

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 225
Thursday, February 18, 1999, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Dillard Looney Tyndall, Chair	Walker	Arnold Bruce Stump	West, Zoning Officer Glenn, County Inspector

The notice and agenda of said meeting were posted in the Office of the County Clerk on, 1999, at p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair Tyndall called the meeting to order at 1:32 p.m.

MINUTES:

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Tyndall, Walker "aye"; no "nays", no "abstentions"; Dillard, Looney "absent") to **APPROVE** the Minutes of January 21, 1999 (No. 224).

UNFINISHED BUSINESS

Case No. 1610:

Action Requested:

Special Exception to permit an existing church and accessory uses in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5** OR Variance to expand a nonconforming church use. **SECTION 1420. NONCONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION;** a Variance of the required rear yard from 40' to 22.7', located 3029 S. 57th W. Ave.

Presentation:

The applicant, **Berryhill United Pentecostal Church**, was represented by Mike Smith, 2210 W. 77th, Tulsa, 74132, who submitted a site plan (Exhibit A-1) and stated that when he was before the Board previously, he was proposing to construct a building that would be 70' wide and was informed that he may run out of required back yard space. Mr. Smith had the property surveyed and he would have run out of back yard and the building would have been constructed on the building line. Mr. Smith stated that the proposed building will be used for a fellowship hall and a basketball court. They have reduced the building dimensions to 50' wide and 100' long. Mr. Smith mentioned that the highway is proposed to come through the area and he has attended several meetings discussing the proposed highway. On all three plans, the State of Oklahoma is proposing to buy the property behind his but not buy his property. Mr. Smith stated that the sanctuary is 2,650 square feet and they would need about 70 parking spaces to be in compliance and they currently have 88 parking spaces and they have plenty of room to mark off more if needed.

Comments and Questions:

Mr. Alberty asked the applicant if the property to the east is developed. Mr. Smith replied that there is a house that is vacant and it will be purchased and taken out when the highway is constructed.

Mr. Alberty stated that they have to look at this application with the assumption that the highway may not go through there since they have not purchased any of the property Mr. Alberty can support the application because there is no one behind the proposed building that would have a problem looking at the building.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Tyndall, Walker "aye"; no "nays", no "abstentions"; Dillard, Looney "absent") to **APPROVE** a **Special Exception** to permit an existing church and accessory uses in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5** and a Variance of the required rear yard from 40' to 22.7' finding the hardship to be that the property will abut future right-of-way and there is no need to have any greater setback, subject to any additional construction returning to the Board with a detail site plan, on the following described property:

E 250' of W 280' of N 500' of S 925' of W/2, SE, Section 17, T-19-N, R-12-E,
Tulsa County, State of Oklahoma.

DILLARD IN AT 1:43 P.M.

Case No. 1618

Action Requested:

Variance to Section 330 to allow reduction in the bulk and area requirements of the AG District, the purpose is to allow lots of less than 2 acres in the AG District, located 4607 S. 225th W. Ave.

Comments and Questions:

Mr. Bruce mentioned that this piece of property has dimensions of 522' east and west and 213' along S. 225th E. Ave. A lot split on the property has been filed at INCOG offices and the line separating the properties would run north and south. Each lot would be a little over an acre and each would have over 30' of street frontage.

Presentation:

The applicant, **C. J. Butler**, 4607 S. 225th W. Ave., submitted a site plan (Exhibit B-1) and stated that he would like to split his land and build a house on the back portion.

Comments and Questions:

Mr. Alberty asked the applicant if he will maintain both dwellings and Mr. Butler answered affirmatively and explained that his mom and aunt will live in one or it will become a rental property.

Mr. Alberty asked Mr. Butler why he opted to go for a variance and not rezoning on the property. Mr. Butler replied that he did not know that rezoning was an option.

Mr. Alberty explained that the ordinance requires the Board to establish a hardship. Mr. Bruce stated that the original request was for two dwelling units on one lot of record, at that time the bank informed him that he would need a lot split.

Mr. Alberty asked Mr. Bruce if the applicant applied for RS zoning would it be approved? Mr. Bruce replied that the surrounding area is AG and RMH and it would be consistent with the area.

Mr. Bruce stated that the most unique factor about the property is that it does have two complete access points and there is available water on both sides.

Interested Parties:

None.

