

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 211  
Tuesday, December 16, 1997, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Alberty, Chair Eller Looney Tyndall	Walker	Gardner Beach Huntsinger	Glenn, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, December 12, 1997, at 9:09 a.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** the minutes of November 18, 1997, (No. 210).

**UNFINISHED BUSINESS**

**Case No. 1526**

**Action Requested:**

Variance to permit retail sales of farm equipment (horse trailers & flatbed trailers), manufacture custom saddles & tack and to allow a manufactured home for residence on property with business. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** – Use Units 17, 15, 9, located SE/c East 191<sup>st</sup> Street South & South Memorial.

**Comments and Questions:**

Mr. Beach indicated that he discussed this case with Mr. Allen and he needs more time to develop his plans for the business.

Case No. 1526 (continued)

**Presentation:**

The applicant, **Stanley K. Allen**, stated he would like to withdraw his request and he will reapply when his plans are prepared.

**NEW APPLICATIONS**

**Case No. 1546**

**Action Requested:**

Variance to allow 2 mobile homes on one lot of record (5-acre tract) in an AG district, located 25706 West Coyote Trail.

**Presentation:**

The applicant, **JoAnn Sanders**, represented by **Bob Restor**, 222 N. Main, Sand Springs, submitted a perc test (Exhibit A-1) and a location map (Exhibit A-2). Mr. Restor stated his client, Doyle Noe, owns 5 ¼ acres on Coyote Trail. He explained that the 5 ¼ acres has 230' of frontage and is 1,200' to 1,080' deep. He indicated that presently there is a mobile home on the front 2 ½ acres of the subject property. His client proposes to install a mobile home on the back portion of the subject property. There is a gravel road on the east side of the subject property for access to the rear 2 ½ acres. Mr. Restor stated his client has had a perc tested performed and the perc test was satisfactory. He indicated that there is a water line available on the back portion of the subject property. The electricity is available and the mobile home will use either propane or run a gas line to the subject property. He concluded that in the immediate area there are mobile homes on 2 ½ acre lots and this proposal would not be anything unusual.

**Comments and Questions:**

Mr. Alberty asked if the new mobile home will have its own septic system? He answered affirmatively.

**Protestants:**

**Stan Treat**, 25612 West 41<sup>st</sup> Street, stated his property abuts the subject property. Mr. Treat expressed concerns with the subject property being a rental property. He stated that rental property depreciates the surrounding property. He commented that the subject property will be like a mobile home park. Mr. Treat requested that the Board deny this application and retain the single-family neighborhood.

**Comments and Questions:**

Mr. Alberty explained to Mr. Treat that the Board does not become involved on whether the subject property will be rental property or an owner occupied property. The Board considers each application for the appropriate land use.

Case No. 1546 (continued)

**Protestants:**

**Debra Byers**, P.O. Box 6112, Edmond, OK, 73083, stated she objects to the two dwelling units on one lot of record. She commented that having two dwelling units on one lot of record decreases the property value. She explained that she owns 70 acres adjacent to the subject property and her family owns a total of 80 acres.

**Comments and Questions:**

Mr. Alberty asked Ms. Byers if her property is developed? She answered negatively.

**Applicant's Rebuttal:**

Mr. Restor stated he did not believe that a mobile home on the back portion of 2 ½ acres constitutes a mobile home park. He commented that two mobile homes on 5 acres appear to be reasonable. He stated that Mr. Treat has a house as well as a mobile home on his property.

**Comments and Questions:**

Mr. Alberty stated the mobile home is a use permitted by right in the AG district. The special situation in this case is that there is adequate land area to support the density requested, which is two dwelling units on 5 acres. The issue is not the mobile home, it is whether or not two dwelling units on this 5 acre tract is an appropriate land use.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** Variance to allow 2 mobile homes on one lot of record (5-acre tract) in an AG district; subject to tie downs and skirting; subject to the Health Department approval and a building permit; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

A portion NE/4, Sec. 30, T-19-N, R-10-E, IBM, Tulsa County, Oklahoma according to the US Government Survey thereof, more particularly described as follows, to-wit: Beg. at a point 1440' N, SE/c, NE/4, thence W 200', thence N 1079.50' to the center line of Coyote Trail, thence NE along said center line to the E line of said NE/4, thence S 1203.06' to the POB.

**Additional Comments:**

Mr. Alberty informed the applicant that when he applies for the permit, he will need to submit a site plan indicating the location of the mobile home with dimensions.

## Case No. 1547

### **Action Requested:**

Variance of the required lot area from 2 acres to 1 acre and a Variance of required land area from 2.2 acres to 1 acre. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** and a Variance to permit 2 dwelling units on one lot of record. **SECTION 208 ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**, located SE/c West 36<sup>th</sup> Street & South 65<sup>th</sup> West Avenue.

### **Presentation:**

The applicant, **Eugene L. Harrison**, 3605 South 65<sup>th</sup> West Avenue, stated his current home is not livable and he would like to move a mobile home onto the subject property. He indicated that he will remove the sink, toilets, etc. and use the existing home for a shed. Mr. Harrison commented that the existing home is past repair and does not have utilities. He explained that he will sell the corner 1 acre lot in order to make a down payment on the mobile home. He stated the mobile home will be 500' from the east side of 65<sup>th</sup> West Avenue.

