

COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 300
Tuesday, May 17, 2005, 1:30 p.m.
Aaronson Auditorium
Tulsa Central Library
400 Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

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

Butler
Cuthbertson

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Thursday, May 12, 2005 at 4:04 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 **Dillard**, the Board voted 4-0-1 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; Hutson "abstained"; and no "absences") to **APPROVE** the Minutes of April 19, 2005 (No. 299).

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UNFINISHED BUSINESS

Case No. 2151

Action Requested:

Request a use variance to allow a landscape/yard ornament business in an AG zoned district - Use Unit 23 and Use Unit 25, located: 3310 East 195th Street South.

Presentation:

Mr. Cuthbertson reminded the Board they continued this case from last month to allow staff to re-advertise and provide an accurate map to the surrounding property owners.

Joe Rider, 3320 East 195th Street South, Bixby, Oklahoma, stated they asked for the variance to operate a family-owned business. The business is masonry and

landscaping. They produce natural stone, outdoor fireplace and patio products that they assemble on the job sites. Mr. Rider stated that 75% of their work is at the job site. They have employees that come onto his property in trucks to take materials to job sites. They bring stone in bulk to the subject property and processed and packaged for the particular jobs. They inventory a little bit of stone, brick and fireplace products mainly for masonry construction on new homes. He added that he has lived there for seven years with this same business activity since he has been there. He submitted photographs and letters of support (Exhibits A-1 and A-3). Mr. Rider pointed out the business is on the center of the property, not close to anyone's home. There is no retail on the subject property. They mainly deal with homeowners and building contractors. His tools, equipment and vehicles are stored on the property.

Comments and Questions:

Mr. Walker asked how this applies to landscaping. Mr. Rider informed the Board that the outdoor living room areas are quite popular and they sell kits to assemble an outdoor fireplace. They deal with landscape boulders. The stone goes on patios, houses, landscape decoration, and retaining walls. Mr. Charney asked about the machinery to process the stone. Mr. Rider responded it is a hydraulic press driven by an electric motor. They do not do blasting. He stated the equipment does not make more noise than the farm equipment and such things as four-wheelers on neighboring properties.

Interested Parties:

Barbara Lorenzen, 19430 South 43rd East Avenue, Bixby, Oklahoma, stated her home is east of the open pasture to the east. The area has changed over the last few years from mainly farmland to mostly residential. She complained there is a lot of noise coming from the subject property, stating it sounds like a rock crusher. She added that sometimes it starts as early as 7:00 a.m. and goes all day, including Saturdays and Sundays. Ms. Lorenzen indicated that their security light shined directly into their home. They want the area to remain agricultural and residential not business. She also complained of the noise of traffic of the dump trucks and semi-trucks. She pointed out this started as a home and then he started bringing his business onto the property. The applicant sold a piece of property next door and the new owner built a maintenance garage and business. She submitted photographs and a map (Exhibit A-2 and A-4).

Gary Stogsdall, 19326 South Harvard stated he does not have any trees and they hear a lot of the noise. He complained the rock tumbler on the subject property is very noisy in the morning.

Applicant's Rebuttal:

Mr. Rider reminded the Board that he does not have a rock tumbler. He pointed out that one of his neighbors has thoroughbred horses in the field directly behind the stone-work and they are not disturbed. He also noted that most of the neighbors have a standard night light like his. He stated there are three of these

lights between his property and Ms. Lorenzen's property. He added there are trees between his property and hers also. He has talked with the other neighbors and none of them had any complaint about his business. He stated the normal hours are 8:00 a.m. to 5:00 p.m., and if they have to make up time because of weather, they may work on a rare Saturday or Sunday.

Comments and Questions:

Mr. Walker asked Mr. Rider about the hardship. He did not provide a hardship having to do with the land. Mr. Hutson asked if the people who signed in support of the application live adjacent to his property. Mr. Rider replied that most of them live adjacent. Mr. Tyndall asked for the number of employees. He replied he had about five full-time employees varying according to the time of year. Twenty men work part-time out on the job sites. Mr. Tyndall asked what kind of permit he obtained for the shop he has on his property. Mr. Rider responded it is just for storage and maintenance. Mr. Tyndall asked if they obtained a building permit. He did not know because a family member took care of it. Mr. Tyndall asked if it was all one lot or three different lots. Mr. Rider stated it was all one lot. Mr. Tyndall noted there were two residences. Mr. Rider replied they share one driveway. Mr. Tyndall asked if they have two residences on one lot of fifteen acres without a lot-split. Mr. Rider did not know of a lot-split.

