

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 294
Tuesday, November 16, 2004, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Walker, Chair
Hutson, Vice Chair
Dillard, Secretary
Tyndall
Charney

Butler
Alberty

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, November 10, 2004 at 4:15 p.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 **Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of October 19, 2004 (No. 293).

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UNFINISHED BUSINESS

Case No. 2132

Action Requested:

Special Exception of requirement that oil and gas wells and related storage tanks be located 200 feet or more from any residence -- Section 1224a.3 -- Use Unit 1224a, located: Northwest corner West Brady Street and North 53rd West Avenue.

Presentation:

The applicant was not present. Mr. Walker passed this case to the end of the agenda.

PRT SW NE BEG SECR N/2 SW NE TH W284 N383.45 E284 S383.45 POB
LESS TR BEG 383.45N SECR N/2 SW NE TH W284 S119 NE90 NELY225.46

N30 POB & LESS PRT BEG SECR N/2 SW NE TH N95 W20 CRV LF 117.95
CRV RT TO P T E TO POB SEC 5 19 12 1.97ACS

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NEW APPLICATIONS

Case No. 2135

Action Requested:

Special Exception to permit a home occupation (computer research) in an RE district -- SECTION 440.B -- Use Unit 6, 11610 East 69th Street North.

Mr. Walker read a letter from the applicant requesting a continuance (Exhibit A-1).

Interested Parties:

Interested Parties were asking to speak. The chair recognized those who wished to speak.

Jane Gaylord, 11618 East 69th Street North, stated she had checked ahead of time to make sure the case would be heard, because a number of people had to take off work for the hearing. She was told that the case would be heard. Mr. Walker informed them the next meeting would be December 21, 2004 for those who could attend.

Al Erwin, 11644 East 69th Street North, stated he lives next door to the east of the subject property. He informed the Board the applicant had moved from this property three years ago. Later the applicant came back to the subject property and when asked about selling the property Mr. Davis informed him that it was not for sale but would be his office. Mr. Davis also stated his company was making the payments on the property. Mr. Erwin was opposed to a commercial property in this residential neighborhood. He stated that traffic would be an issue because there are small children playing in the neighborhood. Mr. Walker asked what kind of traffic was going in and out of the subject property. Mr. Erwin replied there were a minimum of four vehicles per day. He added that Mr. Davis has three employees. They hold meetings there also with a minimum on those days is five vehicles per day.

Donald Sheerman, 6902 North 117th East Avenue, he understood this was strictly a residential neighborhood. He informed the Board there is no stop sign at the corner of 69th Street and 117th East Avenue. There is heavy traffic and fast traffic in that area. He opposed the business in the neighborhood. Mr. Charney asked if he concurred there are several employees with regular work hours. Mr. Sheerman replied that they have observed the employees come to work in the morning, go to lunch and leave in the evening.

Terrie Holman, 11540 East 69th Street North, expressed concern for traffic, strangers going in and out and decreased value of their property.

Board Action:

On **MOTION** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 2135 to the meeting on December 21, 2004, on the following described property:

W165 NW SE NW SW LESS N25 FOR RD SEC 32 21 14, Tulsa County, State of Oklahoma

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Case No. 2136

Action Requested:

Use variance to utilize an existing dwelling as an office (staffed by 1 person) in an AG district, 2303 East 161st Street South.

Presentation:

Steve Sherment, 2301 South Laurel Avenue, Broken Arrow, Oklahoma, stated he represented the applicant, John Sherment. The property under application was purchased, adjacent to the company property, with an old farm house on it. They use the house for an administrative office for their construction company. There is one employee that works in the office four days per week, six hours per day.

Comments and Questions:

Mr. Walker asked if company vehicles/construction equipment were parked on the subject property. Mr. Sherment replied that equipment was parked only on the business site property next door. Mr. Walker asked if the business property next door was zoned. He replied that they obtained a zoning variance around 1984. In response to further questions Mr. Sherment responded that the employee does not live on the property and she is the only one that works there all day. Two employees are in and out of there briefly at times. They had an office trailer by their shop and it was not adequate, so they moved the office to the house. Mr. Walker stated the Board would be concerned that the business use would move over onto the subject property. Mr. Sherment stated they have no intention of doing that. He added that if there were any long-range plans it would be to develop the ten acres into a housing district and they would move out altogether. Mr. Tyndall stated he checked the property and it appears residential in a sparsely populated area. He did not think it would be a problem for the neighbors. Mr. Sherment informed Mr. Walker there are other existing businesses within 200 feet. Mr. Walker inquired as to the type of businesses. He replied they were electrical, mechanical, and plumbing contractors.

