

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 269  
Tuesday, October 15, 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, Co. Inspector  
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, Thursday, October 10, 2002 at 11:05 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.

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**UNFINISHED BUSINESS**

**Case No. 1988**

**Action Requested:**

Special Exception for a sand extraction plant in an AG district, located North and West of the Northwest Corner of East 141<sup>st</sup> Street and South Sheridan.

**Presentation:**

Mr. Beach informed the Board that the applicant had withdrawn the application.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

No Board Action required.

The portion of Lots 6 and 7 lying N of the Midland Valley Railroad right-of-way, less that part of Lot 7 lying W of Posey Creek; and in that portion of the SE/4 SE/4 lying N of said Midland Valley Railroad right-of-way, all in Section 10, T-17-N, R-13-E, of the IBM.

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MINUTES

On **MOTION** of **Walker**, the Board voted 3-0-1 (Alberty, Walker, Hutson "aye"; no "nays"; Tyndall "abstained" Dillard "absent") to **APPROVE** the Minutes of September 17, 2002 (No. 268).

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NEW APPLICATIONS

Case No. 2003

Action Requested:

Variance of the required 30' frontage on a public road to 0'. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located 3909 S. 252<sup>nd</sup> W. Ave.

Presentation:

**Gary Nichols**, 3909 S. 252<sup>nd</sup> W. Ave., stated he has lived on the property for 23 years. He added he has had two mobile homes on it in the past, and now he would like to move in a doublewide mobile home. He was told he would need 30' of road frontage. He informed the Board that his property is behind another piece of property.

Comments and Questions:

Mr. Alberty asked Mr. Nichols for a hardship. Mr. Nichols indicated he was not aware he needed to provide a hardship and he has already purchased the home he wants to replace the existing home. He never had a problem with the two he had there previously. Mr. Hutson noted that it was surveyed in 1983 by the previous owner. He questioned if the easement was filed.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Alberty, Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a **Variance** of the required 30' frontage on a public road to 0', with condition that the new home is replacing the existing home, finding no increase of density or significant changes in the use of the property, on the following described property:

Part SE SW Beg. 416.22' N SW/c SE SW thence N 536.90' E 235.00' S 534.94' W 235.00' POB, Section 20, T-19-N, R-10-E, Tulsa County, State of Oklahoma.

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**Case No. 2004**

**Action Requested:**

Variance to allow two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; and a Special Exception to allow a single-wide manufactured home in an AG-R zoned district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 9 and 6, located 12703 N. 93<sup>rd</sup> St.

**Presentation:**

**A. F. Buttler**, 12703 N. 93<sup>rd</sup> St., Collinsville, Oklahoma, stated he proposed to move in another dwelling for his daughter. A soil percolation test was approved and a septic placed. There are other lots with two mobile homes on them. They have lagoons rather than septic tanks.

**Comments and Questions:**

Mr. Alberty noted a site plan was not submitted. He asked about the other structures on the property. Mr. Buttler responded that they are out buildings.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Hutson "aye"; no "nays"; no "abstentions"; Dillard "absent" to **APPROVE** a **Variance** to allow two dwelling units on one lot of record, finding there is sufficient land space for two dwelling units; and a **Special Exception** to allow a single-wide manufactured home in an AG-R zoned district, for as long as the daughter needs the second dwelling, on the following described property:

Lot 5, Block 3, North Dale Acres, Tulsa County, State of Oklahoma.

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**Case No. 2005**

**Action Requested:**

Special Exception under Section 310 of the County Zoning Code to permit the KMUS-AM antenna system to be constructed within an AG district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 4; and a Special Exception of the requirements of Section 1204.3.C.2.(b) to permit the southwest antenna of the KMUS-AM antenna system to be located within 285 feet of the north boundary of the RMH district boundary line to the south. SECTION 1204.3.C.s.(b) USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions, located 430' N of NE/c E. 76<sup>th</sup> St. N. & Peoria.

**Presentation:**

**Charles E. Norman**, 2900 Mid-Continent Tower, stated he represented Reunion Broadcasting, L.L.C. that owns KMUS-AM radio station in Muskogee. He submitted a flood map and photographs (Exhibit A-1, A-2) of the site and views from the site. The antennas would be 180' with slender open design of unpainted galvanized steel and no lights. The site is generally undeveloped except for scattered residences south of E. 76<sup>th</sup> St. N. This location is in the 100 year flood plain with open pasture, and not wooded. At the base of the tower it is insulated from the ground by insulators and there will be small diameter guy wires. Each antenna tower will have a security fence around the base. The cabinets will be about 20 square feet. They will be on 2.8 acres of the 26.6 acre tract. They are not designed for collocation as it is a system of six antenna towers. The proposed ingress and egress will be on the west side of site from Peoria Ave. This antenna system is for the relocation of a radio station from Muskogee to Tulsa, therefore the whole system is needed. They expect the 26 acre tract will continue to be used as a hay meadow or for other agricultural uses. No landscaping is planned.