Terry West, County Inspector, stated he sent Mr. Rider a letter of violation of the zoning code. He needs proper zoning for business at that location. He advised him to go to the Board of adjustment for a use variance or seek re-zoning. They had a permit for the shop, as an accessory building, with no required limit to the size in AG-zoning. They have more than enough property to allow for two residences

Board Action:

On **Motion of Hutson**, the Board voted 5-0-0 (White, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Use Variance** to allow a landscape/yard ornament business in an AG zoned district - Use Unit 23 and Use Unit 25, for lack of a hardship, on the following described property:

S/2 SW NW & S/2 S/2 N/2 SW NW LESS TR BEG SW/c NW TH N500 E900
S500 W900 TO POB S9 16 13 15.675 ACS M/L Tulsa County, State of
Oklahoma

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Case No. 2153

Action Requested:

Variance of street frontage requirement from 30' to 0' to permit a lot split. (Section 207), located: 18968 East 64 Highway.

Presentation:

Mr. Cuthbertson reminded the Board they continued this case from the last meeting to allow the applicant to address some neighborhood concerns about conditions on his property and the drainage creek. The Board gave him thirty days to address the concerns.

James Ferris, 401 South Boston, represented the applicant, Don Barrett. This two-acre tract was split from an eighty-acre tract with some other tracts. It is adjacent to and would be tied to Mr. Barrett's six-acre tract, which has access to Highway 64. Some joint property owners came to the last hearing to object to the debris on the property and concrete in the creek. Mr. Barrett has removed the debris and concrete. Photographs were provided (Exhibit B-1).

Comments and Questions:

Mr. Charney verified the debris and concrete had been removed.

Interested Parties:

Larry Leonard, 1921 South Boston, stated that the property looks much better and thanked the Board and applicant for the clean-up.

Board Action:

On **Motion** of **Dillard**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of street frontage requirement from 30' to 0' to permit a lot split. (Section 207), on the following described property:

E 1/2 SE SEC 36-17-14, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 2155

Action Requested:

Variance of lot area from 2.0 acres to 1.378 (Tract 1) and 1.608 (Tract 2); a variance of land area from 2.1 acres to 1.379 (Tract 1) and 1.808 (Tract 2); a variance of average lot width from 150 ft to 132.21 ft. on Tract 1 to allow a lot split (19809) Sect. 330, located: 14144 North 86th Avenue East, and 14148 North 86th Avenue East.

Presentation:

Craig Dipley, P.O. Box 1321, Owasso, Oklahoma, purchased the property. He stated there were two mobile homes on the property for the last 26 years. They have separate utilities, water, gas and electric. They have separate septic systems, addresses and driveways. The smaller tract has 155' frontage but the way the land lays, the average 132.21'. He proposed the lot-split for his children to

build a home. He has made considerable improvements on the property. They moved the mobile off Tract 2. They obtained a building permit and is currently constructing a stick-built home. A site plan was provided (Exhibit G-1).

Comments and Questions:

Mr. Hutson asked if there was anything peculiar about the land. Mr. Diplely replied that a creek drains across the south side of lot two. The septic systems are in place and adequately separated.

Interested Parties:

There were no interested parties who wished to speak.

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 Variance of lot area from 2.0 acres to 1.378 (Tract 1) and 1.608 (Tract 2); a Variance of land area from 2.1 acres to 1.379 (Tract 1) and 1.808 (Tract 2); and a Variance of average lot width from 150 ft to 132.21 ft. on Tract 1 to allow a lot split (19809) Sect. 330, frontage as platted, per plan, finding the extended period of existing condition and change of use after a number of years would be a hardship to the purchaser, on the following described property:

BEG 400N SWC SE NW TH N269.8 E454 S50 TH ON CRV RT280.78
NW393.55 POB SEC 25 22 13 2.94ACS, Tulsa County, State of Oklahoma

Case No. 2156

Action Requested:

Use Variance to permit the cultivation of grapes, wine production and retail sales (winery) in an AG District, 7374 West 51st Street.

