

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 256
Tuesday, September 18, 2001, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty, Chair	Hutson	Butler	West, Co. Inspections
Tyndall		Fernandez	
Walker			
Dillard, Vice Chair			

The notice and agenda of said meeting were posted in the Office of INCOG, 201 W. 5th St., Suite 600, Wednesday, September 12, 2001 at 2:30 p.m., as well as at the City Clerk's office, City Hall.

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

MINUTES:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall, "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** the Minutes of August 21, 2001 (No. 255).

UNFINISHED BUSINESS

Case No. 1897

Action Requested:

Variance of Section 207 requirement for frontage on a public street on a lot used for residential purposes from the required 30' to 0'. SECTION 207. STREET FRONTAGE REQUIRED -- Use Unit 6, located 2700 W. 181st St. S.

Presentation:

Edward Allphin, P.O. Box 216, Bixby, Oklahoma, proposes to construct a new home on the subject property. He stated that they have a 30' easement deeded by the property owners involved. He added that it would be a privately maintained road. He stated that the property would remain a ten-acre tract.

Comments and Questions:

Mr. Alberty asked Mrs. Fernandez for confirmation of the easement. Mrs. Fernandez replied that it was a roadway/utility easement, and the County Engineer has not verified it yet. Mr. Alberty asked the applicant if it has been filed of record. Mr. Allphin replied that he was sure it had because it was included in the abstract. Mr. Alberty asked if it stops at the north part of the ten-acre tract or proceeds through the ten acres. Mr. Allphin responded that it stops at the south end of Tract 2.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall, "aye"; no "nays", no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of Section 207 requirement for frontage on a public street on a lot used for residential purposes from the required 30' to 0', finding they have a 30' easement as per presentation, on the following described property:

N 1328' E 660.47', Govt. Lot 3, less N 660', Section 3, T-16-N, R-12-E, Tulsa County, State of Oklahoma.

Case No. 1898

Action Requested:

An extension of the following for one year: Special Exception to allow a church and accessory church uses (View Acres Baptist Church). SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS -- Use Unit 5; a Variance to allow existing church parking in the required front yard. SECTION 1205.3.a.2. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Use Conditions; SECTION 1330.B. SETBACKS; a Variance of setback from South 65th West Avenue from 85' to 73' to line up with existing encroaching building. SECTION 430.1. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, and RM Districts; a Special Exception of required screening fence for off-street parking areas on lot line in common with an R district. SECTION 1340.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS; and a Variance requiring off-street parking to be located on the lot containing the use. SECTION 1320.D. GENERAL REQUIREMENTS, located 2327 S. 65th W. Ave.

Presentation:

Mr. Alberty confirmed with Mrs. Fernandez that the extension requested is because they did not act on the previous Board approval in the allotted time.

Clint Ragland, 755 W. New Orleans, Broken Arrow, Oklahoma, stated that they had several complications that interrupted the processes in preparation for construction.

Interested Parties:

Don Corbly, Melinda View, Texas, stated he was speaking for his mother Faye Corbly, 2360 S. 63rd W. Ave. He stated that his mother owns the property that abuts the east boundary of the church property. He and his sisters have joint ownership subject to survivorship. He submitted an affidavit of general warranty deed and ownership (Exhibit A-1) and photographs (Exhibit A-2) to the Board. He described erosion of the land by development of the church property, which has exposed gas lines and the utility easement across the back of the property. He stated that the grading of the church parking lot has raised the elevation of their property by two to two and one-half feet at the far north corner of Ms. Corbly's property. He indicated that the parking lot has eroded and crumbled against her fence, causing damage and further water erosion. He added that moderate rains now flood her property and make it unusable. He stated that a tree on the church property fell across her fence and damaged it. He informed the Board that the church was informed of the damage and they did nothing to repair the damage. He stated that they placed some plastic film on stakes to deter the erosion. He requested that the work under this permit be stopped until they repair the damage they have already caused. He also asked that the church build a retaining wall to prevent further water drainage onto Ms. Corbly's property and repair of the fence before any other work proceeds.

Comments and Questions:

Mr. Alberty asked Mr. West, County Inspector, if he could revisit the permit regarding these complaints, and add conditions to correct the problems. Mr. West responded that they have addressed the water run-off problem and recommended a detention box. He stated they could review it further. Mr. Corbly expressed concern that during the time they are waiting for the construction to begin, more damage will be done when it rains.

