

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 267
Tuesday, August 20, 2002, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty, Chair	Hutson	Butler	West, NBH. Inspec.
Tyndall		Beach	
Walker			
Dillard, Vice Chair			

The notice and agenda of said meeting were posted in the Office of INCOG, 201 W. 5th St., Suite 600, Thursday, August 15, 2002 at 11:25 a.m., as well as at the City Clerk's office, City Hall.

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

Case No. 1987

Action Requested:

Special Exception to allow mining and mineral processing (dirt and shale) Use Unit 24 in an AG zoned district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 24; and a Use Variance to allow mining and mineral processing in an RS zoned district (south edge of tract). SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS, located 2601 W. 101st St. S.

Presentation:

Mr. Beach informed the Board there has been a request for continuance.

Board Action:

On **Motion** of **Dillard**, the Board voted 3-0-0 (Alberty, Dillard, Tyndall "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **CONTINUE** Case No. 1987 to the meeting on September 17, 2002, regarding the following described property:

That part of the W/2 NE/4, Section 27, T-18-N, R-12-E, of the IBM, Tulsa County, State of Oklahoma, lying N of Polecat Creek, and being described as follows, to-wit: Beg. at the NW/c NE/4 of said Section 27; thence due E along the N line of said Section 27, a distance of 1,317.72' to the NE/c W/2 NE/4 of said Section 27; thence S 0°15' W along the E line of the W/2 NE/4 of said Section 27, a distance of 622.00' to a point; thence S 85°00' W a distance of 551.00' to a point; thence

N 65°00' W a distance of 445.00' to a point; thence N 46°30' W a distance of 234.00' to a point; thence N 78°23'33" W a distance of 198.25' to a point on the W line of the NE/4 of said Section 27; thence N 0°14' W along the W line of the NE/4 of said Section 27, a distance of 281.00' to the POB.

Case No. 1988

Action Requested:

Special Exception for a sand extraction plant in an AG district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24, located N & W of NW/c E. 141st St. & S. Sheridan.

Presentation:

John Moody, stated he represents the applicant. The attorney for the interested parties requested the continuance, and he agreed to it if no later than September 17, 2002.

Board Action:

On **Motion** of **Dillard**, the Board voted 3-0-0 (Alberty, Dillard, Tyndall "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **CONTINUE** Case No. 1988 to the meeting on September 17, 2002, regarding the following described property:

The portion of Lots 6 and 7 lying N of the Midland Valley Railroad right-of-way, less that part of Lot 7 lying W of Posey Creek; and in that portion of the SE/4 SE/4 lying N of said Midland Valley Railroad right-of-way, all in Section 10, T-17-N, R-13-E, of the IBM, Tulsa County, State of Oklahoma.

Case No. 1991

Action Requested:

Variance of the allowable size for an accessory building in an RS zoned district from 750 square feet to 5,040 square feet. SECTION 240.2.E. YARDS, Permitted Yard Obstructions – Use Unit 6, located 3340 S. 63rd W. Ave.

Presentation:

Mr. Beach announced this case was withdrawn.

Board Action:

No Board Action was needed, regarding the following described property:

Lots 16 and 17, Block 2, Berry Hill Acres Subdivision, Tulsa County, State of Oklahoma.

MINUTES

The approval of minutes of July 16, 2002, meeting number 266 will be considered at the September 17, 2002 meeting.

UNFINISHED BUSINESS

Case No. 1980

Action Requested:

Use Variance to permit the keeping and raising of exotic animals in an RS district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS. – Use Unit 3, located 309 S. 71st W. Ave.

Presentation:

Patricia Shaver, 309 S. 71st W. Ave., stated that Memorial Day weekend they received a notice of violation of the zoning code. The RS zoning does not permit the animals they keep on the property. They were under the impression their property was zoned AG. She explained that they rescue exotic animals and care for them. She informed the Board of an incident when a monkey got loose into the neighborhood. A deputy sheriff came out on this occasion and was not concerned regarding any violation. A second incident occurred when a deputy came out on the complaint of starving animals on the property. She indicated that he found it obvious that there were no starving animals at their home. She stated an unauthorized person loosed a monkey into the neighborhood at another time and it was retrieved without incident.

