

**COUNTY BOARD OF ADJUSTMENT**

MINUTES of Meeting No. 216  
Tuesday, May 19, 1998, 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	Stump Arnold	Glenn, County Inspector

The notice and agenda of said meeting were posted in the Office of the County Clerk on Thursday, May 14, 1998, at 9:03 p.m., as well as in the Reception Area of the INCOG offices. An Addendum to the agenda was posted in the Office of the County Clerk and Reception Area of the INCOG offices on Thursday, May 14, 1998 at 9:11 a.m.

After declaring a quorum present, Chair Alberty called the meeting to order at 1:41 p.m.

**MINUTES:**

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **APPROVE** the minutes of April 21, 1998, (No. 215).

**UNFINISHED BUSINESS**

**Case No. 1565**

**Action Requested:**

Special Exception to allow a church and church uses (Use Unit 5) in an RS zoned district. **SECTION 410. TABLE 1 PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5** and a Special Exception to permit a carport on lot other than where principle use is located. **SECTION 420.2.H. YARDS, Permitted Yard Obstruction**, located 13026 W. Southard.

**Board Action:**

On **MOTION** of **ELLER**, Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **CONTINUE** Case No. 1565 to the June 16, 1998 meeting.

## NEW APPLICATIONS

### Case No. 1567

#### Action Requested:

Variance of minimum lot width of 200' to 185' and a Variance of lot area requirement of 2 acres to 1.003 acres for lot split purposes. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6** located 16909 Coyote Trail.

#### Presentation:

The applicant, **Ward V. Smith**, 16309 Coyote Trail, Sand Springs, submitted a site plan (Exhibit A-3) and a support letter from a neighbor (Exhibit A-1) and stated that he owns a 5 acre tract that has an existing home on it. Mr. Smith stated that the 4 acres outlined are unusable because of the hills, rocks and terrain and you cannot access the 4 acres except at the extreme left side of the lot. The septic system on the existing unit is all encompassed on the one-acre tract. Mr. Smith wants the Variance to make the property two lots consisting of 4 acres and 1 acre. Mr. Smith intends to build a new home on the 4-acre tract for his parents.

#### Comments and Questions:

Mr. Alberty stated to the applicant that the hardship may be the terrain of the land. Mr. Alberty asked the applicant how it affects the split. Mr. Smith answered that the requirement is 200' of frontage. His lot is only 330' so any split would require a variance hearing. Mr. Smith stated that since he was going to have to have a variance hearing anyway, he decided he would scale the existing house lot down to one acre and optimize the rest of the land that would be landlocked if it was split into 2 acres. Mr. Smith stated that the property has stone bluffs that can not feasibly be removed.

Mr. Alberty asked the applicant if he was present at the Sand Springs Board meeting. Mr. Smith answered yes. The Sand Springs Board of Adjustment submitted a letter of support for the application (Exhibit A-2).

Mr. Alberty stated to the applicant that typically his land is large enough that density is not a question, because the Code requires 2 acres per dwelling unit. The only question is just how you split it. Mr. Alberty mentioned that the Board could consider the terrain as an impediment to development.

#### Board Action:

On **MOTION** of **ELLER**, Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **APPROVE** Variance of minimum lot width of 200' to 185' and a Variance of lot area requirement of 2 acres to 1.003 acres for lot split purposes. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6** finding the hardship to be the terrain on the following described property:

E/2, SE, SE, SW, Sec. 30, T-19-N, R-11-E, Tulsa County, State of Oklahoma.

**Case No. 1568**

**Action Requested:**

Variance of frontage requirement on arterial street in CS district from 150' down to 90' for lot split purposes. **SECTION 730. BULK AND AREA REQUIREMENTS IN A COMMERCIAL DISTRICT – Use Unit 6**, located 4830 W. 41<sup>st</sup>.

**Presentation:**

The applicant, **Sue Poplin**, 4826 W. 41<sup>st</sup> St., submitted photos (Exhibit B-1) and stated that her parents home is located on the property. Her parents zoned the property CS to put a business on one corner of the lot. Her father is now retired and the business has closed. Ms. Poplin has lived on the property for 12 years and is now buying the property.

**Comments and Questions:**

Mr. Alberty asked the applicant if the property will remain residential. Ms. Poplin answered yes.

Mr. Alberty stated that this is the reverse of the situation that the Board normally sees. The applicant wants to take a commercial property and make it residential.

