

**TULSA COUNTY BOARD OF ADJUSTMENT**

MINUTES of Meeting No. 265  
Tuesday, June 18, 2002, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

Alberty, Chair  
Tyndall  
Walker  
Hutson  
Dillard, Vice Chair

Butler  
Beach

West, Code Inspect.  
Blakely, D.A.

The notice and agenda of said meeting were posted in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600, Friday, June 14, 2002 at 8:16 a.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 **Tyndall**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall, Hutson "aye"; no "nays", no "abstentions"; no "absences") to **APPROVE** the Minutes of May 21, 2002 (No. 264).

\*\*\*\*\*

**NEW APPLICATIONS**

**Case No. 1961**

**Action Requested:**

Special Exception to allow an existing duplex in an RS district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 7, located 1033 N. Valley Dr.

**Presentation:**

**Kelly D. Poulter**, 5801 S. 260<sup>th</sup> W. Pl., Sand Springs, Oklahoma, want to remodel a duplex at the back of the property and provide separate utilities for the duplex. There is a single family dwelling at the front of the property.

**Comments and Questions:**

Mr. Hutson asked when the structures were built. Mr. Poulter replied that the duplex was moved there in 1970. The other house was probably built in the early 1950's or before.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow an existing duplex in an RS district, finding 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 10, Block 24, Charles Page Home Acres, Tulsa County, State of Oklahoma.

\*\*\*\*\*

**Case No. 1962**

**Action Requested:**

Variance of the required lot area from 2 acres to 1.6 acres on Tracts 5 and 6 combined. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6; and a Variance of required land area from 2.1 acres to 1.716 acres, Tracts 5 and 6 combined for a lot-split. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located 815 S. 263<sup>rd</sup> W. Ave.

**Presentation:**

**Virgil Ray Goodman**, Rolling Oaks Box 7, Mannford, Oklahoma, stated he purchased the property in 1994 and obtained a title opinion. There were no problems found. He has since sought to turn the six original lots into four lots by lot splits but there is no record of the lot splits. He has three homes on this property that were built with building permits.

**Comments and Questions:**

Mr. Alberty asked if the deeds exist today. Mr. Goodman replied that the deeds exist. Mr. Alberty surmised that the applicant is asking the Board to approve what has been done. He added that the applicant was under the impression it had been processed properly, but have been informed that he needs to go through the official lot split procedure. Mr. Alberty asked for clarification regarding Tract 5 if it is already tied to Tract 6. Mr. Goodman responded in the affirmative. Mr. Alberty also asked if all the lots have access to Coyote Trail. Mr. Goodman replied that the lots have access to Coyote Trail.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall, Hutson "aye"; no "nays", no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required lot area from 2 acres to 1.6 acres on Tracts 5 and 6 combined; and a **Variance** of required land area from 2.1 acres to 1.716 acres, Tracts 5 and 6 combined for a lot-split, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Tract 5: A tract of land situated in the N/2 S/2 SW/4 NW/4 SE/4 of Section 6, T-19-N, R-10-E being more particularly described as follows: Commencing at the NE/c N/2 S/2 SW/4 NW/4 SE/4, thence N 89°54'57" W along the N line of said N/2 a distance of 120.00' to the POB; thence S 00°00'20" E a distance of 50.00'; thence N 89°54'57" W a distance of 366.52' to a point on the E right-of-way of Coyote Trail; thence N 17°54'28" E along the E right-of-way of Coyote Trail a distance of 52.52', to a point on the N line of said N/2; thence S 89°54'57" E a distance of 350.36' to the POB; Tract 6: Beg. 163.14' E of the SW/c N/2 SW/4 NW/4 SE/4 of Section 6, T-19-N, R-10-E; thence E a distance of 496.86'; thence N a distance of 110.00'; thence W a distance of 462.86'; thence S 17°02' W a distance of 115.03' to the POB, all in Tulsa County, State of Oklahoma.

\*\*\*\*\*.

**Case No. 1963**

**Action Requested:**

Variance of land area per dwelling unit from 2.1 to 1.5 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located 12848 E. 122<sup>nd</sup> St. N.

