

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 242
Tuesday, July 18, 2000, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Alberty
Dillard
Walker, Chair

Looney
Tyndall

Butler
Fernandez

West, Zoning

The notice and agenda of said meeting were posted in the Office of the County Clerk on, Wednesday, July 12, 2000 at 3:27 p.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 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** the Minutes of June 20, 2000 (No. 241).

UNFINISHED BUSINESS

Case No. 1746

Action Requested:

Variance of 30' of frontage on a public street to 0'. SECTION 207. STREET FRONTAGE REQUIRED – Use Unit 6, located 4648 S. 60th W. Ave.

Presentation:

The applicant, **James Mills**, 6722 W. 26th, stated he has resided in this area for many years. He added that he owned the subject property by purchase, and he planned to move a doublewide mobile home there. He was not clear on the legal access to his property.

Comments and Questions:

Ms. Fernandez, informed the Board that the County Building Inspector turned down the permit because it is frontage on a County maintained road. Mr. West, Zoning officer stated that what is called 61st Street at this point from West 46th is just a private drive, with a sign marked, "No Trespassing".

Protestants:

Jerry Pickerel, attorney for Juanita Barton and Tracey Sherrick, stated that his clients own all of the land on the north, south and east of the subject property. He indicated that according to public records it appears that Mr. Mills deeded his land back to the Keystone Finance Company. Mr. Pickerel submitted photographs (Exhibit A-1) to the Board. He stated that his clients' property is used for pastureland for cattle.

Juanita Barton, stated she they have owned their land for twenty years. She added that they built two homes on the property, 3,000 square feet apiece. She indicated that it is peaceful and quiet there, but one morning they were awakened by 4-wheelers allowed in by the applicant, and they were concerned about the effect on their cattle. She stated they maintain their own road, their property surrounds the applicant's property, and they do not want a neighbor right in the middle of their property.

Comments and Questions:

Mr. Alberty asked Ms. Barton if she understood that Mr. Mills wanted to use her private drive to access his property. He asked if she ever owned the subject property. She used to own it, and she bought one part of it back. She replied in the affirmative, but she does not want him to use her road.

Applicant's Rebuttal:

Mr. Mills stated that there were no restrictions regarding building on his property when he purchased it. He stated he was interested in opening an access from 46th south on a dedicated right-of-way.

Comments and Questions:

Mr. Walker asked Mr. Mills to show the Board on a map what he desires to do. Mr. Walker informed Mr. Mills that he would have to see if there is a recorded easement or right-of-way to access his property and then the applicant would have to maintain the road.

Board Action:

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **DENY** Case No. 1746 due to lack of information on legal access to the property.

Case No. 1747

Action Requested:

Special Exception to Section 320.1 to allow a home occupation to sell plants in an AG district. SECTION 320.1. ACCESSORY USES IN AGRICULTURAL DISTRICTS, Accessory Uses Permitted – Use Unit 6; and a Variance to allow 2 signs (2'x 4' and 4' x 8') on the property to advertise home occupation. SECTION 440. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located N of NW/c E. 116th St. N. & Yale Ave.

Presentation:

Albert Poland, 11620 N. Yale, Sperry, stated they have a small greenhouse and have sold plants, vegetables, and rabbits on their property for two years.

Comments and Questions:

Mr. Walker asked why they are requesting a variance at this time, if they have already been selling for two years. They replied that a neighbor has been interfering in their business. Someone suggested they might need to get a variance. Mr. Albery stated that the ordinance allows one identification sign to be erected on each street frontage of a permitted non-residential use, and the sign shall not exceed thirty-two square feet, nor higher than fifteen feet.

Protestants:

None.

Board Action:

On **MOTION** of **Dillard**, the Board voted 3-0-0 (Albery, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** a **Special Exception** to Section 320.1 to allow a home occupation to sell plants in an AG district, finding that 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 a **Variance** to allow 2 signs (2'x 4' and 4' x 8') on the property to advertise home occupation, finding that it 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:

S/2 NE SE SE, Section 4, T-21-N, R-13-E, Tulsa County, State of Oklahoma

Case No. 1748

Action Requested:

Special Exception of Section 310 to permit a church in an AG district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5, located NE/c E. 76th St. N. & Sheridan Rd.

Case No. 1748 (continued)

Presentation:

Harry Henderson, Pastor, 313 Meadow Creek Lane, Dewey, OK, stated the church has six acres and would like to build a 10,200 square foot building.

Comments and Questions:

Mr. Alberty asked if the County Inspector has reviewed the site plan. The applicant replied that he has. Terry West, stated he just needed to get a Special Exception for Use Unit 5 and a plat or plat waiver.

Protestants:

John Parks, 6731 E. 76th St. N., stated he has lived there six years and the subject property has been an eyesore. He is only an interested party and he wanted to point out that across the northeast corner of the subject property line is a high-pressure gas line. He also stated concern that the property was originally a ten-acre tract and the back four acres were sold. The owner of the back four acres had to put in a lagoon system because of the soil percolation test. He also informed the Board of a creek that flows across the east three acres, and it overflows up to about 125' wide and flows over 76th Street North, and he is concerned how a lagoon would effect the creek. He mentioned the proposed widening of 76th Street North from Sheridan into Owasso to four lanes. Mr. Parks expressed interest in seeing a site plan since all of these items might effect the location of the church building. Mr. Alberty offered Mr. Parks the site plan to review.

Comments and Questions:

Mr. Alberty gave a simple explanation of the type of sewage system that appears to have been approved by the DEQ for this property.

Interested Parties:

Ernie Caruthers, 6801 E. 76th St. N., stated his concern regarding the gas line.

Comments and Questions:

Mr. Walker commented that the land use was the item before the Board. The Department of Environmental Quality will inspect and approve the sewage system.

Board Action:

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** a **Special Exception** of Section 310 to permit a church in an AG district, per plan, finding that 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:

Case No. 1748 (continued)

S 396' of SW/4 SW/4 SW/4, Section 26, T-21-N, R-13-E of the IBM, Tulsa County, State of Oklahoma.

Case No. 1749

Action Requested:

Special Exception of Section 710 to permit a Use Unit 25, sheet metal for roofing company in a CH district. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 25, located 5528 S. 49th W. Ave.

Presentation:

Shelton Atwell, 5528 S. 49th W. Ave., stated his request for action.

Protestants:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** a **Special Exception** of Section 710 to permit a Use Unit 25, sheet metal for roofing company in a CH district, finding that 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:

All that part of the SE/4 SE/4 NE/4 lying S and E of the St. Louis and San Francisco Railroad, and located in Section 32, T-19-N R-12-E of the IBM, in Tulsa County, State of Oklahoma.

Case No.1750

Action Requested:

Special Exception to allow Use Unit 16 (mini-storage) in a CS zoned district. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16; a Variance of Section 730 required setback from arterial street from 100' to 60'. SECTION 730. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS; and a Variance of Section 1216.3.A screening requirement to waive screening on south and west. SECTION 1216.3.A. USE UNIT 16. MINI-STORAGE, Use Conditions, located NW/c W. 41st St. & 129th W. Ave.

Case No. 1750 (continued)

Presentation:

Ms. Fernandez pointed out that the application for the Variance for screening requirements stated on the south and west, but what was intended was north and west.

The applicant, **Doyle Lee, Jr.**, 1333 S. 215th W. Ave., Sand Springs, stated that the property is zoned CS, and he was under the impression that he could put in a mini-storage. He commented that 129th is not a major artery, their road is narrow and drops off into a creek, which does not allow for a 100' setback. He owns the property to the north and will be living there. He would like to be able to see the storage structure for security purposes. On the west is a creek, which is actually county drainage, and a heavily wooded area.

Protestants:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** a **Special Exception** to allow Use Unit 16 (mini-storage) in a CS zoned district; a **Variance** of Section 730 required setback from arterial street from 100' to 60', finding the hardship that 129th W. Ave. would not be going through across the river; and a **Variance** of Section 1216.3.A screening requirement to waive screening on north and west, finding the hardship that the applicant owns the property to the north and the west is sufficiently screened by dense vegetation, and with the condition that if he ever sells the property, that the screening fence would be erected at the option of the owner, on the following described property:

The property is located: Northwest Corner West 41st Street & 129th West Avenue.
Legal Description: S 315' of E 330' of SE/4, Section 21, T-19-N, R-11-E, Tulsa County, State of Oklahoma.

Case No. 1751

Action Requested:

Variance to Section 208 to allow two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; and a Special Exception to allow a mobile home in an RS zoned district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS, located 710 Valley Dr.

Case No. 1751 (continued)

Presentation:

Mr. Walker read a letter of opposition to this case, from the Sand Springs Board of Adjustment.

The applicant, **Ray Graves**, 710 Valley Dr., stated that staff at INCOG told him he did not need to go to the Sand Springs Board of Adjustment hearing, when he made application. He informed the Board that there has been a mobile home on the property previously, and the connections still exist for utilities including water and sewer. There are mobile homes on the property across the street from his property, and there are five mobile homes within one block of his property.

Comments and Questions:

Mr. Alberty informed the applicant that he probably did himself a disservice by not showing up at the Sand Springs Board of Adjustment. The other properties appear that have mobile homes appear to be much larger. He added that at .05 acre, the subject property is too small for one dwelling, much less two dwellings. The last BOA decision only allowed a mobile home for a period of two years.

Mr. Walker asked Mr. Graves about the size of the portable metal building, and the mobile home on the property. Mr. Graves stated the metal building was 8' x 16', and the home was 1,000 square feet. Mr. Walker also asked about other storage on the property. Mr. Graves stated he has two cars, a van, and two boats.

Protestants:

Georgia Reeves, 800 Valley Dr., stated she lives across the street from the applicant. She stated the applicant has two businesses on his property, a plumbing business and dirt-moving equipment. She objects to so much storage on the property.

Nicky Hardy, 701 Valley Dr., stated she lives across the corner from the subject property. Ms. Hardy had the same concern as previous protestant, plus concern regarding septic and lateral lines.

Applicant's Rebuttal:

Mr. Graves stated that he has two septic systems on the property. He reminded the Board that the mobile home is 14' x 52', and stated that he is not running two businesses from his home.

Comments and Questions:

Mr. Walker expressed surprise that two systems would be on such a small tract of land.

Case No. 1751 (continued)

Board Action:

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **DENY** the **Variance** to Section 208 to allow two dwelling units on one lot of record; and a **Special Exception** to allow a mobile home in an RS zoned district, finding the property to be too small for two dwellings, and finding that it will 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.

Case No. 1752

Action Requested:

Variance to allow increasing the permitted square footage for all accessory buildings from 750 square feet to 2120 square feet to permit a pole barn in an RS zoned district. SECTION 240.2.E. YARDS, Permitted Yard Obstructions – Use Unit 6, located 3736 S. 49th W. Ave.

Presentation:

The applicant, **Greg Davis**, 3736 S. 49th W. Ave., stated he has a horse barn, and a storage shed on his property. He stated his desire to build a pole barn, in which to store two antique cars.

Comments and Questions:

Mr. Dillard asked for a description of the pole barn. Mr. Davis described a metal barn, painted similar to the house, garage door in front, no restroom, metal roof, concrete floor, unfinished on inside. Mr. Walker asked about the size of the property. Mr. Davis stated it is almost two acres.

Protestants:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** a **Variance** to allow increasing the permitted square footage for all accessory buildings from 750 square feet to 2120 square feet to permit a pole barn in an RS zoned district, finding that the lot is almost 47,000 square feet, and finding that it would 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 E/2 of Lot 2, Park Acres, Tulsa County, State of Oklahoma.

Case No. 1753

Action Requested:

Special Exception to permit a mobile home in an RE district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Variance of Section 208 to permit two dwellings on one lot of record of five acres. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located 7119 N. 119th E. Ave.

Presentation:

The applicant, **Bill Hollomon**, 7119 N. 119th E. Ave., stated he wants to place a second mobile home on his five acres for his daughter and her family on back of the property. He submitted photos (Exhibit C-1).

Comments and Questions:

Mr. Alberty asked about provisions for sewage. Mr. Hollomon informed the Board that they would be hooked up to a sanitary sewer system.

