

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 186
Tuesday, November 21, 1995, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Looney Tyndall, Chairman Walker		Gardner Moore Beach	Glenn, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, November 17, 1995, at 1:16 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the **Minutes** of October 17, 1995 (No. 185).

UNFINISHED BUSINESS

Case No. 1377

Action Requested:

Variance of the required setback from the centerline of North Victor from 47.5' to 20.5' to permit an approved mobile home - **SECTION 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 9, located 1801 East 76th Street North.

Comments and Questions:

Mr. Beach explained that the use was previously approved in October; however, it was determined at that time that additional setback relief would be required and the remainder of the application was continued to this date.

Case No. 1377 (continued)

Presentation:

The applicant, **Jahleel Mauk**, 1801 East 76th Street North, explained that a fence and heavy tree line prevent the installation of the mobile home at the required setback without displacing the type of entry needed for his elderly mother-in-law. Mr. Mauk informed that she needs assisted care at this time and that the mobile home will be removed when she is no longer in need of a residence at this location.

Interested Parties:

Jeff Kirkham, 1720 East 73rd Street North, stated that he lives in the neighborhood and noted that the installation of mobile homes lower property values in the area.

Mr. Alberty advised Mr. Kirkham that mobile home use was approved at the previous meeting and the issue before the Board at this time is the required setback from the centerline of North Victor.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of North Victor from 47.5' to 20.5' to permit an approved mobile home - **SECTION 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 9; finding that the use is temporary; and finding that a treed fenceline prevents the installation of the mobile home at the required setback; and finding that approval of the request will not be detrimental to the area; on the following described property:

East 171', west 183', south 640', SW/4, SW/4, SE/4, Section 30, T-21-N, R-13-E, Tulsa County, Oklahoma.

Case No. 1383

Action Requested:

Variance of the required setback from the centerline of 129th East Avenue from 85' to 67.5' to permit an addition to an existing house - **SECTION 430.1. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 12808 East 128th Street South.

Comments and Questions:

Mr. Walker informed that he will abstain from hearing Case No. 1383.

Mr. Beach noted that the Staff comments state that the Broken Arrow Board of Adjustment recommended denial of this request at the October 9th meeting; however, that decision was reversed at a later meeting (Exhibit A-1).

Case No. 1383 (continued)

Presentation:

The applicant, **Ron Gibson**, 12808 East 128th Street South, who submitted a plot plan and petition of support (Exhibit A-2), advised that he was not aware of the first hearing at Broken Arrow and was not in attendance to present his case. He informed that the variance was approved at a later meeting. Mr. Gibson noted that his property is bounded by streets on three sides and the required setbacks limit construction on the lot. He pointed out that the new addition will not block the line of site and will be compatible with other construction in the neighborhood.

Additional Comments:

Mr. Gardner advised that the addition will be to the east of the existing dwelling and will not extend into the utility easement.

Mr. Alberty noted that the property is unique in that it is bounded by streets on three sides, with three required major building setbacks.

Protestants:

None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-1 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; Walker, "abstaining"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of 129th East Avenue from 85' to 67.5' to permit an addition to an existing house - **SECTION 430.1. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the property is bounded by dedicated streets on three sides; and finding that approval of the request will not be detrimental to the neighborhood, or violate the spirit and intent of the Code; on the following described property:

Lot 1, Block 2, Willow Springs Plaza Addition, Tulsa County, Oklahoma.

Case No. 1384

Action Requested:

Special Exception to permit a seasonal fruit stand in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 2, located 131st Street South and 145th East Avenue.

Case No. 1384 (continued)

Presentation:

The applicant, **Terry Cotner**, Route 1, Box 395, Mounds, Oklahoma, submitted a plot plan (Exhibit B-1) and explained that he has leased 20 acres of farmland with the intent of growing crops to be sold in a nearby produce tent (20' by 40'). He informed that other produce for sale that is not grown at this location will arrive by truck.