Mr. Alberty asked the applicant if she would be willing to comply with a residential only restriction. The applicant answered yes.

Mr. Looney asked if the existing house is the one in the photo and the applicant answered yes. Ms. Poplin's parents house fronts 49<sup>th</sup> St.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **APPROVE** Variance of frontage requirement on arterial street in CS district from 150' down to 90' for lot split purposes. **SECTION 730. BULK AND AREA REQUIREMENTS IN A COMMERCIAL DISTRICT – Use Unit 6** subject to the use being restricted to residential only on the following described property:

N/2 of Tract 2, Yargee Addition, Tulsa County, State of Oklahoma.

**Case No. 1569**

**Action Requested:**

Variance to permit retail sales of plant stocks and landscaping business in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS – Use Unit 15** located 5915 W. 31<sup>st</sup> St.

**Comments and Questions:**

Mr. Stump mentioned that in the Staff Comments, Staff says that screening would be required along the south property lines abutting a residential district. Mr. Stump stated that in that area of 31<sup>st</sup> St. there is an arterial street and this is that portion and there is not a requirement for screening when you are across an arterial street from residential. So there is no required screening.

**Presentation:**

The applicant, **Mary Fraizer Colebrook**, 5915 W. 31<sup>st</sup> St., submitted a site plan (Exhibit C-2) and photos (C-1) and stated that she owns 30+ acres. She, her husband and her son live on the property and intend to grow container plants. Ms. Colebrook stated that her husband does landscape work and they discovered that they couldn't find plants when they readily needed them. They would like to have the plants on their property and be able to sell the excess stock. Ms. Colebrook mentioned that most nurseries require them to buy 10 of whatever plant that they buy and they often have leftovers and it would be profitable to sell them.

**Comments and Questions:**

Mr. Alberty asked if the applicant is going to build a building or use an existing structure to sell the plants. Ms. Colebrook answered that they already have a concrete block building that is 40'x60' and they will build a greenhouse in the future.

Mr. Alberty asked the applicant if any signage is planned. Ms. Colebrook answered that they will need to put up a sign of some sort on the property. Mr. Alberty asked what size the sign would be. The applicant answered that it would be an unlighted sign about the size of a real estate sign, 2'x3' either that or a plastic banner attached to the fence. Mr. Glenn stated that a 32 square foot sign is allowed.

Mr. Alberty asked the applicant to state a hardship, a reason why she is requesting a variance. Ms. Colebrook answered that the only hardship she could see is that they will be stuck with plants that they cannot do anything with unless they can sell them to the public. Mr. Alberty stated that her answer is not really what the Code specifies as a hardship.

Mr. Alberty stated that the applicant had 30 acres of land and that was certainly in the neighborhood of an agriculture operation. There has always been a fine line between wholesale and retail plant sales, because just as much activity can be involved in both. Mr. Alberty mentioned that if the applicant were selling lawn mowers, etc. he would have a problem with it because it would then be a commercial use and should be

Case No. 1569 (continued)

located within a commercial district. Based on the way the applicant described her proposed operation, if they could find a hardship and limit it to wholesale grower and basically selling their overage and be ancillary to the principle use he could support the variance. The fact that the buildings will be set back on the lot at least 600' is good. Mr. Alberty stated that he did not see this as a retail facility.

Mr. Glenn stated that there is some flood plain on the property and it would limit the activities on the property. This use might be the best use for the property.

**Board Action:**

On **MOTION** of **LOONEY**, Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **APPROVE** Variance to permit retail sales of plant stocks and landscaping business in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS – Use Unit 15** finding the hardship being that a portion of the land is under flood plain and would limit the use activities on the property and the fact that what the applicant is doing is set back on the property and the retail that she proposes is similar to wholesale plant sales subject to an unlighted sign of not more than 32 square feet on the following described property:

SE SW Less W/2 SW SE SW and less E 50' thereof for RD Sec. 17, T-19-N, R-12-E (3.3 acres), Tulsa County, State of Oklahoma.