Bill Allison, 309 S. 71st W. Ave., continued the presentation by showing a photograph of a monkey they had. He described the monkey as friendly and not a danger to anyone. He stated that their primary concern was for the safety and well being of the animals. He submitted a petition with 100 signatures in support of the application, and letters of support (Exhibit A-1, A-3). He informed the Board that the animals have been used for teaching children in school and on occasion children have been brought to the home to observe the animals. He stated that if they have to move they would not have the money to pay the veterinarian bills and Ms. Shaver would not be able to have access to public transportation. He indicated that the animals are well cared for, with adequate space and sanitary facilities.

Comments and Questions:

Mr. Alberty asked for a list of the numerous animals. Mr. Allison listed seven monkeys, four codamundeeds (S. American raccoon), three ringtale lemurs, one Muskogee duck, one miniature horse, one wallaby, one baby doll sheep, three dogs and one parrot. Mr. Alberty asked if they are asking to keep that many animals. Mr. Allison responded that as animals come and go the number

fluctuates. Mr. Alberty asked how the animal care is financed. He responded they pay for it with personal finances, and a little help from his son and the homeless shelter. They have considered applying for a 501.C.3 license with the federal government and accepting donations from all of the people that come through and look at the animals

Interested Parties:

Warren Williams, 402 S. 69th W. Ave., stated he has a number of reservations about this project. He listed noise, the small size of the lot, lack of grazing area for animals, no storm or sanitary sewers, narrow streets, and inadequate parking space.

Tommie Rider, 508 S. 69th W. Ave., stated that the school bus stop is at the corner where the subject property is located. She was concerned for her child because Mr. Allison cautioned her that the animals bite. She added that they do not want a business in the residential neighborhood, and vehicles trying to find parking on the street.

Catherine Lamb, 508 S. 69th W. Ave., submitted photographs and a letter (Exhibit A-2) to the Board. She stated that the elderly neighbors are afraid because of the animals, namely a horse, a goat, dogs, and monkeys have escaped into the neighborhood. She stated that her family loves animals and they have dogs, chickens, ducks and rabbits, but the children come first. Ms. Lamb indicated that Mr. Allison spoke hatefully to her grandchildren at the bus stop.

Thomas Lamb, 508 S. 69th W. Ave., stated that storm water runs off of the subject property, and across neighboring properties, into the creek and Arkansas River. He complained of seeing manure piled four feet high, and stated the hired help does not keep it cleaned up properly. He indicated that the septic lateral lines were in danger of collapsing or ending up in the street. He also questioned the signatures on the applicant's petition because the area is not that populated.

Neil Fisher, 307 S. 71st W. Ave., stated he and his wife live in the house adjacent to the north of the subject property. He added that they enjoy the animals. He was not aware of any noise problem. He has offered his extra parking space on his own property for guests on the subject property. He also offered to allow their animals to graze on his property occasionally.

Applicant's Rebuttal:

Mr. Allison responded that they do have one very old monkey that was teased too much in a zoo. He does caution people about her, though she would run from people to defend herself. He admitted that one time there was a pile of manure but they cleaned it up the very next day. The waste is picked up three times per week. He noted that the Lamb family is in violation of the zoning code, with chickens, ducks and rabbits. He added that he does not want them to lose their animals either.

Comments and Questions:

Mr. Alberty asked Mr. West if there is a limit on the number of pets on residential property. Mr. West was not aware of any limit of pets in the county. Mr. Alberty and Mr. West discussed the allowable non-conformity if the animals were on the property prior to 1980. Mr. Beach read the zoning code definition of exotic animals.

Board Action:

On **MOTION** of **Walker**, the Board voted 3-1-0 (Alberty, Walker, Dillard, "aye"; Tyndall "nay"; no "abstentions"; Hutson no "absent") to **APPROVE** a **Use Variance** to permit the keeping and raising of six primates caged in an RS district, and can have cage with indoor/outdoor run, finding the hardship is a history of AG use in this RS zoned neighborhood, and motion does not address any other animals at this address, on the property described as follows:

S/2 Lot 13, less S 12' to Highway, Block 4, Twin Cities, Tulsa County, State of Oklahoma.

Case No. 1982

Action Requested:

Special Exception to permit fireworks sales for the year beginning 2003, and to conduct year around sales of fruits and vegetables, pumpkins, Christmas trees and other seasonal merchandise. SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES – Use Unit 2; and a Variance of all-weather surface. SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located 15764 W. Highway 51.

