

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 280
Tuesday, September 16, 2003, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty, Chair	Tyndall	Butler	West, Co. Inspector
Dillard, Vice Chair	Walker	Beach	
Hutson			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, and on Monday, September 15, 2003 at 1:12 p.m., in the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Alberty called the meeting to order at 1:35 p.m.

MINUTES

On **MOTION** of **Hutson**, the Board voted 3-0-0 (Alberty, Dillard, Hutson "aye"; no "nays"; no "abstentions"; Walker, Tyndall "absent") to **APPROVE** the Minutes of August 19, 2003 (No. 279).

UNFINISHED BUSINESS

Case No. 2056

Action Requested:

Special Exception under Section 310. Table 1, to permit dredging and removal and processing of sand, gravel and soil, and mineral processing under Use Unit 24. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24, located: E side S 129th E. Ave. ¼-½ mile S E.141st St.

Presentation:

Charles E. Norman, 2900 Mid-Continent Tower, stated he represented Anchor Stone Company for a Special Exception. He was informed by Jim Beach that Jeff Levinson contended the adequacy of the notice. He offered to let Mr. Levinson speak first since inadequacy of the notice would mandate a continuance.

Jeff Levinson, 35 E. 18th St., stated he represented Cardinal Industries, LLC, an interested party. He referred to the changes in the size and configuration of the subject property since the plan was presented to the Broken Arrow Board of Adjustment.

Terry Fox, P.O. Box 1507, Pittsburg, Kansas, stated he is with Triad Environmental Services. He also questioned the difference in the plan that was presented to Broken Arrow from the plan presented at this meeting.

Comments and Questions:

Mr. Alberty explained that this difference in the plan is irrelevant to the jurisdiction of this Board. He stated this Board would consider the plan advertised for this meeting. He asked Mr. Norman for input regarding the change in the plan. Mr. Norman replied that the plan they presented to Broken Arrow was an expanded plan. Those plans were revised to reduce the plan to the original boundaries that correspond to the legal description in the notice. Mr. Norman and Mr. Beach agreed that the notice is adequate as amended and the legal description and zoning case map are consistent with the notice. Mr. Alberty noted that the area indicated to Broken Arrow was broader than the plan submitted today. Mr. Alberty stated for the record the notice was found adequate for this application.

Presentation:

Mr. Norman informed the Board that this matter was reviewed by the Department of Public Works and the Planning staff in Broken Arrow after referral because the area is in the annexation fence line of the City of Broken Arrow. Items submitted to the Board included a site plan, amended application, sandbar evaluation, water management analysis report, a noise survey report and letters to INCOG and the District 3 Commissioner (Exhibits A-1 through A-6). Mr. Norman stated there has been an increasing shortage of sand since the closure of the Keystone Dam and the low water dams have added to the problem. This business is dependent on natural sand deposits located at sites providing enough quantity for commercial use and at a feasible cost for hauling. The proposed process will be a sand dredging, so that no sand is removed above the bank of the river. All of the property immediately adjacent and all of the square mile to the west of the site is in the floodway, Haikey Creek, or the one hundred year flood plain. No further residential development or commercial building would be allowed in that area. He pointed out a distance of 1,300' to the Perryman home to the northwest from the center of the operation; the residence to the southwest is 1,050'; and two residences on the other side of 129th E. Ave. He described the shortened length of the proposed berm with the help of his exhibits, having breaks for equalization of water levels and a drainage swale. They propose to build a cedar plank fence that allows wind to pass through along the berm and a row of 10' to 12' Aristocrat Pear trees along the rear of the Perryman property as a screen to the access road. A sound study indicated that the dredge motor would not be heard from any of the site boundaries. The back up alarms on the equipment may be audible.

Interested Parties:

Frank Watkins, 43 W. 5th St., Bixby, Oklahoma, stated he is the president of Watkins Sand Company, Inc. He added he did not protest sand mining, but the applicant's attempt to obtain a ten ton load limit on 129th E. Ave. between 131st and 141st. Mr. Alberty commented that he did not feel the Board has the power to address the load limit on a public road.

Terry Fox, Engineer for Triad Environmental Services, expressed concern that no mention was made of buffer zones, and suggested that in previous cases the buffers were a requirement. He mentioned concern about the large drainage canal to be built under the road. He stated they had not been informed of the details and revisions.

