

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 310
Tuesday, March 21, 2006, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Hutson, Chair	Charney, Vice Chair	Butler	West, Co. Inspector
Dillard, Secretary		Cuthbertson	
Tyndall			
Walker			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, March 15, 2006 at 3:17 p.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Hutson 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, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the Minutes of February 21, 2006 (No. 309).

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NEW APPLICATIONS

Case No. 2199

Action Requested:

Variance of the maximum permitted square footage for an accessory building in an RS district (Section 240.2.E), located: 1372 South 220th Avenue West.

Presentation:

Leo Croley, 1382 South 220th West Avenue, Sand Springs, Oklahoma, proposed to construct a building as an annex to the house for storage purposes. He submitted an application to combine his two lots to comply with the zoning code for the square footage of the building. He provided a petition of support, photographs and a letter of support (Exhibits A-1, A-2 and A-3).

Comments and Questions:

Mr. Walker asked if utilities would be connected to the building. Mr. Croley replied they would only have electricity to the building, no plumbing or gas. He also explained they are building it with a second story for the storage because of the history of the river overflowing the banks. The windows are built high not lower like a house.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a Variance of the maximum permitted square footage for an accessory building in an RS district (Section 240.2.E), subject to a lot combination of the two lots; and not to be used for a dwelling, finding the combination of the lots allows for the square footage of the building, on the following described property:

LT 12 BLK 8CANDLESTICK BEACH, Tulsa County, State of Oklahoma

Case No. 2200

Action Requested:

Special Exception to permit a child care facility (Use Unit 5) in an RS district; and a Variance of the 25 ft. building setback from an abutting R zoned property, located: 4840 West 45th Street South.

Presentation:

Shirley Kent, 4840 West 45th Street, proposed to open a child care facility. The existing accessory building is now used for storage but would be converted to a day care for up to twenty children. She pointed out there is easy access.

Comments and Questions:

Mr. Hutson noted the unanimous support of the neighbors. Mr. Hutson also commented the setback would be in compliance with the zoning code.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVAL** a Special Exception to permit a child care facility (Use Unit 5) in an RS district; and a Variance of the 25 ft. building setback from an abutting R zoned property to the existing 7 ½ ft., finding this is a transitional neighborhood; when it was built it was

in compliance at the time; and the building is not to be expanded any closer to the east property line.

W244.4 LTS 21 & 22 BLK 1, BRIDGES THIRD SUB, Tulsa County, State of Oklahoma

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Case No. 2201

Action Requested:

Special Exception to permit a commercial recreation use (Paint Ball Park - Use Unit 20) in an AG district (Section 310), located: 2701 South Garnett Road.

Presentation:

Herman Miller, 5013 South Lyons Avenue, Broken Arrow, Oklahoma, proposed to build a professional paintball park. He stated it would be five acres on the northwest corner within three years. Mr. Miller expects it to generate a lot of revenue. He stated it would draw many people from out of state. The longest game lasts about seven minutes. The games will be played within the game field with 20 ft. high netting and the netting inside is 12 ft. high. They will not be running around in the surrounding woods. Players will wear jerseys and pants. The paintballs are shot at 270 ft. per second and can go no more than 150 yds. This facility will be more for teams and tournament style. Many of the school systems have teams established. There is parking space available for 353 cars. Most of the business during the week will be by reservation only. He added that Saturday and Sunday are the big days, from 10:00 a.m. to dusk.

Comments and Questions:

Mr. Hutson asked the applicant to show on the site drawing where they can park 350 cars. Mr. Miller identified the areas for parking to the Board. He added that during the big events there may be sixty teams that would play for about six hours. He pays off-duty police officers to secure the grounds. The 25 ft. creek is a boundary, being full of water. There is plenty of staff to ensure the players wear armbands and are identifiable. He also pointed out the heavily treed area will serve as good screening to the residential neighborhood. The actual use area is 540' x 500'. Mr. Miller informed the Board that colleges are offering scholarships for paintball. He added that the average age of the players is 10 years old up to 25 years.