Comments and Questions:

Mr. Tyndall inquired as to the proposed months of operation, and the applicant stated that the stand will be open from May through October.

In reply to Mr. Alberty, Mr. Cotner advised that permanent structures will not be erected on the property, because the land is leased on a yearly basis. He informed that the gravel parking area will comply with Code requirements.

Mr. Looney asked the applicant if his leased property contains the corner lot, and Mr. Cotner stated that the corner is leased to another individual.

Mr. Tyndall inquired as to the days and hours of operation, and the applicant replied that the fruit stand will be open every day from 8 a.m. to 7 p.m..

In response to Mr. Looney, Mr. Cotner stated that the parking area will be covered with gravel.

Protestants:

None.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a seasonal fruit stand in an AG zoned district for **5 years only - SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 2; per plan submitted (restricted to 200' by 200' site); subject to the use being permitted May through November, 7 days each week, 8 a.m. to 8 p.m.; subject to one tent only (20' by 40'), which complies with setback requirements; subject to County Engineer approval of ingress and egress; and subject to gravel parking lot; finding the use to be compatible with the area; on the following described property:

South 1100', W/2, W/2, SW/4, less west 60' and south 50' and W/2, SE/4, SW/4, Section 3, T-17-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1385

Action Requested:

Variance of required frontage on a public dedicated street from 30' to 0' to permit a lot split - **SECTION 207. STREET FRONTAGES REQUIRED** - Use Unit 6, located west of NW/c North Memorial Drive and East 100th Street North.

Presentation:

The applicant, **Randall Wasson**, 6703 South Richmond, #553, submitted a plat of survey (Exhibit C-1) and stated that he purchased the subject property with the intent of constructing a single family dwelling. He explained that the seller agreed to permit ingress and egress by way of a private street.

Comments and Questions:

Mr. Alberty asked the applicant if he has an access easement filed of record, and Mr. Wasson replied that he does not have an easement at this time.

Mr. Alberty asked if there are other homes that use the private road to access their property, and Mr. Wasson answered in the affirmative.

Interested Parties:

John Shore, 7901 East 100th Street North, Owasso, Oklahoma, stated that he and his neighbor own the road and they had initially agreed to give the applicant permission to use it; however, that offer was withdrawn when Mr. Wasson advised him that more than one home would be constructed on the property. He pointed out that the gravel drive is not wide enough to support heavy traffic.

In reply to Mr. Looney, Mr. Shore stated that he would be amenable to granting the applicant permission to use the access road if only one house is constructed.

Brad Baker, 8000 North Cincinnati, stated that he is opposed to the lot split.

Applicant's Rebuttal:

Mr. Wasson stated that he is agreeable to the construction of only one house on the property and that he will assist in maintaining the private road.

Additional Comments:

Mr. Alberty stated that subdividing land without complying with subdivision regulations is not a proper way to handle land development and that he cannot support the application.

Case No. 1385 (continued)

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-1-0 (Eller, Looney, Tyndall, Walker, "aye"; Alberty, "nay"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of required frontage on a public dedicated street from 30' to 0' to permit a lot split - **SECTION 207. STREET FRONTAGES REQUIRED** - Use Unit 6; per plat of survey; subject to mutual access easement being filed of record; subject to the applicant building only one house on the tract, as agreed to; finding that approval of the request will not be detrimental to the area; on the following described property:

Beginning 27' north and 518.60' west of the SE/c, SE/4, NE/4, Section 14, T-21-N, R-13-E, Tulsa County, Oklahoma; thence west 698.61'; thence north 210.8'; thence east 698.61'; thence south 210.8' to the POB.

Case No. 1386

Action Requested:

Variance to permit three dwelling units per lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, located 9955 West 61st Street South.

Presentation:

The applicant, **Carolyn Murray**, 9955 West 61st Street, Sapulpa, Oklahoma, requested that a mobile home be installed on the subject tract to be used in the care of her father. She informed that her father has Alzheimer's (Exhibit D-1).