Presentation:

Charlie Choate, 1800 S. 165th W. Ave., Sand Springs, Oklahoma, stated that he proposes the sale of seasonal merchandise. He added that the road has an all-weather surface, and there is all-weather surface on the site. He talked with the neighbors, and now that they understand what he wants, they are in support. There will be one entrance from Highway 51. He reminded the Board that it is commercially zoned and he would like to make something from it to pay the taxes. He described the mobile building, room for parking, and nothing to increase flood problems.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Special Exception** to permit fireworks sales for the year beginning 2003, and to conduct

year around sales of fruits and vegetables, pumpkins, Christmas trees and other seasonal merchandise, finding 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; and a **Variance** of all-weather surface, as presented, finding it 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:

A tract of land in the SW/4 SW/4 of Section 8, T-19-N, R-11-E, of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows: Commencing at the SE/c of SW/4 SW/4, thence N 1°12'48" W along the E line of said SW/4 SW/4 a distance of 24.75' to the POB; thence N 1°12'48" W a distance of 281.22' to the S right-of-way of SH-51; thence N 71°11'07" W along said right-of-way a distance of 5.70'; thence N 73°44'47" W along said right-of-way a distance of 599.55'; thence S 1°59'34" W a distance of 268.48'; thence S 89°56'20" E a distance of 208.72'; thence S 3°21'18" E a distance of 183.97'; thence N 89°47'14" E parallel to and 24.75' distance from the S line of said SW/4 SW/4 a distance of 376.79' to the POB.

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Case No. 1984

Action Requested:

Amendment of an approved site plan to permit a 24' x 60' temporary classroom, and a permanent classroom addition, located 13413 E. 106th St. N.

Presentation:

Mr. Beach stated that this case was continued because the notice at the last hearing did not include the property where the additional construction will be located. The applicant was not present at this time.

Interested Parties:

Larry Loffer, 13227 E. 106th St. N, Owasso, Oklahoma, stated that he came to the previous hearing and has had to take off work for these two hearings. He expressed concern that the building would take up more land area and he questioned if the sewage system would be adequate, since they had a problem with it previously.

Comments and Questions:

Mr. Alberty asked if he was having a problem currently caused by their sewage system. Mr. Loffer replied that he was not having a problem now. Mr. Alberty informed him that if the applicant did not arrive the case would probably be continued. He assured Mr. Loffer that his concerns would now be part of the record.

Board Action:

The Board tabled the case until later on the agenda.

Lot 1, Block 1, Owasso Freewill Baptist Church, a subdivision in the SE/4 of the SW/4 of Section 9, T-21-N, R-14-E; AND A tract of land that is part of the SE/4 SW/4 of Section 9, T-21-N, R-14-E, of the IBM, starting at the SW/c of the SE/4 SW/4 of said Section 9; thence N 88°44'40" E along the Sly line of said Section 9 for 390.00'; thence N 01°13'58" W and parallel with the Wly line of the SE/4 SW/4 for 71.42' to the POB of said tract of land; thence continuing N 01°13'58" W and parallel with the Wly line of said SE/4 SW/4 for 1002.52'; thence N 88°44'37" E for 593.73'; thence S 11°12'59" W, parallel with and 100.00' Wly of as measured perpendicular to the Wly right-of-way line of US-169 for 372.31' to the NE/c of Lot 1, Block 1, Owasso Freewill Baptist Church, thence S 88°44'37" W along the Nly line of said Lot 1 for 453.47' to the NW/c of Lot 1; thence S 01°13' 58" E along the Wly line of Lot 1 for 633.00' to the SW/c of Lot 1; thence S 83°02'02" W along the Nly right-of-way line of US-169 W exit ramp for 60.30' to the POB of said tract of land; AND a tract of land beg. at the SW/c of the SE/4 SW/4 of said Section; thence N 88°44'40" E and along the S line of said SE/4 SW/4 a distance of 175.93'; thence N 1°15'20" W a distance of 50.00'; thence N 83°01'52" E a distance of 215.16'; thence N 1°13'58" W a distance of 1002.52'; thence S 88°44'37" W a distance of 390.02' to the W line of the SE/4 SW/4; thence S 1°13'58" E a distance of 1073.93' to the POB; AND a tract of land beg. at a point 1073.93' N of the SW/c of the SE/4 SW/4 and on the W line of said SE/4 SW/4 thence N 88°44'37" E a distance of 983.75' to a point 100.00' W of and at a right angle to the W line of US-169; thence N 11°17'16" E a distance of 74.14'; thence N 3°15'37" E a distance of 605.72'; thence N 1°18'03" W a distance of 249.65'; thence S 88°44'37" W a distance of 1046.98' to a point on the W line of said E/2 SW/4; thence S 1°13'53" E a distance of 929.36' to the POB, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 1985

Action Requested:

Special Exception to allow an outdoor activity (Use Unit 2) fireworks stand in a CH zoned district, from June 15, 2003 through July 5, 2003. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2, located 5732 S. 49th W. Ave.