**Presentation:**

**Lacreta Hill**, 4917 E. Admiral Boulevard, proposes to place a mobile home on her son's property.

**Comments and Questions:**

Mr. Alberty asked Ms. Hill for a hardship for the variance. She replied that there is less than four acres as required by the code. Mr. Alberty noted there are other lots in the area with two dwellings per lot setting a precedent, to which Ms. Hill agreed.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted (5-0-0) (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of land area per dwelling unit from 2.1 to 1.5 acres, finding other properties in the area with more than one dwelling per lot, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

E 198.00' W 462.00' S 660.00' E 660.00' of NE/4, Section 5, T-21-N, R-14-E, of the IBM, less 25.00' for roadway, Tulsa County, State of Oklahoma.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 1964**

**Action Requested:**

Variance of the allowable 750 square feet for accessory building to 1,750 square feet. SECTION 240.2.E. YARDS, Permitted Yard Obstructions – Use Unit 6, located 16723 W. 56<sup>th</sup> Pl. S.

**Presentation:**

**Martha Ann Witt**, 16723 W. 56<sup>th</sup> Pl. S., Sand Springs, Oklahoma, stated the variance is to build a garage with a recreation room. The existing garage is too small for their vehicle. The proposed structure would have two larger garage doors. It would be located 170' off the road. A vehicle was stolen from their property, which is part of the reason for the application. She submitted a photograph (Exhibit A-1).

**Comments and Questions:**

Mr. Alberty asked if they planned any commercial business in the building. **Mr. Arthur G. Witt, III**, of the same address, replied that he is an electrical contractor, and he offices out of his house. He explained that all of his work is done on other sites. He added that he does not keep trucks or equipment at his home. Mr. Witt stated that the building would be for personal use only. Mr. Alberty asked if there are other similar size buildings in the neighborhood. Mr. Witt replied there is one larger building across the street. Mr. Witt noted that the parties present and in objection to the application, do not live on property adjoining his. The owners of the property abutting his are in support of the application.

**Interested Parties:**

Mr. Alberty mentioned the Board received a list of the restrictive covenants (Exhibit A-2) for the neighborhood from unnamed homeowners in Pleasant Oaks Addition.

**Marita Bridges**, 16427 W. 56<sup>th</sup> Pl. S., stated she opposes a metal building because the size is inappropriate in the neighborhood. She pointed out that the other building Mr. Witt referred to is a wood frame and brick building. She stated

that she was not notified about the other metal building in the neighborhood before it was built.

**Rita Hodges**, 17157 W. 58<sup>th</sup> St. S., Sand Springs, Oklahoma, stated this equals a four-car garage. She indicated that tax records show the house on the subject property is about 1793 square feet. The other large building across the street may have been built without a permit.

**Claudia Heller**, 16662 W. 56<sup>th</sup> Pl., Sand Springs, Oklahoma, submitted signatures in opposition (Exhibit A-3). She expressed the same reasons for opposition as previously stated.

**Lora Dale**, 5605 S. 70<sup>th</sup> W., Sand Springs, Oklahoma, stated she and her husband own the property directly behind the subject property. The applicants talked with them ahead of time, and they are in support. She stated there are other problems the neighborhood needs to deal with, rather than this project.

**Applicant's Rebuttal:**

Mr. Witt stated that he has two and a half acres, not just a small lot and he would like to utilize it. He stated it is a metal building, but he would be willing to use a rock façade on the building, like his house. He added that the structure would not be visible to most people. He felt that it would increase rather than lower property values.

**Comments and Questions:**

Mr. Walker commented he could support it with condition for no lot-split and a rock façade. Mr. Hutson asked for the hardship. Mr. Witt stated he has had theft and needs a place to store personal possessions. Mr. Dillard asked what type of roof he planned to use. Mr. Witt responded it would have a metal roof. Ms. Witt asked for more information on hardships. Mr. Alberty explained the need for something unique with the land and the proportional size to the land area. She asked the Board to consider the size and amount of land.

**Board Action:**

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the allowable 750 square feet for accessory building to 1,750 square feet, with conditions for a wood frame or metal construction, with rock veneer, and a composition shingle roof, no exposed metal siding or roofing, and that the lot remain intact and not be split, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Lot 4, Block 1, Oak Haven II Addition, Tulsa County, State of Oklahoma.

