

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 282
Tuesday, November 18, 2003, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, November 12, 2003 at 9:09 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.; and read the Rules and Procedures for the public hearing.

MINUTES

On **MOTION** of Tyndall, the Board voted 3-0-0 (Walker, Tyndall, Hutson "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the Minutes of October 21, 2003 (No. 281).

Case No. 2067

Action Requested:

Special Exception to permit a mobile home in an RS district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Variance to permit two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located: 1103 W. 6th St. N.

Presentation:

Mr. Beach informed the Board that the applicant withdrew the application. The interested parties asked if the applicant could re-apply, to which he responded she could and new notices would be sent out.

Board Action:

No action was needed regarding the following described property:

Lots 9 and 10, less E 150.00' Lot 9, Block 12, Charles Page Home Acres No. 2
Re-subdivision, Part Block 10-12, Tulsa County, State of Oklahoma.

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Case No. 2068

Action Requested:

Variance of required 150' of frontage to 120' to permit rezoning to CS district.
SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS,
located: 6645 N. Peoria

Presentation:

Ray P. Bates, 7968 Rock School Road, Skiatook, Oklahoma, stated he is the
President of the Turley Lions Club. He submitted photographs and a written
presentation (Exhibits A-1 and A-2). The Lions Club has used the property for
many years. The Tulsa Metropolitan Area Planning Commission instructed them
to seek a variance before rezoning. There is a prospective buyer for the property
that proposes to open a barbecue restaurant.

Comments and Questions:

Mr. Hutson noted the hardship would be the land was split off before the minimum
frontage requirements were in the zoning code.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no
"nays"; no "abstentions"; Dillard "absent") to **APPROVE** a **Variance** of required
150' of frontage to 120' to permit rezoning to CS district, finding the size of the land
was established before the frontages were required by the zoning code on the
following described property:

W 100.00' of the N/2 of Lot 7, Block 12, Golden Hills, Tulsa County, State of
Oklahoma.

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Case No. 2069

Action Requested:

Special Exception to allow Use Unit 15 (animal grooming) as a home occupation in
an AG zoned district. Use Unit 15, located: 2708 W. 91st St.

Presentation:

Terri Tobey-Edmonds, 2708 W. 91st St. S., stated she proposed to have an
animal grooming home occupation. She planned to do four to six pets per day.

She has several years experience. She pointed out the importance of attention to the health and well-being of pets, not always considered in the grooming business. The days and hours of operation would Monday through Friday, 7:30 a.m. to 5:00 p.m.

Comments and Questions:

Mr. Walker asked about boarding animals. Ms. Tobey-Edmonds replied she would only keep an animal overnight if someone did not come pick it up. She submitted a letter of support (Exhibit B-1).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Hutson**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a **Special Exception** to allow Use Unit 15 (animal grooming) as a home occupation in an AG zoned district, 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:

The N 264.00' of the N/2 E/2 W/2 NE/4 NW/4 of Section 22, T-18-N, R-12-E of the IBM, Tulsa County, State of Oklahoma.

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Case No. 2070

Action Requested:

Variance of required minimum frontage from 30' to 0'. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located: 17232 S. Memorial Dr.

Presentation:

Heidi Churchill, 9493 E. 139th St., Bixby, Oklahoma, stated she and her son own property at 171st and Memorial, and it is land-locked. They have discussed the situation with Sonny and May Layman, adjoining neighbors, and they are in agreement to divide one and a half acres of their property to tie to her son's property. He has an easement for a road.