**Comments and Questions:**

Mr. Alberty noted 300' distance from the RMH district on the site plan but the special exception requests 285'. Mr. Norman replied that is to provide for a 15' latitude for any technical problems that arise in setting up the antenna closest to the boundary line to the south.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Hutson "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a ***Special Exception*** under Section 310 of the County Zoning Code to permit the KMUS-AM antenna system to be constructed within an AG district; and a ***Special Exception*** of the requirements of Section 1204.3.C.2.(b) to permit the southwest antenna of the KMUS-AM antenna system to be located within 285 feet of the north boundary of the RMH district boundary line to the south, 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 4, Section 30, T-21-N, R-13-E, Tulsa County, State of Oklahoma, less and except the south 430' thereof.

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**Case No. 2006**

**Action Requested:**

Use Variance to permit a warehouse in an AG district, located 15025 S. Lewis.

**Presentation:**

Mr. Beach informed the Board the application was sent to Glenpool and Bixby for a referral. The City of Bixby was neutral in comments and the City of Glenpool was adamantly opposed. Mr. Alberty pointed out that the subject property is in the Bixby fence line and one half mile from the Bixby City limits. Mr. Beach added that Lewis is the Glenpool boundary. Letters were provided from the City of Bixby and the City of Glenpool (Exhibits B-1 and B-2).

**Mike Sitton**, 10427 S. Oxford, proposed to put a warehouse storage facility on the subject property for mini-storage and large storage. They plan to meet the Bixby requirements for landscaping and all-weather-surface parking.

**Comments and Questions:**

Mr. Beach informed the Board that the applicant is not advertised for mini-storage use and he would need to re-advertise for the different use unit.

**Interested Parties:**

**Doug Pittman**, 14736 S. Lewis, stated he owns the property across Lewis from the subject property. He stated opposition to the application. He pointed out the development for a two mile strip on 151<sup>st</sup> from Peoria to Harvard has consisted of large single family homes on large lots or small acreages. He added that Bixby and Glenpool have areas zoned for warehousing and light industrial use. He was concerned that approval would set a precedent for the area. He indicated that a rezoning would be more appropriate than a variance. He informed the Board that he has spent three years dealing with Ray Jordan, the County Engineer trying to improve drainage. Water still flows from the subject property across Lewis into the ditches. He stated he spent thousands of dollars to build a road entrance that won't wash out. Mr. Pittman suggested it would be wise to consult with the engineer about the drainage before any development takes place here. He questioned whether the property would pass a soil percolation test. He also mentioned his concern for any type of contamination spill that could occur there, that it could drain into the creek and the Arkansas River.

**James Parker**, 2750 E. 151<sup>st</sup> St., described the area as flat land and he could see the property from his house. He stated his opposition to the application.

**Gladys Marlene Parker**, 2750 E. 151<sup>st</sup> St., indicated she did not want 151<sup>st</sup> St. to become like Memorial Drive with numerous signal lights. She stated there has been no industry or business built in the Kimberly Clark area, for which it was built. She complained that the applicant did not communicate with the neighbors before coming to the Board. She asked the case be denied.

**Rosie Hoskins**, 2290 E. 151<sup>st</sup> St. S., she was in agreement with the previous points of opposition. She stressed this is an agricultural area.

**Leon Hicks**, 13330 S. 129<sup>th</sup> E. Ave., Broken Arrow, Oklahoma, stated he owns property in the area of 151<sup>st</sup> and urged the Board to consider what would increase or decrease the value of the property. Mr. Alberty asked if there is any industrial use on the west side of Lewis almost to 141<sup>st</sup>. Mr. Hicks replied there is an industry across the street from his parents. His parents live at 14601 S. Lewis.

**Jim Glover**, 1724 E. 151<sup>st</sup>, stated he lives about one half mile west of the subject property. He stressed to the Board that estate homes and agriculture are existing in the area and with the flat topography the warehouse would be clearly seen. He also mentioned there is plenty of land already zoned and available for this type of business.

**George Carley**, 14801 S. Lewis, stated he owns the property to the north of the subject property. He stated his concern for the storm water management with any new construction. He informed the Board that the existing industrial building appears to be a home on the outside so it does not look like an industrial business.

**Frank Selmeyer**, P.O. Box 302, Bixby, Oklahoma, stated he lives about 5/8 of a mile east on 151<sup>st</sup> St. from the subject property. He was opposed for reasons as stated previously.

