

COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 226

Tuesday, March 16, 1999, 1:30 p.m.

County Commission Room

Room 119

County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty		Arnold	West, Zoning Officer
Dillard		Bruce	Glenn, County Inspector
Looney			
Tyndall, Chair			
Walker			

The notice and agenda of said meeting were posted in the Office of the County Clerk on, March 10, 1999, at 10:30 a.m., as well as in the Reception Area of the INCOG offices.

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

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UNFINISHED BUSINESS

Case No. 1626

Action Requested:

Use Variance per Section 1670.2 to permit a boarding kennel in an AG district.
SECTION 1670.2. VARIANCES, Application – Use Unit 15, located 3559 E. 96th St. N.

Presentation:

The applicant, **Kristi Horst, Jr.**, 3559 E. 96th St. N., submitted a site plan and packet of information (Exhibit A-1) and stated that she became ill at her job about five years ago. She was approved for disability but did not want to do that. This kennel would be a way for her to work at home and be a productive member of society and have income for her family. Ms. Horst stated that they searched the entire area of Owasso and they are unable to afford any type of commercial property. The subject property with its 15 acres would work. Ms. Horst pointed out that they will be living in the building with the kennel and the dogs. If there is any noise or smell, she and her husband will be the ones suffering. It is their intention to live in this building until they are debt free and then build their home right next to the building. They are working with their architect to try to reduce the noise. Ms. Horst has been in contact with the veterinarian about odor

Case No. 1626 (continued)

reducing machines for the building. The Horsts have no intent to breed dogs. They will strictly be boarding dogs for the City of Owasso and surrounding areas because there are no boarding kennels in the area.

Comments and Questions:

Mr. Bruce submitted to the Board a memo from Mr. Wines (Exhibit A-3) who owns a piece of property on the south side of 96th Street. His intent in the future is to put a single family addition in the area and he feels that a kennel in the area would be detrimental.

Mr. Alberty asked the applicants if they have taken their plans to the County Inspector to have them review their plans. Mr. Horst stated that he has received a building permit to construct the residential portion of the building. This variance has held up the other portion of the building construction.

Interested Parties:

Glenn Shoulders Route 2, Box 64, Nowata, OK, stated that he owns a parcel of property that adjoins the subject property to the north. Ms. Shoulders is building a house on his property and he is concerned about the noise, the odor and the lagoon/septic systems. Mr. Shoulders mentioned that this is poor soil for drainage. In most instances a kennel will use a high quantity of water and in this area there is nowhere for the water to go. Mr. Shoulders stated that the kennel will roughly be 70' from his fence line.

Kirby Hagemeister, 9330 W. South Fort Road, Sapulpa, OK, stated that he recently purchased some land in the area and plans on constructing a home on it soon. He is located west of the kennel. Mr. Hagemeister is concerned about the noise and the odor from the kennel.

Patrick Shoemaker, 9919 N. Harvard, stated that he owned the original 80 acres. He is the one who built the lagoon because the land would not perk. Mr. Shoemaker built a 3,200 square foot home on 22 acres.

Applicant's Rebuttal:

Mr. Horst mentioned to the Board that he is working with someone on putting in either an aerobic system or creative wetlands system. Mr. Horst stated that his property will not perk and a lagoon is unattractive and will have an odor problem. It is their intent to keep the noise to a minimum, as well as the odor. The runs are indoor/outdoor and the dogs will be kept indoors at night. Mr. Horst submitted photos (Exhibit A-2) of the residences to the north and the east of his property. The structure will be located 200' from the north fence line.

Case No. 1626 (continued)

Comments and Questions:

Mr. Tyndall asked the applicants how many dogs they will kennel? Mr. Horst replied that they would like to have the ability to house 20 dogs. 10 will be indoor/outdoor runs and the rest will be inside kennels for smaller dogs who will be taken outside on leashes.

Discussion ensued between Mr. Bruce, INCOG Staff and Mr. Glenn, County Inspector about the notice of the case and whether or not the proper Section was cited. It was determined that the Section number did not matter as long as the notice reflects the use and the district the use will be allowed in.

Mr. Alberty believes that the Building Inspector is probably right and the notice was inappropriately advertised but he believes that there is adequate notice to proceed. Mr. Alberty thinks that this is just a technicality that needs to be corrected depending upon how the Board will act on the case. Mr. Alberty suggested that at the Board's expense the notice should be readvertised it. However, he feels that the applicant's and the interested parties are due a decision today rather than continue it.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **CONTINUE** Case No. 1626 even though the notice may be flawed.