**Case No. 1570**

**Action Requested:**

Variance of minimum lot area in AG district of 2 ac, down to 1.14 acres on tracts 1 and 2; a Variance of 2.2 acres of land per D.U. down to 1.14 ac on tracts 1 and 2 and a Variance of 20' lot width down to 150' on tracts 1 and 2. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6** and a Variance from 2 ac to 1.5 ac on tract 3. **SECTION 330 BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6** and a Variance from 2.2 acres land area per dwelling unit to 1.5 acres on tract 3 for lot split purposes. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6** and a Variance of setback from centerline of 129<sup>th</sup> E. Ave. and 176<sup>th</sup> St. from 85' down to 45' on entire tract. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6** located 17707 N. 129<sup>th</sup> E. Ave.

**Comments and Questions:**

The applicant was not present and there were no interested parties present.

Case No. 1570 (continued)

**Board Action:**

On **MOTION** of **WALKER**, Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **CONTINUE** Case No. 1570 to the June 16, 1998 meeting.

**Case No. 1571**

**Action Requested:**

Variance of required 30' frontage on a public street for an existing 5-acre tract. **SECTION 207. STREET FRONTAGE REQUIRED** and a Variance to allow more than one single family dwelling or mobile home on one lot of record (mobile home to be removed upon completion of house). **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** located 8806 E. 166<sup>th</sup> St. N.

**Presentation:**

The applicant, **James E. Shults**, 8806 E. 166<sup>th</sup> St. N., submitted a site plan (Exhibit D-1) and stated that he has purchased a tract of land, 28 acres in total. Mr. Shults stated that there may be a discrepancy on the notice that was given, it stated only a 5-acre tract but they had asked for the variance to be on the full 28 acres. Mr. Stump stated that the legal description was corrected to include the 28 acres. Mr. Shults said they bought the property to build a home on and the only access they have to the land is a 40' easement which was granted to them from 166<sup>th</sup> St. N. Because it is a private easement, they do not have the 30' of frontage, which is required. They are asking a variance of 0' so they can build a home on it and eventually have two homes on it for when his inlays retire.

**Comments and Questions:**

Mr. Stump mentioned to the Board that they advertised for the entire 74-acre tract, which is basically 80 with the right-of-way removed. Mr. Stump stated that he believed the applicant was talking about the southern portion of the 74 acres. Mr. Shults agreed. Mr. Stump stated that within that is a 5-acre tract that the applicant wants to subdivide.

Mr. Alberty asked if there were three separate tracts within the 74-acre tract. Mr. Shults answered yes; there are three recorded lots. Mr. Shults stated that they are talking about the recorded lot of 28 acres owned by James and Crystal Shults and Jo and Ann Fitzgerald. They had a surveyor survey 5 acres out of the middle of it and it has not been recorded. The only reason they did that was because they thought they would be financing the house with a bank and normally they require the 5-acre portion to be surveyed out. Mr. Shults stated that they have come up with alternative financing and will not be going through a bank now to build a home.

Case No. 1571 (continued)

Mr. Alberty stated that this is why the County got into the zoning and planning business. Mr. Alberty stated that these issues for variances on interior parcels make him uncomfortable. Mr. Alberty thought the way to solve this would be to dedicate a street.

Mr. Alberty asked if someone had granted the applicant a 40' easement and the applicant replied yes and it is recorded with the deed.

Mr. Alberty asked the applicant if they have had a title opinion done on the property. Mr. Shults answered that they had but they were not aware of the frontage problem until they applied for a building permit.

Mr. Alberty asked if the applicant was planning to build another residence in the future. Mr. Shults said yes, his father-in-law planned to retire there and build a house.

Mr. Glenn asked how many years before the second dwelling would be built. Mr. Shults replied 3-5 years. Mr. Glenn stated that the variance is only good for 36 months and that Mr. Shults would have to come back and reapply for a second dwelling. Mr. Shults said that was fine.

**Interested Parties:**

Janet Miller, P.O. Box 45, Oologah, OK, stated that she owns the 40 acres to the west of this property. Ms. Miller stated that she was concerned about what would happen to the land if Mr. Shults were to sell it to a developer.

Mr. Alberty stated that the developer could only do what the Board approves.

**Comments and Questions:**

Mr. Alberty stated that this is a difficult situation but he wants to support it with no prejudice for further lot splitting.