\*\*\*\*\*

## Case No. 1965

### Action Requested:

Variance of lot area from required 2 acres to 1.02 acres on Tract A and to 1.01 acres on Tract B. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; and a Variance of land area per dwelling unit from 2.1 acres to 1.14 acre on Tract A and to 1.01 acres on Tract B in an AG zoned district to permit a lot split. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, N of 156<sup>th</sup> St. N. on E side of 104<sup>th</sup> E. Ave.

### Presentation:

**W.D. and Charlotte Roberts**, 15727 N. 104<sup>th</sup> E. Ave., Collinsville, Oklahoma, submitted a map to the Board (Exhibit B-1). Mr. Roberts pointed out the creek that crosses the properties in this area. Lot A has a steep decline to the creek, which has made it difficult to sell. The creek at this point is 20' across and 8' to 12' deep. They now have a buyer, but the buyer only wants the land to the west of the creek. Mr. Roberts asked for a lot-split to connect the rest of Lot A to Lot B, as there will not be any development on Lot B. A site plan was provided (Exhibit B-2).

### Interested Parties:

**William J. Webb**, 15635 N. 104<sup>th</sup> E. Ave., stated he was speaking for himself, Ted Clark, 10323 E. 156<sup>th</sup> St. N, and Kay Bayouth, Jr., 15642 N. 104<sup>th</sup> E. Ave., all of Collinsville, Oklahoma. Mr. Webb submitted a letter with six signatures (Exhibit B-3) of landowners in objection to the application. They are opposed to any more subdivision. The applicant previously obtained a lot-split of Lots A and B.

**Stacy Bayouth**, 15642 N. 104<sup>th</sup> E. Ave., Collinsville, Oklahoma, expressed concern that this would set a precedent for more lot-splits, and overcrowding.

**Ted Clark**, 10323 E. 156<sup>th</sup> St. N., questioned the validity of the survey submitted to the Board. His objections were the same as previously mentioned.

### Applicant's Rebuttal:

Mr. Roberts noted that Mr. Clark lives on the smallest lot formed by a lot-split. The Bayouth's property is now within the fence line of Collinsville. Mr. Webb stated that he could not see across the creek. Mr. Roberts does not plan to remove the natural screening of trees. Ms. Roberts stated the first two signatures on the list of protestants, both own less than two acres, and the third neighbor that signed, scratched his name out.

### Board Action:

On **MOTION** of **Walker**, the Board voted 4-1-0 (Walker, Tyndall, Dillard, Hutson "aye"; Alberty "nay"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of lot area from required 2 acres to 1.02 acres on Tract A and to 1.01 acres on Tract B; and a **Variance** of land area per dwelling unit from 2.1 acres to 1.14 acre on Tract A and to 1.01 acres on Tract B in an AG zoned district to permit a lot split, as presented, with condition for a tie-agreement to connect Tract B to the tract to the north, and that Tract B not be split

separately or become a building site, finding the hardship to be the division of the property by the creek, on the following described property:

Parcel 2A: A tract of land situated in the E/2 SE/4 SW/4 of Section 18, T-22-N, R-14-E, more particularly described as follows, to-wit: Commencing at the SE/c SE/4 SW/4 of Section 18, T-22-N, R-14-E; thence N 00°04'52" W along the E line of the SE/4 SW/4 a distance of 938.08'; thence due W a distance of 246.65' to the POB; thence continuing due W a distance of 303.00'; thence S 00°34'22" W a distance of 155.26'; thence S 86°56'17" E a distance of 304.99' to the POB; Parcel 2B: A tract of land situated in the E/2 SE/4 SW/4 of Section 18, T-22-N, R-14-E, more particularly described as follows, to-wit: Commencing at the SE/c SE/4 SW/4 of Section 18, T-22-N, R-14-E; thence N 00°04'52" W along the E line of the SE/4 SW/4 a distance of 753.33' to the POB; thence continuing N 00°04'52" W a distance of 184.75'; thence due W a distance of 246.65'; thence due S a distance of 171.54'; thence S 86°56'17" E a distance of 247.26' to the POB, both in Tulsa County, State of Oklahoma.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 1966**

**Action Requested:**

Special Exception to allow Use Unit 2 fire works stand, in a CH zoned district for five years, June 15 through July 6. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2, located NE/c W. 57<sup>th</sup> St. & S I-44.