Sam Perryman, 14503 S. 129th E. Ave., referred to a letter from Ray Jordan (Exhibit A-8), stating Tulsa County has not approved the proposed site for compliance with current Tulsa County floodplain regulations or the proposed load limit requests. Mr. Perryman submitted a book of exhibits (Exhibit A-9), which includes a list of numerous sand companies. He differed with Mr. Norman's statement that there is a shortage of sand, as there are 38 sources for sand in the Tulsa area. He provided an independent engineering report from a hydrologist (Exhibit A-11) offering his opinion that the proposed plan along the existing operations, combined with the Haikey Creek discharges could create a new channel that could jeopardize the Indian Springs Sports Complex Area. He cited a court case of Knight vs. Roberts in 1980 in which a Board of Adjustment decision to grant a special exception be reversed, finding it injurious to the area. The population has increased by over 5,000 people since 1980, but the roads are still the same as then, without improvements. He indicated the truck load limits would only encourage a change in routes. He expressed concern for safety on the roads; heavy traffic; speeding trucks; loss of property value; poor water drainage; noise from the trucks; school bus route on the truck route; and fish and game protection. He referred to (Exhibit A-10) as an example of recent storm damage on August 30th, 2003.

Richard Gathman, 14901 S. 129th E. Ave., stated opposition to the heavy truck traffic, and speeding trucks on a school bus route. He pointed out the topography with a steep hill on 129th E. Ave.

Dan Landiss, 12804 E. 138th St., Broken Arrow, Oklahoma, stated that he was promised the Watkins sand trucks would not use 129th E. Ave. He complained that the trucks awaken him in the early morning everyday, as they are loud and speeding. He is opposed to an increased number of trucks.

Carol Ann Clark, 13415 S. 127th E. Ave., stated they moved there in 1977 for the peace and quiet. She listed the same complaints as above. She added that the bridge has sunken and bird watchers no longer come to watch the birds.

Carol Eames, 7412 W. 38th St., stated on behalf of the Audubon Society concern for the eagles that nest in this area.

Larry Walden, 13137 S. 125th E. Ave., **Bob Hograth**, 13320 S. 121st E. Ave., **Charlie Hendrix**, 12650 E. 132th St., all expressed the same concerns already stated.

A Tulsa World article, a petition and a site map were submitted (Exhibits A-7, A-12, and A-13).

Applicant's Rebuttal:

Mr. Norman responded by asking where else they can go for sand. He reiterated the suggestions to re-route the trucks, and asked the commissioners to impose weight limits. He mentioned again the recommendation from Broken Arrow for this application. Mr. Norman stated the applicant was open to the Board's recommendations and conditions.

Comments and Questions:

Mr. Alberty asked if the applicant limited the hours of operation. Mr. Norman responded that they have no objection to a limitation of the hours from 7:00 a.m. to 5:00 p.m., Monday through Friday. They would appreciate the consideration to extend those hours for as many as six days during July, August and September (peak business months) for unusual demand or lost production days due to high water.

Mr. Dillard asked about the motor fuel storage tanks, shops, office trailers, truck scales, and a house that were mentioned, if they would all be allowed in the floodplain. Mr. Norman replied that the scale house was the only structure allowed in the floodplain. He stated the house is a manufactured building, not a mobile home. There would be no service or maintenance facilities on sight except for fueling the on-sight equipment. The fuel facilities would be on stilts or sleds for moving at times of high water.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Alberty, Hutson, Dillard "aye"; no "nays"; no "abstentions"; Tyndall, Walker "absent") to **APPROVE** a **Special Exception** under Section 310. Table 1, to permit dredging and removal and processing of sand, gravel and soil, and mineral processing under Use Unit 24, with conditions for: County Engineer approval of plans for drainage, traffic flow and load limits, including recommendations per the City of Broken Arrow with the exclusion of #4; City of Broken Arrow recommendations that were imposed are: 1) A licensed engineer shall stamp all reports requiring an engineering study; 2) If any deterioration of the sandbar protection the Indian Springs Sports Complex occurs, Anchor Stone will correct the damage; 3) Anchor Stone shall provide annually to the City of Broken Arrow and Tulsa County aerial surveys, evaluated by an

independent engineer, for the first five years of operation. After the first five years, aerial surveys shall be provided every three years thereafter; 5) When the mining operations cease, the site shall be returned to its original condition; per plan, on the following described property:

