

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 293
Tuesday, October 19, 2004, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Dillard, Secretary	Charney	Beach	West County Inspector
Hutson, Vice Chair		Butler	
Tyndall		Alberty	
Walker, Chair			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Monday, October 18, 2004 at 12:03 a.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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

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MINUTES

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the Minutes of September 21, 2004 (No. 292).

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Case No. 2122

Action Requested:

Special Exception to permit Use Unit 20 Commercial Recreation: Intensive; Variance of all-weather surface parking area SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS; SECTION 1340. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, 1517 East 106th Street North.

Presentation:

Victor Marquez, 8220 East 136th Street North, submitted a survey, topographical survey, hydrology report , map and information regarding the sound system as

requested by the Board at the last meeting. He stated the hydrology report shows there would not be a problem with his project on this property as long as they stayed in the location indicated in the plans. He even indicated they could build a structure on the property. Mr. Hutson was not present at the last meeting and asked him to explain what he proposed to do. Mr. Marquez explained he proposed to have a place set up for hayrides with themes during 2-4 months of the year around holidays. There would be a wagon trail with actors portraying scenes along the way and concessions stands. It would be conducted on weekends during the hours of 6:00 p.m. and 10:00 p.m. He indicated they could allow community school teams or clubs to run concession stands to raise money. He stated that the volume of the sound system would be low because they would not want the sound from one scene to be overheard from another scene along the trail. The lighting would be low voltage.

Comments and Questions:

Mr. Hutson asked if they planned on having live bands and beer sales. Mr. Marquez replied they do not. Mr. Walker asked about the sound level to which Mr. Marquez responded it would be equivalent to office level noise, approximately 65 decibels. Mr. Walker asked about any trapped water, change in drainage, or other changes since they put in the trail. Mr. Marquez replied they had built up a bank around a little pond but they leveled the dirt so there is no trapped water. Mr. Tyndall asked about restrooms. They plan to use port-a-johns.

Interested Parties:

Nancy Robison, 3745 South 99th East Avenue, submitted a list of concerns of the neighbors (Exhibit A-6). They own sixty acres in the area of the subject property. They appreciate the quiet of the country and did not want to lose that atmosphere. She expressed concern regarding the disruption of the wildlife habitat in an area where there is hunting from October through December. She indicated there would be a safety hazard as the proposed location is between two single-lane bridges. She reminded the Board this was an agricultural/residential area and did not have direct access to an expressway like the Castle at Muskogee. She was very concerned that flooding would be caused by this project.

Marilyn Sisk, 10216 North Quincy, submitted photographs (Exhibit A-7) of the area. She expressed safety concerns as mentioned previously regarding increased traffic and emergency vehicles access during times of traffic congestion.

William Sisk, 10216 North Quincy, also expressed concern regarding flooding.

Richard R. Burk, 10702 North Peoria, was concerned for flooding. He added that there is always stagnant water around the property, which breeds mosquitoes. He complained that the applicant has brought in 50 – 100 loads of dirt and rock. He did not want a commercial business in the agricultural area.

Roger Robison, 3745 South 99th East Avenue, noted all the brush has been removed, and some of the land was raised. He added the area is infested with mosquitoes and snakes.

Applicant's Rebuttal:

Tom McKay, 561 South Maplewood, stated he has worked and invested with Mr. Marquez to make preparation for this business. He is a local and wants to raise his family here also. Mr. Marquez owns the property. They have considered the impact on the community, and are working on plans for safety and traffic control. They intend to keep the land clean and the mosquitoes under control.

Comments and Questions:

Mr. Tyndall asked about the floodplain. Mr. West replied that the land is in the floodway. Mr. Hutson asked again if there were any plans for live bands, beer sales or parties on the site. Mr. Marquez replied that they could close at 10:00 p.m. and not have bands or beer sales.

