

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 232
Tuesday, September 21, 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 Walker, Chair		Arnold Bruce Stump	

The notice and agenda of said meeting were posted in the Office of the County Clerk on, Friday, September 17, 1999, at 9:23 a.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 1:30 p.m.

NEW APPLICATIONS

Case No. 1670

Action Requested:

Variance to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD - Use Unit 6;** a Variance to minimum land area per dwelling unit. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** and a Variance to minimum lot area per dwelling unit in the AG District. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, located 9229 East 86th Street North.

Comments and Questions:

Mr. Bruce reviewed Staff Comments from the Case Report.

Presentation:

The applicant, **Donald Clark**, 9229 East 86th Street North, Owasso, OK, submitted a site plan (Exhibit A-1) and stated that he would like to move a manufactured home onto his property in order to take care of his mother.

Comments and Questions:

Mr. Walker asked Mr. Clark what his hardship is. Mr. Clark stated that he has talked to all of his neighbors and they all support what he is doing. Several of his neighbors have two trailers on their property.

Mr. Alberty asked the applicant if the request was just for his mother or if he intends, at some time in the future, to use it as a rent facility? Mr. Clark mentioned that it is his intention to use the second dwelling as a home for his mother for the duration of her life.

Interested Parties:

Clyde Williams, 9227 East 86th Street North, Owasso, OK, stated that he has no objections to the application.

Comments and Questions:

Mr. Alberty mentioned that these situations are difficult in trying to prove a hardship. In this case there is not a clear hardship that would meet the Code test. However, the fact that there are others in the area necessitates the utilization of a hardship. Mr. Alberty stated that he does not see much harm provided the second dwelling is a temporary use that is tied directly to a relative.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** a **Variance** to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD - Use Unit 6**; a **Variance** to minimum land area per dwelling unit. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** and a **Variance** to minimum lot area per dwelling unit in the AG District. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, finding the hardship to be that there are a number of two dwelling lots that are similar in size to the applicant's; subject to the second dwelling being occupied by a family member only and it is a temporary use, on the following described property:

S 561', E 200', E/2, SE, SW, less S 16.5' for road, Tulsa County, State of Oklahoma.

Case No. 1671

Action Requested:

Variance to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**; Variance of the minimum land area per dwelling unit. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** and a Variance of the minimum lot area per dwelling unit in the AG District. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, located 2718 East 191st Street South.

Comments and Questions:

Mr. Bruce reviewed Staff Comments from the Case Report.

Presentation:

The applicant, **Donna Vincent**, Route 1, Box D-44, Mounds, OK, submitted a site plan (Exhibit B-1) and mentioned that the second dwelling would be for her mother who is suffering from Alzheimer's. The use would be temporary for one or two years. Ms. Vincent submitted two proposed drawings. One is for a proposed mobile home to be moved onto the property for her mother and the other is for a proposed garage apartment also to be used for her mother. At this time Ms. Vincent is not sure which option they will want to use but asked the Board to consider both options.

Comments and Questions:

Mr. Walker asked the applicant if there are other properties in the area that have a second dwelling on them. Ms. Vincent replied that she is not aware of any. Her next door neighbors are aware of the situation and are in support of the application.

Mr. Tyndall mentioned that he did not have a problem with the request. The neighbors do not seem to have any concerns.

Mr. Stump suggested to the Board that if they are inclined to approve the mobile home, put a five year time limit on the duration on the use.

Interested Parties:

None.

Case No. 1671 (continued)

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-1-0 (Alberty, Dillard, Tyndall, Walker "aye"; Looney, "nays", no "abstentions"; no "absent") to **APPROVE** a **Variance** to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; Variance** of the minimum land area per dwelling unit. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** and a **Variance** of the minimum lot area per dwelling unit in the AG District. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, finding that it meets the requirements of Section 1670.3; subject to a five year time limit on the mobile home use, no time limit on the garage apartment, on the following described property:

Beg. 176' W NE/c NW TH S 659.68' W 176' N 659.92' E 176' POB Less N 24.75' thereof for RD Section 8, T-16-N, R-13-E, County of Tulsa, State of Oklahoma.