Presentation:

The applicant was not present, and the case was tabled to the end of the agenda.

Part N/2 SE Beg. 505.10' E SW/c NW SE, thence E 1131.80' NE 134.77' NE 74.44' NW 489.87' SWly curve right 1036.77' POB, less Beg. 1407.4' E SW/c N/2 SE, thence NW 64.51' NE 29.66' NE 225.21' SE 139.69' SW 13.51' SW 134.77' W 229.50' POB, Tulsa County, State of Oklahoma.

Case No. 1986

Action Requested:

Special Exception to allow mining and mineral processing (sand, dirt removal) Use Unit 24 in an AG zoned district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24, located S of SW/c Hwy. 51 W. & 145th W. Ave.

Presentation:

Tim Weaver, 1918 S. 161st W. Ave., stated he proposes to build a pond. He added that someone had dug out the hillside and he would like to make it useful. He proposes to sell the sand and dirt to get back some of the cost.

Comments and Questions:

Mr. Alberty determined that the subject area is just ten acres of the property. According to Mr. Weaver the mining depth would be approximately four feet, and was to be used for a pond only.

Interested Parties:

Grady Vandiver, 14139 W. 31st, Sand Springs, Oklahoma, stated he is the owner of the property. He has obtained a verbal approval from the State of Oklahoma for a mining permit, pending approval by the Tulsa County Board of Adjustment.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Special Exception** to allow mining and mineral processing (sand, dirt removal) Use Unit 24 in an AG zoned district, per plan, limited to the ten acres, subject to the granting of all permits by the State of Oklahoma, finding 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 NE/4 NW/4 SE/4 and NE/4 SE/4 and E/2 E/2 SE/4 SE/4, Section 17, T-19-N, R-11-E, and S/2 S/2 NW/4 SW/4 and SW/4 SW/4 less and except the E 330.00' of the S 330.00' and less and except the NE/4 SE/4 SW/4 SW/4, Section 16, T-19-N, R-11-E, Tulsa County, State of Oklahoma.

Case No. 1989

Action Requested:

Special Exception to permit a car wash in a CS district. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located W. 41st St. & 63rd W. Ave.

Presentation:

Becky Keith, 8507 W. Way Rd., Sapulpa, Oklahoma, stated she and her husband propose to open a carwash in Berryhill.. She stated that the community has grown and will continue to grow with the new housing addition. She found that the traffic count has grown from 1400 vehicles per day in 1993 on 41st Street to almost 17,000 vehicles per day. They plan to build an attractive brick building with a pitched roof, directly behind the E-Z Mart. Her husband plans to be on the site daily to insure the equipment is well maintained and the property is clean.

Comments and Questions:

Mr. Alberty asked about any plans for the frontage of the property. Ms. Keith stated they have no plans at this time for the frontage. They are only purchasing the portion of the property they need for the car wash. Mr. Alberty informed her that they would be responsible for the screening fence to the residential district. He also mentioned to her they would need to comply with the building code, and zoning code regarding setbacks and other things.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a car wash in a CS district, with conditions for no outside storage or display of merchandise; to maintain screening fence on the south; and no outside speakers or lighting directed toward the residential areas, on the following described property:

Lot 2, Block 1, Tract 1, Southwest Plaza Shopping Center, Tulsa County, State of Oklahoma.

Case No. 1990

Action Requested:

Variance of required lot width in an AG district from 150' to 100' to permit a lot split. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located E of NE/c E. 86th St. N. & Memorial.

Presentation:

Brenda Scrivner, 12303 E. Skelly Dr., stated she is with Jim Walter Homes. Her clients were getting a lot split to move in near their aging parents. The property has been in the family for years. The parents have the larger portion of the frontage.

Clyde Williams, 9227 E. 86th St. N., stated he and his wife are the parents and are in support of this application.