Comments and Questions:

Mr. Beach wanted to confirm that there is an access easement of record. Ms. Layman assured them the easement is of record.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a **Variance** of required minimum frontage from 30' to 0', as presented, finding the hardship that the land is land-locked and will still be land-locked, on the following described property:

A part of the NE/4 NE/4 of Section 35, T-17-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as Beg. 656.30' N of the SE/c NE/4 NE/4, thence W 573.04'; thence N 455.10'; thence E 130.49'; thence S 183.80'; thence E 233.80'; thence S 129.30'; thence E 208.75'; thence S 141.91' to the POB; AND Beg. at a point 208' 8.5" S and 208' 8.5" W of the NE/c NE/4 of Section 35, T-17-N, R-13-E of the IBM, thence W 233' 8.5"; thence S and parallel to the E boundary of said Section, a distance of 183' 8.5"; thence E a distance of 233' 8.5"; thence N a distance of 183' 8.5" to the POB.

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Case No. 2071

Action Requested:

Variance of the required 30' frontage on a public street to allow a lot split. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located: 11503 E. 136th St. S.

Presentation:

Jimmy Lindsay, 11503 E. 136th St. S., Bixby, Oklahoma, stated he bought this AG zoned property with plans to build horse stalls and barns. He has built a house there and would like to split the property with the house on two and one-half acres. He has an easement from Don Thornton who owns the frontage on 136th. The road is maintained by the county.

Comments and Questions:

Mr. Walker noted that the land would be divided into four tracts. He asked if the applicant intended to sell tracts three and four. Mr. Lindsay replied he did not plan to develop the property; this is only to put his house and the two and one-half acres on his mortgage as one piece of property. He added that if he ever wanted to sell the other property it would already be divided. Mr. Walker commented that it looked like it was divided in lots ready to sell for development. Mr. Lindsay responded that a lot of it is in a flood plain. Mr. Hutson asked where he built. Mr. Lindsay replied that he built on the side of a hill. Mr. Hutson asked about the number of lots allowed before a property is considered a subdivision. Mr. Beach responded the state law defines a subdivision as a set of tracts more than four, or any development involving a public street. Mr. Lindsay submitted an easement agreement (Exhibit C-1).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **CONTINUE** to the meeting on January 20, 2004, on the following described property:

A tract of land in the S/2 NW/4 of Section 8, T-17-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, being more particularly described as follows, to-wit: Commencing at the SW/c S/2 NW/4 of said Section 8; thence N 0°0'14" E along the W line thereof a distance of 35.00' to the POB; thence S 89°50'21" E and parallel to the S line of said S/2 NW/4 a distance of 1,324.04'; thence N 44°46'05" E a distance of 358.18'; thence N 0°09'39" E a distance of 235.0'; thence N 89°50'21" W a distance of 288.65'; thence N 0°05'41" W a distance of 118.27'; thence N 89°52'20" W a distance of 1,288.06' to a point of the W line of said S/2 NW/4; thence S 0°00'14" W along the W line of said S/2 NW/4 a distance of 607.53' to the POB. Less and Except the following tract of land: A tract of land in the S/2 NW/4 of Section 8, T-17-N, R-14-E of the IBM, being more particularly described as follows, to-wit: Commencing at the SW/c S/2 NW/4 of said Section 8; thence N 0°00'14" E along the W line thereof, a distance of 35.00' to a point; thence S 89°50'21" E and parallel to the S line of said S/2 NW/4 a distance of 1,324.04' to the POB; thence N 44°46'05" E a distance of 358.18'; thence N 0°09'39" E a distance of 235.0'; thence N 89°50'21" W a distance of 288.65'; thence S 0°05'41" E a distance of 490.01'; thence S 89°50'21" E and parallel to the S line of said S/2 NW/4 a distance 24.04' to the POB.

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Case No. 2072

Action Requested:

Variance of land area per dwelling unit from 2.1 acres to 1.75 acres to allow two dwelling units on one lot of record zoned AG. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located: 15940 S. Peoria

Presentation:

Deborah J. Blair, 6615 S. Lewis Ave., Apt. 135, stated she proposed to place a mobile home on her mother's property on a temporary basis. She added that the deed shows there are three and one-third acres.

Comments and Questions:

Mr. Beach reminded the Board the zoning code requires 2.1 acres per dwelling unit. Mr. Walker asked the applicant for a hardship. Ms. Blair did not have a specific hardship peculiar to the land.