Interested Parties:

Michael Conner, 755 W. New Orleans, Broken Arrow, Oklahoma, the construction manager, stated he represented Ragland Architects. He stated that they have identified civil and architectural documents to alleviate all known problems. He added that this is the first he has heard these complaints. Mr. Alberty asked if Mr. Conner would be willing to meet with the property owners to work out an agreement to alleviate the problems. Mr. Conner replied that he would anticipate that Mr. Ragland, the owner of his firm, and other representatives would meet with them as soon as tomorrow if needed.

Comments and Questions:

Mr. Walker asked Mr. Ragland if the property owners have made any requests or called these problems to his attention. Mr. Ragland replied that they have not

contacted him. He stated that they would like to correct these problems now that they know about them.

Robert Cannon, 4010 S. 68th W. Ct., stated he is pastor of the church. He stated that he was unaware of the fallen tree and the fence. He added that they did have one tree that fell immediately at the back part, and a committee took care of it right away. He informed the Board that they would be glad to work with the neighbors any way they can. He indicated they are preparing a plan to prevent erosion by water.

Mr. Corbly stated that his nephew spoke with Mr. Ragland one year ago at a County Board of Adjustment meeting and at the church property regarding the fallen tree, damaged fence and erosion. The applicant has never contacted his family about these problems. He does not object to the applicant's project, as long as his family's property is restored to the original condition.

Mr. Ragland stated that Mr. Corbly may have him confused with the first architect whose name is Ragsdale.

Mr. Alberty explained the boundaries of the Board's authority in such cases.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** an ***extension of the following for one year. a Special Exception*** to allow a church and accessory church uses (View Acres Baptist Church); a ***Variance*** to allow existing church parking in the required front yard; ***Variance*** of setback from South 65th West Avenue from 85' to 73' to line up with existing encroaching building; a ***Special Exception*** of required screening fence for off-street parking areas on lot line in common with an R district; and a ***Variance*** requiring off-street parking to be located on the lot containing the use, 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

Case No. 1899

Action Requested:

Variance of the required 200' lot width to 185.46' and 145.00'. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS -- Use Unit 6, located W of NW/c E. 141st St. & S. 193rd E. Ave.

Presentation:

Keith E. Millis, 130 W. Laredo Pl., Broken Arrow, Oklahoma, stated they have a five-acre tract from the original 40 acres owned by his wife's parents. Their son

proposes to build a home on this tract. He was unclear as to why the City of Broken Arrow objected to his request.

Comments and Questions:

Mr. Alberty explained to Mr. Millis that the City of Broken Arrow is strict regarding variances and they prefer the applicant seek a zoning change. Mr. Millis reminded the Board that they approved a lot split on a portion of this property for David and Michael Kerr. Mr. Millis added that all the neighbors around this tract are part of their family.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of the required 200' lot width to 185.46' and 145.00', finding it is a family compound, and they do not wish to change the zoning at this time, on the following described property:

The W/2 SE/4 SW/4 SE/4 of Section 12, T-17-N, R-14-E, Tulsa County, State of Oklahoma.

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Case No. 1900

Action Requested:

Variance of Section 207 to allow a lot with 0' frontage on a public street or dedicated right-of-way in order to permit a lot split. SECTION 207. STREET FRONTAGE REQUIRED -- Use Unit 6; and a Variance of lot width to 116'. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located 5707 S. 161st W. Ave.

Presentation:

Mrs. Fernandez stated that the City of Sand Springs did not hear this case due to lack of quorum. Mrs. Fernandez also explained there would be a lot split, the parcel on the east will have access through the other parcel by a panhandle.

Mary Carter, stated her request. She stated that it would remain family owned property and they plan to eventually build a 2,000 square foot home on the southwest portion. She added she would like to use the small house for a guesthouse and later give it to one of her children.

Interested Parties:

There were no interested parties present who wished to speak.

conditions listed by the Sizemores. Ms. Shroff expressed concern that the mobile home would lower her property value.

Mary Meirs, 14101 W. 17th St., stated her opposition to a mobile home being so close to nice homes.

Applicant's Rebuttal:

Mr. Shawger submitted letters of support (Exhibit C-1) of the application. He indicated that the site for the mobile would be out of view of most neighbors.

Comments and Questions:

Mr. Dillard asked for the size of the subject property. Mr. Shawger replied 2.8 acres. Mr. Walker asked if they could see the mobile from the street. Mr. Shawger replied the mobile would not be very visible from the street. He added that he would be willing to build a screening fence. Mr. Walker asked if he would be agreeable to the conditions the Sizemores listed. Mr. Dillard asked if there was a horse pasture and horse barn on the property behind the subject property. Mr. Shawger replied in the affirmative.

Interested Parties:

Shirley Shroff asked to speak one more time. She stated that she also objected to the horse pasture and barn. She added that the site would be visible from all of the immediate neighbors yards. Mr. Walker asked if it would be more visible than the mobile homes to the north. Ms. Shroff replied that it would not be more visible. Mr. Dillard asked if they purchased their home knowing the mobile homes were there. She replied that her husband purchased the property after the mobiles were moved in.

Mary Jane Meritt, stated they own the property on the dead end of 17th Street. She stated they purchased their home from the owner of the mobile home park, when there were only a few mobiles. They understood that the owner planned to build their own home there. Ms. Meritt stated that it does reduce the value of their home.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** to Section 208 to allow two dwelling units on one lot of record, with conditions for skirting, tie-downs, DEQ approval, building permits, mobile to be placed in area closest to the owner's home and opposite end of neighbor's mutual property line, on temporary basis as long as needed for the parent, not to be rented out to other parties or family, not to be sold as a permanent residence, to be removed when the resident no longer lives there, finding the property is large enough for two dwelling units, on the following described property:

Pt. Gvt. Lot 6, Beg. 1555.01' N and 132.00' E SW/c SW, thence S 274.00' E 398.17' N 274.00' W 398.17' POB, less S 25.00' for road, Section 9, T-19-N, R-11-E Tulsa County, State of Oklahoma.

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Case No. 1902

Action Requested:

Variance from 30' to 0' frontage on public roadway. SECTION 207. STREET FRONTAGE REQUIRED -- Use Unit 3 (6 proposed), located 3700 S. Coyote Trail.

Presentation:

Charles Holladay, 900 OneOk Plaza, stated he was representing the owner of the subject property. The tracts are adjacent to each other and the same facts apply to Case No 1902 and Case No. 1903. He proposes one privately maintained 30' roadway/utility easement to Coyote Trail to access both properties. Mr. Holladay stated that the reason for this location of easement is a course of least resistance with naturally drained area, and would require less clearing. Constructing the road at this location reduces the environmental and aesthetic impact.

Comments and Questions:

Mr. Alberty confirmed with Mr. Holladay that he is familiar with subdivision regulations, and suggested that this could all be accomplished through application for a subdivision plat. Mr. Alberty asked for the total ownership of the client. Mr. Holladay replied that his client has an estate northwest of the subject property, probably most of the west half of this section. He stated that his client does not want to develop the land for homes, and is not skirting the subdivision regulations. Mr. Walker commented that he has seen the developer's sign advertising tracts for sale. He stated that it appears to be a wildcat subdivision. Mr. Walker stated he called this into County Inspections and found that they have already turned him down because he applied for building permits. Mr. Dillard asked Mr. Holladay what the sign says. He replied that he was not sure, but he has seen a sign that says Don Decker Construction.

Interested Parties:

Willa Heitfeld, 3916 S. 65th W. Ave., stated that her property abuts the subject property for Case No. 1903. She expressed concern regarding maintenance of the private road that the applicant proposes. She stated that they purchased their land because they knew the other property was land-locked. She stated that in talking with the newest neighbor that moved a mobile home in, indicated to her that Mr. Decker told him he planned to subdivide the property.

Lynn Sovel, 26909 W. 41st St., stated she lives where 41st St. meets Coyote Trail. She stated they also purchased their land because Mr. Decker's property was land-locked. She stated that the property has deep ravines and is heavily wooded. She indicated that it would have to be cleared and leveled. She stated that it is a

natural waterway and she was concerned about where the water would flow. There is now a lagoon for the mobile home causing added concern.

Applicant's Rebuttal:

Mr. Holladay pointed out that his client could build a house without a subdivision on the property mentioned by the interested parties. He stated that these lots are ten-acre lots, and the fact that his client owns large pieces of property does not mean it is a subdivision.

Comments and Questions:

Mr. Walker asked what land-locked lots Mr. Holladay is referring to. He replied that tract one in case 1902 is land-locked because the section line roadway is not open. Mr. Walker stated that the property is not land-locked until the lot is created. Mr. Holladay agreed. Mr. Alberty stated that it is a subdivision, no matter how many lots are created.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **DENY** a **Variance** from 30' to 0' frontage on public roadway, 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. 1903

Action Requested:

Variance from 30' to 0' frontage on public roadway. SECTION 207. STREET FRONTAGE REQUIRED -- Use Unit 3 (6 proposed), located 3700 S. Coyote Trail.

Comments and Questions:

Mr. Alberty noted that Mr. Holladay requested this case be heard in tandem with the previous case.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **DENY** a **Variance** from 30' to 0' frontage on public roadway, finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.
