

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 315
Tuesday, August 15, 2006, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Hutson, Chair
Charney, Vice Chair
Dillard, Secretary
Tyndall
Walker

Alberty
Butler
Cuthbertson

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, August 10, 2006 at 1:08 p.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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

Mr. Cuthbertson read the rules and procedures for the County Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **Walker**, the Board voted 4-0-1 (Walker, Tyndall, Dillard, "aye"; no "nays"; Hutson "abstained"; no "absences") to **APPROVE** the Minutes of July 18, 2006 (No. 314).

NEW APPLICATIONS

Case No. 2222

Action Requested:

Variance of lot width from required 150 ft to 143.9; Variance of Lot Area from 2 acres to 1.14; and a Variance of Land Area per dwelling to permit a lot-split in an AG district, located: 15684 North 107th Avenue East.

Presentation:

Donald Hutchinson, 10025 East 136th Street North, Collinsville, Oklahoma, proposed to build two homes on the property for himself and his parents. He looked into utilities and they are available.

Comments and Questions:

Mr. Hutson asked Mr. Hutchinson to explain the unique attributes of the property. He responded that he thought it was easier to get a lot-split and variance than to change the zoning. He stated he has almost 100 ft. frontage and the land area is the big difference. Mr. Charney asked if there was drainage across the property and a pond on the south end. Mr. Hutchinson replied that the pond was filled in. It is a heavily wooded lot with no drainage issues at this time. Mr. Charney noted there were similar size lots in the area. Mr. Tyndall noted the property is zoned AG and the area is in transition with numerous developments of smaller lots and is no longer used for AG.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of lot width from required 150 ft to 143.9; Variance of Lot Area from 2 acres to 1.14; and a Variance of Land Area per dwelling to permit a lot split in an AG district, finding the former location of the pond would not interfere in the foundations for proposed structures; finding the lot-split 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:

TR BEG 317.87S & 281.50E NWC SW SW SE TH E347.17 N287.83 W347.19
S287.85 POB SEC 18 22 14 2.294ACS, Tulsa County, State of Oklahoma

Case No. 2223

Action Requested:

Special Exception to permit a second roller coaster and subsequent replacement of rides, buildings and structures (Use Unit 20 - Commercial Recreation-Intensive), located: East and North of Northeast corner of 21st and Louisville

Presentation:

Roy D. Johnsen, 201 West 5th Street, Suite 501, represented Robert K. Bell Enterprises, Inc. They presented a case for a second roller coaster in 2001 and it was to be west on an expansion of six acres extending to Louisville. He gave subsequent history and brought it to date. He informed the Board they can now build a wooden roller coaster with a metal supporting structure with the new

technology. He added that it requires less space on the ground. They have found that it could be built within the bounds of the present 10.24 acres. They proposed to build it just east of the Zingo roller coaster. This was presented to the parties that appealed and a settlement was made in District Court to seek this relief. He submitted (Exhibit A-1) to the Board and reviewed the plan with the Board. He stated that a couple of the tracks would extend into Zingo. The applicant included conditions (Exhibit A-2) to not run the second roller coaster after 9:00 p.m. each day, except during the period of the Tulsa State Fair, when the second roller coaster may be operated for so long as other amusement rides at the Fair are operating.

Comments and Questions:

In answer to Board questions, Mr. Johnsen stated the new roller coaster would not be enclosed, and it would be wood tracks on a metal supporting structure.

Interested Parties:

Scott Trizza, 1011 North Cheyenne, stated he was one of the appellants, and he was in support of this application. He informed the Board that he owns the house at 1932 South Louisville, where he lived for fifteen years.

Bob Purdam, 1636 South Louisville, expressed concern that additional rides could be placed on the north boundary that might contribute to the noise that they are experiencing currently. He also mentioned that the access for ingress and egress is limited and inadequate to 21st Street. He added that some vehicles will exit across the lawn and off the curb onto 21st street.

William Weinrick, stated his support of this application, as the proposed solution is what he wanted five years ago.