Board Action:

On **MOTION** of **Hutson**, the Board voted 3-1-0 (Tyndall, Dillard, Hutson "aye"; Walker "nay"; no "abstentions"; Charney "absent") to **APPROVE** a **Special Exception** to permit Use Unit 20 Commercial Recreation: Intensive, with the following conditions for a temporary time not to exceed two years, operating only from October 1st to January 1st on Thursday, Friday and Saturday nights only; no bands and no alcohol; and a Variance of all-weather surface parking area for two years only, on the following described property:

E 1/2 SW SW SEC 7-21-13

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NEW APPLICATIONS

Case No. 2130

Action Requested:

Special exception to allow Mining and Mineral Processing (Use Unit 24) in an AG zoned district to mine rock, located: 17777 East 171st Street South.

Presentation:

David W. Davis, 601 South Boulder, stated he represented the applicants **Dr. Mark Durham** and his wife **Rosemary Durham**. They proposed to move surface rock from a hill in Leonard, Oklahoma. He indicated this is necessary for agriculture, proper drainage and building a home. He stated there will not be a caravan of trucks but one man and his truck removing surface rock. They have obtained a permit to remove 500 tons per acre. Dr. Durham submitted a book of exhibits (B-2). He stated they are trying to improve the property and build an access to it.

Joe Ryder, 3320 East 195th Street South, Bixby, Oklahoma, stated he does masonry construction with brick and stone. He informed the Board that he is legally allowed to remove 500 tons of rock per acre. He has two to five employees at a time that help him. He provided photographs and a record of land management (Exhibits B-3 and B-5). Mr. Ryder stated that Matt Mossley, the field supervisor has inspected the property, and he and the state mining commissioner have found that everything is being done properly according to code.

Interested Parties:

Malcolm Rosser, 321 South Boston, Suite 500, stated he is an attorney representing the Oklahoma Geological Survey, under the Board of Regents of the University of Oklahoma. He submitted a photograph and an aerial (Exhibit B-4). He pointed out the aerial shows the property is in the Bixby fence line. He stated that any kind of excavation would interfere in the recording and monitoring by the sensitive equipment they have set up.

Dr. Jim Lawson, P.O. Box 206, Leonard, Oklahoma, Chief Geophysicist, of the Oklahoma Geological Survey, and adjunct professor at the University of Oklahoma. They have monitored seismic activity since 1961. The equipment enables them to reassure Oklahomans when there are mild tremors. If the equipment is damaged they have to call in people from England to make repairs. He added that they record earthquakes all over the world.

Adam Loftin, 17411 South 185th East Avenue, Leonard, Oklahoma stated he lives at the base of the hill from the subject property. He submitted photographs (Exhibit B-1). He pointed out the steep slope of the hill and the location on the top of the hill for the home building site. He did not object to removal of surface rock but not embedded rock. He indicated that the underbrush and trees have been cut out in 40 foot wide paths that would not prevent erosion but promote it. Mr. Loftin stated the applicant did not apply for a mining permit until after they protested. He complained that they were using a rock saw much of the time, which is very loud.

Darryl Baskin, 10727 South 66th East Avenue, stated he was shocked at the change they have made in the side of the hill. He added that the use has a detrimental affect on the quiet use and enjoyment of their properties.

Bill Shafer, P.O. Box 300, Leonard, Oklahoma, indicated where his three acres is located to the northwest of the subject property. He informed the Board that he gave the applicants permission to use his driveway. He asked what Mr. Durham's plans were to prevent erosion from affecting the neighbors. He expressed concern for the value of the land should they start a mining business with large trucks going back and forth. He also was concerned for the wildlife in the area, including the bald-eagles.

Kenneth Claxton, 17338 South 175th East Avenue, stated concern for the devaluation of his property, blasting and landfill, and erosion of the hillside.

Mark Hindsman, P.O. Box 201, Leonard, Oklahoma, stated that removing surface rocks does not require mining.

Robert and Vicki Morrison, 17025 East 174th Street South, complained the equipment was loud, and the applicant was cutting out very large rocks. They also mentioned that along the fence, trees were uprooted and the gate at the Oklahoma Geological Survey property was knocked down.

Micky Webb, P.O. Box 70, Bixby, Oklahoma, City Manager of Bixby, stated that the City of Bixby was not opposed to the project. Mr. Webb indicated that the City of Bixby received proper notification, however, he needed to evaluate if there would be any adverse impact to the municipal water system. He asked for a continuance of at least ten days to evaluate the proposal.