Comments and Questions:

Mr. Alberty noted the property is two and one-half acres deep.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required lot width in an AG district from 150' to 100' to permit a lot split, finding the narrowness of the lot being created, and finding it 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:

The W 100.00' of the S 1100.00' E/3 SE/4 SW/4 of Section 24, T-21-N, R-13-E, of the IBM, Tulsa County, State of Oklahoma.

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Case No. 1992

Action Requested:

Special Exception to allow Use Unit 14 in an IL zoned district. SECTION 910. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 14; and a Variance of the required 75' setback from a R district to 50'. SECTION 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS, located 5079 W. 51st St.

Presentation:

Peggy Gaytan, P.O. Box 1810, Oakhurst, Oklahoma, stated they would like to use the property as commercial for a smoke shop/convenience store with a drive-through. There is a residential property to the east of the subject property. The applicants spoke to the neighbors on that property and they do not object to the application. They intend to construct a privacy fence on the east to screen from the residential. Access to the property would be off of 51st St.

Comments and Questions:

Mr. Alberty read a letter from the Oklahoma Department of Transportation (Exhibit C-1) regarding the right-of-way. Ms. Gaytan responded they adjusted the setback for the proposed right-of-way in their plans. Mr. Beach commented there would be eleven required parking spaces with all-weather surface and asked if they had planned for the parking. Ms. Gaytan replied that she was not aware of this.

Interested Parties:

Mike Sitten, 10427 S. Oxford, stated interest in the type of construction that would be used. Ms. Gaytan described the plans for a one-story structure, built with metal studs, 40' X 60', with drive-through window, vinyl siding, on a permanent concrete slab.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow Use Unit 14 in an IL zoned district, finding 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; and a **Variance** of the required 75' setback from a R district to 50', with conditions for parking spaces as required and a six-foot screening fence, as presented, finding it 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:

Lot 13, Block 2, Austin's Subdivision, Tulsa County, State of Oklahoma, less and except a strip, piece or parcel of land lying in Lot 13, said parcel of land described by metes and bounds as follows: Beg. at the SW/c of said Lot 13; thence N along the W line of said Lot 13 a distance of 54.61'; thence S 85°48'04" E a distance of 163.22' to a point on the E line of said Lot 13, thence S along said E line a distance of 40.35' to the SE/c of said Lot 13; thence W along the S line of said Lot 13 a distance of 162.60' to the POB.

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Case No. 1993

Action Requested:

Variance of the required 30' frontage on a public street to 0'. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6; a Variance of land area from 2.1 acres to 2.06 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; a Variance of land area from 2.1 acres to 1.749 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; and a Variance of lot area from 2 acres to 1.87 acres for lot-split #19413. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located N of NE/c E. 176th St. N. & Mingo Rd.

Presentation:

David L. Brown, 11525 E. 156th St. N., Collinsville, Oklahoma, stated his purpose for purchasing the property was to split the lots and build homes. He added that he bought ten full acres, but discovered during the process there were two easements. The existing road was included in the covenant agreements that it was to be available for everyone to use, even though it was not a dedicated road.

Comments and Questions:

Mr. Walker asked about the number of lot splits he planned to obtain. Mr. Brown replied he planned on four lot splits.

Interested Parties:

Scott Hodge, 9910 E. 182nd Pl. N., introduced his wife, **Joyce Hodge** of the same address. Ms. Hodge reminded the Board that they were denied a similar request in November 2000 on the basis that Mr. West stated it would set a precedent for the next two who would purchase the other lots. She added that it would be multiplied to four more homes. She recognized it as a development that would require more approval. She considered the hardship to be self-imposed. Mr. Hodge stated this is a rural AG setting and they would be opposed to a development.

Ed Cape, 17021 N. Memorial, Collinsville, Oklahoma, stated he is the original owner of the subject property. He expressed support of the variance and an interest in obtaining the same to sell the back twenty acres. Mr. Alberty informed Mr. Cape that subdivision regulations were written for this purpose.