Comments and Questions:

Mr. Alberty stated that this is an agriculture area and the raising of animals is something that is inherent. There are several agriculture uses that could be far more offensive than what is proposed here. Mr. Alberty is impressed by the applicants wanting to live in the same building with the dogs.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** a Use Variance per Section 1670.2 to permit a boarding kennel in an AG district, finding that it meets the requirements of Section 1670.3, **SECTION 1670.2. VARIANCES, Application – Use Unit 15** subject to the applicant's presentation (Exhibit A-1), on the following described property:

The S/2 of the NE/4 of the SW/4 of the SW/4 and the SE/4 of the SW/4 of the SW/4 of Section 16, T-21-N, R-13-E of the IBM, Tulsa County, State of Oklahoma.

Case No. 1626 (continued)

Mr. Walker asked Mr. Alberty if INCOG Staff should readvertise the case since it was approved? Mr. Alberty replied that he did not know. Mr. Bruce stated that the issue is whether the Section that describes the uses in the AG district as referenced in the notification. However, it was clear that the notification was for a variance to the uses allowed in the AG district. The question is that the particular section was not referenced. Mr. Bruce mentioned that he is not sure that State law requires that the particular Section be referenced. Mr. Bruce said that he would do some checking.

Case No. 1627

Action Requested:

Special Exception to allow Use Unit 2 (Bed and Breakfast in a RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2;** a Variance to Section 1202 C5 to allow a 32 SF sign 20' in height. **SECTION 1202.3. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions** and a Variance to the uses allowed in the RS District. The purpose is to allow special events in conjunction with Bed and Breakfast use, located 4347, 4501 and 4521 W. 41st St.

Comments and Questions:

Mr. Bruce mentioned that this item was continued at the previous hearing based on the extent of the Special Exception uses and other issues including the access point, clarification about the sign and the number of people on site for special events.

Presentation:

The applicant, **Randall Pickard**, 11013 South Memorial Drive, submitted a revised site plan (Exhibit B-1) stated that they were before the Board on February 18. They are seeking: (1) Approval of a special exception for a bed and breakfast inn on the eastern lot only; (2) Approval of a variance for special event use of the bed and breakfast inn on the eastern lot only; (3) Approval of a variance for a sign exceeding the 2 square foot limitation provided for in the Code. At the February 18 hearing the Board encouraged the applicant to meet with the neighbors in the area prior to today's meeting to address some of the issues raised by the interested parties at the meeting. Some of the issues were ingress/egress to the property; signage and special event usage of the bed and breakfast. An invitation from the Dittmanns was sent to the surrounding property owners to come to their home for a meeting. The meeting with the neighbors was held on March 7, 1999 and at the meeting the Dittmanns explained the bed and breakfast inn and the related special event plans. Mr. Pickard explained that as a result of the meeting with the neighbors, the site plan presented at the earlier hearing has been significantly scaled back. The previously proposed site plan had three lots with bed and breakfast usage. The new site plan has the bed and breakfast inn usage only on the easternmost lot. Mr. Pickard submitted photos of the inn

property (Exhibit) and floor plans of the bed and breakfast structure showing how the Dittmanns plan to remodel the house. Mr. Pickard stated that the special event usage of the structures is limited to the Cedar Rock Inn. He explained that the Dittmanns and the neighbors have identified four special event usages: (1) Weddings; Wedding showers/baby showers; (2) Family reunions; (3) small business retreats; and (4) children's art classes. All of the special event usage will be in conjunction with rental and usage of the structure. If someone wants to use the property for a special event, they have to rent the Cedar Rock Inn for bed and breakfast usage. That is something that is commonly done in the bed and breakfast business. The total number of persons for special events will not exceed 75 people. Mr. Pickard stated that adequate parking was available for that number of people. Mr. Pickard explained that the Dittmanns have some "traditional" events that they do every year not in conjunction with the bed and breakfast such as an Easter egg hunt and herb sale that will not be included in the four previous special events. The ingress/egress to the property has been changed and is indicated on the revised site plan. The access has been moved over to the center tract and will cross over to the eastern tract. The access directly to the eastern tract will be gated off and closed. The applicants will have a sign that is no larger than 3' x 4'. It will be no higher than 4' and will be placed in an existing stone/flower and plant bed. It will be constructed on cedar and stone to match the Cedar Rock Inn. There will not be any lighting of the sign.