**Board Action:**

On **MOTION** of **LOONEY**, Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **APPROVE** Variance of required 30' frontage on a public street for an existing 5 acre tract. **SECTION 207. STREET FRONTAGE REQUIRED** and a Variance to allow more than one single family dwelling or mobile home on one lot of record (mobile to be removed upon completion of house). **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and that the 40' right-of-way easement be the responsibility of the applicant on the following described property:

Case No. 1571 (continued)

The S 1,000.00' of the following described tract of land: A tract of land in the NW/4 of Section 13, T-22-N, R-13-E, Tulsa County, State of Oklahoma, more particularly described as follows to-wit: The E 74 acres of said NW/4 or beginning at the NE/c of said NW/4; thence S 0°02'30" W a distance of 2641.8' to the center of Section 13; thence N 89°59' W a distance of 1220.17'; thence N 0°02'30" E a distance of 2641.8'; thence S 89°59' E, along the section line, a distance of 1220.17' to the point of beginning.

### **Case No. 1572**

#### **Action Requested:**

Special Exception to allow a 250' tower in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS – Use Unit 4** located SE/c Hwy 51 & Coyote Trail.

#### **Presentation:**

The applicant, **LeeAnn Fager**, submitted a site plan (Exhibit E-1) and stated that the tower is setback 120% from the north and west property lines. Ms. Fager stated that it deliberately set in a heavily wooded area. The tower is bordered on the west by the Creek/Tulsa County lines and on the north by Highway 51.

#### **Interested Parties:**

None.

#### **Comments and Questions:**

Mr. Alberty asked Ms. Fager what type of pole will be used. Ms. Fager answered that it will be a guy tower. It is a lattice design supported by the guy wires. Mr. Alberty asked Ms. Fager what the dimensions of the tower are. Ms. Fager replied that is it about 3' around and that the guys extend about 80' from the tower.

Mr. Alberty asked the applicant what the actual lease area was. Ms. Fager answered that the lease premises with the guy wires is 350'x350'.

Mr. Looney stated that it looked like they have met all the conditions.

Mr. Alberty asked about the spacing. Ms. Fager replied that the Corps of Engineers has a tower on Highway 51A which joins the 412 with Highway 51. That tower is not strong enough to accommodate them and they were not motivated to help them because the money would go into the U.S. Treasury and they would not benefit from it.



**Board Action:**

On **MOTION** of **ELLER**, Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **APPROVE** Special Exception to allow a 250' tower in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS – Use Unit 4** finding the following:

- (1) Height of the proposed tower – **250 feet**;
- (2) Proximity of the tower to residential structures, residential district boundaries and existing towers - **no apparent residences or residential zoning inside subject tract or within 500 feet**;
- (3) Nature of uses on adjacent and nearby properties – **The area to the south and east consists of largely undeveloped AG zoned properties. State Highway 51 is abutting to the north. There is an undeveloped CG tract north of the NE/c of the subject tract**;
- (4) Surrounding topography – **rolling to moderately hilly. Topo causes only minor constraints to future development**;
- (5) Surrounding tree coverage and foliage – **heavily wooded**;
- (6) Design of the tower with reference to design characteristics that reduce or eliminate visual obtrusiveness – **lattice designed guy tower that is 250' tall and 3' around and the guys extend about 80' from the tower**;
- (7) Size of the tract and the most likely future development as indicated by the comprehensive Plan, planned infrastructure, topography, etc. – **Approximately 40 acres. No Comprehensive Plan for the area**; on the following described property:

All that part of the S/2 of the NW/4 of Sec 18, T-19-N, R-10-E, Tulsa County, State of Oklahoma, lying S of the S right-of-way line of the present proposed location of Highway 51 containing 66.8 acres more or less, Less a tract of land in the E/2 of the S/2 of the NW/4 of Section 18, T-19-N, R-10-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as: Beginning at the SE/c of the E/2 of the S/2 of the NW/4 of Sec. 18, T-19-N, R-10-E, Tulsa County, State of Oklahoma thence N along the E line of said NW/4 of Sec. 18, T-19-N, R-10-E, a distance of 1123.73' to a point, thence SWly along the S right-of-way line of Oklahoma State Highway No. 51 a distance of 1047.47' to a point, thence S a distance of 1094.52' to a point, thence E a distance of 1047.48' to a point of beginning.

Case No. 1573

Action Requested:

Special Exception to allow a church and accessory church uses in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS;** a Variance to allow existing church parking in the required front yard. **SECTION 1250.3 USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES AND 1330.B. SETBACKS;** a Variance of setback from S. 65<sup>th</sup> W. Ave. from 85' to 73' to line up with existing encroaching building. **SECTION 430.1 BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD and RM Districts;** a Special exception of required screening fence for off-street parking areas on lot lines in common with an R district. **SECTION 1340.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** and a Variance requiring off-street parking to be located on the lot containing the use. **SECTION 1320.D. GENERAL REQUIREMENTS** located 2327 S. 65<sup>th</sup> W. Ave.