Interested Parties:

Robert Roach, 11453 East 128th Place South, stated he lives in Willow Springs West and some of the neighbors asked him to speak for them. There are twenty-eight properties that abut the subject property. He had twenty-eight signatures on a petition of opposition. He pointed out that the Broken Arrow Long Range Plan is for single-family residential in this area. They did not think this facility would be in harmony with the spirit and intent of the zoning code and that it would be injurious

and otherwise detrimental to the public welfare. The complaints he listed were: a decrease in property value; noise; inadequate access for additional traffic and emergency vehicles.

Dick Davisson, 11435 East 128th Place South, Broken Arrow, Oklahoma, stated to the Board the neighbors just don't want the paintball park there.

Marcella Pense, 11628 East 123rd Place South, Broken Arrow, Oklahoma, expressed concern for the cattle, noise, and devaluation of the land.

Cathy Johnson-McElroy, 12856 South 131st Street, stated there is an existing soccer field and baseball field in the area. She added they can hear them but that is just part of life. She considered this progress and good for the children.

Kim Whiteley, 11445 South 128th East Avenue, stated she lives in the area and has children. She has found she does not have to go far to provide activities for her children.

Jerry Ezell, 12649 South 119th East Avenue, stated he is a member of the church across from the subject property. They are concerned that an influx of people could cause problems of mischief in the area.

Aaron Pearce, 6708 East 91st Street, stated he is a professional paintball player and plays for a living. He informed the Board there are more accidents in golf than paintball playing. He worked at an indoor paintball facility on 71st and for that year and one-half the businesses around it received no damage.

Carol Bueneso, 12818 South 114th East Avenue, responded to Mr. Pearce's statements that the facility on 71st was an indoor facility and the street could handle the extra traffic.

Applicant's Rebuttal:

Mr. Miller responded to comments from interested parties. The waivers are for insurance purposes. There will not be anybody on the back property, as his insurance will not cover that. He added that Garnett is a main street that can handle traffic. It would be a well-manicured park and noise would not be extreme. This is an opportunity for young people to obtain scholarships.

Mr. Walker asked if this would be a permanent use. He stated it would be until the owner decides to develop it differently. He brings in port-a-potties and there would be a concession stand with water, chips and soda.

Numerous exhibits were provided (Exhibits B-1 through B-12).

Mr. Walker noted that according to the City of Broken Arrow, it is not in compliance with their comprehensive plan. Mr. Hutson considered the area to be developing residential. Mr. Dillard stated it appears to be almost entirely residential and noted there was an excessive amount of letters of opposition.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **DENY** a Special Exception to permit a commercial recreation use (Paint Ball Park - Use Unit 20) in an AG district (Section 310) as submitted, finding it is not in compliance with the Broken Arrow Comprehensive Plan; and finding the area is developing residential, on the following described property:

NW SW SEC 5 17 14 40ACS, Tulsa County, State of Oklahoma

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Case No. 2202

Action Requested:

Variance of the land area per dwelling unit to permit a second dwelling on property, located: 2405 West 171st Street South.

Presentation:

James Jones, 1112 West Center Street, Haskell, Oklahoma, proposed to place a double-wide mobile home on the subject property. He planned to use the existing dwelling as rental property. He wanted to keep the property under the same ownership.

Comments and Questions:

Mr. Cuthbertson reminded the Board that the property is 3.955 acres in AG-zoning and the code requires 2.1 acres per dwelling. He also pointed out there is intense commercial zoning to the back of the property.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a Variance of the land area per dwelling unit to permit a second dwelling on property, finding there is CG zoning and PUD surrounding and the small adjoining lots in that area, regarding the following described property:

PRT SW SW SE BEG SWC SW SW SE TH N660 E260 S660 W260 TO POB
SEC 27 17 12 3.939ACS, Tulsa County, State of Oklahoma

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Case No. 2203

Action Requested:

Variance of the maximum permitted square footage for a detached accessory building in an RS district from 750 sq. ft to 1,860 square feet, located: 6915 West 3rd Street South.

