

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 308  
Tuesday, January 17, 2005, 1:30 p.m.  
Aaronson Auditorium  
Tulsa Central Library  
400 Civic Center

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

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

Alberty  
Butler  
Cuthbertson

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, January 11, 2005 at 3:50 p.m., as well as in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

After declaring a quorum present, Chair Hutson called the meeting to order at 1:34 p.m.

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**Mr. Dillard arrived at 1:35 p.m.**

**MINUTES**

On **MOTION** of **Tyndall**, the Board voted 4-0-1 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; Charney "abstained"; no "absences") to **APPROVE** the Minutes of December 20, 2005 (No. 307).

\* \* \* \* \*

**NEW APPLICATIONS**

**Case No. 2190**

**Action Requested:**

Special Exception to allow a 250 ft guy wire cellular tower in an AG zoned district (Section 310), located: 17081 East 151<sup>st</sup> Street.

**Presentation:**

**Steve Crain**, 10400 Clear Lake Road, Mustang, Oklahoma, is a sub-contractor for Sprint PCS and other companies throughout the southwest. They are attempting to fill in some of the gaps in coverage. A major area near Leonard, Oklahoma,

needs better service. They provide 90% of their service coverage by collocation. They evaluated the nearest Cingular tower to collocate, but the monopole tower is not high enough for coverage of this area. They proposed to construct a 250' guy wire cellular tower on the property of Marvin Young. A site plan was provided (Exhibit A-1).

**Comments and Questions:**

Mr. Walker questioned the fall-zone and Mr. Hutson commented he would like to see all of the fall-zone on one property. Mr. Crain explained to the Board that the towers are now built to collapse and fall straight down and not to fall over to one side. In response to other questions, Mr. Crain stated the tower could hold two more collocations and the all-weather cabinets are used at the base for maintenance.

Mr. Charney noted the staff recommendations point out the tower will not be visible from abutting residential subdivisions to the north, east and south.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion of Tyndall**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a 250 ft guy wire cellular tower in an AG zoned district, per plan, finding the application complies with the factors in Section 1204.3.E, on the following described property:

COMM SWC SW SE TH E439.95 N820.73 W439.68 S820.36POB SEC 14 17  
14 8.28ACS, A TRC SW SE BEG 439.95W SECR SW SE TH N821.09 W439.68  
S820.73 E439.95 POB SEC 14 17 14 8.29ACS, Tulsa County, State of  
Oklahoma

\* \* \* \* \*

**Case No. 2191**

**Action Requested:**

Special exception to allow dirt removal - Use Unit 24 in an AG zoned district (Section 310), located: 4/8 mile north of the intersection of Highway 11 and N 10<sup>th</sup> East Avenue.

**Presentation:**

**L. B. Christian**, 10822 North Cincinnati, Sperry, Oklahoma, represented Mr. Ashlock. They proposed to mine the dirt without explosives. He stated they would comply with the five-foot setback from the property lines and would protect Hominy Creek. There are no plans to mine on the east side of the creek. A site plan was provided (Exhibit B-1).

**Comments and Questions:**

Mr. Walker asked how many pieces of loading equipment would be on the site and the number of trucks per day. Mr. Christian replied they will have the capability for 100 loads per day but he expects they will mine about 500 loads per month. He stated at the most there will be three pieces of loading equipment on the property per day. He informed the Board the only ingress and egress is on 10<sup>th</sup> Avenue. Mr. Charney asked if the road was County maintained. Mr. Cuthbertson replied that it was listed as a public road and is partially asphalted.

**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, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow dirt removal - Use Unit 24 in an AG zoned district (Section 310), as presented, on the following described property:

E/2 of the SE/4 of the NE/4 and the E/2 of the W/2 of the SE/4 of the NE/4 SEC 13 21 12, Tulsa County, State of Oklahoma

\* \* \* \* \*

**Case No. 2192**

**Action Requested:**

Special Exception to permit a temporary 32 ft x 80 ft manufactured building for church classrooms in an AG-R zoned district, located: 19214 East 91st Street South.

**Presentation:**

**Tim Terrell**, 6737 South 85<sup>th</sup> East Avenue, Tulsa Engineering and Planning Associates, stated they requested a permanent extension to permit the manufactured building. He added that nothing has changed on previous uses or future use.

**Interested Parties:**

**Angie Bellew**, 19212 East 91<sup>st</sup>, stated she lived next to the church to the west. She asked if this application was for a new building. She noticed a 'for sale' sign on the subject property. She mentioned the fencing that needed to be maintained. Mr. Hutson informed her that the application was for the existing manufactured building.

**Comments and Questions:**

Mr. Walker asked if they erected the fence, as directed by the Board in a previous Board Action to the west and south. Mr. Terrell replied there is an existing fence to the west, but not to the south.

**Tom Lawson**, Administrator of the New Heart Fellowship Church, stated there is a privacy fence to the west across the creek and there is not one to the south. He added that he did not remember a fence to the south being required. Mr. Hutson verified the applicant has asked for the extension to facilitate the sale of the property.

Ms. Bellew asked if a fence is required by the code. Mr. Cuthbertson replied that it is not required by the zoning code but was a condition of a previous Board Action. She stated that she has called the applicant several times regarding the fences and did not receive a return call. She indicated that the existing fence was dilapidated.

**Terry West**, County Inspector, stated that if there is a floodplain issue the County prefers that they not create a dam-effect with a fence. The property is much lower to the south and a fence in that location may not be desirable. They would need an engineer to evaluate the property.

Mr. Terrill asked if they remove the manufactured building in six months when they move to another facility if it would resolve the fencing issues. Mr. Cuthbertson reminded them that the condition for the fences was in the original Board Action for the church building not the manufactured building.

The Board noted that previous actions for the church on this property were accompanied by several conditions. It was stated that the case should be continued to permit the applicant an opportunity to ensure that all prior conditions of the church use have been met.

**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 **CONTINUE** Case No. 2192 to the meeting of February 21, 2006, on the following described property:

E317.5 N343 NE NE LESS N60 & E50 THEREOF SEC 24 18 14 1.737ACTulsa County, State of Oklahoma

\* \* \* \* \*

**Case No. 2193**

**Action Requested:**

Variance of the required 30 ft of frontage on a public street for residential use to 0 ft. to permit a 40 acre tract with private access easement, located: 9784 North Memorial Drive East.

**Presentation:**

**Ricky Jones**, 5323 South Lewis Avenue, Tanner Consulting, represented the owner of the subject property. There are two easements existing to access this property. The applicant proposed to build one single-family dwelling. He pointed out the exceptional condition that the property is legally split; it does not meet the zoning code; it has two perpetual easements of access; and there are no other tracts in a square mile with this condition.

**Mr. Charney recused himself from Case No. 2193.**

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion** of **Walker**, the Board voted 4-0-1 (Walker, Tyndall, Dillard, Hutson "aye"; no "nays"; Charney "abstained"; no "absences") to **APPROVE** a **Variance** of the required 30 ft of frontage on a public street for residential use to 0 ft to permit a 40 acre tract with private access easement, with condition that it be restricted to one single-family dwelling only on a total of 40 acres, on the following described property:

NW SE SEC 14 21 13 40AC, Tulsa County, State of Oklahoma

\* \* \* \* \*

**Case No. 2194**

**Action Requested:**

Special Exception to permit an antenna in an AG district; to exceed permitted 65 ft to 250 ft high; Special Exception of design elements for towers, Special Exception of required 110% setback from R and AG districts, located: 400 ft. west of the 1600 Block of McKinley Ave, east of Sand Springs water tank.

**Presentation:**

**Kevin Coutant**, 320 South Boston, represented the Hemphill Corporation and the user of the tower. The subject property is zoned AG, undeveloped, hilly, covered with trees. The subject and surrounding properties are owned by the Sand Springs Home. It is located near the Osage County line. The City of Sand Springs water tower is in the vicinity and the 110%-distance rule is satisfied, with a 336+ ft. distance from the nearest residential district or residence. The proposed tower would be 255' in height with a four-foot lightning rod on top, equaling 259'. It is

self-supporting and collocation would be available. An applicant packet was provided (Exhibit C-1). He stated this tower is for a high-speed internet wireless business. He pointed out there is a lot of terrain causing the need for more coverage. The utility pre-fabricated buildings are at the base of the tower. The ingress and egress is from McKinley/Highway 97. He informed the Board that the FAA has approved this site regarding proximity to the Pogue Airport.

**Comments and Questions:**

Mr. Charney noted all of the factors in Section 1204.3.E. 1 & 2 were covered by the applicant.

**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 **Special Exception** to permit an antenna in an AG district; to exceed permitted 65 ft to 250 ft high; and a **Special Exception** of design elements for towers; finding the factors in Section 1204.3.E are met, and 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; and recognizing the Special exception of required 110% setback from R and AG districts was **WITHDRAWN** by the applicant, on the following described property:

A tract of land lying in Government Lot 2 (NW ¼ of the NE ¼) of Section 2, Township 19 North, Range 11 East, I.B.&M., Tulsa County, State of Oklahoma, being more particularly described by metes and bounds as follows: Commencing at the NE/c of Section 2; thence S 88° 59' 51" W along the N line thereof 1958.25 ft; thence S 01° 00' 09" E 140.26 ft to POB; thence S 43° 18' 38" E 50.00 ft.; thence S 06° 52' 17" E 40.00 ft.; thence S 31° 19' 30" W 40.00 ft.; thence S 87° 42' 01" W 50.00 ft.; thence N 43° 17' 44" W 60.00 ft.; thence N 46° 43' 22" E 100.00 ft to the POB. Containing .18 acres, more or less.

\* \* \* \* \*

**Case No. 2195**

**Action Requested:**

Appeal the determination of an Administrative Official that horses are being raised on the property, located: 1113 West Welowa Road.

**Presentation:**

**Rebecca Chism**, 505 Loop Drive, Sand Springs, Oklahoma, submitted a petition (in support) and photographs (Exhibits D-1 and D-2). She stated that she was accused of raising horses and that she is not raising horses and has never raised horses. She added she has two family pets (horses).

### **Comments and Questions:**

Mr. Hutson asked if she was raising horses to sell. She replied they are not to sell, but are pets like her dog. He noted from a photograph that a neighbor appeared to be raising goats. She responded she did not know them but wanted to show there are other animals in the neighborhood. Ms. Chism added there were other horses and cattle in the area when she moved there. Mr. Charney asked if she has consistently kept horses on the property since the mid-1970's. She replied affirmatively.

### **Interested Parties:**

**Billie Phipps**, 500 Loop Drive, stated she lived at this address for 52 years. She was in support of the application. Ms. Phipps added the horses are well-cared for and do not cause a problem. She had four horses of her own and other animals on her property. She questioned when her property was rezoned to RS because she was not informed.

**Michael Beall**, 521 Loop Drive, Sand Springs, Oklahoma, stated that he objected to the application. When he purchased his property nine years ago it was zoned residential. At that time the horses were contained on Wekiwa Road in a small 75' x 50' back yard. The neighbor to his south let the horses go in his back yard, which the applicant bought later. Mr. Beall stated that he purchased the lot next door to him on Loop Drive and sold it about five years ago. After he sold it the house was torn down and it became a vacant lot. The owners then allowed the horses to graze on the vacant lot. He added that now the horse can come up to his fence line. He complained of odor, flies and an unmarked electric fence. He submitted photographs (Exhibit D-3). He pointed out they are not zoned for horses. Mr. Beall stated that he did not appreciate paying taxes on residential property and having to deal with agricultural problems.

**Kenneth Phipps**, 500 Loop Drive, stated they live in the county not in the city limits and for years animals have been allowed there. He asked when the zoning was changed. Mr. Hutson informed him there is residential zoning in the county.

Mr. Alberty stated that probably September of 1980 was when the zoning was changed in this area.

**Lisa Richards**, 1111 West Wekiwa Road, Sand Springs, Oklahoma, stated she has lived there since 1999 and has never had a problem with these horses. She was in support of the application.

Four letters of support were provided to the Board (Exhibit D-4).

### **Comments and Questions:**

Mr. Hutson asked for the size of the lots Ms. Chism owns. She responded that her original lot is about one acre. She owns Lots 17, 19, and 50' of Lot 20.

**Terry West**, Tulsa County Zoning Officer, stated that having horses is classified under a Use Unit 3 as 'Animal Raising' and is only permitted in an AG district. The property is within an RS district and horses are not a permitted use in RS zoning. Horses are not considered domestic pets.

Mr. Charney noted that evidence supports horses were kept on the property since the 1970's and the zoning was probably changed in 1980. Mr. Walker stated that the nature of this area has been and remains agricultural. He considered it a legal, existing non-conforming use.

**Board Action:**

On **Motion of Charney**, the Board voted 4-1-0 (Walker, Dillard, Hutson, Charney "aye"; Tyndall "nay"; no "abstentions"; no "absences") to **APPROVE** an Appeal of the determination of an Administrative Official that horses are being raised on the property, and determined to allow the horses as a non-conforming use on the following described property only:

LT 17 BLK 4, LT 19 BLK 4, S 50 LT 20 BLK 4 VALLEY VIEW ESTATES, Tulsa County, State of Oklahoma

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There being no further business, the meeting adjourned at 3:17 p.m.

Date approved: 2-21-06



Chair