Applicant's Rebuttal:

Mr. Brown asked if the road could be dedicated without a plat. Mr. Alberty replied that it could not.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absences") to **DENY** a **Variance** of the required 30' frontage on a public street to 0'; a **Variance** of land area from 2.1 acres to 2.06 acres; a **Variance** of land area from 2.1 acres to 1.749 acres; and a **Variance** of lot area from 2 acres to 1.87 acres for lot-split #19413, finding such a project needs to be under sub-division regulations, on the following described property:

Parcel I: A parcel or tract of land in the S/2 S/2 NW/4 of Section 6, T-22-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Commencing at the SW/c NW/4 of said Section 6, thence N 00°10'19" W along the W line of the NW/4 a distance of 600.91'; thence S 89°59'40" E a distance of 331.26' to the POB; thence continuing S 89°59'40" E a distance of 331.26'; thence S 00°13'44" E a distance of 270.89'; thence N 89°59'49" W a distance of 331.39'; thence N 00°11'58" W a distance of 270.90' to

the POB; AND Parcel II: A parcel or tract of land in the S/2 S/2 NW/4 of Section 6, T-22-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Commencing at the SW/c NW/4 of Section 6; thence N 00°10'19" W along the W line of the NW/4 a distance of 600.91' to the POB; thence S 89°59'40" E a distance of 331.26'; thence S 00°11'58" E a distance of 270.90'; thence N 89°59'49" W a distance of 331.39' to a point on the said W line of the NW/4; thence N 00°10'19" W a distance of 270.91' to the POB.

Case No. 1994

Action Requested:

Variance to permit a wholesale and retail brick and stone use in an AG district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 25; and a Variance of required all-weather surface to permit gravel on back part of road. SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located 1320' E of SE/c S. Lewis & 151st St. S.

Presentation:

Michael Freeman, 5555 E. 71st St., Ste., 7201, stated he is the attorney for the applicant, Walt Bishop. He submitted a site plan (Exhibit D-1). The property is in an AG district. He pointed out that the Bixby Comprehensive Plan does not extend to this property and it is not in the Bixby city limits or fence line. He stated that the hardship would be the narrowness of the property, the only access being on 151st Street, which is a major freeway access. There is very little development along 151st Street, but there are large advertising signs going up. They propose to build a brick and stone business location, with an office showroom and patio style display. They planned for a dry- storage building at the back. They want an entrance from the highway. The entry, driveway and parking in the front would be paved, and the back portion of the lot would be gravel. He expounded on the benefits, such as the attractiveness of the business and that the City of Bixby has planned for a six hundred-foot corridor strip. He also pointed out that the area is not suitable for residential because of the impediments, water problems and other problems. He compared this application as similar to the mining operations that came before the Board in that they would have stacked rock and brick.

Interested Parties:

Jim Coffey, 2925 E. Agee, Jenks, Oklahoma, stated he is a City Planner for the City of Bixby. He pointed out that this parcel of land is outside of the city limits of Bixby, but it is within the corporate fence line. He noted that the corridor is 2620' deep as adopted in the City of Bixby Comprehensive Plan in September 1, 2001. The plan calls for the area to be commercially zoned within the first 600'. An ordinance was included that established a panel of architectural committee to review everything within the first 600' on both sides of Memorial within the city limits. The plan provided for the properties further to the north or south to be

residential. Mr. Coffey noted this application requires some warehousing or on-site storage. In the City of Bixby it would require a special exception in a commercial zone or light industrial.

Jack Williams, 16032 S. Harvard, stated that he is in favor of economic development. He would consider this business light industrial. He found in the Bixby Master Plan that light industrial in a corridor zoning could only be granted as a part of a planned unit development. He noted that within one mile of this property are over 400 acres of residentially zoned property, most of it RS-2. One quarter of a mile east of the property and across the road is a development in progress for luxury homes. A quarter of a mile east of the property is the edge of 300 acres already zoned RS-2. The City of Bixby has been extending water and sewer lines to 151st and Harvard. He indicated a brickyard would have a negative impact on the area. He stated that the four-lane divided highway with 65 mph traffic would be dangerous for vehicles entering and exiting the property.

Sam Hollinger, 10005 S. Memorial, stated the area qualifies for a scenic highway, with numerous estate properties, a golf course, and a very nice church building. He considers this business out of character with the area and inappropriate for the location.

Greg Hollinger, 3012 W. Vandalia Circle, Broken Arrow, Oklahoma, stated he was representing several neighboring property owners, Scott Ashmore, Derick Bateman, and Jeff Van Horne. These landowners intend to build executive style homes. They have nothing against the business, just the location. Mr. Hollinger pointed out that the applicant knew before he bought the subject property that he did not have the proper zoning for this business. He noted that even though new construction has not begun, there are plans in progress by numerous developers, landowners, and the City of Bixby for estates, a school and utilities for this area.