Interested Parties:

Richard Conner, 4420 W. 41st Street, stated that he lives across the street from the subject property and he is concerned about the sewer and flooding problem. Mr. Looney asked Mr. Conner if his property is on sewer or septic and he replied that he is on septic and he has 400' of lateral lines and that is barely enough.

Joe Mayes, 4649 W. 41st Street, stated that he lives immediately west of the subject property. Mr. Mayes is also concerned about the water pressure and sewer problems.

Llyod Barron, 4716 W. 41st Street, stated that he has been working with several of the neighbors. Mr. Barron said that if the Dittmann's will comply with what they have agreed to with the neighbors the neighbors will have no problems with the inn. Mr. Barron agrees with the one special event per month requirement. Mr. Barron supports the application, as revised.

Applicant's Rebuttal:

Mr. Pickard mentioned that the house that will be remodeled will as the Cedar Rock already has four bedrooms – one more won't matter on the septic system. DEQ will have to approve the system before they are allowed to proceed.

Comments and Questions:

Mr. Looney asked Mr. Pickard if there would be any problem in the filing of an easement for access from the middle drive to the east lot in case the property is ever sold. Mr. Pickard agreed to that request.

Mr. Looney asked Mr. Pickard and the Dittmans if there would be a problem with limiting the special events to one per month? Mr. Dittmann replied no.

Mr. Dillard asked the applicant if it was economically feasible to limit the special events to one per month? Mrs. Dittmann mentioned that they may want to have an event the first of June and another one end of June then that would not be possible. Mrs. Dittmann does not want to have an event every single weekend but when the weather is nice twice a month would be good. She would not want to agree to one per month forever.

Mr. Looney mentioned to the Board that the applicants have done a very good job of making this use fit the residential area.

Mr. Walker stated that he is concerned about the one event per month and can understand that they would need to do more than one on occasion. Mr. Walker suggested an average of one special event per month but put a limit of two in any one month.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-1 (Dillard, Looney, Tyndall, Walker "aye"; no "nays", Alberty "abstentions"; no "absent") to **APPROVE Special Exception** to allow Use Unit 2 (Bed and Breakfast in a RS zoned district, finding that the Special Exception 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. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2; a Variance** to Section 1202 C5 to allow a 32 SF sign 20' in height. **SECTION 1202.3. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions** and a **Variance** to the uses allowed in the RS District, finding that the variances meet the requirements of Section 1670.3,. The purpose is to allow special events in conjunction with Bed and Breakfast use subject to the special events uses being limited to an average of one per month but not more than two per month and subject to all Code requirements, on the following described property:

A tract of land located in the S/2 of the SW/4 of Section 21, T-19-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows: Commencing at the SW/c of said SW/4 thence E 825' ±, to the POB, thence N 660' ±, thence E 495'

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±, thence S 92' ±, thence E 283' ±, thence S 285' ±, thence W 70' ±,
thence S 283' ±, thence W 708' ±, to the POB containing 10.7 acres

NEW APPLICATIONS

Case No. 1628

Action Requested:

Special Exception to Section 410 to allow a mobile home in a RS zoned district.
SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS
– Use Unit 9, located 704 W. 8th St.

Presentation:

The applicant, **Janice Blanton**, 4808 S. Elwood, Lot 908, Tulsa, OK, submitted a site plan (Exhibit C-1) stated that she and her mother would like to move a mobile home onto the property. Ms. Blanton mentioned that her daughter lives six blocks away and they would like to be close to her daughter. Ms. Blanton stated that everything has been line up to put the trailer in and they found out at the last minute that they needed this Special Exception. Ms. Blanton said that the Sand Springs Board of Adjustment approved the use (Exhibit C-3). Ms. Blanton submitted a photo (Exhibit C-2) of the mobile home that will be moved onto the property this summer.

Interested Parties:

Earl Holcomb, Route 1, Box 228, Sand Springs, OK, stated that he and his mother live across the street from the subject property and has no objection to Ms. Blanton moving the mobile home in.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to Section 410 to allow a mobile home in a RS zoned district, finding that the Special Exception 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. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9**, on the following described property:

Lot 16, less the W 200' of Block 17, Charles Page Home Acres #2, an addition to the County of Tulsa, State of Oklahoma.

Case No. 1629

Action Requested:

Variance to Section 208 to allow two dwelling units on one lot of record.

Comments and Questions:

Mr. Bruce mentioned to the Board that the legal description for the property was incorrect. New notice has been sent and the case has been continued to the meeting of April 20, 1999.