Applicant's Rebuttal:

Mr. Johnsen stated there is traffic on Louisville but it is not just Bell's Amusement Park. This plan largely removes the noise further from the neighborhood.

Board Action:

On **Motion of Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a second roller coaster and subsequent replacement of rides, buildings and structures (Use Unit 20 - Commercial Recreation-Intensive), per the applicant's Exhibit A and conditions offered to replace rides and buildings pursuant to Mr. Johnsen's explanation, and limit the hours per the application, 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:

Part of the East half (E/2) of the Southwest quarter (SW/4), Section 9, Township 19 North, Range 13 East of the Indian Base and Meridian, Tulsa County, State of

Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows to-wit: Commencing at the Southwest corner of the East half (E/2) of the Southwest Quarter (SW/4) of said Section 9, thence due East along the South line of said Section 9, a distance of 400.67 feet to a point thence due North a distance of 50.00 feet to the point of beginning; thence North 0E10'05" East a distance of 1241.36 feet to a point; thence North 89E50'55" East a distance of 122.90 feet to a point; thence South 65E53'37" East a distance of 91.07 feet to a point; thence South 01E06'23" West a distance of 155.52 feet to a point; thence South 88E54'53" East a distance of 59.46 feet to a point; thence South 69E04'16" East a distance of 159.55 feet to a point; thence South 0E02'07" East a distance of 233.85 feet to a point; thence North 89E17'46" West a distance of 172.71 feet to a point; thence South 01E54'40" East a distance of 116.62 feet to a point; thence South 66E11'36" East a distance of 13.70 feet to a point; thence North 89E55'48" East a distance of 21.31 feet to a point; thence South 44E17'11" East a distance of 53.26 feet to a point; thence North 89E45'17" East a distance of 103.43 feet to a point; thence South 0E02'07" East a distance of 599.38 feet to a point, said point being 50.00 feet North of the South line of said Section 9, thence due West and parallel to the South line of said Section 9, a distance of 415.75 feet to the point of beginning and containing 10.42 acres more or less.

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Case No. 2224

Action Requested:

Special Exception to permit a manufactured home in an RE district (Section 410), located: 5008 East 96th Street North.

Presentation:

Deanna Oakley, 5008 East 96th Street North, they proposed to move a single-wide manufactured home onto the lot that abuts her house. They have informed the neighbors and found they were in support.

Comments and Questions:

There is no other home on this five-acre parcel.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a manufactured home in an RE district (Section 410), subject to: tie downs, skirting, paved parking spot, DEQ approval; and a five-year limit of time if they have not begun construction of a permanent house, on the following described property:

PRT NW NW BEG 250E NWC NW TH E768.06 S440.4 W518.06 N24.62 W250
N415.78 POB SEC 22 21 13 7.624ACS, Tulsa County, State of Oklahoma

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Case No. 2225

Action Requested:

Variance of the minimum lot area required in an AG-R district from 1 acre to .976 acres to permit a lot-split (Section 330), located: 11802 East 136th Street North.

Presentation:

Kelvin Limbocker, 11802 East 136th Street North, Collinsville, Oklahoma, stated his request. He gave the history of re-zoning the property and obtaining a plat. He applied for a lot-split and it was discovered that a 50 ft. county right-of-way was included in the legal description, which made the description incorrect. He stated that he ended up with less than one acre for the house after deeding the right-of-way over to the County.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Walker**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the minimum lot area required in an AG-R district from 1 acre to .976 acres to permit a lot-split (Section 330), finding the variation is insignificant; and the parking area is pre-existing, on the following described property:

A tract of land in LT 1 BLK 1, FAITH ASSEMBLY CHURCH, a subdivision located in the NW/4 of the NE/4 of the NW/4 of Sec 32, T-22-N, R-14-E, Tulsa County, Oklahoma. More particularly described as follows, to-wit: Beg NW/c of Lt 1, Bk 1, FAITH ASSEMBLY CHURCH. TH E along N LN of Lt 1 229.06 ft. TH S 168.26 ft. TH N 86° 11' 14" W 229.57 ft. TH N 153 ft. to POB

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Case No. 2226

Action Requested:

Special Exception to permit a day care center in an RE district (Section 410), located: 2717 South 265th Avenue West.

