

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 301
Tuesday, June 21, 2005, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Walker, Chair
Hutson, Vice Chair
Dillard, Secretary
Tyndall
Charney

Alberty
Butler
Cuthbertson

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, June 16, 2005 at 4:14 p.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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

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MINUTES

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of March 15, 2005 (No. 298) as amended.

On **MOTION** of **Tyndall**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of May 17, 2005 (No. 300).

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Case No. 2159

Action Requested:

Special Exception to allow Use Unit 17, Automotive & Allied Activities in a CS zoned district - Section 710, located: 17433 West 9th Street South

Presentation:

Steven Bass, Rt. 3, Box 392, Mannford, Oklahoma, proposed to open an automotive lube and oil business.

Comments and Questions:

Mr. Hutson asked if it would be like a Jiffy Lube and Oil, to which Mr. Bass replied that it would. Mr. Charney asked if there would be outside storage. Mr. Bass responded there would be no outside storage.

Interested Parties:

There were no interested parties who wished to speak.

Comments and Questions:

Board discussion involved agreement that it be a lube and oil only; no outside storage of cars or materials; no auto sales; or salvage operation.

Board Action:

On **Motion** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow Use Unit 17, Automotive & Allied Activities in a CS zoned district - Section 710, with conditions for lube and oil business only; no outside storage of cars or materials; no auto sales; and no salvage operation, per plan, on the following described property:

LT 2 BLK 3WEKIWA HILLS, Tulsa County, State of Oklahoma

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Case No. 2160

Action Requested:

A Variance of the required 30 ft. minimum frontage on a public street or dedicated right-of-way to 0 ft. (Section 207), 4413 South 61st Avenue West.

Presentation:

Doug Woods, 6529 West 26th Street, proposed to build a home on the subject property. He indicated a road easement leads back to the property. When they bought the property, they were unfamiliar with the ordinance regarding access to a public street. It is a little over six acres and they do not plan to split the property. The other neighbors were in support of helping with the maintenance of the road.

Comments and Questions:

Mr. Walker asked how his property became land-locked. Mr. Woods was not sure how that happened. Mr. Charney asked if Mr. Woods made this same request previously to the Board. Mr. Woods stated he did not make a previous request.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required 30 ft. minimum frontage on a public street or dedicated right-of-way to 0 ft. (Section 207), finding no frontage to a public road, due to the configuration of the tract, would otherwise be landlocked with the Gilcrease Expressway at the back of the property, on the following described property:

BEG 600S NEC SE NW TH W884 N165 W407.61 N35 E1291.61 S200 POB
SEC 29 19 12 4.368ACS, Tulsa County, State of Oklahoma

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Case No. 2161

Action Requested:

Variance to allow two dwelling units on one lot of record (Section 208); a Special Exception to allow a manufactured home in an RS-zoned district (Section 410); and a Special Exception to allow a carport in an RS-district. (Section 240.2), located: 7105 West 1st Street South.

Presentation:

Reynold Jordan, Rt. 3, Box 25, Cleveland, Oklahoma, proposed to move a 16' x 80' mobile home onto the back of the subject property. They also wanted to build a carport. He stated he had asked to change the size of the outbuilding from 750 sq. ft. to 1,500 sq. ft. They would live in existing home and his daughter would live in the mobile. They have an existing barn and want to build a garage in the future.

Comments and Questions:

Mr. Walker commented on the need to continue the case and advertise for an increase in the square footage of accessory buildings. Mr. Walker asked if they wanted a permanent use for the mobile home, which Mr. Jordan replied affirmatively.

Interested Parties:

Frank Surati, 107 North Main Street, Sand Springs, Oklahoma, stated he owns adjacent property. He needed clarification of the application and which property it involved.