Presentation:

The applicant, **D. Leon Ragsdale**, 1016 S. St. Louis, submitted a site plan (Exhibit F-2) and stated that he is the architect for the church. Mr. Ragsdale stated that the church has owned the property for 50 years. The parking in the front yard has always been there. The church has a new parking lot that has recently been asphalted and landscaping has been added to the front of the building. Mr. Ragsdale commented on the setback variance stating that the church has a 73' setback from the street. The existing building, if pushed back to the 85', would setback behind that church and also would encroach into an area where they currently have a septic system. Mr. Ragsdale stated that the church has discussed with the neighbors the screening issue. It was a consensus of the people who live behind and on either side that they did not want a wood screening fence. Currently the lots are 300' deep (a city block) and most of the residences behind the church are setback over 200 from the line. The properties on either side stated they would not like the screening either. The parsonage will be removed. Mr. Ragsdale stated that they have met with the Department of Environmental Quality and they have done perk tests on site and have found a 17-minute perk and the church can meet the sewer needs that they have. Mr. Robert Cannon, 4010 S. 68<sup>th</sup> W. Ct., is Pastor of the church stated that Berryhill is a rural community on the edge of the City and it is growing and they are being surrounded by new growth. Mr. Cannon submitted photos (Exhibit F-1) of the area businesses and mentioned that most of them have parking right up to the street. Mr. Cannon stated that if they are allowed to keep the 17 spaces in the front of the building it would keep them from having to use the church's other lot for parking. The neighbors would prefer that the lot behind the church not be used for parking. There is a chain link fence around the entire property.

Comments and Questions:

Mr. Alberty questioned the applicant about the panhandle piece that extends to the east. The applicant stated that there will be no church use on that property. Mr. Ragsdale stated that they will not use it for parking (if they use the 17 parking spaces

in the front). They may run some lateral lines back there. The neighbors are in agreement and they would prefer that the church not have to use that property for parking.

**Interested Parties:**

**Richard Ford**, is here on behalf of his grandmother, Inez Jameson, who lives directly behind the church. Some of the concerns of the neighborhood are if the variances are granted, there will be no need to come further north onto the residential property. Mr. Ford asked that the record stipulate that the lateral lines be the only use on the property and it remain residential until another application has been filed.

**Comments and Questions:**

Mr. Looney asked the applicant to explain the landscaping in lieu of a screening fence. Mr. Ragsdale stated that currently the parking goes all the way across and what they plan to do is take a section of it and landscape it. There is already recent landscaping in front of the building. There will be some landscaping and trees throughout the parking lot.

Mr. Looney asked the applicant about the need for the 17 parking spaces out front. Mr. Ragsdale stated that some of it will be handicap parking. The primary reason for leaving those is that they would have to encroach onto the lot in the back and the neighborhood would prefer not to have parking there.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 3-0-0 (Alberty, Eller, Looney, "aye"; no "nays", no "abstentions"; Tyndall, Walker "absent") to **APPROVE** Special Exception to allow a church and accessory church uses in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**; a Variance to allow existing church parking in the required front yard. **SECTION 1250.3 USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES AND 1330.B. SETBACKS**; a Variance of setback from S. 65<sup>th</sup> W. Ave. from 85' to 73' to line up with existing encroaching building. **SECTION 430.1 BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD and RM Districts**; a Special exception of required screening fence for off-street parking areas on lot lines in common with an R district. **SECTION 1340.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** and a Variance requiring off-street parking to be located on the lot containing the use. **SECTION 1320.D. GENERAL REQUIREMENTS** subject to the church bearing the expense for relocating the parking in the front yard if ever needed by the government, the lot fronting 63<sup>rd</sup> W. Ave. can only be used for septic tank lateral lines and sewer system, per plan submitted, on the following described property:

The S 59' of Lot 3 and all of Lots 4 and 5 and the S/2 of Lot 18, all in Block 3, West Tulsa View Acres Addition Subdivision, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:24 p.m.

Date approved: 6/16/98

Wayne Albert  
Chair