Case No. 1630

Action Requested:

Variance of required 30' of frontage to 0' on a public street or dedicated right-of-way per Section 207. The subject parcel is a 4.24 acre tract zoned AG. The purpose is to permit a lot split. **SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6**, located 15584 N. Peoria.

Presentation:

The applicant, **Mary Rozell**, submitted a site plan (Exhibit D-1) was represented by her son, Joe Rozell, 39280 N. 3950 Road, Skiatook, OK. Mr. Rozell stated that he is confused about the wording of the application. Mr. Bruce explained the request to him. Mr. Rozell stated that the property on the east (his uncle's land) needs an easement/road to it. Mr. Rozell's relatives agreed to the 16.5' easement to the property. Mr. Rozell's uncle wishes to borrow against the property and the bank required him to gain access to the property and he was informed that the easement did not meet Code.

Interested Parties:

None.

Comments and Questions:

Mr. Alberty believes that the 16.5' would accommodate a drive and there is no question that nothing built within 16.5' could resemble a County Road.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of required 30' of frontage to 0' on a public street or dedicated right-of-way per Section 207. The subject parcel is a 4.24 acre tract zoned AG. The purpose is to permit a lot split finding that it meets the requirements of Section 1670.3,. **SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6**, subject to the 16.5' easement being filed of record stating that the purpose is for providing roadway access to the tract and the County has no maintenance responsibility, on the following described property:

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The E 280' of the SE 10 acres of Lot 1 (SE/4 NW/4 NW/4) in Section 19, T-22-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Commencing at the SW/c of Lot 1, Section 19, T-22-N, R-13-E, thence S 89°46'43" E on an assumed bearing along the S line of said Lot 1 a distance of 912.51' to the point of beginning, thence continuing S 89°46'43" E a distance of 280' to the SE/c of said Lot 1, thence N 00°20'19" E along the E line of said Lot 1 a distance of 660' to the NE/c of the SE 10 acres of the Lot 1 (SE/4 NW/4 NW/4), thence N 89°47'14" W along the N line of said SE 10 acres a distance of 280', thence S 00°20'19" W a distance of 659.96' to the point of beginning

Case No. 1632

Action Requested:

Variance to Section 208 to permit two dwelling units per lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6,** located 7524 N. 119th E. Ave.

Presentation:

The applicant, **Richard Standridge**, 7524 N. 119th E. Ave., submitted a site plan (Exhibit E-1) stated that he bought the property and house and has spent quite a bit of money on improvements for the house and property. Mr. Standridge would like to put a triple-wide manufactured home on his property for his grandmother and mother to live in. The home will be 1,900 square feet. Mr. Standridge had the property perked and has placed 400' of lateral lines. The manufactured home will be in place until they pass away then it will be removed. It will have a new fence and an asphalt drive. Mr. Standridge does not want to split the property because someday the manufactured home will be removed.

Interested Parties:

Russell Kramer, 7555 N. 119th E. Ave., stated that he has several concerns one of which is that a modular home is still considered a mobile home. They have been in the area in the past and they are still not wanted in the area. Mr. Kramer understands what Mr. Standridge is proposing but is concerned about him coming back before the Board in the future for a lot split. Mr. Kramer is also concerned about the septic system.

John Kramer, 7423 N. 119th E. Ave., stated that he objects to all mobile homes.

Billy Smith, 7402 N. 119th E. Ave., stated that she bought her property to be in the country. Ms. Smith is against lot splitting and mobile homes in the area.

Applicant's Rebuttal:

Mr. Standridge stated that his property has been perked and approved. The lateral lines run 25' from the foundation of the mobile home and extend to the west. Mr. Standridge mentioned that this is the top of the line modular home and proceeded to describe the modular home. The home will front 119th Street and will be 65' off of the road which is the requirement.

Comments and Questions

Mr. Looney stated that they are not here to determine whether or not he can put a double or triple-wide modular home on his property but rather to determine if he can put two dwellings on one lot. Mr. Looney believes that what he is attempting to do makes sense. The hardship is because the applicant does not want to split his lot.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Dillard, Tyndall, Looney "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance to Section 208 to permit two dwelling units per lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6**, subject to the applicant providing a hard surface drive finding the hardship to be fact that the applicant does not want to split his property, on the following described property:

N/2 E 333.74 NW/4 NE/4 NW/4 of Section 32, T-21-N, R-14-E,
Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 3:25 p.m.

Date approved: April 20, 1999

John Tyndall
Chair