

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 291
Tuesday, August 17, 2004, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney	Hutson, Vice Chair	Alberty	West, County Inspector
Dillard, Secretary		Butler	
Tyndall			
Walker, Chair			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, August 11, 2004 at 11:10 a.m., as well as in the office of INCOG, 201 W. 5th St., Suite 600.

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

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MINUTES

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** the minutes of July 20, 2004 (No. 290).

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Case No. 2111

Action Requested:

Appeal of determination of the County Inspector of noncompliance to the County Zoning Code SECTION 1650. APPEALS FROM THE COUNTY INSPECTOR, located: 5912 South 63rd Avenue.

Presentation:

Mr. Alberty stated this appeal was continued from July 20, 2004.

Terry West, County Inspector, stated he cited (Exhibit A-6) Mr. Page around April 15, 2004 for non-compliance of Amerigas vehicles stored on the subject property.

The legal description is the south half of Lot 24 and Lot 25, which is the actual address of the body shop. He stated that he has been working with Mr. Page for the last few years to get the area cleaned up. It has not been accomplished. He asked the applicant after he moved the business at 7500 N. Sapulpa Rd. when he was going to move the trucks over there. Mr. Page told him that he could not move them to that location. He submitted photographs (Exhibit A-7) of the property. The neighboring property owners continue to contact him as to when the property will be cleaned up.

Sharon Phillips, 1424 Terrace Dr., with the law firm Frazier and Phillips, stated she represented the applicant. She submitted a form from the County Assessor's office and the telephone company (Exhibit A-2) as proof of zoning and presence of the business. She informed the Board the subject property is still used for the business and is not used for a junk yard or parts sales. She explained that some of the vehicles are used for parts for the body shop. She submitted a map (Exhibit A-3) of the area and photographs of the property (Exhibit A-1). Mr. Page has had some health problems and has not been able to mow recently. She asked the Board to remove the citation. She stated that his father owned the business before him and it was zoned commercially for a body shop.

Comments and Questions:

Mr. Walker and Mr. Charney questioned the zoning for the property, whether it was or CS. Ms. Phillips replied the County Assessor's office informed her that the property was under code 422, which was commercial for body shops and repair shops. She said it has always been there so she thought it was grandfathered in.

Sam Page, P.O. Box 9514, responded that his father obtained a zoning change. He stated when his father purchased the property; it was rezoned to open a body shop.

Mr. Charney asked if the citation was because of a nonconforming use, the fact that it was a body shop, or for the lack of care and maintenance. Mr. West replied because of the presence of junk and inoperable vehicles. He added that CS does not allow outside storage as it is being used.

Mr. Alberty clarified the issue. He stated 422 is a reference by the County Assessor of how they assess the use and has nothing to do with zoning. The RS-zoning is the same as it has been since 1980. Mr. Charney asked if outside storage is permitted now by any previous action. Mr. West replied that outside storage of inoperable vehicles is not allowed on any part of the property.

Ms. Phillips submitted two deeds (Exhibits A-4 and A-5), showing part of the property was purchased in 1968 and part in 1996.

Interested Parties:

Reverend Roy Counts, P.O. Box 96, Oakhurst, Oklahoma, stated he does not object to the business, but to the rubble from a motel they tore down, the Amerigas tanks and the overgrowth of weeds and grass. He added that a mobile home, which caught fire, is still on the property. The trucks have been there longer than it takes for repairs. He stated from his experience in the oil business, the gas tanks can still be explosive. This is a situation that causes an increase in rodents and roaches. Property owners have tried to improve the area and people are building new homes nearby.

Lando Russell, P.O. Box 393, Oakhurst, Oklahoma, expressed concern for the gas tanks and conditions existing for three to four years.

Patricia Downs, 6033 W. 59th Street, stated concern for children who pass the subject property going to and from school.

Applicant's Rebuttal:

Ms. Phillips stated that the truck tanks were blown out before they were sent to the subject property. She indicated that the owner of the trucks needs to remove them and the applicant has been negotiating with them on this issue. Mr. Tyndall asked how long the trucks have been there. Mr. Page replied they have been there around three to four years.

Comments and Questions:

Mr. Tyndall asked when the tanks were blown out and who did it. Mr. Page replied that DOT regulations require the procedure to be done before they are sent to him.

Mr. Walker noted other inoperable vehicles and no indication that things have been moved in or out for a long time. Mr. Page indicated one of the vehicles is an antique to be restored. Mr. Charney noted an old vacant mobile home. Mr. Page acknowledged it needed to be moved. Mr. Dillard pointed out the photographs showing items other than the Amerigas trucks and the sign stating the business has moved.