Case No. 1672

Action Requested:

Variance of the required 30' frontage on a public street to 0'. **SECTION 207. STREET FRONTAGE REQUIRED** and Variance to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**, located North of NW/c East 116th Street North & North Highway 75.

Comments and Questions:

Mr. Bruce informed the Board that the legal description was incorrect and new notice has been sent out for the meeting of October 19, 1999.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; "absent") to **CONTINUE** Case No. 1672 to the meeting of October 19, 1999.

Case No. 1673

Action Requested:

Variance of the required 30' of street frontage for a residential lot. The request is for a reduction to 0'. **SECTION 207. STREET FRONTAGE REQUIRED**, located 17715 North 120th East Avenue.

Comments and Questions:

Mr. Bruce reviewed Staff Comments from the Case Report.

Presentation:

The applicant, **Scott Aitken**, 17715 North 120th East Avenue, Collinsville, OK, submitted a site plan (Exhibit C-1) and stated that ten years ago he came before the Board represented by Jim Walter Homes. It was his understanding that representatives from Jim Walter Homes had done a lot split on his property. Mr. Aitken mentioned that he found out just recently that they had not done the lot split. The applicant informed the Board that he owns a six acre tract and his house is on the front 2.5 acres and the 3.5 acres in the south is basically land-locked.

Comments and Questions:

Mr. Walker mentioned to the applicant that he and three other Board members were at the prior hearing and he remembers being concerned that this was an attempt to make a small subdivision or to subdivide the land. Mr. Walker believes that the Board was not willing to support the lot-split. The Board granted a Variance of the frontage so the applicant would have access to the back lot. There was no discussion about another house or any other use of the property. Mr. Aitken replied that he has just recently decided to proceed with what Jim Walter Homes did not finish.

Mr. Alberty stated that the minutes of the 1988 meeting are very clear. Mr. Alberty believes that the Board stretched the approval on this property and the approval was granted based on there being only one dwelling on the property.

Mr. Alberty asked the applicant how he gets to his property now? Mr. Aitken replied that he comes up 120th East Avenue, which is a County maintained road up to his northern property line where his driveway starts. He was going to deed or grant a 25' easement to run parallel with west property line to the southern piece of property. Mr. Alberty stated that the applicant accesses his property through a dedicated street that someone subdivided the property, dedicated it and built streets. What the applicant is asking the Board to do is give him an advantage that his adjacent neighbor didn't have and that is to allow him to divide the lot into two lots and waive the subdivision regulations which require the dedication and building of a street. Mr. Alberty stated that he is opposed to the application.

Case No. 1673 (continued)

Mr. Aitken asked the Board about leasing his property to another party. Mr. Stump stated that the applicant could lease the property without any problem.

Interested Parties:

Dale Schubert, 17744 North 120th East Avenue, stated that he lives directly west of the applicant. Mr. Schubert submitted photos of the applicant's property (Exhibit C-2). Mr. Schubert is concerned about the land being divided. He constructed his house believing that a road would never be built on the property. If a road would be built it would be located right next to his house. He is opposed to the application.

Applicant's Rebuttal:

Mr. Aitken stated that Mr. Fields, County Engineer, informed him that a County road would never be constructed there.

Comments and Questions:

Mr. Looney stated that there are other avenues open to the applicant that are adequate to subdivide the property. Mr. Looney stated that he is opposed to the application and he feels that a hardship has not been demonstrated.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; no "absent") to **DENY Variance** of the required 30' of street frontage for a residential lot. The request is for a reduction to 0', finding a lack of a hardship. **SECTION 207. STREET FRONTAGE REQUIRED**, on the following described property:

S/2, E/2, NE/4, SE/4, SW/4 and the W 66' of the S/2, NW/4, SW/4, SE/4, Tulsa County, State of Oklahoma.

Case No. 1674

Action Requested:

Special Exception to allow Exotic Animals in the AG District. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** and a Special Exception to allow zoo use (Use Unit 2) in the AGR District. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT**, located 10700 South Lynn Lane.

Comments and Questions:

Mr. Bruce reviewed Staff Comments from the Case Report.

Case No. 1674 (continued)

Presentation:

The applicant, **Joe Estes**, informed the Board that in consideration for the people of Broken Arrow, he would like to withdraw his application.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **ACCEPT** applicant's request for withdrawal.