**Presentation:**

Lonnie Bassee, 5401 W. Skelly Dr., stated they propose to have a fireworks stand with the same plan as approved last year, from June 15<sup>th</sup> through July 6<sup>th</sup> for the next five years.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 5-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow Use Unit 2 fire works stand, in a CH zoned district for five years, June 15 through July 6, finding 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:

Lots 13, 14 and that part of Lot 7, described as: Beg. at the SE/c of said Lot 7; thence W along the S line of said Lot 7, a distance of 62.00'; thence N 36°41'E a distance 103.80' to a point on the E line of said Lot 7; thence a distance of 83.30' to a POB. Block 1, all in Bozarth Acres, a subdivision in Tulsa County, State of Oklahoma.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 1967**

**Action Requested:**

Use Variance to allow automobile restoration and rebuild vintage cars as a hobby in an AG zoned district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 17, located 1004 E. 76<sup>th</sup> St. N.

**Presentation:**

**Robert Utley**, 1004 E. 76<sup>th</sup> St. N., Sperry, Oklahoma, asked for a use variance to do his hobby of restoring old cars. He stated the main request is to get his driveway and parking area to be grandfathered in as it has been there since the 1940's. The drive is covered with some chat, some asphalt and a concrete entrance. Mr. Utley stated he has been in trouble for having cars stored on the property. He stated that he has a building permit for a pole barn and is gathering materials to build it. He submitted photos, a zoning clearance permit, and a Tulsa County Code Violation Notice (Exhibit C-1, 3 and 5). He stated he has ten cars that he uses that are tagged and insured.

**Comments and Questions:**

Mr. Alberty stated that in 1995 the Board denied his application, it went to court and the court upheld the Board's decision. Mr. Alberty asked what he has done to comply with that action. Mr. Utley stated he used two acres surrounded by trees to place the cars. Then he received a notice of complaint and he moved the vehicles closer to his house, intending to build something to store them. He added that he had not built a structure, but he is preparing to build a pole barn. Mr. Alberty asked how many cars he had. Mr. Utley responded there are 50 to 60 cars. Mr. Alberty commented that what the applicant may consider an avocation others consider a salvage yard. Mr. Alberty asked if he was asking to keep all of the cars. He replied no, but he really wants relief for the drive and parking area. He added that he does not sell car parts, and his auto repair shop business is in town. Mr. Alberty asked how many cars he is asking to keep. Mr. Utley responded that he was told he could have three operable vehicles on his driveway at one time, on an all-weather surface. Mr. Hutson asked what would be the limit of the number of cars he could live with in total on the property. Mr. Utley replied 50 cars, and all but ten or twelve would be in the pole barn.

**Interested Parties:**

**Russ Roach**, 1420 E. 20<sup>th</sup>, stated he was representing family who live and own property adjacent to the subject property. The family asked him to speak because of his qualifications, being nationally certified in city planning, a licensed real estate broker and a Certified General Appraiser. He considered fifty cars more than a hobby. He noted that there is no industrial zoning west of the railroad track presently. He stated this would double the industrial zoning use within that square mile with one application. It would substantially alter the character and future for all the land uses in that area. This activity discourages good residential maintenance and improvement. Homeowners find they cannot sell for the value of the structures, and eventually sell for the land itself or rent it out. He asked that if



the Board decides to approve the application that they restrict the number of cars to a single digit number.

**Richard Bales**, 3251 S. 143<sup>rd</sup> E. Ave., stated he was representing Tulsa County Parks Department. The County acquired the railroad right-of-way that borders the property about three months ago. He came as an interested party more than in opposition. The Parks Department has been given direction to clean up and maintain the right-of-way. A proposed trail is planned in the future. Mr. Alberty asked the width of the right-of-way. Mr. Bales replied that it is about 50' on each side.