Applicant's Rebuttal:

Mr. Ryder responded to the Board that he owns only small equipment and he does not have a rock saw. He added that he does not do any blasting. He informed the Board that he is doing nothing more to this property than the other land owners have done on their own property. He agrees that the slope is very steep and he has to cut into the layers of rock. Mr. Ryder described the burn-off fires that get out of control every year. He suggested if people would take measures as Mr. Durham, it would not get out of control and would protect the surrounding properties. He described their plan for land reclamation.

Interested Parties:

Ray Loftin, 15303 East 157th Street South, Leonard, Oklahoma, stated it appears to be a development rather than agricultural. He indicated it would be difficult to put in a septic or a water line because of the solid rock. He complained that the run-off and sediment from the mountain side is already going into his son's back yard.

Comments and Questions:

Mr. Walker asked how deep they have cut into the mountain. Mr. Loftin indicated 100 ft.

Dr. Durham, the applicant, stated the firebreaks are 30 ft. wide and they have prepared for an access road. They are not blasting, excavating or quarrying. He stated he is an engineer and they are doing everything possible to avoid erosion.

Mr. Hutson asked if he has plans for a sub-division. Dr. Durham replied they have no plans for development. Mr. Tyndall questioned why the permit only allows work on four acres. Mr. Ryder explained to the Board that he is permitted to work on four acres at a time. His work is inspected periodically and regulated as to where

and how the stone is removed, and if they are doing proper land reclamation. Mr. West commented that he has inspected and found only surface rock removal and no illegal activity.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a **Special Exception** to allow Mining and Mineral Processing (Use Unit 24) in an AG zoned district to mine rock, with conditions: no landfill, no blasting, no quarrying, and for continued land reclamation, on the following described property:

SW SW SEC 25-17-14; NW NW SEC 36-17-14; N/2 NE LESS S150 W2051.99 & LESS S220 E580.09 THEREOF SEC 35 17 14

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Case No. 2131

Action Requested:

Variance of the required 30' frontage on a public street or dedicated R-O-W to 0', located: 7403 North 119th Avenue East.

Presentation:

Scott Rutherford, 18220 South Elm Road, Claremore, Oklahoma, submitted a letter from Public Works, a general warranty deed, and documentation of a roadway easement (Exhibits C-1, C-2 and C-3). The letter shows they can obtain city water and sewer from Owasso.

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, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a Variance of the required 30' frontage on a public street or dedicated R-O-W to 0', finding a hardship due to the size and shape of the lot, the fact that the land will remain in family ownership and the roadway easement was provided to the property, on the following described property:

S/2 SW NW NE & W/2 SW NE SEC 32 21 14

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Case No. 2132

Action Requested:

Special Exception of requirement that oil and gas wells and related storage tanks be located 200 feet or more from any residence -- Section 1224a.3 -- Use Unit 1224a.

Presentation:

Stephan Lee, 25012 West 49th Street, stated they proposed to create an access to the well and develop the two and one-half acres for multi-family dwellings, homes or mobile homes, as allowed, keeping public safety in mind.

Comments and Questions:

Mr. Hutson asked about storage tanks. Mr. Lee replied there is only a pumping unit on this property and storage tanks are across the street. Mr. Alberty commented that the ordinance established a 200 foot distance for safety. It would be the applicant's responsibility to show that the safety measures adequately meet the requirements.

Interested Parties:

Jerry Jenkins, 8110 South Jamestown Avenue, stated he owns the property and the well. He would be the builder. He assured the Board that he wants to protect people and his investments.

Board Action:

On **MOTION** of **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **CONTINUE** Case No. 2132 to the meeting on November 16, 2004 to give the applicant time to identify the safety measures they propose with this project, on the following described property:

PRT SW NE BEG SECR N/2 SW NE TH W284 N383.45 E284 S383.45 POB
LESS TR BEG 383.45N SECR N/2 SW NE TH W284 S119 NE90 NELY225.46
N30 POB & LESS PRT BEG SECR N/2 SW NE TH N95 W20 CRV LF 117.95
CRV RT TO P T E TO POB SEC 5 19 12 1.97ACS

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Case No. 2133

Action Requested:

Use Variance to permit Overnight Campgrounds for Recreational Vehicles in an AG district -- Section 1670.2 -- Use Unit 17, 21215 West Highway 51.

