

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 281
Tuesday, October 21, 2003, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Walker, Vice Chair
Dillard
Tyndall
Hutson

Butler
Beach
Alberty

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, October 14, 2003 at 9:41 a.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Vice-Chair Walker called the meeting to order at 1:30 p.m. He read the rules and procedures for the County Board of Adjustment Hearing.

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MINUTES

On **MOTION** of **Hutson**, the Board voted 3-0-0 (Walker, Tyndall, Hutson "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the Minutes of September 16, 2003 (No. 279).

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Case No. 2061

Action Requested:

Variance of the required 150' average lot width to 135.00' and 91.36' for a lot split, located 25016 W. 49th St.

Presentation:

Randy Lee, 25016 W. 49th St., Sand Springs, Oklahoma, stated he was seeking a lot split. He planned for a 30' easement for road frontage. He proposed to build on Tract B, which is 91.36' wide. His brother would own the other lot of 135' width.

Comments and Questions:

Mr. Walker asked if the panhandle is intended for a private drive to be maintained by the applicant. Mr. Lee replied in the affirmative. Mr. Walker asked for a hardship. The length of the property was the stated hardship.

Mr. Dillard arrived at 1:36 p.m.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 3-0-1 (Walker, Tyndall, Hutson "aye"; no "nays"; Dillard "abstained"; no "absences") to **APPROVE** a **Variance** of the required 150' average lot width to 135.00' and 91.36' for a lot split, finding the shape and size of the lot is the hardship, on the following described property:

E/2 W/2 E/2 SE SW, Section 29, T-19-N, R-10-E, Tulsa County, State of Oklahoma.

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Case No. 2063

Action Requested:

Special Exception to allow sand and dirt removal (Mining and Mineral Processing Use Unit 24) in an AG zoned district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24, located: S & W of SW/c E. 66th St. N. & N. Mingo.

Presentation:

Larry Carnegie, 12410 E. 66th St. N., Owasso, Oklahoma, stated he represented the applicant. They ran out of sand and purchased the subject property. They obtained all of the permits and a hydrology study. There should be no problem with drainage onto other properties. They are ready to begin as soon as they receive approval by this Board.

Comments and Questions:

Mr. Beach referred his staff comments concerning: the land appeared to be fully forested; destruction of habitat; and drainage and erosion. Mr. Beach also noted a pecan orchard in the area. He was not aware that the Department of Mines permit was already issued. Mr. Beach informed the Board he had discussed the environmental issues with Tom Rains, with the County Engineers Office, and Richard Smith at INCOG. They noted what appeared to be an oxbow in the aerial photograph adjacent to or partially within the property, which indicated the possible presence of wetlands. It may or may not be regulated by the Corp of Engineers. They recommended that any approval be contingent on proper permits; evaluation by the Corp for wetlands; and a hydrology study, as required by the County Engineer.

Interested Parties:

There were no interested parties present who wished to speak.

Applicant's Rebuttal:

He stated the removal of sand and cleaning out all the debris that backs up, should benefit the area. They expect it will allow for harvesting the pecans in the future. He stated that cleaning out the creek could help it flow a lot better.

R.G. Miser, P.O. Box 267, Owasso, Oklahoma, stated that the area that appears to be an oxbow holds no water. There is a drain that flows east and south into Bird Creek. They have walked and driven vehicles through it on dry land.

Mr. Beach mentioned to the Board that the legal description covers the entire 70 acres. He stated that if they do not intend to mine the north 30 acres, he would suggest the Board limit approval to the south 40 acres if they are inclined to approve.

Board Action:

On **Motion of Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard and Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to allow sand and dirt removal (Mining and Mineral Processing Use Unit 24) in an AG zoned district for the south 40 acres, subject to all required permits; evaluation by the Corp of Engineers for wetlands; and a hydrology study, on the following described property:

The SW/4 NE/4 and the W 30 acres of Lot 2, Section 1, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma.

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Case No. 2064

Action Requested:

Variance of land area per dwelling unit from 2.1 to 1.99 to permit two dwelling units in an AG district. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located: 19118 S. Yale.

Presentation:

Thomas N. Grogg, 19118 S. Yale, Bixby, Oklahoma, proposed to place a second mobile home on the subject property for a family member.

Comments and Questions:

Mr. Walker asked for the hardship. It was determined there are smaller lots in the area. It would be kept under one ownership. Mr. Dillard asked where they would place the home. Mr. Grogg replied it would be on the northwest section. He added they will put in an aeration sewage system. The existing home has a septic tank.

Mr. West informed the Board of a violation of the zoning code, for too many junk cars stored on the property. Mr. Grogg stated that all but one of those vehicles has been removed but the ground was too wet to move it.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Walker, Hutson, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of land area per dwelling unit from 2.1 to 1.99 acres to permit two dwelling units in an AG district, subject to removal of the junk vehicles; a DEQ approval and a building permit; tie-downs, and skirting, 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:

N/2 N/2 NE NE less NW NW NE NE and less Beg. 526.5' W NE/c NE, thence W 463.4' S 330.3' E 463.4' N 330.3' POB Section 9, T-16-N, R-13-E, Tulsa County, State of Oklahoma.