**Bruce Ewing**, 1809 E. 151<sup>st</sup> St., stated he lives about one half mile from the subject property. He opposed for reasons as stated previously. A letter was submitted to the Board from Bruce and Linda Ewing (Exhibit B-3).

**Louise Gordon**, 2310 E. 151<sup>st</sup>, mailed a letter of opposition (Exhibit B-3) to the Board.

**Applicant's Rebuttal:**

Mr. Sitton did not choose to make a rebuttal.

**Board Action:**

On **MOTION** of **Hutson**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Hutson "aye"; no "nays"; no "abstentions"; Dillard "absent") to **DENY** a **Use Variance** to permit a warehouse in an AG district, finding a lack of hardship and that re-zoning would better serve the purpose, on the following described property:

The S 667.59' W/2 W/2 SW/4 SW/4 of Section 17, T-17-N R-13-E of the IBM, Tulsa County, State of Oklahoma, less and except beg. at the SW/c of said W/2 W/2 SW/4 SW/4; thence N along the W line of said W/2 W/2 SW/4 SW/4

a distance of 400.00'; thence N 88°47'31" E a distance of 50.00'; thence S 01°12'29" E a distance of 375.16'; thence N 88°41'12" E a distance of 280.98' to a point in the E line of said W/2 W/2 SW/4 SW/4; thence S along the E line of said W/2 W/2 SW/4 SW/4 a distance of 24.75' to the SE/c of said W/2 W/2 SW/4 SW/4; thence W along the S line of said W/2 W/2 SW/4 SW/4 a distance of 330.98' to the POB.

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**Case No. 2007**

**Action Requested:**

Variance of maximum 750 square feet to 1448 square feet to permit an additional storage building in an RS district on a 2.5 acre tract. SECTION 240.2. YARDS, Permitted Yard Obstructions – Use Unit 6, located 12969 E. 131<sup>st</sup> St. S.

**Presentation:**

**Hugh Bright**, 12969 E. 131<sup>st</sup> St. S., Broken Arrow, Oklahoma, proposed to remove an old 864 square foot barn and replace with a new one. He has an existing small portable accessory building. He understands that the old barn was non-conforming in size. He found that a 1200 square foot is a common size. He added he would like to have water to the building for gardening. Photographs (Exhibit C-1) were provided to the Board.

**Comments and Questions:**

Mr. Hutson asked why he wanted to build so close to the fence line. Mr. Bright explained there was an old well in the way. He added that he could move it north but it would be farther from the house. Mr. Bright pointed out that it would hinder the development of the back part of the property if they decide to do that in the future. Mr. Bright also discussed his plans with his neighbor and the neighbor was not opposed. He assured the Board that he would not be using it for commercial purposes.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Hutson "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a **Variance** of maximum 750 square feet to 1448 square feet to permit an additional storage building in an RS district on a 2.5 acre tract, with condition the building not be used for commercial use, and finding the size of the lot for agricultural use would require more storage than a city lot, and would be an improvement, on the following described property:

A part of the E/2 SW/4 SW/4 of Section 4, T-17-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit; Beg. at a point 220.00' E SW/c E/2 SW/4 SW/4; thence E 220.00' along the S line of said Section 4, thence N 500.00'; thence W 220.00'; thence S 500.00' to the POB.

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**Case No. 2008**

**Action Requested:**

Special Exception to permit selected Use Unit 5 and Use Unit 20 uses in an AG zoned district (uses limited to an amphitheater, planetarium and botanical garden). SECTION 1205. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES and SECTION 1220. USE UNIT 20. COMMERCIAL RECREATION: INTENSIVE – Use Unit 5 and 20; a Variance to permit a portion of the off-street parking on a non-all-weather material. SECTION 1340. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS; a Variance of the required screening fence when abutting an R zoned district, located SE of SE/c Sand Springs Rd. & S. 81<sup>st</sup> W. Ave.

**Presentation:**

Mr. Alberty stated the application was sent to Sand Springs on a referral basis. The Sand Springs Board of Adjustment recommended approval of the concept subject to final approval of a detailed plan.

**Ricky Jones**, 5323 S. Lewis Ave., stated he is with Tanner Consulting. He introduced Chris Greer, with Access Venue Development Corporation, and Mr. Bill Bethman with KKEBBA Architectural Group out of California. Mr. Jones submitted a packet of information (Exhibit D-1) to the Board. The application is for a 142 acre tract, to allow selected Use Unit 20 uses, specifically limited to an amphitheater, planetarium and botanical garden in an AG zoned district. A local architect group prepared a conceptual master plan early in the process. Mr. Jones pointed out they are asking for the use alone at this time and plan to return with detailed plans later. The amphitheater would seat approximately 20,000 with about 8,500 in a fixed seat arrangement. The planetarium would be between 4,000 and 6,000 square feet. The botanical garden would be spread throughout the development. He stated they have assembled a team of experts to undertake this project. It was prepared by Sparks Architects, a local firm. Mr. Bethman specializes in entertainment developments. There are approximately sixty of these types of developments around the United States. Mr. Bethman has been involved in about one half of those projects. He indicated that not all of the required parking needs to be paved and they asked for a variance. He will have more details later regarding the amount of paved versus unpaved parking needed. Mr. Jones added they do not believe a six foot screening fence will be required for the full length of the property abutting the residential zoned district. They consider the natural screening by



topography and vegetation to be better screening than a fence in some places. He noted that the property is partially within the Sand Springs and Tulsa fence lines. They have considered applying for a PUD, but for now, this application is all they want to request.