Case No. 1618 (continued)

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty Dillard, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** a Variance to Section 330 to allow reduction in the bulk and area requirements of the AG District, the purpose is to allow lots of less than 2 acres in the AG District, finding will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan. on the following described property:

Part of the SW NW Beg. SW/c thence N 213' E 522.32' S 170.7'
SWly curve 75.73' W 458.25' to the POB

NEW APPLICATIONS

Case No. 1625

Action Requested:

Variance to Section 206 to permit two dwelling units on an AG zoned lot of 7 acres. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6 & 9**, located 16101 W. Coyote Trail.

Presentation:

The applicant, **Tina Sam**, 16101 W. Coyote Trail, submitted a site plan (Exhibit C-1) and stated that she would like to put a double wide modular home on the back side of their property for their oldest son. They do not wish to split the property but just add this modular home to the property.

Comments and Questions:

Mr. Bruce submitted to the Board a letter of objection from a nearby resident (Exhibit C-2).

Mr. Tyndall asked the applicant how many dwellings are on the property now? Ms. Sam replied one existing and there is a guest house that is not used as residence. The guest house is located east of the pond.

M. Alberty asked Ms. Sam what the size of the additional dwelling is and she responded 18' x 18', it is just a one room house with a half kitchen and half bath.

Mr. Alberty stated that due to the size of the tract it could be split into three different tracts, each containing a dwelling unit.

Case No. 1625 (continued)

Interested Parties:

None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty Dillard, Tyndall, Walker "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Variance** to Section 206 to permit two dwelling units on an AG zoned lot of 7 acres, subject to the guest house not being used as a primary residence, finding the size of the lot to be the hardship and the fact that the owner would like to keep the land under one ownership, on the following described property:

Beg 25' N of the SE/c; thence N 635' W 155.84' S 200' W 479.16' E 635' to the POB of Section 30, T-19-N, R-11-E, Tulsa County, Oklahoma

Case No. 1626

Action Requested:

Use Variance, per Section 1670.2, to permit a boarding kennel in an AG district. **SECTION 1670.2. VARIANCES, Application – Use Unit 15**, located 3559 E. 96th St. N.

Comments and Questions:

Mr. Bruce mentioned that Staff is requesting that this item be continued to the next regularly scheduled meeting. Incomplete notice was given based on computer error and Staff is in the process of giving new notice.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Dillard, Tyndall, Walker "aye"; no "nays", no "abstentions"; Looney "absent") to **CONTINUE** Case No. 1626 to the meeting of March 16, 1999.

ALBERTY OUT AT 2:05 P.M.

Case No. 1627

Action Requested:

Special Exception to allow Use Unit 2 (Bed and Breakfast) in a RS zoned district.
SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS
– **Use Unit 2** and a Variance to Section 1202.C.5. to allow a 32 SF sign 20' in height. **SECTION 1202.3. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions**, located 4347, 4501 & 4521 W. 41st St.

Comments and Questions:

Mr. Bruce mentioned to the Board that a special exception for a bed and breakfast in a RS district is allowed, but it specifically prohibits special event use. One of the requests by the applicant will be to have some special event use on the property. It will be discussed before the Board at a later date. The subject parcel is 7 acres in size and is surrounded by RS zoning. Mr. Bruce pointed out that a majority of the buildings are existing and have been for some time. Mr. Bruce proceeded to describe the layout of the property and the phases of construction. A bed and breakfast in an RS zoned district can have a maximum of 12 guest rooms and that is sufficient for the request.

Presentation:

The applicant, **Randall Pickard**, 11013 S. Memorial Drive, Tulsa, OK 74133, submitted an information packet including a site plan (Exhibit D-1) and stated that this request is for a bed and breakfast to be located in an RS district and a variance to permit a maximum 32 square foot sign related to the special exception use. Mr. Pickard would like the bed and breakfast to be approved for the maximum 12 guest rooms. Phase I contains 6 guest rooms in the house referred to as "Cedar Rock Inn". All of the structures shown on the site plan are existing structures. There will be no new structures at this time. Mr. Pickard stated that they have provided 29 parking spaces under Phase I and that meets Code standards. Only one loading berth is required under the Code and they have one loading berth.

Comments and Questions

Mr. Tyndall asked about the future guest dining room and Mr. Pickard replied that it is to be used for special event purposes and cannot be directly addressed at the meeting today.

Mr. Pickard mentioned that the property is unique in that it has frontage on W. 41st Street and it is a large tract.

Mr. Pickard proceeded to explain the layout of Phases II and III.

Case No. 1627 (continued)

Mr. Looney asked the applicant if he intended to do anything with the gravel drives? Mr. Pickard replied yes, they will put an all-weather surface on the drives. The drives will be improved on Phase I first since it will be the phase completed first and the other drives will be improved as the Phases proceed.