Presentation:

Coy Ward, 4206 South 137th West Avenue, Sand Springs, Oklahoma submitted a packet of exhibits (Exhibit D-1). He informed the Board that his father previously owned the property. There has been a mobile home park on about eight of the

twenty acres for over twenty years. He explained that banks have made it more feasible to buy land with a mobile home than to buy one to place in a park. He proposed an alternative to allow recreational vehicles to park there when a lot is vacant. He has found there is a market for customers needing a long-term temporary park for RV's.

Comments and Questions:

Mr. Walker noted that the previous Board action approved fifteen lawful non-conforming lots only. He asked Mr. Ward if he was asking for nine additional lots to be included in this application. Mr. Ward replied that was his request.

Interested Parties:

John Johnson, 21015 West Highway 51, stated he has ten acres to the east of the subject property. He stated they object to increased density, traffic and number of homes on the property.

Josh Turley, 1311 North Garfield, Sand Springs, Oklahoma, stated he spoke for himself and ten neighbors to the west of the park. He indicated the applicant was an excellent land lord of an RV park. They requested a screening fence along the west property line. A petition of support was provided (Exhibit D-2).

Louis Osborne, 10211 Sage Royal Lane, Houston, Texas, stated he represented a church, which owns property across the street. They had no objection to the application.

Gary Dusina, P.O. Box 1385, street address 21314 West 20th Street South, stated his house is on about the second lot west and south of the subject property. He expressed concern that renting lots for RV's would indicate a constant turn-over of residents and more stray animals.

Applicant's Rebuttal:

Gayle Daniels, 4184 Great's Road, Sand Springs, Oklahoma, responded that the mobile home park needed improvements due to her father's poor health and they have already made a lot of changes. She assured the Board that they plan to improve the road through the park. They have decided to make a rule that no animals would be allowed unless kept in a fenced area. Only small dogs would be allowed but no pit bulls or bull dogs.

Mr. Ward added that some RV's are much nicer than some mobile homes. They are more likely to have fewer occupants, be less visible and be better quality than some mobile homes.

Comments and Questions:

Mr. Alberty explained that the Board previously approved this as a non-conforming use. The zoning is agricultural, which would not permit a mobile home park by right. The use they are requesting would require CG, general commercial zoning.

The overnight recreational vehicles require a Use Unit 17, which can only be permitted in a general commercial district. He added that even CS zoning does not permit this by right.

Ms. Daniels wanted it on the record that they did not receive a copy of a petition from neighbors for a screening fence.

Board Action:

On **MOTION** of **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a **Use Variance** to permit Overnight Campgrounds for Recreational Vehicles in an AG district -- Section 1670.2 -- Use Unit 17, with conditions: for use of only the fifteen existing spaces per the previous CBOA approval, for mobile homes or RV's; no increase in density; construct a six-foot screening fence along the full length of west property line, finding the hardship is the existing non-conforming use of the property, as described by the following description:

W/2 SE SE LESS 1.47AC FOR HWY LESS 0.91AC FOR RY SEC 10 19 10

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Case No. 2134

Action Requested:

Special exception for a single-wide manufactured home in an RS zoned district; and a Variance to allow two dwellings on one lot of record. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located: 5933 North Lewis Avenue East.

Presentation:

Sally Sparks, 5933 North Lewis, proposed to move a mobile home on the rear portion of one acre. It would be for her son to live in and help her. She added there is a privacy fence on the south of the property. Ms. Sparks admitted there was a mobile on the property with electricity but not plumbing. She indicated it is used for storage and a television room.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a **Special Exception** for a single-wide manufactured home in an RS zoned district; and a Variance to allow two dwellings on one lot of record, subject to removal of the existing mobile home within thirty days of placing the new mobile, on the following described property:

LT 2 BLK 2, RODDEN ACRES

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There being no further business, the meeting was adjourned at 5:26 p.m.

Date approved: _____

Chair