Comments and Questions:

Mr. Tyndall asked if there are currently two dwellings on the property, and the applicant stated that there is one dwelling and one mobile unit, which is occupied by a family member.

Protestants: None

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit three dwelling units per lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9; subject to a building permit and Health Department approval; subject to mobile being skirted and tied down; and subject to the mobile unit being permitted only during the lifetime of the applicant's father; finding that the temporary use will not be detrimental to the area; on the following described property:

TR4, west 337', east 760', S/2, SW/4, SE/4, Section 35, T-19-N, R-11-E, IBM, Tulsa County, Oklahoma.

Case No. 1388

Action Requested:

Variance of lot width from 200' to 175', variance of lot area from 2 acres to 1.5 acres and a variance of land area per dwelling unit from 2.2 acres to 1.5 acres to permit a lot split - **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located 6000 Block West Edison

Presentation:

The applicant, **Darold Skaggs**, PO Box 1619, Sand Springs, Oklahoma, informed that his father moved on the property approximately 30 years ago and is proposing to split it into two parcels. Mr. Skaggs stated that he and his father are in the construction business and some supplies are stored in the existing building, but a business is not conducted at this location.

Comments and Questions:

Mr. Tyndall asked if there are other small lots in the neighborhood, and Mr. Skaggs stated that there are smaller tracts to the west, with undeveloped land being across the street to the north.

In reply to Mr. Alberty, the applicant stated that his father is attempting to divide his land evenly with his children. He noted that the rear portion of the tract is in the floodplain.

Protestants:

None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of lot width from 200' to 175', **variance** of lot area from 2 acres to 1.5 acres and a **variance** of land area per dwelling unit from 2.2 acres to 1.5 acres to permit a lot split - **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6; per plan submitted; finding that there is RS zoning to the west, and the rear portion of the property is located in a floodplain; and finding that there are smaller lots in the AG zoned property to the west of the tract; on the following described property:

East 354', west 376.75', U. S. Government Lot 3, less north 40', Section 5, T-19-N, R-12-E, Tulsa County, Oklahoma.

Case No. 1389

Action Requested:

Variance of lot area from 2 acres to 1.18 acres, and land area from 2.2 acres to 1.77 acres on Tract A; variance of lot area from 2 acres to 1.42 acres and land area from 2.2 acres to 1.77 acres on Tract B - **SECTION 330 BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, located northeast corner North Yale Avenue and East 96th Street North.

Presentation:

The applicant, **Dale Roden**, Route 1, Box 620, Sperry, Oklahoma, submitted a plot plan (Exhibit F-1) and requested permission to create two residential lots on the corner of his property. He informed that percolation tests have been completed and lateral lines are to be placed on the southern portion of the lots.

Protestants:

Joe Farney, Route 1, Box 615, Sperry, Oklahoma, submitted an aerial photograph (Exhibit F-2) and informed that his property is to the north of the subject tract. He stated that Mr. Roden is a house mover and is currently working on a house he moved into the neighborhood. Mr. Farney informed that the land slopes from the north to the southwest, with a natural drain from the top of the hill, which could cause a water problem for the area. He stated that he is opposed to creating lots smaller than the Code requirement.

Barbara Steed, Route 1, Box 617, Sperry, Oklahoma, stated that she lives to the north of the Farney property, and shares the same concerns regarding water runoff. She informed that the land cannot pass a percolation test and a lagoon is in place on her land. Ms. Steed stated that she is opposed to the application.

Applicant's Rebuttal:

Mr. Roden informed that there is not a percolation problem on the subject property, and requested that the Board approve the variance requests.

Additional Comments:

Mr. Alberty asked Mr. Roden if he previously owned the nearby lots that have been developed, and he replied that he has sold several lots in the area.

Mr. Looney remarked that it appears that a subdivision is being created that does not comply with subdivision regulations.

In reply to Mr. Tyndall, the applicant stated that his wife owns the property to the east of the subject tract and his home is located to the north of Ms. Steed.