**Glenna Long**, 7128 N. Peoria, stated that if this was the only such activity they might not have come before the Board. She pointed out that over the years they have tried to get the County to help the community of Turley and stop the deterioration. She indicated that it is now beyond repair. She submitted a petition (Exhibit C-2) in protest that stated they do not object to business that would benefit the area but they object to activities that resemble the numerous salvages in existence. She stated it is an agricultural area and they desire it to remain agricultural. She asked the Board to deny this case. She expressed concern that this type of storage causes weeds, rodents and pollution. She submitted photos (Exhibit C-4) of nearby properties cluttered with junk appliances and vehicles to emphasize the impact on the neighborhood.

**Maxine Capps**, 7140 N. Peoria, informed the Board that the properties she and her sister, Mrs. Long, own have been family owned all of their lives. She stated the applicant came to the Board a few years ago for a variance for the same property to allow him to store cars. He had already moved in several old cars and hid them in a grove of trees. The case was denied and the Board asked him to remove the cars. To her knowledge he did not move the cars and has moved in many more cars since then.

**Edith Houk**, 1101 E. 76<sup>th</sup> St. N., Sperry, Oklahoma, described the property as an eyesore in plain view of her property. She was in agreement with the complaints already mentioned.

**Louise Fancher**, 1101 E. 71<sup>st</sup> St. N., stated the water drains off the subject property and floods 76<sup>th</sup> St. N. and Peoria.

**Dale Cooley**, 2012 E. 146<sup>th</sup> St. N., Skiatook, Oklahoma, stated he is a co-owner of a parcel of land that abuts the subject property on two sides. He pointed out that the violations of the Board's past decisions continue in this community. He urged the Board to consider the loss his family has experienced in the value of their property.

**Applicant's Rebuttal:**

**Pam Utley**, stated she is Robert Utley's wife and resides at the same residence. She indicated that the interested parties could not see their property. She added that they take pride in their property and community.

Mr. Alberty commented that the Board considers a use variance very sparingly. It is a power the County Board of Adjustment has that is not shared by cities. This is essentially the same application as the previous case, in which the court upheld the Board's decision.

Board discussion ensued.

**Board Action:**

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Use Variance to allow automobile restoration and rebuild vintage cars as a hobby in an AG zoned district as presented, finding a lack of hardship; the application is essentially the same as the previous case, in which the court upheld the decision of the Board; and finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

E/2 NW NE & W/2, SE NE & that part NW NE NE & SW NE NE & SE NE NE & NE SE NE lying W of Ry., Section 36, T-21-N, R-12-E, Tulsa County, State of Oklahoma.

\*\*\*\*\*

**Case No. 1968**

**Action Requested:**

Variance of the required 30' frontage on a public street to 0' for lot split. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located SE/c of W. 43<sup>rd</sup> St. & S. 61<sup>st</sup> W. Ave.

**Presentation:**

**Stuart Arnold**, 4403 S. 61<sup>st</sup> W. Ave., stated he asked for the variance for a permanent residence. The easement of 61<sup>st</sup> W. Ave. exists, but the road does not go through.

**Comments and Questions:**

Mr. Alberty asked Mr. Arnold of his intentions for the rest of the property. He is in the process of platting the remainder of the property. He informed the Board that this was the initial development and it will be part of the plat. He intends to dedicate full right-of-way. Mr. Alberty stated the Board needs verification of the easement for roadway.

**Board Action:**

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 1968 to the meeting on July 16, 2002, requiring the applicant to submit a preliminary plat application, regarding the following described property:

Access Easement: The E 30' of the following tract of land: E/2 SE/4 SW/4 NW/4, Section 29, T-19-N, R-12-E, Tulsa County, State of OK; and the W 30' of the following tract of land: Tract A1: The N 200.00' of the S 526.00' W 450.00' SE/4 NW/4 of Section 29, T-19-N, R-12-E of the IBM, less and except the N 6.00' of the E 14.22' thereof; AND Tract B: the N 200.00' of the S 266.00' W 450.00' of the SE/4 NW/4 of Section 29, T-19-N, R-12-E, of the IBM; AND Tract C: 3 Tracts of land in the SE/4 NW/4 of Section 29, T-19-N, R-12-E of the IBM, being more particularly described as follow, to-wit: Beg. at a point 66.00' N of the SE/c of SE/4 NW/4; thence N a distance of 454.00' to a point; thence due W a distance of 884.00'; thence due N a distance of 300.00'; thence due W a distance of 435.78' to a point on the W line of said SE/4 NW/4; thence due S along the W line of said SE/4 NW/4 a distance of 754.00' to a point 66.00' N of the SW/c of said SE/4 NW/4; thence E and parallel to the S line of said SE/4 NW/4 to a point and POB; AND Beg. at a point 800.00' S of the NE/c and on the E line of said SE/4 NW/4; thence Wly parallel to the N line of said SE/4 NW/4 a distance of 884.00' to a point; thence Nly parallel to the E line of said SE/4 NW/4 a distance of 100.00' to a point; thence Ely parallel to the N line of said SE/4 NW/4 a distance of 884.00' to a point; thence Sly along the E line of said SE/4 NW/4 a distance of 100.00' to the POB; AND commencing at the NE/c of said SE/4 NW/4; thence S along the E line a distance of 500.00' to a point; thence W on a line parallel to the N line of said SE/4 NW/4 a distance of 884.00' to the POB; thence continuing along said line a distance of 437.61'; thence N on a line parallel to the E line of said SE/4 NW/4 a distance of 100.00'; thence E and parallel to the N line of said SE/4 NW/4 a distance of 437.61'; thence S a distance of 100.00' to the POB, less and except the E 1291.61' of the N 100.00' of the S 615.00' of the N 1015.00' thereof, less and except: The N 200.00' of the S 526.00' of the W 450.00' of the SE/4 NW/4 and less and except the N 200.00' of the S 266.00' of the W 450.00' of the SE/4 NW/4 of Section 29, T-19-N, R-12-E, of the IBM, Tulsa County, State of OK.

\*\*\*\*\*

**Case No. 1969**

**Action Requested:**

Use Variance to cross IL zoning to access mining and mineral processing in IM. SECTION 910. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 24; and a Special Exception to allow mining and mineral processing to remove shale in an IM zoned district. SECTION 910. PRINCIPAL USES

PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 24, location W of SW/c W. 51<sup>st</sup> St. & S. 49<sup>th</sup> W. Ave.

**Presentation:**

**Craig Fitzgerald**, 2 W. 2<sup>nd</sup>, Ste. 2220, stated he was representing the applicant. He submitted a site plan and topographical drawing (Exhibits D-1 and 2). He explained that the project is not for mining purposes except to sell the dirt that is hauled out. They are leveling out the land for development. His client has applied for a permit with the Oklahoma Mining Commission. The Commission has approved of the way they want to slope the property, but the application for the permit has not been completely approved yet. The property to be mined is in an IM zoned district, but the front 250' of the property is zoned IL. They discovered that they could not sell the dirt and haul it out through an IL district without a variance. He stated the hardship is the landlocked IM property.

**Comments and Questions:**

Mr. Hutson asked who owns the operation. Mr. Fitzgerald replied that the owner's name is Jeff Schwickerath. Mr. Alberty asked when they project the mining will be through and development will begin. Mr. Fitzgerald responded that his client has a five-year plan for the mining with plans to develop an RV Park in the IM and some mini-office warehousing. Mr. Alberty asked how many trucks they expect to run. Mr. Fitzgerald replied that it depends on the demand for the dirt, and could be anywhere from ten to fifty trucks per day.

**Interested Parties:**

**Betty Mason**, 5509 W. 51<sup>st</sup>, stated she lives across the street from the entrance to the subject property. She noted they have already been hauling dirt and the trucks turn east and west on 51<sup>st</sup>. The street is two-lane and not up to that much heavy traffic. The dust problem is already bad.

**Jim and Nannie Tolson**, 5521 W. 51<sup>st</sup>, came in protest to the application. They complained of the dust, run-off causing a mud pit, and the operation running on Saturday and Sunday. They stated that five years of these problems would be too long.

**Howard Maddox**, 4901 S. 57<sup>th</sup> W. Ave., stated he was not against the business, but he feels they have not been considerate of the neighbors. He would not object to one year but five would be too long.