Gladys Parker, 2750 E. 151st Street, stated she and her husband own the property west and adjacent to the subject property. She informed the Board there are eight homes between Lewis and Harvard on the south side and seven on the north side of 151st St. She submitted a notarized petition (Exhibit D-2) in opposition to the application. She stated that the area is suitable for homes. She submitted a photograph of their home (Exhibit D-3). She was opposed to the application.

Mike Sitton, 10427 S. Oxford, stated he was opposed to the application.

James O. Parker, 2750 E. 151st St., stated he has maintained a road to his property for up to thirty-five years and now the applicant says he would not be able to use it. He is opposed to the business coming up to the edge of his property line.

Danny O'Hendricks, 2808 E. 151st St., Bixby, stated he lives just east of Mr. Parker. He does not consider the location to be appropriate for the business. He stated that Bixby has the opportunity to develop this area properly.

Applicant's Rebuttal:

Mr. Freeman recognized the area is populated but sparsely. He noted to the Board that trees and a difference in elevation would naturally screen the land. He reminded the Board that Bixby does not totally control the land though they may in the future. They have a plan for commercial zoning. There are no water lines or sufficient utilities for residential. The commercial traffic would not be measurably increased. The owner of the business already runs his trucks on 151st St. from another location.

Comments and Questions:

Mr. Walker asked what plans they have for the other 1/3 of the property. Mr. Freeman indicated they planned to leave it undeveloped.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **DENY** a **Variance** to permit a wholesale and retail brick and stone use in an AG district; and a **Variance** of required all-weather surface to permit gravel on back part of road, finding it would 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:

The W/2 E/2 NW/4 of Section 20, T-17-N, R-13-E of the IBM, Tulsa County, State of Oklahoma; less and except the N 250.00' thereof.

Case No. 1995

Action Requested:

Variance of Section 207 requiring a minimum of 30' of frontage on a public street to permit a lot-split for two existing dwellings with 0' frontage. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located 6821 W. 25th St. S.

Presentation:

Renee Cowen, 6821 W. 25th St. S., stated her extended family owns fourteen acres. She informed the Board that her parents helped all three of their children to build homes on the property.

Comments and Questions:

Mr. Alberty asked when the homes were built. Ms. Cowen replied that her brother's house was started in 1996 or 1997. Her sister's house is on W. 25th St. but she gave no dates. She stated her own home was started in about 1998. He asked how they obtained building permits. Ms. Cowen replied that they went

through Tulsa County and never had any difficulty getting permits. Ms. Cowen indicated they have been working to get the easement filed of record.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of Section 207 requiring a minimum of 30' of frontage on a public street to permit a lot-split for two existing dwellings with 0' frontage, as presented, subject to the filing of the easement, finding this would correct something that was probably issued by error due to complicated situations with the building inspector's office, on the following described property:

Tract A: A tract of land in the SE/4 NE/4 of Section 18, T-19-N, R-12-E of the IBM, being more particularly described as follows: Beg. at the NE/c of the W/2 W/2 E/2 SE/4 NE/4 of said Section 18; thence S 0°01'38" E along the E line of the W/2 W/2 E/2 SE/4 NE/4 of said Section 18 a distance of 489.00'; thence N 85°53'45" W a distance of 248.61'; thence N 0°03'16" W a distance of 471.26' to the N line of the SE/4 NE/4 Section 18; thence S 89°59'17" E a distance of 248.19' to the POB; Tract B: A tract of land in the SE/4 NE/4 of Section 18, T-19-N R-12-E, of the IBM, being more particularly described as follows: Commencing at the NE/c W/2 W/2 E/2 SE/4 NE/4 of said Section 18; thence N 89°59'17" W a distance of 248.19' to the POB; thence continuing N 89°59'17" E a distance of 248.19' to the NW/c E/2 W/2 SE/4 NE/4 of said Section 18; thence S 0°03'16" E along the W line of the E/2 W/2 SE/4 NE/4 of said Section 18 a distance of 453.50'; thence S 85°53'45" E a distance of 248.85'; thence N 0°03'16" E a distance of 471.26' to the POB; AND Tract C: A tract of land in the SE/4 NE/4 of Section 18, T-19-N, R-12-E of the IBM, being more particularly described as follows: Commencing at the NE/c W/2 W/2 E/2 SE/4 NE/4 of said Section 18; thence S 0°01'38" E along the E line of the W/2 W/2 E/2 SE/4 NE/4 of said Section 18 a distance of 489.00' to the POB; thence continuing S 0°01'38" E a distance of 834.75' to the SE/c W/2 W/2 E/2 SE/4 NE/4 of said Section 18; thence N 89°58'08" W along the S line of the SE/4 NE/4 of said Section 18 a distance of 245.75'; thence N 0°03'16" W a distance of 100.00'; thence N 89°58'08" W a distance of 250.00' to the W line of the E/2 W/2 SE/4 NE/4 of said Section 18; thence N 0°03'16" W along the W line of the E/2 W/2 SE/4 NE/4 of said Section 18 a distance of 770.08'; thence S 85°53'45" E a distance of 497.46' to the POB, all tracts in Tulsa County, State of Oklahoma.