Beg. at the SW/c NW/4 NW/4 of Section 16, T-17-N, R-14-E, and extending E 1,320.00', thence S a distance of 1,312.00' thence W a distance of 240.00' extending N 1° E of true N a distance of 1,122.00', extending W a distance of 1,105.00', thence N a distance of 190.00' to the POB; AND Beg. at a point 1,085.00' E of the SW/c NW/4 of Section 16, T-17-N, R-14-E, thence 33.00' S along a line running 1° W of true S, extending W on a line 1° N of W a distance of 550.00' thence due S 1,290.00' thence E a distance of 1,845.00' to a point in the Arkansas River, then extending northward 1,300.00' along a line 30° E of north to a point in the Arkansas River, then extending northward 190.00' along a line 20° E of N to a point in the Arkansas River, thence 2,000.00' W to the POB; AND Beg. at a point 970.00' E of the SW/c of Section 16, T-17-N, R-14-E, thence E a distance of 1,110.00' to a point in the Arkansas River, then extending northward 1,350.00' along a line 13° E of N to a point in the Arkansas River, thence W a distance of 1,045.00' to a point on the W bank of the Arkansas River, then S a distance of 1,368.00' along a line running 15° W of S to the POB, Tulsa County, State of Oklahoma.

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NEW BUSINESS

Case No. 2060

Action Requested:

Special Exception to permit a home occupation (beauty shop) in a RS district. SECTION 420.1. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Uses Permitted, located: 5725 S. 102nd W. Ave.

Presentation:

Dorothy Blake, 5725 S. 102nd W. Ave., Sand Springs, Oklahoma, proposed to open a beauty shop in her home.

Comments and Questions:

Mr. Alberty asked if she has read the rules and regulations of a home occupation. Ms. Blake replied that she is familiar with them. The hours of operation would be Tuesday through Saturday, 7:00 a.m. to 7:00 p.m.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Dillard**, the Board voted 3-0-0 (Alberty, Hutson, Dillard "aye"; no "nays"; no "abstentions"; Tyndall, Walker "absent") to **APPROVE Special Exception** to permit a home occupation (beauty shop) in a RS district, with conditions: days/hours of operation not to exceed Tuesday through Saturday, 7:00 a.m. to 7:00 p.m., and one customer at a time, on the following described property:

S 104.68' Lot 3, Block 3, Buford Colony 3rd Addition, Tulsa County, State of Oklahoma.

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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:

The applicant was not present.

Board Action:

The case was moved to the end of the agenda.

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Case No. 2062

Action Requested:

Variance to allow a manufactured home in an RS zoned district; and a Variance to allow two dwelling units per lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located: 1553 E. 73rd St. N.

Presentation:

Frank Watts, 1553 E. 73rd St. N., proposed to move in a mobile home to attach to the existing structure by a breezeway. They will be used by the same family. He owns the three lots. He stated that the existing structure has stone exterior walls so there would be no fire problem.

Comments and Questions:

Mr. Hutson reminded Mr. Watts that he would have to obtain a permit from the building inspector.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Alberty, Hutson, Dillard "aye"; no "nays"; no "abstentions"; Tyndall, Walker "absent") to **APPROVE** a **Special Exception** to allow a manufactured home in an RS zoned district; and a **Variance** to allow two dwelling units per lot of record, 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:

Lot 12, Block 3, Golden Hills Addition, Tulsa County, State of Oklahoma.

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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:

The applicant was not present.

Board Action:

On **Motion** of **Dillard**, the Board voted 3-0-0 (Alberty, Hutson, Dillard "aye"; no "nays"; no "abstentions"; Tyndall, Walker "absent") to **CONTINUE** Case No. 2061 to the meeting on October 21, 2003.

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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There being no further business, the meeting was adjourned at 3:53 p.m.

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EXECUTIVE SESSION

Discussion of settlement authority in the case of Michael H. Freeman and Ryder Brick, Inc., an Oklahoma Corporation, real party in interest, pursuant to 25 O.S. §307B(4).

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There being no further business, the Executive Session was adjourned at 4:25 p.m.

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OTHER BUSINESS

Chair Alberty called the meeting to order at 4:30 p.m.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Alberty, Hutson, Dillard "aye"; no "nays"; no "abstentions"; Tyndall, Walker "absent") to **Decline** request to settle with Michael H. Freeman and Ryder Brick, Inc.

There being no further business, the meeting was adjourned at 4:32 p.m.

Date approved: _____

10/21/03



Chair