Mr. Walker questioned what the hardship would be and asked Mr. Alberty to give the definition of a hardship, which he read. Mr. Sherment pointed out this property

is adjacent to the business property with an existing structure; and there are existing businesses as close to the road as this structure.

Mr. Alberty commented to the Board that the previous special exception for the adjacent property was approved for two years only in 1982 and has not come before the Board again.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Use Variance** to utilize an existing dwelling as an office (staffed by 1 person) in an AG district, with conditions: to limit use of existing structure only, not to be added to or modified; and limited to one full-time employee only; subject to the filing of a new application for a special exception on the adjacent property as approved on CBOA Case No. 169 in 1982, on the following described property:

E/2 E/2 SW SE SEC 19 17 13, Tulsa County, State of Oklahoma

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Case No. 2137

Action Requested:

Variance of requirement that in the AG district there be no more than two dwellings per lot to permit 3 dwelling units (manufactured home) on a 2.568 acre tract zoned AG, Section 208 -- One Single-family Dwelling Per Lot Of Record -- Use Unit 9; Variance of Land Area Per Dwelling Unit from 2.1 to 0.856 acres -- Section 330. Bulk And Area Requirements In The Agriculture Districts -- Use Unit 9, 16888 West Wekiwa Road South.

Presentation:

Stanley Wayne Bennett, 16888 West Wekiwa Road, proposed to allow his daughter and son-in-law to move a single-wide mobile home onto the property. Their access would be his driveway. He indicated it would not be visible from the road because of a slope in the topography. He stated that DEQ approved the soil percolation test. He submitted photographs (Exhibit B-1) to show there were other properties with more than one dwelling unit. He added that the Sand Springs Home owns property to the back of his property.

Interested Parties:

Delbert Underwood, 16910 West Wekiwa Road, objected to multiple homes on one lot and the affect of his property value. He has one lot with his home and one lot vacant immediately west of the subject property. The next lot further west is a church.

Mr. Bennett was asked to give more information. The two lots behind Mr. Underwood's property were previously owned by his parents. It is almost six acres and they sold it last year.

Shawna Regina Underwood, 16910 West Wekiwa Road, was opposed to more than two dwelling units per lot. She wanted the area to appear agricultural and not as a mobile home park.

Applicant's Rebuttal:

Mr. Bennett assured the Board this was not intended for rental property but temporary to help his family. He would be agreeable to a condition for a limited time period of five to ten years.

Comments and Questions:

Mr. Charney explained to the applicant the need for an extraordinary or unique hardship peculiar to this property. Mr. Bennett again stated the slope to the property would largely conceal the trailer from the road.

Board Action:

On **MOTION** of **Hutson**, the Board voted 4-1-0 (Tyndall, Dillard, Charney, Hutson "aye"; Walker "nay"; no "abstentions"; no "absences") to **DENY** a **Variance** of requirement that in the AG district there be no more than two dwellings per lot to permit 3 dwelling units (manufactured home) on a 2.568 acre tract zoned AG; **Variance** of Land Area Per Dwelling Unit from 2.1 to 0.856 acres, finding lack of a hardship, on the following described property:

ALL W300 NW SE LYING SLY CL WEKIWA RD & ALL W300 L T 10 BEG INTERSEC CL WEKIWA RD & WL NW SE TH APROX AS FOLLOWS NE ALG CL 301.42 S350.25 TO MEANDER LISW309.15 N395.63 POB SEC 6, T19N R11E 2.568 ACRES, Tulsa County, State of Oklahoma

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Case No. 2138

Action Requested:

Special Exception to permit a mobile home in the AG-R district; Variance to allow mobile home permanently, located: 25609 West 49th Street South.

Presentation:

Mary Goodman, 4902 South 257th West Avenue, described a situation of legal problems concerning the ownership of the land. She stated there were many more problems and she desired to withdraw her case.

Board Action:

The applicant withdrew the case and no action was required, on the following described property:

PRT NW SW BEG 1323.20N & 210E SWC SW TH E185 N303. 35 W185 S303.35 POB SEC 29 19 10, Tulsa County, State of Oklahoma

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Case No. 2139

Action Requested:

Special Exception to permit a mobile home in the AG-R district; Variance to allow the mobile home permanently, located: 25615 West 49th Street South.