Presentation:

Doreen Riesen, 28803 Blue Ridge Drive, Sand Springs, Oklahoma, stated the action requested. She added this is a fairly new industry in Oklahoma. They plan to put the winery in the middle of the vineyard as others are doing in Oklahoma. A site plan and map were provided (Exhibits D-1 and D-2). The hardship is that there is no zoning for both uses.

Comments and Questions:

Mr. Walker was impressed with the location of the winery in the middle of the vineyard.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Use Variance** to permit the cultivation of grapes, wine production and retail sales (winery) in an AG District; per plan, finding the literal enforcement of the code would not permit the applicant to reasonably use the subject property to grow grapes for the vineyard purposes, on the following described property:

BEG 659.16N & 150W & 648.4N SECR NW TH N875 NW249.35 S941 E240.22
POB SEC 31 19 12 5.010ACS, Tulsa County, State of Oklahoma

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Case No. 2157

Presentation:

Tony Stevenson, 6550 North 134th East Avenue, and his sister, **Nancy Cook**, 13601 East 66th Street North introduced themselves to the Board. Their parents purchased this property many years ago and recently deeded it to them. They proposed a lot-split to sell the house separately. Ms. Cook commented that her parents built a nice workshop and suggested it should go with the house. They considered tearing down the barn but it was well built. She stated that everyone built their barns close to the property line. A site plan and photographs were submitted (Exhibits E-1 and E-2).

Comments and Questions:

Mr. Walker noted a lot-split on the property adjacent to them. Mr. Cuthbertson commented this is the only way to split the property. There is not an alternative to create two legal lots in regards to land area and lot area, and to avoid the structural encroachments.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Charney**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to allow accessory building as principle use in an AG-R district (Section 18); a **Variance** of the setback for a building in AG-R district from 15 ft to 7.4 ft (Tract A) (Section 330); and a **Variance** of the setback from the property for an accessory building in an AG-R zoned district from 40 ft to 8 ft (Tract B) (Section 330) to allow a lot split (19814), per plan, finding existing conditions, on the following described property:

PRT NE NW BEG 745.80W NEC NE NW TH S439.40 W248.60 N439.40
E248.60 POB LESS N25 & E25 FOR RD SEC 4 20 14 2.13AC, Tulsa County,
State of Oklahoma

Case No. 2158

Action Requested:

Variance of the required Land Area per Dwelling Unit from 2.1 to 1.25 acres (Section 330); a Variance of the required 40 ft setback from rear property line to 10 ft. (Section 330), 12717 South Elwood.

Presentation:

Fred Owens, 12717 South Elwood, Jenks, Oklahoma, proposed to place a mobile home on the back of their land for a family member. The elevation of the land is too low in the front. They have approval from DEQ on a soil percolation test for a septic on the back of the property. There is a modular home to the north and two mobile homes to the south of the subject property. There is also a home and mobile home to the west. The neighbors are in support of this application.

Comments and Questions:

Mr. Hutson expressed concern that the mobile would be ten feet from another dwelling. Mr. Walker discovered that both dwellings are on the back of the property. Mr. Owens agreed that was correct and explained it was because of the results of the soil percolation test. Mr. Tyndall asked if they planned for the mobile home to be there permanently. Mr. Owens replied they probably would have it there five to ten years.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Hutson**, the Board voted 3-2-0 (Tyndall, Hutson, Charney "aye"; Dillard, Walker "nay"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required Land Area per Dwelling Unit from 2.1 to 1.25 acres (Section 330); and a **Variance** of the required 40 ft setback from rear property line to 20 ft. (Section 330), and for a period of five years, on the following described property:

S166 N898 W660 NW SW SEC 1 17 12 2.52AC, Tulsa County, State of Oklahoma

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There being no further business, the meeting was adjourned at 3:07 p.m.

Date approved: _____

Chair