### **Comments and Questions:**

Mr. Alberty asked the applicant what he plans to do with the existing home? He stated he will eventually tear down the existing home. He commented that he is required to remove the kitchen and bathrooms in order to use the building as a shed. He stated he currently has electricity and he sleeps in the existing home.

Mr. Alberty informed the applicant that the 1 acre lot on the corner is an issue. The zoning ordinance requires 2.2 acres. He asked the applicant if there was a reason why he couldn't sell or split the 9 acres into two 2 acre tracts? Mr. Harrison stated that the buyer is not going to build for a while and cannot afford to buy two acres at this time. He explained that by selling the one acre now, he could use the money from the sale to put a down payment on the mobile home.

Mr. Alberty asked the applicant if he will be living in the mobile home and selling off the corner 1 acre lot, which is approximately 280'? He answered affirmatively.

Mr. Alberty asked the applicant what will happen to the narrow parcel to the south of the 1 acre? He stated he will retain the ownership of the narrow parcel.

In response to Mr. Alberty, Mr. Harrison stated all of the utilities will be available and the mobile home will be on a septic system.

Mr. Alberty stated that although the subject property is zoned AG it is surrounded by RS zoned property, which allows a 6900 SF lot.

In response to Mr. Alberty, Mr. Harrison stated that the cut out of his property was sold several years ago.

Case No. 1547 (continued)

Mr. Alberty informed the applicant that he could rezone the subject property to RS and then he would not need a variance.

**Protestants:**

**Richard Buelly**, 3538 South 65<sup>th</sup> West Avenue, stated he had questions with regard to the future use of the subject property. He explained that he has no objections to Mr. Harrison dividing his AG zoned property to build homes on. Mr. Buelly was concerned with the possibility of there being more than one dwelling unit per lot.

**Comments and Questions:**

Mr. Alberty stated that if the request was approved as it was applied for, there could be two dwellings on one lot of record. He explained that the applicant currently has a dwelling on the subject property and he would like to move a mobile home on the property to live in. There is a possibility that the current dwelling will be on the property for a interim period of time until the applicant can remove one of the dwellings.

**Interested Parties:**

**Diane Fitchu**, 6308 West 36<sup>th</sup> Street, stated she owns the cutout piece of property adjacent to the 9 acres. She indicated that she is in favor of this proposal. She commented that the mobile home will increase the property value.

**Applicant's Rebuttal:**

Mr. Harrison stated that nothing else will be done to the subject property while he is alive.

**Comments and Questions:**

Mr. Alberty asked the applicant if he plans to tear down the existing home? He stated that he will in time. He explained that the grandchildren would like to use the existing home for a playhouse. He stated he will take out the kitchen utilities and be able to use the existing home as a shed.

In response to Mr. Alberty, Mr. Harrison stated that the existing home will not be a dwelling.

Mr. Alberty stated that the applicant states he has no plans to subdivide the subject property. It appears to be reasonable to permit this request based on the fact that the adjacent zoning is RS. The lot requested to create is actually larger than the lots that are in existence. Mr. Alberty stated he would not support any further splitting of the property through a variance.

Mr. Beach stated that in order for the lot split to be processed, there will be a requirement for a dedication of 50' of right-of-way on 65<sup>th</sup> West Avenue and 20' on 36<sup>th</sup> Street.

Case No. 1547 (continued)

Mr. Harrison indicated that the right of ways have already been dedicated to the County.

Mr. Stump stated that after the dedication, the new lot may need to be reconfigured to measure 1 acre, not counting the right of way.

Mr. Alberty explained to the applicant that the lot he is selling may be less than 1 acre after the dedications of right of way are done. If his contract is for the sale of 1 acre, he may need to adjust his measurements and a new legal description drawn up after meeting the requirements to dedicate the roadway.

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** a **Variance** of the required lot area from 2 acres to 1 acre and a **Variance** of required land area from 2.2 acres to 1 acre. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** and a **Variance** to permit 2 dwelling units on one lot of record. **SECTION 208 ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**; subject to the Variance to permit 2 dwelling units on one lot of record not to exceed 6 months; finding that a precedent has been established with the surrounding RS lots having less than 1 acre; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

N/2, N/2, NW, SW, less Beg. 464.4' E of NW/c; thence S 206.5', E 211', N 206.5', W 211', POB, Sec. 20, T-19-N, R-12-E, Tulsa County, Oklahoma.

**Case No. 1548**

**Action Requested:**

Variance of the average lot width in an AG-R district from 150' to 110.9'. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, located 4517 South 249<sup>th</sup> West Avenue.

**Presentation:**

The applicant, **Thurman E. Phillips**, represented by **Becky Phillips**, Route 2, Box 400, Sand Springs, submitted a site plan (Exhibit B-1) and stated she would like to split the subject lot in order to build or install a modular home on the back portion.

**Comments and Questions:**

Mr. Alberty asked the applicant what is currently on Tract A? She stated that an existing residence is located on Tract A.

