

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 329
Tuesday, October 16, 2007, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

| | | | |
|---------------------|--------|-------------|---------------------|
| Charney, Chair | Hutson | Butler | West, Co. Inspector |
| Dillard | Walker | Cuthbertson | |
| Tyndall, Vice Chair | | | |

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Friday, October 12, 2007 at 10: 14 a.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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

Mr. Cuthbertson read the rules and procedures for the County Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **Dillard**, the Board voted 3-0-0 (Tyndall, Dillard, Charney, "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **CONTINUE** the Minutes of September 18, 2007 (No. 328) to the meeting on November 20, 2007.

NEW APPLICATIONS

Case No. 2281

Action Requested:

Variance of Lot width, Lot Area, Land Area per Dwelling Unit to permit a lot split in an AG district, located: 5684 South 89th Avenue West.

Presentation:

Donna Pennick, 5684 South 89th West Avenue, stated she owns the property at 5758 South 89th Avenue West. She proposed to split Lots 4 and 5 from the rest of the property.

Comments and Questions:

Mr. Cuthbertson stated it appeared to be compatible with the development pattern found on this street but it is zoned AG. Mr. Tyndall noted many other small lots and that it would not increase the density. Mr. Cuthbertson pointed out that the legal description in the application is for the entire property but the request is only for Lots 4 and 5. Mr. Charney asked the reason for splitting off just Lots 4 and 5. Ms. Pennick stated because of the shallow lot, the sloped topography and the creek.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Charney**, the Board voted 5-0-0 (Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **APPROVE** a Variance of Lot width, Lot Area, Land Area per Dwelling Unit to permit a lot split in an AG district, with condition for Lots 4 and 5 only, finding the topography and the creek are the exceptional conditions or circumstances which are peculiar to the land, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted 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:

N/2 SW LESS N/2 NE NE SW & LESS BEG 340N SECR NE SW TH W480 N200
E480 S200 POB SEC 36 19 11 72.796ACS Tulsa County, State of Oklahoma

Case No. 2282

Action Requested:

Special Exception to permit a Residential Treatment Center and Transitional Living Center in an AG District, located: 3110 South 65th Avenue West.

Mr. Charney noted a letter to withdraw Case No. 2282 from the applicant.

Presentation:

Sanine Holt, 212 North Main, Suite 212, Sand Springs, Oklahoma, stated she changed her mind. She understood she could ask for a continuance and so requested a continuance. She wanted to talk with the property owner first.

Interested Parties:

Linda Hughes, 3523 South 71st West Avenue, came seeking information about the application.

Board Action:

On **Motion** of **Dillard**, the Board voted 3-0-0 (Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **CONTINUE** Case No. 2282 to the meeting on November 20, 2007, on the following described property:

BEG 74 S NE COR TH S 375 W 210N 375 E 210 TO BG SEC 19 19 12 BERRY HILL ACRES, Tulsa County, State of Oklahoma

Case No. 2283

Action Requested:

Special Exception to permit a cemetery and accessory uses (Use Unit 2) in an RS and AG district, located: 1200 North Cleveland Avenue.

Presentation:

Jerry Dillon, 1252 Hazel Boulevard, pointed out the incorrect zoning of the cemetery that has existed in Sand Springs since 1908. He proposed to provide additional access, and other related services and expanded uses. He stated the County Commissioners have approved his plans. The plans involved expanding the existing building for a funeral home, space for orphan burials, embalming and viewing. Mr. Dillon stated he needed an occupancy permit and a special exception.

Comments and Questions:

Mr. Dillard asked how the discrepancy in the zoning became apparent. Mr. West replied that the requirements for a funeral home are different and in the review they found the zoning error. He added that Use Unit 11 is not a use by right. Mr. Charney asked if the appropriate water and sewer services are in place. Mr. Cuthbertson stated the applicant can go through a plat waiver process or replat. Mr. Dillon stated the cemetery was opened before the platting requirement. He added that they met with all of the neighbors that came by invitation to hear the plans. They all showed support of the application. They requested the applicants to agree to keep the alleyway mowed.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dillard**, the Board voted 3-0-0 (Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **APPROVE** a Special Exception to permit a cemetery and accessory uses (Use Unit 2) in an RS and AG district; and the Board suggested a waiver of the platting; finding a funeral home is an accessory use; 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:

A TRACT OF LAND IN THE WEST HALF OF SECTION TWO (2), TOWNSHIP NINETEEN (19) NORTH, RANGE ELEVEN (11) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING 580 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER (S/2SW/4) OF SAID SECTION 2; THENCE NORTH 1280 FEET TO A POINT; THENCE WEST 1026 FEET; THENCE SOUTH 240 FEET; THENCE WEST 341.5 FEET; THENCE SOUTH 1040 FEET; THENCE EAST 1367.5 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED LANDS ARE ALSO KNOWN AS WOODLAND CEMETERY ADDITION (PLAT NO. 199), THE RESURVEY AND REVISION OF WOODLAND CEMETERY ADDITION (PLAT NO. 181, PLAT NO. 586, PLAT NO. 787 AND PLAT NO. 1225), WOODLAND CEMETERY FIRST ADDITION (PLAT NO 1189), WOODLAND CEMETERY SECOND ADDITION (PLAT NO. 1980), WOODLAND CEMETERY THIRD ADDITION (PLAT NO. 2572), AND WOODLAND CEMETERY FOURTH ADDITION (PLAT NO.4092). LESS AND EXCEPT ALL THAT PART OF THE PORTION OF WOODLAND MEMORIAL CEMETERY LOCATED IN SECTION 2, TOWNSHIP 19 NORTH, RANGE 11 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, OKLAHOMA, KNOWN AS THE "HOME BLOCK", LESS THE EAST SEVENTY-EIGHT FEET (78) OF SAID HOME BLOCK SOLD AND CONVEYED TO WOODLAND MEMORIAL COMPANY IN APRIL, 1982, AND LESS THE OTHER PORTIONS OF THE SAID HOME BLOCK HERETOFORE SOLD AND CONVEYED. AND A TRACT OF LAND IN THE WEST HALF (W/2) OF SECTION TWO (2), TOWNSHIP NINETEEN (19) NORTH, RANGE ELEVEN (11) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT; COMMENCING AT A POINT ON A LINE 1280.00 FEET NORTH OF THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER (S/2SW/4) OF SECTION TWO (2), TOWNSHIP NINETEEN (19) NORTH, RANGE ELEVEN (11) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, SAID POINT BEING 580.00 FEET WEST OF THE EAST LINE OF SAID SW/4, ALSO SAID POINT BEING THE NORTHEAST CORNER OF WOODLAND CEMETERY THIRD ADDITION; THENCE NORTH 00 DEGREES 03 MINUTES 13 SECONDS EAST ALONG THE WEST LINE OF THE REPLAT AND RESUBDIVISION OF BLOCK 3, TIMBER VIEW ESTATES ADDITION, A DISTANCE OF 580.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES 03 MINUTES 13 SECONDS EAST A DISTANCE OF 301.53 FEET; THENCE NORTH 89 DEGREES 37 MINUTES 16 SECONDS WEST PARALLEL TO THE NORTH LINE OF WOODLAND CEMETERY THIRD AND FOURTH ADDITIONS A DISTANCE OF 1026.00 FEET; THENCE SOUTH 00 DEGREES 03 MINUTES 13 SECONDS WEST A DISTANCE OF 781.53 FEET; THENCE NORTH 47 DEGREES 50 MINUTES 57 SECONDS EAST A DISTANCE OF 710.08 FEET; THENCE SOUTH 89 DEGREES 37 MINUTES 16 SECONDS EAST A DISTANCE OF 500.00 FEET TO THE POINT OF BEGINNING AND A TRACT OF LAND IN THE WEST HALF (W/2) OF SECTION TWO (2), TOWNSHIP NINETEEN (19) NORTH, RANGE ELEVEN (11) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON A LLINE 1280.00 FEET NORTH OF THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER (S/2SW/4) OF SECTION TWO (2), TOWNSHIP NINETEEN (19) NORTH, RANGE ELEVEN (11) EAST OF THE INDIAN BASE AND MERIDIAN,

TULSA COUNTY, STATE OF OKLAHOMA, SAID POINT BEING 580.00 FEET WEST OF THE EAST LINE OF SAID SW/4, ALSO SAID POINT OF BEGINNING BEING THE NORTHEAST CORNER OF WOODLAND CEMETERY THIRD ADDITION; THENCE NORTH 89 DEGREES 37 MINUTES 16 SECONDS WEST ALONG THE NORTH LINE OF WOODLAND CEMETERY FOURTH ADDITION; THENCE NORTH 00 DEGREES 03 MINUTES 13 SECONDS EAST ALONG A LINE PARALLEL TO THE WEST LINE OF THE REPLAT AND RESUBDIVISION OF BLOCK 3, TIMBER VIEW ESTATES ADDITION A DISTANCE OF 100.00 FEET; THENCE NORTH 47 DEGREES 50 MINUTES 57 SECONDS EAST A DISTANCE OF 710.08 FEET; THENCE SOUTH 89 DEGREES 37 MINUTES 16 SECONDS EAST A DISTANCE OF 500.00 FEET; THENCE SOUTH 00 DEGREES 03 MINUTES 13 SECONDS WEST A DISTANCE OF 580.00 FEET TO THE POINT OF BEGINNING.

