

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 244
Tuesday, September 19, 2000, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty
Tyndall
Walker, Chair
Dillard
Looney

Butler
Fernandez
Stump

West, Zoning

The notice and agenda of said meeting were posted in the Office of the County Clerk on, Wednesday, September 13, 2000 at 3:27 p.m., as well as in the Reception Area of the INCOG offices.

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

UNFINISHED BUSINESS

Case No. 1762

Action Requested:

Special Exception to allow Use Unit 5 (church and related uses) in an RS zoned district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; a Variance to allow a gravel parking lot. SECTION 1340. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS; and a Variance of one-acre lot size to .6 acre. SECTION 1340. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS; located SE/c E. 66th St. N. & Quincy.

Presentation:

Hobert Enkey, 322 N. Carlsbad, Owasso, stated the church planned for an addition of a fellowship hall for more space for dinners, wedding receptions and funerals to an existing church building. They also request a variance for gravel parking.

Comments and Questions:

Mr. Walker asked if the request was because of an existing non-conforming situation. Ms. Fernandez replied in the affirmative. Mr. Alberty asked if they currently have gravel parking. Mr. Enkey replied they would like to retain the gravel parking, but plan to pave in the future. Mr. Alberty asked if the applicant has

Comments and Questions:

Mr. Walker asked if there was a residence due south. Mr. Moody replied there is a residence on the south that cannot be seen, and there are some other residences south and west. Mr. Alberty stated that in the past the Board has encouraged collocation. He asked how many the tower would serve. On a 300' tower, six is the maximum number of sites, but four is typically the number served. Mr. Moody pointed out that there is a growing demand for sites for data transmission companies not for cellular phones, and they require a greater separation from other transmission companies located on the tower. Mr. Looney asked how far the residence to the south was located. Mr. Moody did not know but stated it was less than a quarter of a mile. He stated that no landscaping has been planned since the site is so remote and it is surrounded by heavily wooded topography. Mr. Walker asked about ingress and egress. Mr. Moody replied that there is an existing dirt road from Highway 51 used as a driveway to the mobile home on the subject property. Mr. Walker asked about utility buildings that would be used with the tower. He responded that there are typically four secure structures to house equipment within the 100' x 100' compound.

Protestants:

None.

Board Action:

On **MOTION** of **Looney**, the Board voted 4-0-1 (Walker, Alberty, Tyndall, Looney "aye"; no "nays"; Dillard "abstained"; no "absences") to **APPROVE** a **Special Exception** to permit a 300' high self supporting lattice tower in an AG district, finding that 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 990' of the W 990' of the NW/4 of Section 15, T-19-N, R-10-E (less approx. 5.66 acres of hwy right-of-way) and the W/2 W/2 NE/4 NW/4 and the E/2 NE/4 NW/4 NW/4 and the NE/4 SE/4 NW/4 NW/4 of Section 15, T-19-N, R-10-E (less approx. 4.39 acres of hwy right-of-way), all in Tulsa County, State of Oklahoma.

Case No. 1766

Action Requested:

Variance of 30' of frontage on a public street to 0'. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located 4648 S. 60th W. Ave.

Presentation:

Jeffrey D. Lower, 7666 E. 61st St., stated that he is the attorney for the applicant. He stated that Mr. Mason is the record owner. He submitted the Warranty Deed and the Plat (Exhibit C-1) that shows access to the property. There is a 21'

Case No. 1766 (continued)

roadway that is platted as part of the subdivision of the plat to the west, which does not presently exist. There also is a 40' reservation of private roadway in the deed. Mr. Lower stated the hardship is that the tract was carved out prior to the zoning requirement. He stated the applicant intends to place a mobile home for residence on the 2½-acre tract.

Comments and Questions:

Mr. Albery commented that the improvements would have to meet the county standards. He asked Mr. Lower if this has been researched. Mr. Lower responded that the applicant plans to make a gravel driveway and maintain according to county standards.

Protestants:

Jerry Pickerel, 109 S. Broadway, Cleveland, OK, stated he is the attorney for Juanita Barton. He stated that she is the owner of the surrounding land to the north, east and south. He indicated that the deed does not grant an easement to the applicant. He pointed out that the chain of title runs from Clay and Thelma Bond, the grantees, and that Mr. Warren reserved in this deed a right-of-way to himself. He stated that it does not go to the owners of the property but stays with Mr. Warren. He concluded that the applicants do not have an easement over the 40' that is the western part of the tract. He added that Mrs. Barton owns this same 40'. He stated that if there is to be a road prepared there, it would be an attempt to cut it out of her property. He reminded the Board that the property is zoned agricultural. He indicated that Mr. Barton told Mr. Mills that he could not build on this land if he bought it. He brought up that Mr. Mills stated he had gas and water to the property and Mr. Pickerel stated that it was not true. He asked that the Board deny the application.