Mr. Alberty noted that the applicant has not presented a hardship for the variance requests.

Case No. 1389 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Variance** of lot area from 2 acres to 1.18 acres, and land area from 2.2 acres to 1.77 acres on Tract A; **variance** of lot area from 2 acres to 1.42 acres and land area from 2.2 acres to 1.77 acres on Tract B - **SECTION 330 BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**; finding that the land is being subdivided without the development of a legal subdivision, which is in compliance with the subdivision regulations; finding that the created lots would be smaller than existing lots in the immediate area; and finding that the applicant failed to present a hardship that would warrant the granting of the variance requests; on the following described property:

Tract A: West 295', south 260', SW/4, SW/4, SW/4, Section 15, T-21-N, R-13-E, Tulsa County, Oklahoma.

Tract B: East 295', west 590', south 260', SW/4, SW/4, SW/4, Section 15, T-21-E, R-13-E, Tulsa County, Oklahoma.

Case No. 1390

Action Requested:

Variance of the required 30' of frontage on a public street or dedicated right-of-way - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located south and west of the southwest corner of 131st Street and Yale Avenue.

Comments and Questions:

Mr. Alberty advised that he will abstain from hearing Case No. 1390.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, stated that he is representing Ed Schermerhorn, who is the developer of the project in question. He submitted a site plan (Exhibit G-1) and explained that his client is proposing to develop a single-family subdivision (17 lots) on a 128-acre tract in an AG zoned district. Mr. Johnsen informed that the Zoning Code requires that properties have 30' of frontage on a public street; however, requested that the lots in this subdivision be permitted to have a private access street. He pointed out that the property will be platted and will have the same technical review as a Planned Unit Development. Mr. Johnsen informed that the development will comply with County Engineering requirements and the street will be constructed in accordance with county standards. He stated that the development will contain no more than 17 lots and these lots will not be split in the future. The applicant noted that the Jenks city limits is across the street to the north and Jenks is supportive of the project (Exhibit G-2), subject to dedication of right-of-

Case No. 1390 (continued)

way on Lewis Avenue and 131st Street, providing a sewer easement and looping a water line. Mr. Johnsen stated that his client has complied with these requirements. He pointed out that approval of the variance request will not be detrimental to the area, and noted that the tracts in the development will be large and the private street will permit the installation of a security gate to provide protection for the residents. The applicant pointed out that, if inside the City limits of Jenks, the private street access would be permitted by right if water and sewer is not available.

Comments and Questions:

In reply to Mr. Looney, the applicant stated that the streets will be 24' wide, with a 60' right-of-way, and will be constructed according to County standards.

Mr. Walker asked Mr. Johnsen why he did not file a Planned Unit Development (PUD), and he replied that seeking a variance from the Board of Adjustment saves time and money. He pointed out that the project will comply with the same standards as those set forth in a PUD.

Mr. Johnsen stated that private streets are not always approved in a PUD; however, that is possible. He pointed out that the subdivision standards would have to be met whether a PUD was filed or the Board of Adjustment approved a variance of the 30' of frontage.

Protestants:

None.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-1 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; Alberty, "abstaining"; none "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street or dedicated right-of-way - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; subject to variance approval being valid for 5 years to allow sale of all lots; per plan submitted; subject to platting; subject to a maximum of 17 lots, with no lot splits being permitted in the subdivision; subject to street being in compliance with County standards; subject to the project complying with City of Jenks requirements; finding that approval of the rural development, per conditions, will not be detrimental to the area or violate the spirit and intent of the Code; on the following described property:

LEGAL DESCRIPTION: Beginning at the SE/c of NE/4, Sec.7, T-17-N, R-13-E, Tulsa County, Oklahoma thence S89°45'39"W along the S line of said NE/4 and the E/2, E/2, SE/4, NW/4 for 2980.94'; thence N0°02'33"W for 1321.83'; thence N89°45'03"E for 331.71'; thence N0°01'57"W for 1.89'; thence N89°43'05"E for 660'; thence N0°01'57"W for 1320'; thence N89°43'05"E for 1135.78'; thence S0°16'32"E for 289.95'; thence S22°14'53"E for 168.88'; thence Due S for 200'; thence S28°59'23"W for 359.30'; thence S68°49'25"E for 255.32'; thence N69°46'36"E for 163.96'; thence S48°40'19"E for 130.15'; thence S88°45'53"E for 171.11'; thence S15°22'23"E for 176.92'; thence S38°42'01"E for 330.01'; thence Due E for 50'; thence Due S for 1127.70' to P.O.B.