Board Action:

On **Motion** of **Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to allow two dwelling units on one lot of record (Section 208) finding the unique configuration of the lot; a **Special Exception** to allow a manufactured home in an RS- zoned district (Section 410), with conditions for tie downs, skirting and DEQ approval; and a **Special Exception** to allow a carport in an RS-district. (Section 240.2) 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 **CONTINUE** the application for additional relief for the increased size of the accessory building to the meeting on July 19, 2005, all on the following described property:

N 1/2 LT 12 & W 20 S 1/2 LT 12 & N 1/2 LT 13 & E 1/2 S 1/2 LT 13 BLK 1 FARM COLONY SUB, TWIN CITIES Tulsa County, State of Oklahoma

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Case No. 6162

Action Requested:

Variance of the allowable size of 750 square feet for accessory buildings in an RS district (Section 240.2.D), located: 5910 West 25th Street South.

Presentation:

Irvin Pense, 3006 East 85th, stated he owns the property and his mother lives there. He proposed to build a 20' x 50' structure, in which to park his motor home.

Comments and Questions:

Mr. Dillard asked what the structure would look like. Mr. Pense replied it would be a carport structure enclosed and with a door.

Interested Parties:

Verlin Arbaugh, 2350 South 59th West Avenue, stated she lives across the street from the subject property. She was interested the reason for the application and had no objections.

Board Action:

On **Motion** of **Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the allowable size of 750 square feet for accessory buildings in an RS district (Section 240.2.D), as presented, with a tie agreement filed of record that neither lot can be conveyed without the other lot, finding the two lots configured jointly would have permitted a structure larger than this request, on the following described property:

PRT LT 1 BEG NWC LT 1 TH S200 E73.5 N200 W73.5 POB BLK 5, PRT LT 1 BEG NEC LT 1 TH S200 W74 N200 E74 POB BLK 5, Second SECOND WEST TULSA VIEW ACRES SUB, Tulsa County, State of Oklahoma

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Case No. 2163

Action Requested:

Special Exception to permit seasonal and fireworks sales (Use Unit 2) from June 15 through July 5 and December 26 through January 1, yearly for 5 years in an IL district (Section 910); Variance of all-weather surface parking (Section 1340.D), located: 5079 West 51st Street South.

Presentation:

Sherry Barbour, 18622 South 62nd East Avenue, Bixby, Oklahoma, informed the Board they have a fund raising business that provides fireworks stands as a fund raising tool for non-profit organizations. A site plan was provided (Exhibit B-1). They followed Terry West's recommendations. There is a driveway for ingress and one for egress. There is existing gravel parking. She pointed out where the stand or tent would be located.

Comments and Questions:

Mr. Walker asked about the potential dangers of the nearby smoke shop. Ms. Barbour replied that she had checked into that and found the majority of smoke shop customers are drive through customers. She added that they train and test the group members on avoiding potential hazards and knowing the Oklahoma codes.

Interested Parties:

Lisa Moore, 40 Lake Country Rd., Mannford, Oklahoma, stated she is a coach for a little league baseball team. She stated they are trying to give kids an opportunity to play on a team even when the parents can't afford uniforms.

Board Action:

On **Motion** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit seasonal and fireworks sales (Use Unit 2) from June 15 through July 5 and December 26 through January 1, yearly for 5 years in an IL district (Section 910); **Variance** of all-weather surface parking (Section 1340.D), as presented, on the following described property:

LT 13 BLK 2 LESS BG SWC LT 13 TH N 54.61 SE 163.22 S 40.35 W 162.6 TO
POB AUSTIN'S SUB, Tulsa County, State of Oklahoma

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Case No. 2164

Action Requested:

Special Exception to permit seasonal and fireworks sales (Use Unit 2) from June 15 through July 5 and December 26 through January 1, yearly for 5 years (Section

310); Variance of all-weather surface parking in an AG-R District (Section 1340.D), located: 1345 West 121st Street.

Presentation:

Sherry Barbour, 18622 South 62nd East Avenue, Bixby, Oklahoma, proposed to set up a fireworks stand at this location in Jenks. The church that would operate it, have five years experience with her company. They approached all of the neighbors before finalizing the application. She noted that Fireworks City is operating around the corner. She informed the Board that they would be closing soon after dark; and someone would stay overnight to provide some security for the stand. They plan to have entrance and exit signs posted. They would pour small gravel for the parking area that would allow grass to grow.