Applicant's Rebuttal:

Mr. Lower stated that the deed he provided expressly reserves a right-of-ingress and egress that has never been revoked, conveyed or abandoned. The protestants have no authority to say that it was abandoned or was not conveyed. The only one who can make that decision is a Tulsa County District judge. He stated that it is a private roadway easement. He pointed out that the 21' platted roadway gives access to the subject property, even though it is not in place at this time, and it is outside of Mrs. Barton's property. The fact that the property is zoned agricultural does not prohibit the applicant from putting a mobile home there.

Comments and Questions:

Mr. Walker asked where the gas and water connections are located. Mr. Lower stated that there was a right-of-way agreement in favor of Oklahoma Natural Gas Company (ONG) in 1969, which he was not able to identify. He stated that was a PSO easement in 1969 that covers 2 ½' on either side of the service cable that effects part of the NE SW. In 1970 Mr. and Mrs. Bond and several other owners

Case No. 1766 (continued)

granted a 40' easement right-of-way to ONG, for gas pipeline being the west 40' of the NE SW/4. There is also reference in the title opinion to a water easement, which he believed was between individuals. Mr. Lower stated that a successful soil percolation test had been done.

James Mills, 6722 W. 26th St., stated that there are existing pipes in the ground on the NW corner for a gas meter.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of 30' of frontage on a public street to 0', finding that the property has a platted 21' access easement and an easement for an additional 40', which would give 61', on the following described property:

Beg. at a point 382' S of the NW/c of the NE/4 SW/4 of Section 29, T-19-N R-12-E of the IBM, Tulsa County, State of Oklahoma, thence S and parallel to the E line of said SW/4 a distance of 332.5' to a point, thence E and parallel to the N line of said SW/4 a distance of 329' to a point, thence N and parallel to the E line of said SW/4 a distance of 332.5' to a point, thence W and parallel to the N line of said SW/4 a distance of 329' to a point or place of beginning.

Case No. 1767

Action Requested:

Variance of Section 330 required lot width of 200' down to 165' to permit a lot split. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located 15914 N. 141st E. Ave.

Presentation:

Morgan Powell, 118 N. 11th, Ste. 104, Collinsville, OK, stated he is an attorney representing Roy and Marian Stanley of 15912 N. 141st E. Ave., Collinsville, OK. 74021. He stated that they own the subject property and wish to obtain a lot split to divide the property between his two children, while he is still alive. His daughter currently occupies the 18' x 74' house trailer. He stated they seek to demolish the old house on the property and move in a 32' x 80' new house trailer. Mr. Powell added that both parts of the property have septic tanks. They are just a little short of frontage and need the Variance. He would like to accomplish this while he is well and competent.

Protestants:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney “aye”; no “nays”; no “abstentions”; no “absences”) to **APPROVE** a **Variance** of Section 330 required lot width of 200’ down to 165’ to permit a lot split, finding that it is entirely reasonable, and anticipate amendment of the zoning ordinance to reflect something similar to this, on the following described property:

A 10 acre tract of land situated in the W/2 SE/4 of Section 16, T-22-N, R-14-E, Tulsa County, State of Oklahoma more particularly described to-wit: Beg. at a point on the E line of the W/2 SE/4, Section 16, T-22-N, R-14-E, said POB being 659.98’ S of the NE/c of said W/2 SE/4; thence W a distance of 1,321.58’ to a point; thence S a distance of 330.01’ to a point; thence E a distance of 1,321.87’ to a point on the E line of said W/2 SE/4; thence N a distance of 329.99’ to the POB. Subject to a 60’ roadway on the E and subject to water line easement on the W 10’ of the E 70’ and less and except the W 50’ thereof for U.S. 169 highway right-of-way on the W, less and except the following described tract: a tract of land situated in the W/2 SE/4 of Section 16, T-22-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, more particularly described, to-wit: Commencing at a point on the E line of the W/2 SE/4, Section 16, T-22-N, R14-E; said point being 659.98’ S of the NE/c of said W/2 SE/4; thence W a distance of 1,321.58’ to the true POB; thence S 330.01’ to a point; thence E a distance of 660.94’; thence N a distance of 330.00’; thence W a distance of 660.79’ to the POB, less and except the W 50’ thereof for U.S. 169 Highway right-of-way, containing 4.63 acres more or less.

Case No. 1768

Action Requested:

Variance of Section 330 to permit a 165’ lot width from required 200’ in an AG district. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 9; and a Variance of Section 208 to permit two dwelling units on one lot of record on a 5-acre tract. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located 9009 E. 106th St. N.

Presentation:

Sonya David, 12210 E. 82nd St. N., Owasso, stated she desires to move a mobile home on her parents’ property. She stated her parents are elderly and they need to live nearby to help care for them.

Comments and Questions:

Mr. Walker commented that a flood zone is marked on the survey. Ms. David replied that they plan to place the home in an area not in the flood zone. Mr. Looney asked about an access. She replied there is an existing road.