**Applicant's Rebuttal:**

Mr. Fitzgerald stated the mining commission has approved of the way they plan to mine, though the permit has not been issued yet. The plans are for an improvement to the neighborhood. There is another cause for the dust that is already in place, which is the motor cross racetrack. He informed the Board that it could take from one to five years to haul out the dirt but in five years they do plan to begin building.

Board discussion ensued. The Board recognized Mr. Maddox to speak again. Mr. Maddox stated the applicant had signs out for topsoil, shale and other for sale.

**Applicant's Rebuttal:**

**Jeff Schwickerath**, 5802 W. 51<sup>st</sup> St., stated he bought fifty acres at this location. The first fifteen acres he purchased are being developed as an indoor-outdoor flea market facility. He has a plan to build several buildings. The hill was so steep they could not park, so he gave Wal-Mart the dirt for hauling it off. They are going into the second phase of five phases. He stated he has not talked with any of the neighbors present today. He has offered water from his pond to the neighbor for his racetrack.

**Board Action:**

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Use Variance** to cross IL zoning to access mining and mineral processing in IM, finding there is no access to the IM district, and it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan; and a **Special Exception** to allow mining and mineral processing to remove shale in an IM zoned district, for a six month period of time, finding 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:

The NW/4 NE/4, less 4.051 acres recorded in Book 3933, Page 1996 at the Tulsa County Courthouse and the NE/4 NW/4, less the W 10 acres thereof, all in Section 32, T-19-N, R-12-E; And a tract of land that is part of the NW/4 NE/4 of Section 32, T-19-N, R-12-E, of the IBM, said tract being more particularly described as follows, to-wit: Beg. at a point that is the NW/c NW/4 NE/4 of said Section 32; thence S 89°49'06" E along the Nly line of Section 32 for 253.62'; thence S 00°10'54" W for 80.00' to a point on the Sly right-of-way line of W. 51<sup>st</sup> St. S.; thence S 89°49'06" E along said right-of-way line for 590.00'; thence S 00°10'54" W continuing along said right-of-way line for 125.00'; thence S 54°08'42" E along said right-of-way line for 77.16'; thence N 89°46'06" W and parallel with the Nly line of Section 32 for 905.43' to a point on the Wly line of the NW/4 NE/4; thence N 00°01'11" W along said Wly line for 250.00' to the POB of said tract of land, all in Tulsa County, State of Oklahoma.

\* \* \* \* \*

**Case No. 1970**

**Action Requested:**

Variance of the required 30' frontage on a public street to 0' for a lot split #19392. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located 8108 E. 96<sup>th</sup> St. N.

**Presentation:**

**Carole B. Finnell**, 8108 E. 96<sup>th</sup> St. N., stated she has been on the property for thirty years, and now wants a lot-split. She gave her son some property, and it landlocked her property.

**Comments and Questions:**

Mr. Alberty instructed the applicant on obtaining an easement filed of record.

**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 **Variance** of the required 30' frontage on a public street to 0' for a lot split #19392, subject to an easement to 96<sup>th</sup> St. N., filed of record with a minimum width of 30', finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

A tract of land being a part of the NW/4 NW/4 of Section 24, T-21-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, described by metes and bounds as follows: Commencing at the NW/4 of said NW/4 NW/4; thence N 89°57'05" E along the N line of said NW/4 NW/4 a distance of 440.01'; thence S 00°15'19" W parallel to the W line of said NW/4 NW/4 a distance of 362.96' to the POB; thence S 89°59'14" E a distance of 254.01'; thence S 00°15'19" W a distance of 584.13'; thence S 89°59'14" E a distance of 340.04'; thence S 00°15'19" W a distance of 366.40'; thence N 89°59'14" W a distance of 594.50'; thence N 00°15'19" E a distance of 950.53' to the POB.

**OTHER BUSINESS**

**CBOA Application Fees**

Mr. Beach pointed out to the Board the recommended fee increases for County Board of Adjustment application fees. The staff studied similar sized municipalities and counties and calculated an appropriate increase for this county. He was told that with this increase, we would be covering about 52% of the actual cost to process these applications.

The Board discussed the increases. The Board agreed they could not recommend approval of the new fee schedule.

There being no further business, the meeting was adjourned at 4:45 p.m.

Date approved: 7/16/02

  
Chair