Case No. 2284

Action Requested:

Variance of a structure setback from abutting streets 1/2 of the right-of-way designated on the Major Street Plan (Section 280); a Variance of the required front yard from 25 ft. to 15 ft. (Section 430); and a Variance of the required yard abutting an arterial street from 85 ft. to 32.5 ft. from the centerline (Section 430), located: Northwest of North Garnett Road and East 136th Street North.

Presentation:

Ricky Jones, 5323 South Lewis Avenue, with Tanner Consulting, LLC, represented the developer, Kyle Smaligo. He referred to the preliminary plat, which has been filed, and they would take it to the planning commission the following day. The original 1911 subdivision had 47 lots. There were numerous 40 ft. and 60 ft. right-of-way dedications to the public. His client originally asked the City of Collinsville to annex this into their jurisdiction, as it is in their fence line, but not the city limits. Some issues arose regarding the water and sewer services. His client promised to extend the water and sewer services at his own cost but later the City of Collinsville decided not to annex this property. Mr. Smaligo consulted with Ray Jordan and Tom Rains with Tulsa County. The plans are for half-acre subdivision lots. The plans include dedication of right-of-way to meet the Major Street and Highway Plan in every area possible or a roadway easement. The County does not expect to do a road widening. He stated some hardships the property is covered by a non-conforming 1911 plat, building permits already issued, does not meet the right-of-way.

Comments and Questions:

Mr. Charney noted the 1911 non-conforming plat existed when Mr. Smaligo purchased the property.

Board Action:

On **Motion of Charney**, to **APPROVE** a Variance of a structure setback from abutting streets 1/2 of the right-of-way designated on the Major Street Plan (Section 280); a Variance of the required front yard from 25 ft. to 15 ft. (Section

430); and a Variance of the required yard abutting an arterial street from 85 ft. to 32.5 ft. from the centerline (Section 430); finding the old 1911 plat, building permits have been issued, the existing plat does not meet the current right-of-way requirements subject to substantial compliance to the preliminary plat; finding these to be very exceptional conditions, and are sufficient reasons to grant the requested variances so long as they remain subject to substantial compliance with the preliminary plat,

Mr. Charney asked for any other discussion on the motion. Mr. Smaligo interjected and introduced himself.

Kyle Smaligo, 123 North 7th Street, Collinsville, Oklahoma, mentioned that he hoped this would alert others to the areas with old plats before building permits are issued, so they do not have the same problems.

The Board voted 3-0-0 (Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **APPROVE** the motion as made above, on the following described property:

a tract of land that is a part of "industrial heights addition", an addition to the city of collinsville, tulsa county, state of oklahoma, according to the recorded plat thereof (plat no. 494), said tract being more particularly described as follows: commencing at the southeast corner of the south half of the southeast quarter (s/2 se/4) of section thirty (30), township twenty-two (22) north, range fourteen (14) east; thence, along south line of s/2 se/4 of said section 30, south 88°53'01" west for a distance of 30 feet; thence parallel to the east line s/2 se/4 of said section 30, north 1°12'19" west for a distance of 20.04 feet to the point of beginning, said point of beginning being the southeast corner of lot one (1), block four (4), industrial heights addition. Thence parallel to south line of said s/2 se/4, section 30 and along the south line of blocks four and five of said industrial heights addition, south 88°53'01" west for a distance of 640.00 feet to a point, point being the southwest corner of lot 6 block 5, industrial heights addition; thence along the west line of blocks 5 and 6, north 1°12'19" west for a distance of 591.70 feet to a point, point being 30 feet northerly of the northwest corner of lot 6, block 6, industrial heights addition; thence north 88°53'01" east for a distance of 320.00 feet; thence north 1°12'19" west for a distance of 330.00 feet to a point, point being 20 feet westerly of the northwest corner of lot 6, block 2, industrial heights addition; thence north 88°53'01" east for a distance of 320.00 feet along the north line of block 2 industrial heights addition to a point, point being the northeast corner of lot 1, block 2, industrial heights; thence south 1°12'19" east for a distance of 921.70 feet along the east line of blocks 2, 3, and 4, industrial heights addition, to the point of beginning;

OTHER BUSINESS

Mr. Charney noted the Board wished to continue the item for Interpretation of the Zoning Code to determine the classification of a pond in a platted residential district.

Board Action:

On **Motion of Dillard**, the Board voted 3-0-0 (Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Walker, Hutson "absent") to **CONTINUE** this item to the meeting on November 20, 2007.

There being no further business, the meeting adjourned at 2:25 p.m.

Date approved: _____

David E. Gentry
CHAIR

12-18-07

Chair