Mr. Pickard pointed out that under the Code, they are allowed to have a 32 square foot sign but the sign shall not exceed 2 square feet in display surface area when located in a RS district. The tract of land is large in size thus being the hardship for the allowance of a 32 square foot sign. There is 708' of frontage on West 41st Street and it is a primary arterial street. Mr. Pickard stated that there is other signage on West 41st Street for Challenger Park and other commercial uses that are larger than the 2 square foot. The proposed sign will not be out of line with what is already existing in the area.

Interested Parties:

Phyllis Stokley, 4502 W. 41st Street, stated that she lives across the street from the subject property. Ms. Stokley asked if the Dittmanns are the owners of all three tracts? The Dittmanns replied yes. Ms. Stokley asked if the Dittmann's will reside on the property and they responded affirmatively. Ms. Stokley mentioned that the traffic has increased significantly in the past few years and she believes that the special events would cause even more problems on 41st Street.

Richard Conner, 4420 W. 41st Street, stated that he lives directly across the street from Phase I. Mr. Conner's concern is about the traffic on 41st Street. Traffic has increased 20 or 30 fold in the past few years. The sign is proposed to be located directly across from his house and he would have to look at it all the time. Mr. Conner stated that he moved to this area because it is open and the neighbors are not too close and the property sits back from the road. He does not want people coming and going at all hours of the night. Mr. Conner submitted photos (Exhibit D-2) showing his driveway in relation to the driveway of the subject property. At the location of Phase III is a crest of a hill and it is a blind spot. There have been many wrecks at this location. Mr. Conner feels that special events should not be allowed in a residential area.

Jeannie Conner, 4420 W. 41st Street, mentioned that there is no city sewer in the area and she wants to know how the owners are going to take care of all of the people when they have a special event.

Joe Earl Mayes, 4649 W. 41st Street, stated that he is opposed to the bed and breakfast being located on the property and he objects to the placement of the sign.

Applicant's Rebuttal:

Mr. Pickard stated that the driveway will be improved with approaches and widths of the driveway will be expanded. The driveways will be paved. Mr. Pickard mentioned to the Board that the name "Cedar Rock Inn" is just a designation right now, there is not a hotel on the property and the house is not operating as a bed and breakfast right now. Any development in the City or County of Tulsa will have to deal with traffic related problems. They are willing to comply with any reasonable conditions the Board is willing to impose as far as the driveway and the approaches from West 41st Street.

Comments and Questions

Mr. Looney stated that he does not have a problem with the property being utilized a bed and breakfast but he could have a problem with the special events because of its effect on the neighborhood. Mr. Looney mentioned that it would be hard for him to make a decision without considering the special events.

Mr. Looney asked Staff if there are other concerns that need to be looked at in regard to bed and breakfasts? Mr. Stump replied no, primarily the Board needs to consider if the property is in keeping with the surrounding area; will it change the nature of the area and impact the traffic flow? The signage is part of the impact and making it look more like a business and less like a residence.

Mr. Looney stated that one of the problems that faces a growing city is increases in traffic flow. Tulsa Community College's west campus has caused a great increase in traffic in this area.

Mr. Looney asked the applicant, if the special events are going to be a necessary part of the bed and breakfast, should the Board make a decision today regarding just the bed and breakfast? Mr. Pickard replied yes, the special events are a separate issue.

Mr. Tyndall asked Mr. Pickard to explain the special events that will be taking place on the property. Mr. Pickard responded that the size in Phase I is limited by the size of the rooms in the house and it would not be that great. A special event could take place outdoors and would not have to be tied to the size of the house. Mr. Pickard mentioned to the Board that they do not have exact dates and descriptions of the special events. That portion of the application will have to be continued until the next Board meeting. The bed and breakfast was the initial and primary purpose for the acquisition of the property. The special events are an extra asset to the use of the property. Mr. Pickard mentioned to the Board that they will be prepared to submit that information at the next meeting. Mr. Pickard is asking for approval of the bed and breakfast and the sign variance today.

Case No. 1627 (continued)

Mr. Looney stated that it is hard to address the issue of the bed and breakfast without considering the special events that are relative to the use. Mr. Looney would like the applicant to address the traffic issues and how they might minimize the impacts. Mr. Looney suggested that the parties get together and discuss the proposed plans and how they will affect the neighborhood. He suggested continuing the entire application until the next meeting. That would allow the applicant to present his entire proposal including special events and sign plans to the Board.