Interested Parties:

Charles Meyers, 2922 West 120th Street South, expressed concern that this is in violation of the neighborhood covenants. He pointed out there is a lot of congested traffic when there are ballgames at the park. He stated that he and others don't want any commercial enterprise in that area. He was opposed to a fireworks stand in the neighborhood.

Scott Trotter, 2830 West 120th West Avenue, stated his house is just north of the subject property. He stated opposition to the proposed generator, the lights and people that would be buying fireworks.

Jeanette Hunter, objected to the noise and decreased privacy to their property.

Nick Halter, 2921 West 120th Street, stated he lives about two houses away from the subject property. He suggested there are plenty of lots nearby that would be more appropriate. He stated it was too close to homes and the area where children play. He suggested that the church could use their own property for the site.

Randi Miller, County Commissioner, stated several constituents in the neighborhood contacted her. She discussed the application with Terry West. She was concerned there had been miscommunication between the applicant and the neighbors. She urged caution regarding approval of the location.

David Dillon, 12421 South 86th East Avenue, Bixby, Oklahoma, stated this is a serious business venture. He informed the Board that it gives the teenagers responsibility and experience. Mr. Dillon stated they are vigilant about safety and have never had an accident related to fireworks.

Tom Elias, 7347 South Yale, stated he is the owner of the property. He added that he did not want to cause problems for the neighborhood. He pointed out the lots are 2.65 acres. He maintains the lot and considered it big enough it would not bother neighbors.

Comments and Questions:

Mr. Charney commented that normally the Board does not concern themselves with private covenants. He asked Mr. Elias if it was an unplatted tract, to which Mr. Elias agreed. Mr. Elias pointed out there were a number of covenants missing from the copy Mr. Charney showed him. He commented that not all the covenants are kept by the neighbors. He stated this business is only for a couple of weeks per year.

Applicant's Rebuttal:

Ms. Barbour noted that some of the interested parties do not abide by the covenants themselves. She pointed out the stands are only there a short time and removed after the seasonal sales. She stated the traffic on the highway produces more noise than a generator. She noted more traffic would come from the ballpark than the fireworks stand. The hours of operation would be 10:00 a.m. to 10:00 p.m. They would be willing to give up the late hours on the last four days of the July season and the winter dates. They would even give up the extra days in June.

Mr. Hutson expressed some concern over the location because of the zoning. Mr. Tyndall commented that five years is too long for this request in a residential area. Mr. Charney noted that the proximity to the highways and arterial streets make it a good location, however, the zoning and the objections of the neighborhood indicate it is unfavorable.

Board Action:

On **Motion** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special Exception** to permit seasonal and fireworks sales (Use Unit 2) from June 15 through July 5 and December 26 through January 1, yearly for 5 years (Section 310), finding it would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare; and a **Variance** of all-weather surface parking in an AG-R District (Section 1340.D), on the following described property:

PRT W/2 SW BEG 2350S NEC W/2 SW TH W390 S294.89 E390 N TO POB LESS E25 THEREOF & LESS S85 THEREOF & LESS BEG 25W SECR W/2 SW TH N150 SWLY158.1 E50 POB SEC 35 18 12 1.74ACS, Tulsa County, State of Oklahoma

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Case No. 2166

Action Requested:

A variance of the required 30 foot minimum frontage on a public street or dedicated right-of-way to 0 feet to allow access by a private easement (Section 207), 2012 East 207th Street South.

Presentation:

Lou Reynolds, 2727 East 21st Street, clarified to the Board that his client's property is approximately seven acres and the agenda packet indicated it is a much larger piece. He stated there are utilities and an easement to the property, and a fire hydrant to the north. There is not a maintenance agreement for the road easement.

Interested Parties:

Janet Stevens-Slokam, 20638 South Highway 75, stated the road is on her property, it is their driveway and is in bad condition. She stated that they do not object to the other two neighbors using it. She is concerned about the condition of the road if the neighbors continue to develop their land into more tracts.