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Case No. 2065

Action Requested:

Special Exception to allow a manufactured home in an RS district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9, located: 6416 N. Trenton Ave.

Presentation:

Ronna L. Burnett, 6412 N. Trenton Ave., stated she owns Lots 6, 7 and 8 on Trenton Ave. Her house is located on Lot 7. She proposed to place a second single-wide mobile home on her property for a family member. She pointed out there are several lots with mobile homes in the neighborhood. She stated the hardship that the lots on her side of the street are 54' wide and on the other side are wider. She submitted photographs, a site map and an abstract (Exhibits A-1, 2, and 3). Ms. Burnett stated she would be on the City sewage system.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard and Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a manufactured home in an RS district, subject to all permits, tie-downs, and skirting, 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 6, Block 3, Phillips Farms Addition, Tulsa County, State of Oklahoma.

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Case No. 2066

Action Requested:

Variance of required land area per dwelling unit from 2.1 acres to 1.25 acres per unit. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located: 7496 N. Memorial.

Presentation:

Don Bobino, 12336 Nightes Ave., Collinsville, Oklahoma, stated the property belongs to his daughter and son-in-law. They propose to place a mobile home on the subject property for family members. The Department of Environmental Quality has approved a separate septic tank.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard and Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required land area per dwelling unit from 2.1 acres to 1.25 acres per unit, finding other tracts in the area and adjacent are the same size as the following described property:

The W 363.00' E 388.00' S 301.20' N 951.20' NE/4 NE/4 in Section 35, T-21-N, R-13-E of the IBM, Tulsa County, State of Oklahoma.

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OTHER BUSINESS

Action Requested:

County Inspector requested interpretation of Section 300.2 of the Tulsa County Zoning Code.

Presentation:

Mr. Beach read Section 300.2 of the zoning code.
The Purposes of the AG-R Agriculture – Residential District:
The Agriculture – Residential District is designed to recognize the need for rural residential acreage subdivisions which combine an urban development scheme

with some of the uses permitted in any Agricultural District, i.e., limited farming and animal raising.

Terry West stated he needed an interpretation of the limited farming and animal raising. He has been questioned by a number of property owners about this issue. Mr. West explained that according to Gary Bishop with the USDA, the number of horses on a lot would depend on the type of soil and grasses on the property. Mr. West stated he could direct them to Mr. Bishop when he is in doubt, but he still needs to be clear on what type of animals are to be allowed. Mr. West noted the code did not state livestock, which could include horses, chickens, and pigs.

Interested Parties:

Norman Trost, 8615 E. 112th St. N., Owasso, Oklahoma, stated he has resided there since 1991. He commented that incidental to raising animals one does business such as buying and selling the livestock. He believed that such incidental business should be allowed. He indicated that if things go well with good livestock it can become a primary business. Mr. Hutson asked for the size of his lot. Mr. Trost replied that he owns twelve acres. It was zoned RE since 1980 and when they discovered it, they requested a re-zoning to AG-R, which became official on January 2, 2002.

Dennis Bowers, 11006 N. 92nd E. Ave., Owasso, Oklahoma, indicated that farming or raising animals is self-limiting. If the land is over-loaded it will naturally self-destruct. The purpose of farming and agriculture is to make money. He referred to the zoning code, Section 320, and stated that incidental uses are considered to be included. He informed the Board that he did a quick survey in the area and found that on 51 of the 100 properties they raised livestock. Mr. Walker asked if this was his primary income. Mr. Bowers replied that it is a substantial supplement to his retirement and he hopes it will become 50% of his income.

Mr. Walker asked Mr. Trost about his primary business. Mr. Trost replied that he sold equipment.

Comments and Questions:

Mr. West mentioned that in Use Unit 1 there is a conflict between AG and AG-R regarding raising livestock. Mr. Alberty, Manager of Land Development Services, at INCOG, referred to Table 1, for Use Units of districts AG and AG-R. He pointed out that agricultural uses are allowed by right in an AG district but by special exception in an AG-R. He stated the intent was not to permit agricultural uses in an AG-R district, but by special exception. Mr. Hutson agreed this was to allow people to have a horse or two but if someone wanted to run an agricultural business they would need a special exception. Mr. Alberty stated the County Board of Adjustment makes the interpretation and it would be the directive for the County Building Inspector. The Building Inspector has the administrative power to determine from the interpretation in each case and if the public disagrees they can

apply to the Board for a special exception. Mr. Beach mentioned that the lot size is one of the big differences between AG and AG-R. He added that AG includes raising of all animals, hogs, sheep, horses, and cattle, except for wild and exotic animals as defined by the code.

Board Action:

On **Motion** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard and Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** this business item to the meeting on November 18, 2003, awaiting a legal opinion from the Assistant District Attorney, David Iski in Executive Session.

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There being no further business, the meeting was adjourned at 2:43 p.m.

Date approved: _____

Chair