Case No. 1768 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **Looney**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of Section 330 to permit a 165' lot width from required 200' in an AG district; and a **Variance** of Section 208 to permit two dwelling units on one lot of record on a 5 acre tract, finding the property is large enough for two dwellings, on the following described property:

The W/2 W/2 W/2 SE/4 SE/4 of Section 12, T-21-N, R-13-E of the IBM, Tulsa County, State of Oklahoma.

Case No. 1769

Action Requested:

Variance to allow two dwelling units on one lot of record, temporarily for construction purposes. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6, located 17905 S. 129th E. Ave.

Presentation:

Patti Bain, 10020 E. 81st St. S., stated she desires to place two mobile homes on a little over seven acres while they build a house on an adjoining seven acres.

Comments and Questions:

Mr. Alberty asked if they intend to build a permanent structure on the subject property and a permanent structure on the north seven and one-half acres. She replied in the affirmative.

Protestants:

None.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to allow two dwelling units on one lot of record, temporarily for construction purposes, subject to skirting, tie downs, DEQ sanitation requirements, finding there is plenty of property for the dwellings, on the following described property:

S 250' N 1755' W/2 SW, Tulsa County, State of Oklahoma.

Case No. 1770

Action Requested:

Special Exception for the purpose of erecting a 120' telecommunication tower in an AG zoned district. SECTION 1204.3. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4, located N of NE/c S. Elwood & E. 131st St.

Presentation:

Peggy Owen, 8023 E. 63rd Pl., Suite 375, stated that she represented Cricket Telecommunications. Photographs were previously supplied for the Board (Exhibit D-1). She stated that they were developing a wireless mobile system in the greater Tulsa area. They need a 120' monopole tower in the proposed location. The property is zoned AG, the closest structures, to the west is a church 1000'; south a residence 650'; north a residence 650'; and east an AT&T 180' monopole tower at 160'. The monopole is similar to a light pole, and would be designed by a professional for collocation. It would be contained in a 50' x 50' leased area, and would be fenced to prevent public access. She added that it would not prohibit development or use of neighboring property, and cause a low amount of traffic. The utilities necessary are power and telephone, which are already on site. After construction a radio frequency engineer, with the exception of an emergency, will visit the site on the average of once per month. The site will be maintained and kept in good repair at all times. Ms. Owen explained that when such a system is developed, each tower hands off frequency to the next. If a tower cannot be placed in the area of need, there would be a hole in the system, and the subscribers would have poor if any service in that area. She stated that she has an updated site plan showing that the tower would be placed to have the required 110% setback.

Comments and Questions:

Mr. Looney asked about a structure that showed up on the aerial just to the north of the proposed site. He asked about mobile homes also. She replied that the mobile homes are on the parent tract and are owned by the lessor. Mr. Walker asked about AT&T not sharing their towers. Ms. Owen explained that AT&T is gearing up for a fixed wireless system. They have already done preliminary locations and on some towers that are already dedicated are not taking any applications for collocation. If they are not to be used for that system and they are not structurally overloaded, AT&T will take applications, such as the tower near the subject site. The low available location on their tower would not work for the applicant's need in this area.

Protestants:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special***

Case No. 1770 (continued)

Exception for the purpose of erecting a 120' telecommunication tower in an AG zoned district, finding there is already a tower nearby and the tower will be designed for collocation, on condition of meeting the 110% from the south property boundary line, on the following described property:

A tract of land situated in the S/2 N/2 SW/4 SW/4 of Section 1, T-17-N, R-12-E, Tulsa County, State of Oklahoma, being more particularly described as follows: Commencing at the SW/c of the SW/4; thence N 01°11'40" W, along the W line of the SW/4, a distance of 662.02', to the SW/c of the S/2 N/2 SW/4 SW/4; thence N 88°36'37"E along the S line of the S/2 N/2 SW/4 SW/4 a distance of 601.04', to the POB; thence N 01°23'23" W a distance of 50.00'; thence N 88°36'37" E a distance of 50.00'; thence S 01°23'23" E a distance of 50.00' to a point on the S line of the S/2, N/2 SW/4 SW/4; thence S 88°36'37" W along said S line a distance of 50.00' to the POB.

Case No. 1771

Action Requested:

Variance of lot width in an AG district from 200' to 165'. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located 9006 E. 128th St. N.

Presentation:

Dennis Kelly, 3919 S. Toledo, stated he is a realtor with Patterson Realtors, and he represented Ms. Masterson the owner. The house has been in existence since 1965, and soil percolation was done in 1966. He stated they are trying to close on the sale of the house, but when the title opinion was rendered he discovered they had not applied for the lot split.

Comments and Questions:

Mr. Alberty asked if a deed was filed at the courthouse. Mr. Kelly responded a deed was filed. Mr. Kelly explained that it was originally ten acres, and it was split off 2 ½ acres to both sisters.

Protestants:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of lot width in an AG district from 200' to 165', 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:

