

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 238
Tuesday, March 21, 2000, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty
Tyndall
Walker, Chair
Looney
Dillard

Butler
Bruce
Stump

West, Zoning
Glenn, Co. Inspect.

The notice and agenda of said meeting were posted in the Office of the County Clerk on, Friday, March 17, 2000 at 9:02 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **Alberty**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** the Minutes of February 15, 2000 (No. 237).

UNFINISHED BUSINESS

Case No. 1707

Action Requested:

Special Exception for mining/dirt removal in an AG district, located at 6100 Block North 115th East Avenue.

Comments and Questions:

Mr. Bruce stated that the applicant requested a continuance to the hearing on April 13, 2000.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney, "absent") to **APPROVE** a ***Continuance*** of

Case No. 1707 (continued)

Case No. 1707 to the hearing on April 13, 2000 regarding the following described property:

E/2 NW SW lying N of Bird Creek & lying E of Hwy & SE NW less the E 498' N 640' thereof & SW NE lying N of Bird Creek & NW NE less the N 660' W 200' E 1688.76' NE & less Beg. NW/c NE thence S 50' E 710' SE 55.90' E 209.24' N 75' W 969.24' to POB & less SE approx. 165' NW NE Section 5, T-20-N, R-14-E, Tulsa County, State of Oklahoma and being located in an AG zoned district.

Case No. 1711

Action Requested:

Appeal from determination of County Inspector, classifying proposed use in Use Unit 15; in the alternative, request for Special Exception for Use Unit 15 use in CS zoning district, to permit sales of instruments, supplies and equipment for use in measurement of natural gas, including testing and calibration of instruments, equipment and products, located at 20600 South Vancouver.

Comments and Questions:

Mr. Bruce stated this case will require additional notice, and staff recommends a continuance to the hearing on April 13, 2000.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney, "absent") to **APPROVE** a Continuance of Case No. 1711 to the hearing on April 13, 2000.

A tract of land located in the E/2, SE/4, Section 15, T-16-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, described as follows: Commencing at the NE/c of said E/2 SE/4, thence W along the N line of said E/2 SE/4 a distance of 101.8' to the POB; thence continuing W along said N line 278.71'; thence S and parallel to the E line of said E/2 SE/4 208.71'; thence E and parallel to the N line of said E/2 SE/4 278.71'; thence N and parallel to the E line of said E/2 SE/4 208.71' to the POB and being located in a CS zoned district.

NEW APPLICATIONS

Case No. 1712

Action Requested:

Special Exception to Section 910 to permit a metal foundry in an IL district, located West of Hwy 97 at West 57th Place & South 113th West Avenue.

Case No. 1712 (continued)

Comments and Questions:

Mr. Bruce stated that this case would require additional notice, and staff recommends a continuance to the hearing on April 13, 2000.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a Continuance to the hearing on April 13, 2000, regarding the following described property:

Lot 2, Block 2, Prattville Industrial Park to Tulsa County, State of Oklahoma, and being located in an IL district.

Case No. 1714

Action Requested:

Variance to Section 208 to allow two dwelling units on one lot of record; a Variance of lot area per dwelling unit from 2 acres to 1.15 acres; and a Variance of land area per dwelling unit from 2.2 acres to 1.16 acre, located at 13321 North Memorial.

Comments and Questions:

Mr. Bruce stated that this case would require additional notice, and staff recommends a continuance to the hearing on April 13, 2000.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Continuance** of Case No. 1714 to the hearing on April 13, 2000, on the following described property:

Beg. 1326.40' S of the NW/c of the NW thence E 329.72' S 331.60' W 329.72' N 331.60' to the POB less W 25' for road thereof Section 36 T-22-N, R-13-E, Tulsa County, State of Oklahoma, and being located in an AG zoned district.

Case No. 1706

Action Requested:

Variance to Section 207 reducing the required 30' of frontage to 15' in an RE district. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6; and a Variance of average lot width from 150' to 74' and 117' to permit a lot split. SECTION 430.1. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, and RM Districts, located at 13808 E. 111th St. S.

Presentation:

Mr. Bruce stated that the subject parcel is located on the south side of 111th Street at 138th East Avenue, which is on the west side of the subject parcel. He added that according to Terry West, Zoning officer, 138th East Avenue is not a street that is maintained by the County; therefore, it does not qualify as public frontage. He stated that the existing lot is 132'. He described the property as having a parcel in the northeast corner, which would be a rectangle and a panhandle to the south, with the remainder of the lot in the southern portion of the site. He stated that would place the two structures on separate lots. The surrounding lots are in an RE zoned district, and there are some lots of similar size or smaller to the south, larger lot across 131st Street, and then large acreages north across 111th Street.

Presentation:

William Maupin, 13808 East 111th Street, Broken Arrow, stated he wants to do a lot split on a two-acre plot. He stated it is their intention to extend the 15' driveway to provide access to the back lot. He mentioned that there is an existing house on the front lot.

Comments and Questions:

Mr. Walker asked if they were planning to put a mobile home on the back tract. Mr. Maupin replied that it would be a wood-frame home, constructed on the back tract.

Mr. Tyndall asked if 138th East Avenue is a private street. Mr. Maupin responded that it is a county road that is not maintained by the county. Mr. Maupin stated that there is a dedication for private use.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Variance** to Section 207 reducing the required 30' of frontage to 15' in an RE district; and a Variance of average lot width from 150' to 74' and 117' to permit a lot split, finding the hardship to be the unusual shape of the lot and the fact that the roadway abutting the property was dedicated as a private road, not for public use, for the property described as follows:

Part of the E/2, W/2, W/2, NE/4, of Section 33, T-18-N, R-14-E of the IBM, Tulsa County, State of Oklahoma and being more particularly described as follows, to-wit: Beginning at the NW/c of said E/2, W/2, W/2, NE/4; thence E along the N line thereof, a distance of 132'; thence S 660'; thence W 132' to the W line thereof; thence N along the W line thereof to the POB, less and except the N 50' thereof.

Mr. Looney arrived.

Case No. 1708

Action Requested:

Variance of average lot width requirement for lots in an AG district from 200' down to 170' and 110.10' for lot split purposes. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6, located at 8811 E. 116th St. N.

Comments and Questions:

Mr. Bruce stated that the subject property is located on the north side of 116th Street, approximately one-fourth mile east of Memorial. He described it as approximately six acres in size, about 200' x 1,320' lot, located in the AG district, surrounded by lots of similar size. He added that there is an estate style addition just to the northeast. Mr. Bruce stated that the request would approve a variance to the lot width requirements, reducing the minimum from 200' to 110' and to 170', to create a lot-split.

Presentation:

Pete Burd, 8811 East 116th Street North, Owasso, stated that if this application is approved, he plans to build a house behind his own.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Walker, Looney, Tyndall "aye"; no "nays", no "abstentions"; no "absences") to **APPROVE** a **Variance** of average lot width requirement for lots in an AG district from 200' down to 170' and 110.10' for lot split purposes, per site plan submitted, finding that the subject property is a long narrow tract on the following described property:

A tract of land in the SE/4 of the SW/4 of Section 1, T-21-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, being more particularly described as follows, to wit: Commencing at the SW/c of the SE/4, SW/4 of said Section 1; thence due E along the S line of said SE/4, SW/4 a distance of 1025' to the POB; thence N 00°23'56" E a distance of 1321.27'; thence S 89°46'52" E a distance of 200'; thence S 00°23'57" W a distance of 1320.51' to a point on the S line of said SE/4 SW/4 thence due W along said S line a distance of 200' to the POB

Case No. 1709

Action Requested:

Variance of Section 207 for the required 30' of frontage on a public street or dedicated right-of-way to 0'; a Variance of Section 330 for land area per dwelling unit from the required 2.2 acres to 1.19 acres, a Variance of lot area from the required 2 acres to 1.11 acres, and a Variance of lot width from the required 200' to 114' in an AG district to permit a lot split into three existing tracts under separate ownership, located on North side of Coyote Trail, east of South 255th West Avenue.

Presentation:

The applicant's realtor, **Martha Swezey**, stated that the applicant is trying to sell the piece on the east side of the two north tracts. She stated that the two tracts on the north were sold by contract for deed in 1982 to Gary Nichols on the west tract, and his deed was filed around 1995. She stated that David Anderson sold his east tract on the north side, and then it was deeded over to Gene Anderson. Just recently David Anderson has deeded to Glen and Ruth Tucker, the south tract that fronts Coyote Trail. She added that he has reserved a 24' easement for roadway access to the two north tracts. Ms. Swezey stated that she has the percolation tests on all the tracts. She also stated that they were requesting a re-zoning to AG-R.

Comments and Questions:

Mr. Walker asked if she was asking for re-zoning also, and if that application has been made to the Planning Commission. Ms. Swezey, stated it was supposed to have been made, that she had paid \$245.00. Mr. Bruce indicated that the cost of the variance requests was \$175.00. Mr. Bruce was not aware of zone change request at this time. Ms. Swezey offered her application copy to Mr. Bruce to review. After looking at the application, Mr. Bruce stated it was the Tulsa County Board of Adjustment for requested variances. The request was for a variance to the zoning code, not for a change to AG-R; it would vary the standards of the agricultural district. Mr. Walker commented that this Board does not do zoning changes. Mr. Bruce pointed out that if this application is approved it will satisfy the applicant's request. Mr. Walker added that this is in lieu of a zoning change.

Mr. Alberty asked Ms. Swezey if the deeds had existed since 1982 from a contract for deed. Mr. Alberty indicated that this just came up due to a title opinion done by the mortgage company for the settle plan; and technically taxes have been paid on these three tracts, they were filed, they just did not receive the necessary approval.

Mr. Looney asked Ms. Swezey if Gary Nichols and Gene Anderson's deeds were filed in 1982. Ms. Swezey replied that Gene Anderson's deed was paid off and filed in 1995, and Gary Nichols' was filed much earlier. Mr. Looney asked if David Anderson's parcel was used for access. Ms. Swezey responded that David Anderson sold to Mr. Tucker, which was filed just recently. Mr. Looney asked if the two deeds in the back are to Gary Nichols and Gene Anderson. Mr. Looney asked if there is a house on David Anderson's property. Ms. Swezey stated at one time there was a mobile home, but there is no longer a home there, but there are two houses, one on each of the tracts.

Protestants:

Gary Nichols, Rt. 2, Box 410A, Sand Springs, stated he lives on the back part of the lot, and his general warranty deed was filed in 1987 when it was paid for. He

stated his objection to this application is that the land is too small for a rent house.

Comments and Questions:

Mr. Alberty advised the protestant that this Board does not have the power to determine what can go there. Mr. Nichols responded that his purpose is to oppose the decrease in the size of the properties. Mr. Alberty asked even though the property is under three separate deeds. Mr. Nichols replied affirmatively. Mr. Alberty indicated that it appears Mr. Nichols would be a benefactor to this action, because if the application is not approved then he will not have a legal deed. Mr. Nichols stated he did not understand. Mr. Bruce explained, that the size of the properties would not change, it just allows the three lots to exist as they are, but if the request were denied, Mr. Nichols would not have a legal deed. Mr. Walker stated that the lots were never approved; there was just an agreement between the buyer and seller. Mr. Walker explained that this would make the separate properties legal, so that the land could be sold legally in the future.

Mr. Looney asked if Mr. Nichols could come back to the Board if this case was denied and ask for a lot-split on a separate application to make his lot legal. Mr. Walker stated it would be difficult to do independent of the other tracts. Mr. Alberty responded that he is dependent on the other two tracts because his access comes through both of the other tracts. When Mr. Nichols, understood the request, he withdrew his objection to the request.

Discussion by the Board ensued.

Ms. Swezey submitted soil percolation test results to the Board.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Dillard, Walker Looney, Tyndall "aye"; no "nays", no "abstentions"; no "absences") to **APPROVE** a **Continuance** of Case No. 1709 to the hearing on April 13, 2000, to allow applicant to talk with INCOG staff and find a better solution on the following described property:

Part of a tract of land in the W/2 SE/4 SW/4 of Section 20, T-19-N, R-10-E of the IBM, Tulsa County, State of Oklahoma, being more particularly described as follows: Beg. at a point on the S line of said section, said point being 470.00' E of the SW/c of SE/4 SW/4; thence N 0°21'08" E for 983.28'; thence N 89°26'02" W for 470.00'; thence S 0°21'08" W for 536.92'; thence S 89°55'00" E for 352.85'; thence S 0°03' E for 450.05'; thence S 89°47'00" E for 114.00' to the POB

Case No. 1710

Action Requested:

Variance of Section 240.2.E. to allow increase in the aggregate floor area of accessory buildings from 750 square feet to 2,240 square feet in an R zoned district. SECTION 240.2.E. YARDS, Permitted Yard Obstructions – Use Unit 23, located at 620 Valley Dr.

Presentation:

Mr. Bruce stated that one area resident sent a letter that indicated concern that the applicant may have used the property for construction business storage in the past.

Terry Dexter, 620 Valley Drive, Sand Springs, stated he is a resident of fifteen years. He stated that the neighbor to the north, Ms. Greeves, called him to see what his plans were. Mr. Dexter told her that he is going to use it to store his boats and a trailer.

Mr. Walker asked Mr. Dexter what line of work he is in. Mr. Dexter stated he works for the City of Tulsa. Mr. Dexter indicated that Ms. Greeves is probably concerned about the neighbor on the north side of his property, in the triangle. That neighbor has plumbing equipment, tractors, and broken-down vehicles.

Comments and Questions:

Mr. Walker asked if the Sand Springs Board has heard this case. Mr. Bruce stated that he has not had any response from the Sand Springs Board. Mr. Alberty asked if this accessory building is just for the applicant's own personal belongings, that are out in the open right now. Mr. Dexter replied affirmatively. He wants to protect his investment in recreational items and equipment.