Case No. 1675

Action Requested:

Special Exception to allow a single-family dwelling on a lot in the CH zoned district. **SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS - Use Unit 6**, located 1202 East 64th Street North.

Comments and Questions:

Mr. Bruce stated that after review by Staff it appears that the request was specifically to allow a mobile home on the site. The notification was for a single-family dwelling. Mobile home use will require a use Variance in the CH District. The item will be noticed again and heard at the October meeting.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **CONTINUE** Case No. 1675 to the meeting of October 19, 1999.

Case No. 1676

Action Requested:

Special Exception to allow mining/dirt removal in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT - Use Unit 24**, located NE/c East 66th Street North & North Mingo Road.

Comments and Questions:

Mr. Bruce reviewed Staff Comments from the Case Report.

Presentation:

The applicant, **Steven R. Votaw**, P.O. Box 780 , Owasso, OK, 74055, submitted a site plan (Exhibit D-1) and stated that he is requesting a special exception to allow them to remove top soil. Mr. Votaw mentioned that there is a current soil

extraction operation on the map. They are proposing a similar operation on the west bank of Ranch Creek. The access road will cross Ranch Creek. Mr. Votaw mentioned that he and the owners of the mining operation have been in contact with Mr. Glenn, County Inspections and stated that they are in the process of obtaining the information needed for doing a hydraulic study. Mr. Votaw informed the Board that the hours of operation are traditionally, 8:00 a.m. to 5:00 p.m. Presently, the number of trucks per day average 30 to 35. The applicant does not anticipate an increase in truck traffic with the approval of the new site. Mr. Votaw explained that the need for the new extraction site is due to the nearing completion of the existing extraction site. There will be a 15' setback from either side of the pipeline that runs through the property. Mr. Votaw mentioned that there is an existing road that runs off of Mingo Road. They are proposing to utilize that same road and access the new area over a bridge.

Interested Parties:

None.

Comments and Questions:

Mr. Looney asked the applicant where the closest residence is located? Mr. Votaw mentioned that it is across Mingo Road to the west.

Mr. Alberty stated that he feels that this is a good land use. Not only is it needed for the growth in Owasso but it is a way that the County can get detention ponds built for free. This is a highly regulated operation.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to allow mining/dirt removal in an AG zoned district, finding that the Special Exception 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, **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT - Use Unit 24**, subject upon the County Engineer approval of the access and subject upon approval by the State of Oklahoma, Department of Mines, on the following described property:

SW, SW, SW, less North Mingo Road right-of-way, Section 31, T-21-N, R-14-E, Tulsa County, State of Oklahoma.

Case No. 1677

Action Requested:

Variance of minimum lot area in the AG District from 2 acres to 1.48 acres. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS - Use Unit 6;** and a Variance of minimum land area per dwelling unit in the AG District from 2.2 acres to 1.7 acres. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS,** located SW/c 96th Street North & North Harvard.

Comments and Questions:

Mr. Bruce reviewed Staff Comments from the Case Report.

Presentation:

The applicant, **John H. Swindell**, Route 1, Box 411, Sperry, OK, 74073, submitted a site plan (Exhibit E-1) and stated that he owns the northernmost lot. Two years ago he was deeded the 1½ acres to give him a total of 2½ acres. He did not know at that time that he had to have a lot split. Mr. Swindell stated that he applied for a home improvement loan and he was informed that he needed a lot split. There was discussion at the bench regarding who owned which lot and how the land would split.

Interested Parties:

None.

Comments and Questions:

Mr. Alberty mentioned that this will improve the existing situation. There will now only be one nonconforming lot out of three nonconforming lot.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** a **Variance** of minimum lot area in the AG District from 2 acres to 1.48 acres. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS - Use Unit 6;** and a **Variance** of minimum land area per dwelling unit in the AG District from 2.2 acres to 1.7 acres, finding that the existing situation has more non-conformities than the correction and approval of the lot split. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS,** on the following described property:

Beginning at the NE/c of N/2, NE, NE, NE thence W 310' S 208.25' E 310' N 208.25' to the POB, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 2:45 p.m.

Date approved: 10/19/99

Robert L. Walker
Chair