Board Action:

On **MOTION** of **Charney**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **DENY** the Appeal of determination of the County Inspector of noncompliance to the County Zoning Code; and to uphold the decision of the County Inspector, on the following described property:

S1/2 OF LT-24- & ALL OF LOT-25-BLK-5, NEW TANNEHA

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Case No. 2117

Action Requested:

Variance of land area per dwelling unit from 2.1 to 1.1 acres to permit two dwelling units. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located: 13106 N. 129th E. Ave.

Presentation:

Chris Himebaugh, 13106 N. 129th E. Ave., Collinsville, Oklahoma, proposed to have two dwellings on one lot of record. He presented his case at the last hearing, July 20, 2004 and it was continued to meet the requirements of notice.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of land area per dwelling unit from 2.1 to 1.1 acres to permit two dwelling units, as presented, on the following described property:

Com SE/c NE/4 Sec 32 T22N R14E Tulsa County, Oklahoma, th W along S line NE/4 50' POB th SW 558.80'; th W 171.50'; thence N 558.80'; th E 171.50' POB, 2.2 acres

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Case No. 2119

Action Requested:

Special Exception to permit a fireworks stand for a period of five years, to be 2005 to 2010, Variance of all-weather surface for parking. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS; SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located: west of the SW/c West 8th Street and S. 175th West Avenue.

Presentation:

The applicant was not present. Mr. Walker moved it to the end of the agenda.

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Case No. 2120

Action Requested:

Special Exception to permit a fireworks stand for a period of five years, Variance of requirement for all-weather parking in an RS district SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; SECTION 1340.D. DESIGN

STANDARDS FOR OFF-STREET PARKING AREAS, located: 4503 South 49th Avenue West.

Presentation:

Terry Harper, P.O. Box 672, Kellyville, Oklahoma, proposed to have a fireworks stand for a period of five years. He also asked for a variance of the all-weather parking. There have been other stands in the area.

Comments and Questions:

The Board determined that the applicant provided the wrong legal description and the case needed to be re-advertised.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **CONTINUE** Case No. 2120 to the meeting on September 21, 2004, on the following described property:

W244.4 LT 23 BLK 1, BRIDGES THIRD SUB

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Case No. 2121

Action Requested:

Variance of required 30' of frontage on a public street to 0'. SECTION 207. STREET FRONTAGE REQUIRED, located: 1255 South 196th Avenue West.

Presentation:

Vernon Miller, 1178 South 196th West Avenue, stated the subject property is at the end of a private road. He has a road easement filed of record.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Charney**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of required 30' of frontage on a public street to 0', as submitted, finding it is landlocked with a legal road easement, on the following described property:

E308.66 E417.3 W589.44 GOV LT 1 LESS N712 THEREOF SEC 11 19 10
2.818ACS

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Case No. 2122

Action Requested:

Special Exception to permit Use Unit 20 Commercial Recreation: Intensive; Variance of all-weather surface parking area SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS; SECTION 1340. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located: 1517 East 106th Street North.

Presentation:

Tom McKay, 516 S. Maplewood, stated he represented the applicants, Victor & Suezette Marquez. He submitted a packet of information about the project (Exhibit B-1). He informed the Board that Mr. Marquez requests permission to make a small gravel parking lot for a commercial recreation area for hayrides. They would be open four months per year: February, July, October and December. He described the use as a hayride trail with music and creative scenes.

Comments and Questions:

Mr. Walker asked about noise and lights. They plan to be open 7:00 p.m. to 11:00 p.m. The sound system would not be anything as loud as the Zingo rollercoaster. There would not be loud music with heavy bass or percussion. The riders would see live actors portraying scenes along the trail. The closeness of the small groups on the trail to the entertainers means there will not be a need for powerful amplifiers. There are only about five houses in the area. Mr. Tyndall asked about the number of cars expected during the openings. Mr. McKay estimated 600 cars in the four days they are open per month.

Interested Parties:

Marty Wright, 11248 North Peoria, Skiatook, Oklahoma, submitted a petition of opposition (Exhibit B-4) from the landowners and homeowners in the area. She pointed out the proximity of Bird Creek and that this property is in the floodplain. She complained that the applicant has hauled in shale to build up a trail which would affect the drainage of flood water. She stated she has not seen a hydrology report. Mr. Walker asked how close the flood waters flow near her house. She said her house is built on a raised pad and she has a higher place for her cattle, stating flooding has come pretty close but she did not say how close to her house.

Billy Emory, 11604 North Lewis Avenue, Skiatook, Oklahoma, stated he owns the property adjacent to the east of the subject property. He objected to the applicant moving land and building up a trail. He indicated the applicant has used a gasoline pump and four-inch flexible tubing to pump water onto his property.