Interested Parties:

Brian Landsheft, 15880 S. Peoria, stated he represented the people who signed the petition he submitted (Exhibit D-2) in opposition to another trailer in the area. He indicated concern that the temporary placement of the trailer could remain permanently. Mr. Walker responded that a trailer is allowed by right in an AG district, and the question is the variance. Mr. Landsheft let it be known that they would object to any additional dwelling on that lot. He also submitted a map (Exhibit D-1) indicating where the residents live that signed the petition.

Barabara O'Bannon, 3727 E. 131st St., stated she represented herself and her family. They own the thirty acres across from the subject property. She expressed concern that the existing lagoon would become a public lagoon with multiple users. She stated they have a lot of drainage problems in the area. Ms. O'Bannon indicated that the existing system was not going to be adequate to handle waste water.

Applicant's Rebuttal:

Ms. Blair submitted photographs of the property (Exhibit D-3). She stated they do not have drainage problems on their property. Mr. Walker noted the trailer was already moved onto the property. Ms. Blair stated she has not connected it yet, awaiting approval.

Comments and Questions:

Mr. Hutson asked about the location of her brother's property. His property is adjoining her mother's property with three and one-third acres. Mr. Hutson suggested that to tie the mother and son's properties would give the required land area. Mr. Walker questioned if they could get approval for an additional sewage system though.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **DENY** a **Variance** of land area per dwelling unit from 2.1 acres to 1.75 acres to allow two dwelling units on one lot of record zoned AG, finding lack of a hardship, on the following described property:

A tract of land in the S/2 SE/4 SE/4 of Section 24, T-17-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, being more particularly described as follows, to wit: Beg. at a point 330.00' N SE/c S/2 SE/4 SE/4 of Section 24, T-17-N, R-12-E of the IBM, thence Wly parallel to the S line of said S/2 SE/4 SE/4, a distance of 440.00' more or less, to a point 880.00' E of the W line of S/2 SE/4 SE/4, thence Nly parallel to the W line of said S/2 SE/4 SE/4, a distance of 330.00', more or less, to a point in the N line of said S/2 SE/4 SE4, thence Ely along the N line a distance of 440.00' to the E line of said S/2 SE/4 SE/4, thence Sly along the E line of said S/2 SE/4 SE/4, a distance of 330.00', more or less, to the POB.

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Case No. 2073

Action Requested:

Special Exception to permit auto sales and repair in a CS district; and a Variance of required 300' from an R district for display of merchandise for sale. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located: 7035 & 7037 N. Peoria.

Presentation:

EuGene King, 510 S. Hominy, Skiatook, Oklahoma, stated he has two lots on one contract. He proposed to lease the 7037 lot to someone for auto sales/repair. He has a tire shop at 7035 N. Peoria. He would then apply for IL zoning. Both structures have water, restroom facilities, and heat.

Comments and Questions:

Mr. Hutson asked the depth of the property. Mr. King responded that the depth of the property from the center of the highway is approximately 200'. Mr. Walker asked if the cars would be visible from the residential neighborhood. Mr. King replied they would not as there is a screening fence in place on the east and south. Mr. King stated there would be approximately 20-25 autos on the back and front of the property. Mr. Walker stated there are parking requirements, an all-weather surface requirement and setback requirements. Mr. Walker asked about the hours of operation. Mr. King replied the hours of operation would be Monday through Saturday 9:00 a.m. to 6:00 p.m.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a **Special Exception** to permit auto sales and repair in a CS district; and a **Variance** of required 300' from an R district for display of merchandise for sale, 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 7, Block 9, Golden Hills Addition, Tulsa County, State of Oklahoma.

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Case No. 2074

Action Requested:

Variance of allowable 750 square feet for accessory building to 1,100 square feet. SECTION 240.2. YARDS, Permitted Yard Obstructions, located: 5651 S. 167th W. Ave.