Presentation:

Selena Baker, 2717 South 265th West Avenue, Sand Springs, Oklahoma, stated she was asking for an in-home child care, limited to the twelve children. Her property has been inspected by DHS and she is in compliance with their rules and

regulations. She submitted photographs, her DHS license, and letters of support (Exhibits B-1, B-2, and B-3).

Comments and Questions:

Mr. Hutson asked if she has been operating as a day care. She stated she and her mother purchased this home in June 2006 and before that she had an in-home child care at her prior address where her husband and children live. He asked if she had been operating at the subject property location, to which she replied that she has been. She pointed out other surrounding businesses, with photographs.

Interested Parties:

Ray Russell, 26204 West 27th, submitted an exhibit of opposition (Exhibit B-4). He stated his first concern is the safety of the children. He pointed out that Coyote Trail has a 35 m.p.h. speed limit and people routinely drive 55 to 60 m.p.h. He indicated that the chain link fence did not provide screening or security. He informed the Board that there are people that practice shooting most hours of the day and night in this area. He suggested there were an excessive number of yard toys and a loss of aesthetic value to the neighborhood.

Helen Shipley, 26414 West 136th Street, was in agreement with all of Mr. Russell's concerns. She added that it is a residential neighborhood and they did not need a business in there.

Mike Marriott, 988 East 61st West Avenue, stated he used to live in this area. He indicated he drives from Tulsa to take his son to this day care. He was in support of the application. He felt that this child care is safer than one in town near his home.

Dawn Evans, 605 South Arrowhead Drive, stated her grandson goes to the day care and consider it better than others they have used before.

Julia Ward, 27212 Coyote Trail, stated she lives across the street from the subject property. She did not want to cause a problem for Ms. Baker but she was concerned about the safety of the children. She stated the fast traffic is dangerous and the shooting is a very real problem. She informed the Board that the mailboxes are often knocked down and numerous accidents have occurred in the area. The fence around the child care yard has been hit by a car before.

Nick Smith, 26124 West 27th Street, expressed some of the concerns stated by previous interested parties.

Elaine Brady, 4004 West 43rd, stated she owns two lots just south of the day care center. She complained about a business in the residential area.

Christine Peterson, 4512 South 265th West Avenue, stated Ms. Baker watches three of her children and she feels they are very safe there.

Applicant's Rebuttal:

Ms. Baker stated that she lives four miles from the subject property and she is familiar with the traffic. An Osage police officer takes his son to this day care. She informed the Board that she cut back the trees that interfere with the driver's vision. She pointed out the fence for the front yard and a second fence for the play area for safety. She had caution signs posted on the road for children at play. She pointed out the driveway is 99 ft. deep and 65 ft. wide. She instructs parents to pull out of the drive forward instead of backing up.

Comments and Questions:

Mr. Tyndall asked about days and hours of operation. Ms. Baker stated she is open Monday through Friday and limited hours on Saturday, with occasional evening hours. Mr. Dillard asked if someone lives there full-time. She replied there is not someone residing there and that she asked for non-residential use of the home. She stated that she was requesting to care for five more children to total twelve and one additional employee, no more than two. Mr. Hutson clarified that Ms. Baker could move into the house and keep seven children in compliance with the zoning code and DHS rules. Mr. Cuthbertson responded to a question regarding fencing, stating there is no screening requirement for the day care center, though she has a screening fence between her property and the abutting residential.

Board Action:

On **Motion** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a day care center in an RE district (Section 410), to allow five additional children, no more than twelve children total; to allow one additional employee; with days and hours of operation Monday through Saturday, 6:30 a.m. to 9:00 p.m., no required on-site resident necessary, 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:

LT 11 BLK 3 LAKE SUBURBAN ESTATES, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:52 p.m.

Date approved: 9-19-06


Chair