Presentation:

Brad Ferguson, 25615 West 49th Street South, stated he purchased the subject property; made improvements; tore down the old home; and moved in a mobile home. He obtained permits through Linda Byrd and added he was not aware the property was zoned AG-R. He informed the Board that he had approval from the Creek Indians, who will place an aerobic system on the property. He indicated the home is skirted.

Comments and Questions:

Mr. Dillard asked if Mr. Ferguson had an attorney look at the title. He replied that he did have an attorney look at it.

Interested Parties:

Jim French, 4511 South 257th West Avenue, stated the subject property was adjacent to his. He appreciated the improvements and did not object to the application. He described problems with the septic on the subject property as raw sewage flowed down onto his property. Mr. Walker suggested he call the Department of Environmental Quality to investigate the sewage problem.

Mary Goodman, 4902 South 257th West Avenue, opposed the application, stating it was not obtained by a legal sale of the land. She corroborated the story about the raw sewage.

Applicant's Rebuttal:

Mr. Ferguson assured the Board he has a deed to the property; paid the taxes last year; and pays for site services for a portable toilet.

Board Action:

On **MOTION** of **Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a mobile home in the AG-R district, for two years with skirting and tie-downs; subject to a DEQ approval of a proper installation of sewage

system and water to be approved by the County Inspector within sixty days from this date.

Jim French, 4511 South 257th West Avenue, asked to speak again. He asked if the hearing on the variance to allow the mobile home permanently could be delayed until after the sixty days to assure compliance with the Board's conditions.

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** the **Variance** requested in Case No. 2139 to the meeting on February 15, 2005, on the following described property:

BEG 722S & 25E NWC SW S610 E185 N610 W185 LESS BEG 1627.4N & 25E SWC TH E185 N303.3 W185 S303.3 POB SEC 29 19 10, Tulsa County, State of Oklahoma

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Case No. 2140

Action Requested:

Special Exception to permit a home occupation (mail order) in an AG-R district -- Section 320.1 Accessory Uses Permitted -- Use Unit 6; Variance of home occupation guidelines limiting a home business to 500 sq ft of floor area to allow 896 sq ft for the home occupation on a tract of 4.81 acres -- Section 440.B Special Exception Uses in Residential Districts, Requirements, located: 15305 North Trenton Avenue East.

Presentation:

Enoch Cox, 15305 North Trenton Avenue, Skiatook, Oklahoma, stated he is a registered land surveyor. He surveyed the property and subdivided eighty acres. He proposed to have an accessory building for an office, inventory storage and a safe room. He planned to mail out the inventory from this site, so there would be no public traffic. Advertising would be on the internet and in surveyor's publications. He and his wife would work the business, and there would be no outside employees.

Comments and Questions:

Mr. Walker reminded him the Board needs to know a hardship. Mr. Cox stated his house is less than 1,600 sq. ft. Mr. Charney noted the size of the property.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special**

Exception to permit a home occupation (mail order) in an AG-R district, 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 **MOTION** of **Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of home occupation guidelines limiting a home business to 500 sq ft of floor area to allow 896 sq ft for the home occupation on a tract of 4.81 acres, finding the size of the property allows for increased square footage, on the following described property:

N330 E/2 SE NW LESS W25 THEREOF FOR RD SEC 19 22 13 4.81ACS,
Tulsa County, State of Oklahoma

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The Chair called a brief recess, after which the hearing reconvened.

Case No. 2141

Action Requested:

Special Exception to permit church and accessory church uses in an AG District -- Section 310. Community Services & Similar Uses -- Use Unit 5, located: West side of South Peoria Avenue, at approximately 157th Street South.

Presentation:

John Sames, P.O. Box 4484, Tulsa, stated he represented the Holy Apostle Orthodox Christian Church. They started a mission church about one and one-half years ago and now seek to obtain property to build. Phase One of the church development would be a 2,500 sq. ft. metal building with brick or stone façade for sanctuary, classes and office space. The membership is about 300 people and services would be on Wednesday evening, Saturday evening, and Sunday morning. They plan to improve the land to a park-like setting. The applicant provided exhibits (Exhibit C-1) to the Board.