Presentation:

Kenneth Moore, 16427 W. 58th St. S., stated his request for new construction to serve as a pool house, storage and additional parking garage. Mr. Walker asked if he intended to use the building for commercial activity. Mr. Moore responded that he has a shop in town where he works all day and does not want to work at his home.

Comments and Questions:

Mr. Hutson asked the size of the lot. Mr. King replied it is over 1.25 acres. Mr. Tyndall asked about the elevations. Mr. King stated the building would be on the same elevation as the house with the same exterior materials as well. The building is already under construction.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a **Variance** of allowable 750 square feet for accessory building to 1,100 square feet, with conditions: no commercial operations on the premises and no living quarters, 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 5, Block 2, Oak Haven II, Tulsa County, State of Oklahoma.

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OTHER BUSINESS

Action Requested:

Approval of the 2004 County Board of Adjustment Meeting Calendar.

Presentation:

Mr. Beach pointed out three of the meetings are scheduled for the Aaronson Auditorium in the Tulsa Central Library.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** the 2004 CBOA Meeting Calendar.

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ADJOURNED

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EXECUTIVE SESSION

ADJOURNMENT FROM EXECUTIVE SESSION

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PUBLIC MEETING

Vice Chair Walker called the public meeting to order at 2:55 p.m. He stated that the Zoning Code, Section 300.2 Purposes of the AG-R Agriculture – Residential District allows for limited farming and animal raising in combination with an urban development scheme of rural residential acreage subdivisions. The term “limited” is defined by the fact that agriculture uses are permitted by special exception, not by right. The Board believes the stated purposes to mean that ordinary agriculture uses, permitted by special exception, have a commercial characteristic and therefore should be reviewed by the Board in a public hearing. Hobby agriculture uses, which may involve only a few animals as pets or raising of crops for personal use, are permitted by right. The number of animals and size of gardens are further limited by the minimum lot size of the AG-R district. Because of the wide variety of combinations of activities and lot sizes possible throughout the County, the Board authorizes the County Inspector to make a determination on a case-by-case basis as to whether any particular situation may be considered “limited”. If anyone disagrees with the County Inspector’s determination, they may appeal to the Board of Adjustment.

Interested Parties:

Norman Trost, 8615 E. 112th St. N., Owasso, Oklahoma, stated his interpretation that any application for special exception would define what limited farming is on his own property.

Matt Slaven, 11028 N. 92nd E. Ave., complimented the Board for their thoughtful and fair considerations of each matter. He had collected the zoning ordinances from Washington, Rogers and Osage Counties. They all had a variance of the AG-R zoning districts. They all allow an animal without a Special Exception. Mr. Walker responded that what usually happens is as these counties begin to urbanize they begin to adopt the verbiage of the Tulsa County zoning code. Generally they haven’t faced some of the problems Tulsa County has faced.

Dennis Bowers, 11006 N. 92nd E. Ave., Owasso, Oklahoma, argued that all farming has a commercial purpose. Mr. Walker stated the issue of limited farming is the intensity or density of use.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-0-0 (Walker, Hutson, Tyndall "aye"; no "nays"; no "abstentions"; Dillard "absent") that the Board interprets the purposes stated in the Tulsa County Zoning Code, Section 300.2 Purposes of the AG-R Agriculture – Residential District, to mean that ordinary agriculture uses, permitted by special exception, have a commercial characteristic and therefore should be reviewed by the Board in a public hearing. Hobby agriculture uses, which may involve only a few animals as pets or raising of crops for personal use, are permitted by right. The number of animals and size of gardens are further limited by the minimum lot size of the AG-R district. Because of the wide variety of combinations of activities and lot sizes possible throughout the County, the Board authorizes the County Inspector to make a determination on a case-by-case basis as to whether any particular situation may be considered "limited". Further, that staff is directed to formalize this decision in writing.

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There being no further business, the meeting was adjourned at 3:17 p.m.

Date approved: *Don M. White* 12-16-2000

Don M. White
Chair