. 86th St. N. & Harvard.

Case No. 1802 (continued)

Presentation:

Mike Woods, 9200 N. Harvard, stated his request.

Comments and Questions:

Mr. Looney asked about the hardship. Mr. Woods stated that they desire to keep land intact under the current ownership.

Interested Parties:

Mary Bebout, 9033 N. Harvard, stated that she and her husband own the land and they own the land adjacent to the subject property. They have no plans for other dwellings on the property.

Sharita Shatwell, P.O. Box 75, Owasso, stated she owns the property to the south, southeast and north of this property. She stated that according to records at the county courthouse, the property was only 2.504 acres. Ms. Shatwell stated her complaint that she didn't want too many neighbors. She added that too many people around would cause her stock to be less productive. She objected because there is already a tank battery, a residence, storage building, pole barn, and a pump jack on the 2.5 acres. She stated that according to Terry Graham of the Oklahoma Corporation Commission, no dwelling or building is supposed to be built within 200' of the tank battery or the pump jack.

Comments and Questions:

Mr. Alberty asked if there was an operating well. She replied in the affirmative. Mr. Alberty asked Mr. West if subdivision regulations require a 200' radius of an active oil well. Mr. West stated the guideline that a residence is not permitted in a radius of 200' of an oil well that has not been plugged per confirmation by the Corporation Commission.

Applicant's Rebuttal:

Mr. Woods submitted photographs to the Board. Mr. Woods questioned Ms. Shatwell's objection to crowding when she has two dwellings on her property and runs a business on her property. He stated that he was not sure if the oil well was plugged. He asked the Board about continuing the case.

Comments and Questions:

Mr. Looney informed the applicant that if his property is 2.5 acres, he would need a hardship variance that runs with the land in order for the Board to approve his application. Mr. Alberty asked the applicant if he was requesting a Continuance. Mr. Woods replied that was correct so he could research the plugging of the oil well.

Mr. Alberty asked about the business being operated that Mr. Woods mentioned. He asked if it was the same business that was denied by this Board previously.

Case No. 1802 (continued)

Mr. Woods responded that it was the same business, and though they have moved the vans, the vans still frequent there and the house is still used as the office.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case 1802 to the next hearing on January 16, 2001.

Mr. Alberty requested the County Inspector to investigate Case No. 1742, for possible violation.

Case No. 1803

Action Requested:

Special Exception to permit mining and quarry of sand and gravel in an AG district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24, located W side of 129th E. Ave., S of 141st St. S.

Presentation:

Ms. Fernandez informed the Board that she spoke with the planner in Broken Arrow. This was a referral case and they had the information that is before this Board. They expressed no concerns regarding this application.

Frank Watkins, Box 252, Bixby, OK, stated his application for mining in an AG district. He introduced **Terry Fox**, an engineer and geologist with Triad Environmental Services to present the application.

Mr. Fox, P.O. Box 1507, Pittsburg, KS, 66762, described this mining process in this location as a renewable resource. He described the plans, which would not disturb the flood zone elevations, nor remove any trees. They met with the County Building Inspector to prepare the mining permit application. They planned for a 100' drive to keep down dust from the traffic. He stated that the U.S. Fish and Wildlife Department was agreeable to the application and requested that they leave a few little islands when they are through developing because it works well for tern nesting areas.

Interested Parties:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special Exception*** to permit mining and quarry of sand and gravel in an AG district, as presented, on the following described property:

Case No. 1803 (continued)

The NW/4 NW/4 W/2 NE/4 NW/4 W 20 acres of Lot 2, and the E/2 SE/4 NE/4 NW/4, and W/2 E/2 NE/4 NW/4 and the W 10 acres of the E 20.90 acres of Lot 2, of Section 16, T-17-N, R-14-E of the IBM, in Tulsa County, State of Oklahoma.

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Case No. 1804

Action Requested:

Variance from requirement that any lot used for residential purposes must have at least 30' of frontage on a public street or dedicated right-of-way. SECTION 207. STREET FRONTAGE REQUIRED, located ½ mile N of E. 156th St. N., W side Memorial.

Presentation:

Beth Langston, 301 S. 22nd, Collinsville, OK, stated she owns 40 acres and desires to divide into three lots. The hardship would be the size of the property, the existing creek, and an existing access easement.

Interested Parties:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** from requirement that any lot used for residential purposes must have at least 30' of frontage on a public street or dedicated right-of-way, finding the hardship to be the size of the tract, the flood plain restricting development potential, and an existing access easement for which the County has no responsibility for maintenance, on the following described property:

W/2, SE/4, NE/4, Section 14, T-22-N, R-13-E, Tulsa County, State of Oklahoma.

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Case No. 1805

Action Requested:

Variance of the required 30' frontage on a public street to 0' to construct a dwelling. SECTION 207. STREET FRONTAGE REQUIRED, located N & E of NE/c E. 166th St. N. & Peoria.

Case No. 1805 (continued)

Presentation:

Joel McCrary, 418 E. Elm, Skiatook, OK, stated he desires to build a permanent structure on the subject property. He stated that the property is accessible by an easement that has been given to the public for utilities, and not maintained by the county. He submitted photographs of the 33' wide access from 168th Street North and the gate to his property from the existing road.

Comments and Questions:

Mr. Walker asked if the existing easement is already in use. The applicant replied in the affirmative.

Interested Parties:

None.

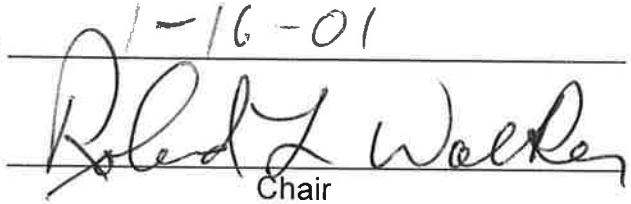
Board Action:

On **MOTION** of **Dillard**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required 30' frontage on a public street to 0' to construct a dwelling, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

North and east of northeast corner East 166th Street North and Peoria. Legal Description: SE/4 SW/4 NE/4 of Section 7, T-22-N, R-13-E of the IBM, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 3:02 p.m.

Date approved:

1-16-01

Chair