Mr. Alberty asked the applicant if there are lots in the subject area that have been split in the same manner? She answered negatively.

Mr. Alberty asked the applicant if she is aware of any private deed restrictions that may prevent the lot split? She answered negatively.

Mr. Alberty informed the applicant that she may want to consider any deed restrictions or covenants to the subdivision that would prevent a lot split. He explained that the information can be found in the abstract or on the subdivision plat.

In response to Mr. Alberty, Ms. Phillips stated she has not decided whether she will build a home or install a double-wide mobile home on the back portion of the subject property.

Mr. Alberty asked the applicant why she chose the subject lot to subdivide? She stated that the subject property belongs to her father.

Mr. Alberty asked the applicant if there was a reason why she needed to reside on the subject property? She stated that her parents are getting older and will need help caring for the property.

In response to Mr. Alberty, Ms. Philips stated that there will be two deeds if the proposal is approved.

Mr. Alberty asked the applicant if the subject property has had a perc test performed for the second septic system? She answered affirmatively.

**Protestants:**

**Bruce Zickefoose**, Route 2, Box 399, Sand Springs, stated his property is directly south of the subject property. He expressed concerns regarding the easement for the road to the back portion of the property and how it will affect his property? Mr. Zickefoose explained that his existing home is 7' from the property line. He stated he would prefer that the road be as far north in the 30' easement as possible.

Case No. 1548 (continued)

**Henry Rehorn**, Route 2, Box 366, Sand Springs, stated that he objects to this application. He explained that immediately south of the subject property he has a 60' x 60' organic garden, which he has spent 28 years and an in excess of 3,000 hours developing. He indicated that the shape of the land forms a funnel from the subject property onto his property. He explained that the water runoff from the subject property will pass directly over, around, through and among the existing and proposed septic system. The water runoff will then go directly into his garden. He expressed concerns with disease, germs and hepatitis being transferred to his garden from the water runoff that has come from the septic systems on the subject property. Mr. Rehorn stated that he supplies many of his neighbors and family members with the produce from the garden. He requested the Board to deny this application.

**Comments and Questions:**

Mr. Alberty asked Mr. Rehorn if the building immediately adjacent to his home is another dwelling? Mr. Rehorn stated that the 2<sup>nd</sup> dwelling is an outbuilding.

In response to Mr. Alberty, Mr. Rehorn indicated on the aerial map where the land slopes and where the proposed septic systems are located.

Mr. Rehorn stated that the perc test was performed 10' from the south boundary line and he assumes that is where the applicant intends to place his septic system.

Mr. Alberty stated that if a septic system is working properly they will percolate and there may be a safe distance for lateral lines to be placed from the garden.

Mr. Rehorn expressed concerns that the septic system will not work with the ground being saturated with water runoff from the subject property.

**Applicant's Rebuttal:**

**Ms. Phillips** stated that the back portion of the subject property passed a perc test. She indicated that she is considering installing a second septic system for the washing machine, sinks and dishwasher.

**Comments and Questions:**

Mr. Alberty asked the applicant if she intends to install the septic system where the perc holes are presently? She answered affirmatively.

Mr. Looney asked the applicant if there was any way to alleviate the neighbors concerns with the road in the 30' easement? Mr. Looney asked the applicant if she could locate the 15' wide road to the north in the 30' easement? She answered affirmatively.

Mr. Stump stated that typically a drive is 10' wide and this can be made a condition stating that the 10' wide drive be setback 15' north from the south property line.



Case No. 1548 (continued)

Mr. Alberty asked the applicant if there was any reason why the road cannot be located north within the 30' easement? Ms. Phillips stated it does not matter to her as long as she has access to the back portion.

Mr. Alberty suggested that the lateral lines should be setback from the south boundary line to protect the neighbor's garden. He explained that when you have a water well and septic tank it should be separated by a minimum of 50'. He stated that a condition of a minimum of 25' setback for the lateral lines on the applicant's property should provide safe percolation.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** a **Variance** of the average lot width in an AG-R district from 150' to 110.9'. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**; subject to the driveway be setback 15' north of the south property line; subject to the septic system setback 25' north of the south property line; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

The S 203', N 2431', W 500', AND S 21', N 2452', W 388', NE/4, Sec. 29, T-19-N, R-10-E, IBM, Tulsa County, Oklahoma, reserving an easement over the W 12.5' for roadway purposes.

**OTHER BUSINESS**

**Case No. 1538**

**Action Requested:**

Request for a refund for withdrawn application, which was filed in error.

**Comments and Questions:**

Mr. Beach stated that the application was filed in error and the staff recommends a full refund of \$234.00.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** refund for withdrawn application in the amount of \$234.00.

**Case No. 1540**

**Action Requested:**

Request a refund for withdrawn application.

**Comments and Questions:**

Mr. Beach stated that the application was processed fully at the applicant's request with his full knowledge. The staff recommends a refund of the \$25.00 public hearing fee.

**Board Action:**

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** refund for the \$25.00 public hearing fee.

There being no further business, the meeting was adjourned at 2:38 p.m.

Date approved: January 22, 1998

Wayne Alberty  
Chair