Mr. Dillard feels that the bed and breakfast cannot be considered without the special events. The special events go hand in hand with the bed and breakfast. Mr. Dillard stated that he and his wife frequent bed and breakfast inns and they are good neighbors. Normally the patrons are middle class married couples who just want a weekend away from home. They are not the party types. Mr. Dillard believes that west Tulsa needs as many positive business as they can get and this is a perfect example of a positive business for the area. Mr. Dillard stated that he is not against this bed and breakfast but he would like to look at the entire package.

Mr. Pickard agreed to a continuance of the entire application and he would return in a month with a more detailed proposal to submit to the Board.

Mr. Tyndall stated that he is mostly concerned with the sign and the lighting of the sign.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-1 (Dillard, Tyndall, Looney "aye"; no "nays", Alberty "abstentions"; Walker "absent") to **CONTINUE** Case No. 1627 to the meeting of March 16, 1999.

OTHER BUSINESS

Action Requested

Interpretation of two provisions of the Tulsa County Zoning Code.

1. **What constitutes an all-weather surface for parking areas per the Code?**

Mr. Looney stated that it is his understanding that an all-weather surface is not dusty. He believes that oil and chip surfacing would suffice.

Mr. Glenn stated that there is a material out now that eliminates dust off of gravel. Would the Board consider that an all-weather surface material?

Mr. Bruce read the definition of all-weather surface to the Board.

Mr. Glenn stated that he does not want oil and chip to be included in the definition of all-weather surfacing materials. He has it in front of his house and does not believe that it is an all-weather surface.

Mr. Looney asked Staff if the Board has the authority to establish that interpretation? Mr. Stump replied yes, they could determine that oil and chip does not meet the hard surface requirement.

Mr. Tyndall read Mr. Alberty's comments because he left the meeting early. Mr. Alberty believes that concrete, asphalt and chip and seal constitute all-weather surfacing materials.

Mr. Looney stated that the type of traffic use is important in determining whether or not oil and chip could suffice. If it is a County road that is going to have heavy cars and trucks on it every day, oil and chip is a poor solution. Mr. Tyndall believes that oil and chip is more of a temporary solution and he does not consider it permanent.

Mr. Dillard stated that he does not know enough about surfacing materials to comment.

Mr. Tyndall suggested requiring an all-weather surface to be asphalt or concrete and if the applicant believes that he has a special circumstance he can apply for a variance of the all-weather surface.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 3-0-0 (Dillard, Tyndall, Looney "aye"; no "nays", no "abstentions"; Alberty, Walker "absent") and finds that all-weather surface materials for parking areas must be similar to asphalt or concrete.

Action Requested

Interpretation of two provisions of the Tulsa County Zoning Code.

2. What constitutes a customary fencing material as required for screening fences?

Mr. Glenn stated that he had someone come to his office and they wanted to put a solid metal fence around their facility. It would be the Morton building type metal. Mr. Glenn asked the person what color is it and is it all the same color. There are a lot of salvage yards that put up this type of screening fence and they buy five Morton buildings in five different colors and construct their fence. Mr. Glenn asked the Board to determine what gauge and material to allow. Mr. Glenn stated that he does not believe that "slats" woven into a chain link fence constitutes a screening fence.

Mr. Tyndall read Mr. Alberty's comments on screening fences. Mr. Alberty believes that a screening fence should be solid, 6 foot, metal, wood, masonry or concrete slab.

Mr. Glenn stated that he does not have a problem with a metal fence if it is of a sufficient gauge and a constant color for the entire length of the fence.

Mr. Looney suggested that the Board should add that the fence should be properly maintained because there is nothing worse than a wooden fence with half a dozen slats knocked out. Mr. Glenn stated that the maintenance wording is already there.

Mr. Stump suggested that the gauge be sufficient to withstand typical denting of a fence.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 3-0-0 (Dillard, Tyndall, Looney "aye"; no "nays", no "abstentions"; Alberty, Walker "absent") and finds that a customary fencing material as required for screening fences should be a solid 6' wood, masonry, concrete slab or metal; the posts and members would face the owner of the fence with the clean side facing the public or adjacent property owners; if it is to be a metal fence it should be of a sufficient gauge or thickness that will not easily dent or have holes knocked in it and it should be uniform in color and be compatible with the surrounding neighborhood.

There being no further business, the meeting was adjourned at 3:15 p.m.

Date approved: April 20, 1999
John Tyndall
Chair

