

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 321
Tuesday, February 20, 2007, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Dillard	Charney, Chair	Alberty	West, Co. Inspector
Hutson		Butler	
Tyndall, Vice Chair		Cuthbertson	
Walker, Secretary			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, February 15, 2006 at 11:15 a.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Vice-Chair Tyndall 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 **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the Minutes of December 19, 2006, 2006 (No. 319).

On **MOTION** of **Dillard**, the Board voted 3-0-1 (Walker, Tyndall, Dillard, "aye"; no "nays"; Hutson "abstained"; Charney "absent") to **APPROVE** the Minutes of January 16, 2007, (No. 320).

UNFINISHED BUSINESS

Case No. 2241

Action Requested:

Variance of the lot area (Section 330); Variance of the land area (Tract B) and a Variance of the land area per dwelling unit (Tract A) (Section 330); Variance of the

average lot width permitted in an AG district (Section 330), located: 16123 East 167th Place South.

Presentation:

Ronnie Smith, 16123 East 167th Place South, stated he wants to build an addition to his commercial building. He also proposed to split the commercial building from the residential portion of the property. He provided a lot-split plan (Exhibit A-1). Mr. Smith indicated he received a letter from the County Commissioner and County Engineer stating they would never use the section line. He pointed out there are several 2.6 acre tracts to the east that have been split.

Comments and Questions:

Mr. Cuthbertson responded to Mr. Walker's question of the hardship. He stated the proposed lot-split line follows an existing creek that naturally splits the lot already. It is in a part of the county that has a historic development pattern of multiple small parcels and approved lot-splits. He encouraged the Board, if they were inclined to approve this case, to approve per the proposed lot-split plan included in the packet.

Interested Parties:

There were no interested parties 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 Variance of the lot area (Section 330); Variance of the land area (Tract B) and a Variance of the land area per dwelling unit (Tract A) (Section 330); Variance of the average lot width permitted in an AG district (Section 330), finding the creek is in the middle of the property; the use will not change; subject to the lot-split, on the following described property:

PRT NW SW BEG 718S NWC SW TH E350.36 N457.39 SW TO WL SW S POB
SEC 26 17 14 3.29AC LEONARD, Tulsa County, State of Oklahoma

Case No. 2242

Action Requested:

Special Exception to permit a church in an AG district (Section 310), located: South of Southwest of East 201st Street and South 2nd East Avenue.

Mr. Cuthbertson reminded the Board this case was heard at the last meeting. The Board stated at that time there were not enough details on the site plan to give a proper review in context of the surrounding properties. The applicant was advised to provide a more specific plan at this hearing. The applicant did not provide the site plan until today and Mr. Cuthbertson did not have opportunity to review it.

Presentation:

Johnnie Christian, 201 South Main, Mounds, Oklahoma, introduced the Pastor, William Bethel.

William Bethel, Pastor of the church, 10995 Ferguson Road, Beggs, Oklahoma stated they faxed a drawing of the plan for setting the church on the land. The road is not a county road and they proposed to have a construction company build a new road from 201st Street to the entrance of the church. He stated that would include construction of an 18” tin-horn whistle for the low-water drainage. They would have REC security lights and lighting on the building. The plans are for over sixty parking spaces.

Comments and Questions:

Mr. Hutson stated the Board would need a legal easement for public access. Mr. Walker informed the applicant that staff would need the information before the next meeting to review it before the next meeting.

Interested Parties:

There were no interested parties who wished to speak.

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. 2242 to the meeting on April 17, 2007, on the following described property:

PRT W/2 SE SW BEG 500E & 150S NWC THEREOF TH W291S250 E291 N250
POB SEC 12 16 12 1.67AC Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 2246

Action Requested:

Special Exception to permit a communications tower in an AG district (Section 310), located: Northeast of 141st Street and South 129th East Avenue.

Presentation:

Greg Ferris, 144 South Bay County Court, Wichita, Kansas, represented T-Mobile Central, LLC. This application is to provide better coverage for cell phone use and wireless internet service. They sought to find a location that would be less noticeable. The Catholic Diocese owns the property and T-Mobile obtained a lease. The tower would be a 190’ monopole tower in an AG-district. It would be over 100 ft. from residential property with a buffer of trees. When they submitted

the application there were no other towers within a mile of the site. The Board approved a new tower .7 miles to the northeast since that time. This tower is in a flood plain area and no other development could be incurred in the surrounding areas. They will need to cooperate with the FCC and other entities but this is a good use for the property. The tower would meet the needs for at least three carriers. He provided exhibits (Exhibit B-1) to show coverage, which he reviewed and the sod farming area surrounding the site. They considered the other tower, which was put in after their application, and found that it would not be effective for coverage or cost to collocate there.