Interested Parties:

Dan Bridgewater, 15810 South Peoria, indicated that because the surrounding properties are five to ten acre lots the notice to property owners within a 300' radius was minimal. He informed other property owners outside the 300' radius. He stated that he was representing the five owners directly impacted and another 15 to 20 owners in the area. He was concerned there are no plans for road improvement. He informed the Board there have been a number of traffic accidents with fatalities in the past two years. He suggested that the church would bring a lot more traffic but being tax-exempt would not contribute to the improvement of the roads. They have problems with speeding and a lack of the presence of law enforcement. The only ingress and egress is from Peoria. He stated the road would not handle the heavy construction equipment, as it is already

in poor condition. He also pointed out that the back of the property is in a 100 year waterway. They had concerns regarding the sewage system that would be used.

Cliff Weaver, 15809 North Peoria, expressed objections in agreement with those previously stated by Mr. Bridgewater.

A petition of opposition and a map (Exhibit C-2, C-3) were provided.

Applicant's Rebuttal:

Mr. Sames felt that roads tend to be improved when the properties are improved. He stated the quality of the improvements they would make on this property would increase the surrounding property values. The church would be supportive of road improvements and their members are tax payers. Churches are like a buffer for neighborhoods to crime and to businesses that sell liquor and promote adult entertainment. He did not believe that the church would change the volume of traffic extremely. They plan to follow the code and laws governing a sewage system. He mentioned property at 161st and Yale that was approved for church use.

Comments and Questions:

Mr. Hutson asked why they chose this area. Mr. Sames replied that it was geographically appropriate to the parishioners of the church.

Mr. Hutson recognized an Interested Party who wished to speak.

Daniel Bridgewater, 15810 South Peoria, disagreed that the surrounding properties would increase in value because of a pretty church. He stated that the subject property and the property at 161st and Yale were not comparable. The roadways and the proximity of residential homes were very different.

Cliff Weaver, 15809 South Peoria, stated he did not believe the presence of a church would help them get better roads. He did not want a church to move in next to his property.

Board Action:

On **MOTION** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit church and accessory church uses in an AG District, subject to a more detailed site plan submitted to the Board when plans are finalized, 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:

PRT NE SE BEG 336S & 24.75W NEC NE SE TH W661.26 S 525.96 E661.24 N525.96 TO POB LESS E24.75 FOR RD S EC 24 17 12 7.685ACS, Tulsa County, State of Oklahoma

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Case No. 2142

Action Requested:

Special Exception to permit a fireworks stand in the RS district from Dec 15, 2004 through Jan 2, 2005 and June 15, 2005 through July 5, 2005, located: 810 West Katy Street South.

Presentation:

Henry Frazier, 815 Katy Street, Sand Springs, Oklahoma, stated he purchased the property and remodeled the house to rent out. He proposed to build a miniature replica of the house to sell fireworks on the same property. He commented there is a large volume of traffic on the service road. There is space to park six to eight vehicles on the property. He stated he is a paving contractor and was willing to pave an all-weather parking surface.

Comments and Questions:

Mr. Hutson asked what he would do with the building when not in use. He stated it is a mobile structure, but he planned to allow children, including his grandson, to use it for covering at the bus stop. Mr. Charney asked if it was specifically for this New Years season and the next 4th of July. Mr. Frazier replied that was correct.

Charney out at 3:43 p.m.

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, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a **Special Exception** to permit a fireworks stand in the RS district from Dec 15, 2004 through Jan 2, 2005 and June 15, 2005 through July 5, 2005, as requested, on the following described property:

PRT RES BEG 1031SE NWC TH SE134.75 TO HWY SLY49.98 NW133.35 NLY50 POB, HALL'S GARDEN ADDN, Tulsa County, State of Oklahoma

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Case No. 2132

Action Requested:

Special Exception of requirement that oil and gas wells and related storage tanks be located 200 feet or more from any residence -- Section 1224a.3 -- Use Unit 1224a, located: Northwest corner West Brady Street and North 53rd West Avenue.

Presentation:

The applicant was not present.

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **CONTINUE** Case No. 2132 to the meeting on December 21, 2004, regarding the following described property:

PRT SW NE BEG SECR N/2 SW NE TH W284 N383.45 E284 S383.45 POB
LESS TR BEG 383.45N SECR N/2 SW NE TH W284 S119 NE90 NELY225.46
N30 POB & LESS PRT BEG SECR N/2 SW NE TH N95 W20 CRV LF 117.95
CRV RT TO P T E TO POB SEC 5 19 12 1.97ACS

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OTHER BUSINESS

Approval of 2005 CBOA Meeting Schedule

Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the 2005 Tulsa County Board of Adjustment Meeting Schedule.

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There being no further business, the meeting was adjourned at 3:46 p.m.

Date approved: _____

Chair