Amy Stone, 20322 South Union, stated they own the property behind the subject property. She informed the Board they do not plan to develop anything else.

Janet Stevens-Slokam stated the neighbors planned to develop some more tracts. Mr. Walker informed her that the neighbors have cancelled plans for more development.

Comments and Questions:

Mr. Walker asked Mr. Reynolds if the applicants had learned about wildcat subdivisions and that the Board tries to help prevent. Mr. Reynolds replied they understood that now. Mr. Reynolds stated the easement that was put in place was before the County policy to deal with such issues. Mr. Reynolds pointed out on a survey (Exhibit D-1) the properties using the easement and the depth of the easement. Photographs and a map were also provided (Exhibits D-2 and D-3).

Mr. Walker asked Mr. Charney what would be the recourse for the applicants that purchased the land that has no access. Mr. Charney stated the title was examined. The issue is whether they could obtain a building permit for a home. It depends on the kind of title opinion given and it is not necessarily the title attorney's responsibility to inform the purchasers that the lack of access to a public street could affect building permit.

Mr. Reynolds considered it a combination of things. The most direct recourse would be against the seller for some type of fraud. The surveyor was probably amiss. It is based on their knowledge of the buyer's intentions. They may not have known the buyer wanted to build a home.

Interested Parties:

Robert Slokam, 20638 South Highway 75, stated they welcome their neighbors. They would just like to have a maintenance agreement on the easement.

Amy Stone, stated there is a roadway easement and maintenance agreement that was signed by both parties.

Nancy Batt stated she lives in Eufala, Oklahoma. She stated that her husband spoke with all of the neighbors and they all agreed to maintain the road easement.

Mr. Reynolds asked for a continuance to the next meeting to give them time to resolve the issues.

Board Action:

On **Motion** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** a **Variance** of the required 30 foot minimum frontage on a public street or dedicated right-of-way to 0 feet to allow access by a private easement (Section 207), to the meeting on July 19, 2005, to allow the applicant to work out a mutual access and maintenance agreement with all parties involved, regarding the following described property:

NE SW & NW SE & NE SE LESS E886.69 THEREOF SEC 1516 12 93.130ACS,
Tulsa County, State of Oklahoma

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Case No. 2167

Action Requested:

A Variance of the required 30 ft. minimum frontage on a public street or dedicated right-of-way to 0 ft. (Section 207), 2125 West 207th Street South.

Presentation:

Nancy Batt, 8363 Box 196B, Eufala, Oklahoma, stated she wanted city access with the country ambiance.

Comments and Questions:

Mr. Charney consulted Ms. Batt about continuing her case until they come to an agreement on the easement as in the previous related case.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** a **Variance** of the required 30 ft. minimum frontage on a public street or dedicated right-of-way to 0 ft. (Section 207), to the meeting of July 19, 2005, on the following described property:

N 663.0' of E 920.0' of N 40 ac of E/2 SW/4 & tract described as NW/4 SE/4 & portion of NE/4 SE/4 W of LN described as: BEG S LN NE/4 SE/4 pt N 89° 54' 28" W 886.69' frm SE crnr NE/4 SE/4; TH N 00° 37' 19" W to pt N LN of NE/4 SE/4 Sec 15, T 16 N, R 12 E of IB&M, Tulsa County, State of Oklahoma, & ing/egr esmnt to said prop 40' ROW, cntr described as: SE/4 Sec15, T16N, R12 E; TH N 89° 54' 39" W 512.53'; TH S 0° 37' 19" E 1297.28' to pt N LN S/2 SE/4 of Sec 15 & 25' ing/egr esmnt cntr ln described as: PT 20' S of NE crnr SE/4 of Sec15; TH N 89° 54' 39" W 512.53'; TH S 0° 37' 19" E 645.88' to POB; TH N 89° 54' 28" W 413.33' to pt E LN of above described trct.,Tulsa County, State of Oklahoma

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There being no further business, the meeting was adjourned at 3:29 p.m.

Date approved: _____

Chair