Case No. 1391

Action Requested:

Variance of the required 30' of frontage on a public street or dedicated right-of-way - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located north of 151st Street South between Peoria and Lewis.

Presentation:

The applicant, **Michael Sager**, Route 6, Box 94, Bixby, Oklahoma, submitted photographs (Exhibit H-3) and stated that the 10-acre tract in question is currently accessed via a 60' mutual access easement. He informed that the subject property is one of several similar sized parcels in the immediate vicinity that use the private street. Mr. Sager submitted a list of physical and economic hardships (Exhibit H-2) for this case and noted that it is imperative that his client be granted the variance in order to market the property. An aerial photograph (Exhibit H-1) was submitted.

Comments and Questions:

Mr. Walker asked Mr. Sager how long his client has owned the property in question, and he replied that the tract has been under the current ownership since the early part of 1980.

Mr. Alberty noted that the same request was recently denied on a nearby 5-acre tract, finding that the parcel was illegally subdivided.

Interested Parties:

William Snittjer, 14644 South Lewis Avenue, Bixby, Oklahoma, informed that he owns a 10-acre tract adjacent to the subject property and is supportive of the application.

Additional Comments:

Mr. Walker noted that it appears that a subdivision has been developed without platting the property.

Mr. Alberty reiterated that the Board recently denied a similar request (Case No. 1368) on a nearby tract because the parcel was not legally subdivided and was in direct violation of the zoning and subdivision ordinances. Mr. Alberty stated that he cannot support the application. He pointed out to Mr. Sager that the landowners can remedy the situation by dedicating and constructing a road that is in compliance with County standards.

Protestants:

None.

Case No. 1391 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Variance** of the required 30' of frontage on a public street or dedicated right-of-way - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; finding that the applicant failed to present a hardship that would warrant the granting of a variance request; and finding that the land was not platted and does not comply with zoning and subdivision regulations; on the following described property:

NW/4, NW/4, SE/4, Section 18, T-17-N, R-13-E, Tulsa County, Oklahoma.

OTHER BUSINESS

Election of Officers

On **MOTION** of **ALBERTY**, the Board voted 4-0-1 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; Looney, "abstaining"; none "absent") to **ELECT Ron Looney** as chairman for the Tulsa County Board of Adjustment.

On **MOTION** of **ALBERTY**, the Board voted 4-0-1 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; Walker, "abstaining"; none "absent") to **ELECT Roland Walker** as vice chairman for the Tulsa County Board of Adjustment.

On **MOTION** of **LOONEY**, the Board voted 4-0-1 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; Alberty, "abstaining"; none "absent") to **ELECT Wayne Alberty** as secretary for the Tulsa County Board of Adjustment.

Selection of newspaper for publishing legal notices.

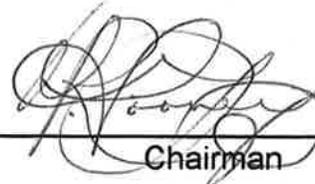
Mr. Beach advised that there was previous Board discussion concerning the selection of a different newspaper for publishing legal notices, and the Tulsa Legal News is now being used for this process.

In response to Mr. Alberty, Mr. Beach informed that the change was necessary because the Tulsa World, which was previously used for publishing notices, increased advertising fees approximately 400%

There being no further business, the meeting was adjourned at 3:50 p.m.

Date Approved _____

Dec 19, 1995



Chairman