Comments and Questions:

Mr. Cuthbertson stated the tower needs a setback of 110% of the height of the tower, which brings the setback to 209 ft. from an adjoining AG-district. According to the application the tower would be located 206.9 ft. from the adjoining district. Mr. Ferris replied that was an error by the surveyor and they would comply with a condition to move the location back four or five feet.

Interested Parties:

There were no interested parties who wished to speak.

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 Special Exception to permit a communications tower in an AG district (Section 310), with a condition to move the tower 2.3 ft. to the east; finding the application meets the zoning code requirements for a cell tower; 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; also, finding it is the middle of sod farms, on the following described property:

S/2 SW & W/2 NW 10AC LT 2 LESS W450 N550 SW SW & LESS W60 S300
N850 SW SW SEC 9 17 14 78.91AC Tulsa County, State of Oklahoma

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Case No. 2247

Action Requested:

Variance of minimum required land area per dwelling in an AG district to permit two dwellings on the subject property (Section 330), located: 15950 South 145th East Avenue.

Presentation:

Antonio and May Morreale, 15950 South 145th East Avenue, stated they own four acres of land. They proposed to keep the property ownership but allow their son to move a double-wide manufactured home onto the property.

Comments and Questions:

Mr. Hutson asked if it would be on a septic tank, which Mr. Morreale replied it would be. Mr. Dillard asked the applicant if he knew about a requirement for paved parking. He did not know, but he stated the parking area is large enough for four vehicles.

Interested Parties:

Steve Matlock, 15808 South 145th East Avenue, stated his property abuts the subject property on the west. He was opposed to the application because it would increase the density; it would block their view; and there are no mobile homes in over one-half mile.

Susan Matlock, 15808 South 145th East Avenue, concerned it would promote more development. They don't want to be in a subdivision neighborhood and want it to be more rural.

Mr. Cuthbertson interjected that mobile homes are allowed by right in an AG-district. He also pointed out if the applicant had .2 more acres they could add another house without coming to the Board. Mrs. Matlock replied the rule is there for a reason. Mr. Alberty explained the zoning code is set up with minimum numbers for lot area and land area. They have to allow for road right-of-way.

Applicant's Rebuttal:

Mr. Morreale reminded the Board they are not selling the property. He explained they have a family need for this request. He understands he could buy some of the adjacent property and what he is requesting by right.

The Board discussed the difference in land area from the requirement is less than four percent. Mr. Walker considered the hardship to be the minimum amount of change that is for a temporary use. Mr. Dillard suggested approving this application for family use but with a five-year time limit.

Board Action:

On **Motion** of **Walker**, to **APPROVE** a Variance of minimum required land area per dwelling in an AG district to permit two dwellings on the subject property (Section 330), with conditions: for temporary use for family as long as needed. The motion failed for lack of a second.

On **Motion** of **Dillard**, the Board voted 3-1-0 (Walker, Tyndall, Dillard, "aye"; Hutson "nay"; no "abstentions"; Charney "absent") to **Amend** the motion.

On **Amended Motion** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Hutson, "aye"; Dillard "nay"; no "abstentions"; Charney "absent") to **APPROVE** a Variance of minimum required land area per dwelling in an AG district to permit two dwellings on the subject property (Section 330), with conditions: for temporary use

for family to include: approval limited to five years, on the following described property:

SE NE SE SE & E198 SW NE SE SE SEC 21 17 14 4ACS Tulsa County, State of Oklahoma

Mr. Cuthbertson stated this means the applicant would need to come before the Board before the five years is up for a modification of the condition to extend the five years. Mr. Hutson stated there is no guarantee to the applicant of approval of the modification.

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Case No. 2248

Action Requested:

Variance of the minimum required lot area and land area in an AG district; and a Variance of the minimum required lot width in an AG district; to permit a lot-split (Section 330), located: 3893 East 86th Street North.

Presentation:

Stephen Sanders, 3897 East 86th Street North, Sperry, Oklahoma, stated the hardship is that they obtained a variance to build two homes on one lot of record. Now they cannot get insurance on the house on the front house because it is considered a secondary structure. They have done extensive remodeling but cannot insure it for the increased value. It is a mobile home on a permanent foundation with brick on the footing.

Comments and Questions:

Mr. Hutson reminded the applicant that the Board called this subject to the applicant when he came before the Board previously. The Board warned him of the potential problems. Mr. Alberty confirmed what Mr. Hutson stated and added they were under the impression the second dwelling would be removed after the stick built home was constructed. Mr. Hutson stated he would not be able to support the application based on the previous record and the fact that this variance is a dramatic change from the zoning code.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **DENY** Case No. 2248 for lack of a hardship, on the following described property:

TR BEG 20E SWC E/2 E/2 W/2 E/2 SW TH N440 E227.5 S440 W227.5 POB SEC 21 21 13 2.298ACS Tulsa County, State of Oklahoma

Case No. 2249

Action Requested:

Modification of a previously approved plan to permit expansion of an existing church in the AG district, located: 3029 South 57th West Avenue.

Presentation:

Randy Barker, 2850 East 101st Street, represented the First Pentecostal Church. He referred to the exhibit on page 7.5 of the agenda packet. They proposed to build a sanctuary to the north of the existing church. There are two houses to the east of the existing facility on 57th Street. They understand the Gilcrease Expressway is going to run parallel to the east boundary line and separate them from the existing homes. They would build the new sanctuary on the existing parking lot and they would expand the new parking lot into their recreation areas. They modified the parking lot on the northwest corner to accommodate the floodway. The hundred-year flood zone infringes a little on the new parking lot.

Comments and Questions:

Mr. Cuthbertson stated the flood plain issues would be addressed at the permitting office.

Don Martin, 3717 South Rolling Oaks Drive, stated he is the Pastor of the church. They have 200-250 in attendance and plenty of space for classrooms at this time. They anticipate building a school in the future and plan to purchase more land for that project.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to the Modification of a previously approved plan to permit expansion of an existing church in the AG district, on the following described property:

E 250 OF W 280 OF N 500 OF S 925 OF W/2 SE SEC 1719 12 Tulsa County,
State of Oklahoma

Case No. 2250

Action Requested:

Variance of the minimum required frontage from 30 ft. to 0 ft. to permit a lot-split for existing residential use, located: 18968 East US Highway-64 South.

Presentation:

Larry Leonard, 1921 South Boston Avenue, represented the applicant, Robert Merrifield. The application is to provide for the sale of the Margaret Randolph-Jones Mansion with six acres. There is a private roadway dedicated to provide access to this portion of the property. They have a roadway easement to be granted for the distance from the existing roadway to the edge of the subject property.

Comments and Questions:

Mr. Cuthbertson noted the driveway does not actually go to the subject property. Mr. Hutson asked for the type of existing road material. Mr. Leonard stated it is a gravel road. Mr. Leonard pointed out the road and details on a map to the Board. Mr. Alberty informed the Board of the need for a survey in the record to provide accurate proof of access and for the lot-split. Mr. Cuthbertson added we also need documentation that the purchaser has rights to the mutual access easement.

Interested Parties:

There were no interested parties who wished to speak.

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 Variance of the minimum required frontage from 30 ft. to 0 ft. to permit a lot-split for existing residential use, with a condition to provide a documented record of easement for a mutual access road, on the following described property:

a tract of land within the NE/4 of the SE/4 of Sec 36, T-17-N, R-14-E of the I.B.&M, Tulsa County, State of Oklahoma, according to the USGS survey thereof, more particularly described as follows, to wit: Commencing at a brass cap found at the NE/c of said NE/4 SE/4; TH S 00° 01' 38" E along the E ln of said NE/4 SE/4; a dis of 901.75 ft. to the POB; TH continuing S 00° 01' 38" E along said E ln a dis of 417.92 ft. to the SE/c of said NE/4 SE/4; TH N 89° 54' 39" W along the S ln of said NE/4 SE/4 a dis of 1312.28 ft. to the SW/c of said NE/4 SE/4; TH N 00° 03' 51" E along the W ln of said NE/4 SE/4 a dis of 1229.43 ft. to the C/L of creek; TH along the CL of said creek the following calls: TH S 59° 54' 20" E a dis of 240.37 ft.; TH S 59° 48' 43" E a dis of 436.78 ft.; TH S 63° 57' 30" E a dis of 291.17 ft.; TH S 74° 49' 00" E a dis of 214.52 ft; TH S 84° 4' 30" E a dis of 112.00 ft. to the E edge of a 30 ft. road easement; TH along the said road easement the following calls; TH S 30° 05' 48" E a dis of 59.24 ft.; TH S 32° 24' 15" W a dis of 90.78 ft; TH leaving said road easement S 00° 00' 57" E a dis of 150.60 ft; TH S 89° 53' 52" E a dis of 163.95 ft to the POB; and E/2 NE LYING SW OF HWY & W/2 SE & BEG NE/C NE SE TH S382.93 NW 127.91 SW54.50 SW 106.89 S81.55 SE84.77 W112 NW214.52 NW291.17 NW436.78 NW240.37 N91.43 E1 310.18 TO POB SEC 36 17 14

There being no further business, the meeting adjourned at 2:51 p.m.

Date approved: 05-15-07^{PB}

David E. Conway
Chair