**Comments and Questions:**

Mr. Alberty asked if the developer has done other projects like this. Mr. Jones replied that they probably have not done a project of this magnitude before. They have hired Sparks, Bethman and other experts to work with them on this project. They have done some development in Lawton and other areas but not in Tulsa. Some funds have been committed to the project. They have considered the roads, off and on ramps for the expressway. The amphitheater would be the first phase. They would like to start dirt work in March 2003 and be open with the amphitheater and some parts of the gardens in March 2004.

Mr. Beach commented to the Board that the screening requirement could be waived by Special Exception if they so chose.

**Interested Parties:**

**Dale Hallford**, 7200 W. Brady, stated about 1700' of his property abuts the east side of the subject property. He expressed concern that he would have people coming onto his property from the project and lose his privacy. He also stated concern for liability if the public were harmed by his livestock. He opposed allowing the natural buffers to be the only screening. He stated that because of the sandy soil, all parking should be on an all-weather-surface. He pointed out this would displace the wildlife.

**Gayla Hallford**, 7200 W. Brady, informed the Board that they purchased this property about one year ago, as their permanent residence after a forced buyout for the Gilcrease Expressway. She expressed concern for the wildlife and noise pollution.

**Reba Helker**, 9212 S. Hudson Ave., stated she owns property nearby the subject property. She expressed interest in the development as a benefit for Sand Springs and Tulsa.

**Applicant's Rebuttal:**

Mr. Jones had no response to the wildlife displacement. He stated that according to noise experts, the bass tones follow the terrain and higher pitches go up. They are definitely concerned about this subject and are planning the position of the amphitheater accordingly. They are willing to construct a screening fence if neighboring property owners prefer.

**Board Action:**

On **MOTION** of **Hutson**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Hutson "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a

**Special Exception** to permit selected Use Unit 5 and Use Unit 20 uses in an AG zoned district (uses limited to an amphitheater, planetarium and botanical garden) per conceptual plans, with condition for detail site plans for any further approval; and to **DENY** a Variance to permit a portion of the off-street parking on a non-all-weather material; and a Variance of the required screening fence when abutting an R zoned district, but variances may be requested again with detail site plans, on the following described property:

Five tracts of land that are part of Section 6, T-19-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, said tracts being generally described as follows: Tract 1: The N 935.00' E 931.76' SW/4 of said Section 6; Tract 2: The S 935.00' N 1870.00' E 931.76' SW/4 of Section 6, less beg. at the SW/c of said Tract; thence Nly 403.00'; thence Ely 345.00'; thence Sly 53.00'; thence Ely 165.00'; thence Sly 20.00'; thence Ely 175.00'; thence Sly 122.00'; thence Ely 246.00'; thence Sly 208.00'; thence Wly 931.76' to the POB of Tract 2; Tract 3: The W 984.24' E 1916.00' SW/4 of Section 6, less the S 770.00' E 368.00' and less the W 210.00' E 1510.00' S 520.65' of Section 6; Tract 4: All that part of Gvt. Lot 3 of said Section 6, lying S of Old North Sand Springs Rd.; and all that part of Gvt. Lot 5 of Section 6, and the SE/4 of the NW/4 of Section 6, lying S of said S of said road and Ely of a line, said line beg. 1153.00' Ely SW/c of said Lot 5 and extending to the Sly line of said road and Wly of a line beg. at the SW/c E/2 E/2 SE/4 NW/4 of Section 6 and extending to the NW/c thereof; and the E/2 E/2 SE/4 NW/4 and the W/2 W/2 SW/4 NE/4, less beg. 471.20' Wly of and 695.00' Sly NE/c NW/4; thence Wly 234.40' to the road right-of-way; thence Sly along said road right-of-way, for a distance of 145.80'; thence Ely 353.30'; thence NWly 179.20' to the POB of Tract 4; and Tract 5: Block 8 of Twin Cities, less the S 200.00' of said Block 8.

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There being no further business, the meeting was adjourned at 3:10 p.m.

Date approved: 12/17/02  
Wayne Albery  
Chair