Protestants:

Vick Cohning, 7403 N. 119th E. Ave., stated that the applicant does not have a 30' roadway, his abstract states no mobile homes, and more than one-half of the land is in a flood plane. He mentioned concern for where they would access the new dwelling, and that this would decrease the value of property.

Joan Cox, 7210 N. 119th E. Ave., she stated there are no mobile homes on her street. She is concerned the same items as above.

Jo Cohning, 7403 N. 119th E. Ave., same concerns as above.

John Cramer, 7423 N. 119th E. Ave., stated that in the original abstract fifty years ago, the land was divided into five-acre tracts, and included a restriction of mobile homes.

Comments and Questions:

Mr. Walker explained that deed restrictions are a good way to protect your property. It is possible that the Board of Adjustment may approve something that is not allowed in the restrictions because the Board deals with land use and the Zoning Code and does not have authority to enforce the deed restrictions.

Protestants:

Walter Don Kerr, 11940 E. 69th St. N., stated he has lived in the area for 64 years. His property borders the south side of the subject property. He stated that the road to the lift station on his own property could not be used legally to access a residence. He asked the Board to deny this application.

Case No. 1753 (continued)

Shirley Esland, 7221 N. 119th E. Ave., protests the application on the basis of the deed restriction of mobile homes.

Applicant's Rebuttal:

Mr. Holloman indicated that his property is not in the flood plain, and it does not flood like the protestant described. He added they plan to build a road to the mobile home site.

Comments and Questions:

Mr. Alberty asked if the applicant was aware of the restrictive covenant on his property. Mr. Hollomon stated to his knowledge he does not have that restriction. Mr. Alberty explained to him that regardless of what the Board decides, if there is a restrictive covenant it becomes a private matter, and they can enforce the restriction. Mr. Alberty asked if this request is for a specific amount of time or permanent. Mr. Hollomon stated it is requested on a permanent basis.

Board Action:

On **MOTION** of **Dillard**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **DENY** a **Special Exception** to permit a mobile home in an RE district, finding that 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 Section 208 to permit two dwellings on one lot of record of five acres, finding that there are several protestants, and no precedence has been set for two dwellings.

Case No. 1754

Action Requested:

Variance of average lot width from 200' to 130'. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 9; a Variance of lot area from 2 to 1.96 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; and a Variance of land area per dwelling unit from 2.2 to 2.04 acres in an AG district. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located 2146 E. 161st St. S.

Presentation:

The applicant, **John Leatherwood**, 2146 E. 161st St. S., Bixby, stated the requested action, and that he did not have all of the information needed at a previous hearing.

Comments and Questions:

Mr. Walker recognized that the request is for a simple technical need for a Variance.

Case No. 1754 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** a **Variance** of average lot width from 200' to 130'; a **Variance** of lot area from 2 to 1.96 acres; and a **Variance** of land area per dwelling unit from 2.2 to 2.04 acres in an AG district, finding that the lot split was approved, the variances are fairly insignificant, and that it 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:

Beg. 200' W of NE/c NW/4 NE/4 of Section 30, T-17-N, R-13-E of the IBM, Tulsa County, State of Oklahoma; thence S 660'; thence W 130'; thence N 660'; thence E 130' to POB

OTHER BUSINESS

Minutes:

Ms. Fernandez called the Board's attention to a Staff request in the agenda packet:

Staff requests that the Board clarify for the minutes the "Board Action" for Case 1618 by amending the minutes of the February 18, 1999 meeting with a vote of approval of a "Variance to **Section 330** to allow reduction in the bulk and area requirements of the AG District, located 4607 S. 225th W. Ave." This will make both the "Action Requested" and the "Board Action" consistent in the minutes.

On **MOTION** of **Alberty**, the Board voted 3-0-0 (Alberty, Dillard, Walker, "aye"; no "nays", no "abstentions"; Looney, Tyndall "absent") to **APPROVE** a revision of the Section number in the Board Action on Case No. 1618 in the minutes of February 18, 1999.

There being no further business, the meeting was adjourned at 3:22 p.m.

Date approved: _____

Aug 15, 2000
John L. Walker
Chair