Case No. 1984

Action Requested:

Amendment of an approved site plan to permit a 24' x 60' temporary classroom, and a permanent classroom addition, located 13413 E. 106th St. N.

Presentation:

The applicant was not present.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 simultaneously (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") to **CONTINUE Case No. 1984** and the following **Case No. 1985** to the meeting on September 17, 2002, regarding the following described property:

Lot 1, Block 1, Owasso Freewill Baptist Church, a subdivision in the SE/4 of the SW/4 of Section 9, T-21-N, R-14-E; AND A tract of land that is part of the SE/4 SW/4 of Section 9, T-21-N, R-14-E, of the IBM, starting at the SW/c of the SE/4 SW/4 of said Section 9; thence N 88°44'40" E along the Sly line of said Section 9 for 390.00'; thence N 01°13'58" W and parallel with the Wly line of the SE/4 SW/4 for 71.42' to the POB of said tract of land; thence continuing N 01°13'58" W and parallel with the Wly line of said SE/4 SW/4 for 1002.52'; thence N 88°44'37" E for 593.73'; thence S 11°12'59" W, parallel with and 100.00' Wly of as measured perpendicular to the Wly right-of-way line of US-169 for 372.31' to the NE/c of Lot 1, Block 1, Owasso Freewill Baptist Church, thence S 88°44'37" W along the Nly line of said Lot 1 for 453.47' to the NW/c of Lot 1; thence S 01°13' 58" E along the Wly line of Lot 1 for 633.00' to the SW/c of Lot 1; thence S 83°02'02" W along the Nly right-of-way line of US-169 W exit ramp for 60.30' to the POB of said tract of land; AND a tract of land beg. at the SW/c of the SE/4 SW/4 of said Section; thence N 88°44'40" E and along the S line of said SE/4 SW/4 a distance of 175.93'; thence N 1°15'20" W a distance of 50.00'; thence N 83°01'52" E a distance of 215.16'; thence N 1°13'58" W a distance of 1002.52'; thence S 88°44'37" W a distance of 390.02' to the W line of the SE/4 SW/4; thence S 1°13'58" E a distance of 1073.93' to the POB; AND a tract of land beg. at a point 1073.93' N of the SW/c of the SE/4 SW/4 and on the W line of said SE/4 SW/4 thence N 88°44'37" E a distance of 983.75' to a point 100.00' W of and at a right angle to the W line of US-169; thence N 11°17'16" E a distance of 74.14'; thence N 3°15'37" E a distance of 605.72'; thence N 1°18'03" W a distance of 249.65'; thence S 88°44'37" W a distance of 1046.98' to a point on the W line of said E/2 SW/4; thence S 1°13'53" E a distance of 929.36' to the POB, Tulsa County, State of Oklahoma.

AND:

Case No. 1985

Action Requested:

Special Exception to allow an outdoor activity (Use Unit 2) fireworks stand in a CH zoned district, from June 15, 2003 through July 5, 2003. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2, located 5732 S. 49th W. Ave.

Presentation:

The applicant was not present.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Walker, Tyndall, Dillard "aye"; no "nays"; no "abstentions"; Hutson "absent") simultaneously with Case No. 1984 to **CONTINUE** Case No. 1985 to the meeting on September 17, 2002, on the following described property:

Part N/2 SE Beg. 505.10' E SW/c NW SE, thence E 1131.80' NE 134.77' NE 74.44' NW 489.87' SWly curve right 1036.77' POB, less Beg. 1407.4' E SW/c N/2 SE, thence NW 64.51' NE 29.66' NE 225.21' SE 139.69' SW 13.51' SW 134.77' W 229.50' POB, Tulsa County, State of Oklahoma.

* * * * *

There being no further business, the meeting was adjourned at 5:10 p.m.

Date approved: 9/17/02
Wayne Alberty
Chair