Marilyn Sisk, 10216 North Quincy, Skiatook, Oklahoma, stated she lives about ¼ mile south of the subject property. She noted there is one mile between Hominy Creek and Bird Creek and only a one-way bridge over each of them. She stated the road is built up at Bird Creek so one can't see the other side. The traffic on this road was her biggest concern. She does not want a lot of noise disturbing the

wildlife and the peace and quiet of rural living. She also expected this would lower property values.

William A. Sisk, 10216 North Quincy, Skiatook, Oklahoma, submitted a photograph (Exhibit B-3) from the 1986 flood. He questioned that they would be allowed to build up a road in the floodplain from eighteen inches to two feet.

Richard Paul Burt, P.O. Box 703, Sperry, Oklahoma, stated he and his family have lived there for about 59 years. He expressed the same concerns as previously stated and indicated the applicant put in a septic tank illegally.

Photographs of the trail indicating the height to which it was raised were provided (Exhibit B-2).

Applicant's Rebuttal:

Mr. McKay responded they will be obtaining a hydrologist report. The applicants are discussing means of traffic control. There was a depression created on the property that was put in the wrong place. The water was pumped out to refill the depression. He stated they do not plan to build any permanent structures and they did not put in a septic system. Mr. Walker asked if they obtained a permit for moving earth.

Victor Marquez, 8220 E. 136th St., Collinsville, Oklahoma, stated he was advised not to bring in more dirt and they ceased. A hydrologist told him there would not be a problem to bring in some gravel. He assured the Board they were not trying to do anything to change the natural flow of water, but his neighbor has built some sort of dam.

Board discussion ensued.

Board Action:

On **MOTION** of **Charney**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **CONTINUE** Case No. 2122 to the meeting on October 19, 2004. The Board asked the applicant to provide a boundary survey, a topography map, a site plan of proposed trail location, parking area, hydrology report with any expected adverse affect of landfill and other proposed modifications, and a lighting and sound system plan.

E 1/2 SW SW SEC 7-21-13

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Case No. 2123

Action Requested:

Special Exception to allow a 89,150 sq. ft. public school SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS – Use Unit 5, located: 530' W. northwest corner North Memorial Drive and East 76th Street.

Presentation:

John Herbert, 201 West 5th Street, with Wallace Engineering, stated they were hired by the Owasso Public Schools to prepare a site plan for the proposed school on the site. This AG-zoned property is within the fenceline of the City of Owasso, but it is in Tulsa County. They request a special exception subject to a plat and the site plan (Exhibit C-1) was provided.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Special Exception** to allow a 89,150 sq. ft. public school, per plan, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

SE SE SEC 26 21 13 40 ACS

Mr. Alberty offered a clarification on Case No. 2123. The legal description was for an area larger than what was covered by the site plan. Since the area outside the approved site plan has been approved for school use, any development of this area will require an amended site plan.

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Case No. 2124

Action Requested:

Variance of the required 30' of frontage on a public street to 0 feet. SECTION 207. STREET FRONTAGE REQUIRED, located: 13824 North 71st Avenue East .

Presentation:

Lacy Kestler, 13030 North 143rd East Avenue, Collinsville, Oklahoma, stated she needs a building permit. Mr. Walker asked why they don't have a road.

Steve Kestler, 13030 North 143rd East Avenue, Collinsville, Oklahoma, replied there is a private drive. The property owner at the end of the road approved them

using the drive. The original owner had a 30' easement to the north side of their property line.

Comments and Questions:

Mr. Charney asked if they have purchased the property, to which they replied they have not. He advised them to obtain proof of an easement of record.

Interested Parties:

Les Green, 2117 W. Maple Pl., Collinsville, Oklahoma, stated that an easement listed by Mrs. May in 1985 was for 30' across the property. There is a two-inch waterline running to the front of their property. There is a 30' right-of-way for electricity on one side of this road easement and the same for the phone line on the other side. The City of Collinsville advised them the property is not in a floodplain.

Board Action:

On **MOTION** of **Charney**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street to 0 feet, subject to an easement of record granting access to the subject property, finding there is no other access, on the following described property:

N/2 NW SE SW SEC 26 22 13 5 ACS

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Case No. 2119

Action Requested:

Special Exception to permit a fireworks stand for a period of five years to be 2005 to 2010; and a Variance of all-weather surface for parking. SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS; SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located: West of the southwest corner West 8th Street and South 175th West Avenue.

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **CONTINUE** Case No. 2119 to the meeting on September 21, 2004.

LT 2 BLK 4, WEKIWA HILLS

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There being no further business, the meeting was adjourned at 3:38 p.m.

Date approved: _____

Chair