Mr. Stump asked if the applicant's house is on Lot 1 Block 15 or on the one east of that. Mr. Bruce stated that the house is on Lot 2 of Block 15 to the east of the area indicated on the map. Mr. Dexter owns both of the lots. Mr. Stump stated that there should be a tie-agreement, in this case. Mr. Alberty asked Mr. Dexter if he would mind a tie-agreement of the two lots. Mr. Dexter stated that he would agree to a tie-agreement. Mr. Walker asked if there is a storage building on the lot that his house is on. Mr. Dexter replied that there is a 12 X 20 storage building on the lot with the house, used for lawn care equipment.

Interested Parties/Protestants

None present.

Board Action:

On **MOTION** of **Looney**, the Board voted 5-0-0 (Alberty, Dillard, Walker, Looney, Tyndall "aye"; no "nays", no "abstentions"; no "absences") for **APPROVAL** of a **Variance** of Section 240.2.E. to allow increase in the aggregate floor area of accessory buildings from 750 square feet to 2,240 square feet in an R zoned

Case No. 1710 (continued)

district, subject to no equipment be stored or parked outside; there be no commercial use of the property; and a tie-agreement of Lots 1 and 2, Block 15, for the following described property:

Lot 1, Block 15, Charles Page Home Acres #2 and Re-subdivision of Part Block 10-12, Tulsa County, State of Oklahoma

Case No. 1713

Action Requested:

Variance to Section 208 to allow 2 dwelling units on one lot of record or Variance to the minimum average lot width from 200' to 102' and 82.55'. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; Variance to the minimum land area per dwelling unit from 2.2 acres to 1.5 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; Variance to the minimum lot area per dwelling unit from 2.0 to 1.38 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, and located at 8620 E. 96th St. N.

Presentation:

Jill Hughes, 8620 E. 96th St. N., Owasso, states that they want to keep their existing home and build a new one on the backside of the land without a lot-split. She stated that her neighbors are concerned about a lot-split. Mr. Walker asked if there is a creek or something they have to cross to get to the back of the property. She stated that there is a creek, but they built a bridge with drain culvert. She added that there is not a problem with drainage. Ms. Hughes informed the Board that they just want to rent out the house.

Comments and Questions:

Ms. Hughes stated that a soil percolation test was done for the existing home and where they intend to build the second home.

Protestants:

Herbert Fennel, 9411 N. Memorial Ave., Owasso, stated he is representing himself and two more people that oppose the request. He stated that the subject property abuts a piece of his property. Mr. Fennel stated he does not mind a house being built there; but he objects to reducing the size of the property. He stated it is a long, narrow piece of property that was sold for one home only. He informed the Board that there are no sewer lines, and they want the lots to remain the similar in the area.

Comments and Questions:

Mr. Alberty asked if Mr. Fennel stated that he does not have a problem with approval of two dwellings on this lot. Mr. Fennel stated that theoretically, there couldn't be two homes on a lot of 4.4 acres. Mr. Fennel stated that they want lots in the area to maintain 2.5 or 2.6 acres as required presently. He stated that his daughter had to go through the same process and had to buy additional property in order to build a home.

Protestants:

Jamie Fennel, 8104 E. 96th St. N., Owasso, stated that she agrees with Mr. Fennel. She stated that her concern is the reduction of lot area per dwelling. She is on a dead end street and is also concerned about increased traffic.

Carol Fennel, 2906 S. Detroit Ave., stated she deeded her daughter, Jamie, five acres. She intended to deed three acres, and found out that she would need five to build her home. She stated her agreement with Mr. Fennel's statements.

Fred Beakman, 8606 E. 96th St. N., Owasso, owns the property on the west side of the property. He stated that he is concerned that with two homes on the property, at some later date the owners might apply for a division of property.

Jimmy Fennel, stated that he is the original owner, and he currently owns thirty acres east of the subject property. He stated that his protest would be if the property were in a flood plane. He does not want them to move a trailer house on the property.

Comments and Questions:

Mr. Alberty stated that whatever the Board decides today would set a precedent, and most of the lots in the area are much larger in size. Mr. Alberty stated that if they had more than the minimum required property, he might have been more inclined to support the request.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** the request for **Variance** to Section 208 to allow 2 dwelling units on one lot of record **or Variance** to the minimum average lot width from 200' to 102' and 82.55'; to **Deny** a **Variance** to the minimum land area per dwelling unit from 2.2 acres to 1.5 acres; and to **Deny** a **Variance** to the minimum lot area per dwelling unit from 2.0 to 1.38 acres, on the following described property:

The E 132' of the W 198' of the E/3 N/2 NW/4 of Section 24, T-21-N, R-13-E of the IBM, Tulsa County, State of Oklahoma

Case No. 1715

Action Requested:

Mr. Bruce stated that this request is for a refund in the amount of \$235.00. He stated that the applicant requested a variance and it was later determined that relief was not needed. Staff recommends a refund.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0. (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a refund of \$235.00.

OTHER BUSINESS

There being no further business, the meeting was adjourned at 02:35 p.m.

Date approved: *S. Hill* 4-13-00

Chair