Presentation:

Barbara Collins, 6915 West 3rd Street, proposed to build an accessory building, 26' x 30' for yard equipment and personal property. The existing building is a detached garage with double doors. The lot size is 30,000 square feet. There are other such buildings on neighboring properties.

Interested Parties:

There were no interested parties 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 Variance of the maximum permitted square footage for a detached accessory building in an RS district from 750 sq. ft to 1,860 square feet, on condition that the two smaller outbuildings will be removed from the site, finding the size of the property (30,000+ square feet) is significantly larger than the minimum RS requirement 6,900 square feet for the size of the accessory building, finding the applicant would be penalized for having a detached garage, on the following described property:

LT 28 BLK 3 TWIN CITIES, Tulsa County, State of Oklahoma

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Case No. 2204

Action Requested:

Special exception to allow retail sales of farm produce in an AG zoned district Sect 320.1.2; and a Variance of the required hard surface parking to allow gravel parking for customers Sect. 240.3, located: 13031 North 143rd Avenue East.

Presentation:

Anna Katherine Harris, 13031 North 143rd East Avenue, informed the Board that she grows African Violets, annuals, perennials and produce. She submitted a letter (Exhibit D-1). She sells them to customers from her home. Her hobby has grown to the point she sells to customers that don't go into town for the Cherry Street Market. Since she discovered the zoning violation she is seeking a special exception to sell her farm produce. Ms. Harris stated that she does not have a high volume of customers that come to the farm. She mentioned there are some drainage problems when it rains. Therefore, she sought a variance of the all-

weather surface parking. She asked for relief during the April through October season. She uses a construction trailer as a greenhouse for potting and for keeping the African Violets inside.

Comments and Questions:

Mr. Walker asked what she meant by retail sales. Ms. Harris simply meant her produce and plants. Mr. Walker considered this incidental to AG use.

Interested Parties:

Lee Somers, 13815 North 152nd East, Collinsville, Oklahoma, stated he was asked to speak on behalf of some property owners in opposition. He submitted tax records and a letter with signatures (Exhibit D-2 and D-3). He noted she is not a property owner and thought only property owners could seek relief from this Board. He provide a floppy disc of photographs (Exhibit D-4) and informed the Board that the drainage problems, shallow ditches and narrow road would be cause problems for extra traffic. The property owners complained that security cameras on the subject property are pointed toward neighbors' front yards. They also wanted to point out the fertilizer, cells, hay bales, high grass are not in compliance with the zoning code, Section 440.B. These things have not been cleaned up since last year's selling period ending in October nor has it been prepared for the beginning of the selling period in April this year. They asked the application be denied or that the applicant provide an engineering report showing how it could be improved. He pointed out the pond on the subject property and the lower area on 136th Street, which floods when it rains.

Lorenzo Remos, 13030 North 143rd East Avenue, stated he lives directly west of the subject property. He has received numerous complaints from Mr. West with County Inspections, about traffic to his house. He indicated he does not charge for his services to repair cars for neighbors, friends and relatives. He complained that his home has been under 24 hour surveillance by video tape by Ms. Harris since May 2005. He stated if traffic is a problem, then she is asking for the same relief she has complained about.

Wanda Shaffer, 13020 North 143rd East Avenue, stated the applicant has not spoken to her for a year. There are two surveillance cameras pointed at her house and drive also by Ms. Harris.

Applicant's Rebuttal:

Ms. Harris stated her mother owns the property and has given her permission to use the trailer and sell her plants and produce. She agreed there is a drainage problem. The traffic to her place would be minimal. The traffic of towing trucks, trailers for racing bikes, racing cars, and huge steel items on a long trailer is considerably more than any traffic she would have.

Terry West, Tulsa County Zoning Officer, informed the Board that in AG-zoning you can grow the produce but not sell it from the property. It is the same as retail

sales. He gave the history of this case as requested by the Chair. He cited Ms. Harris for selling on site, and stated she has a sign advertised. She had been complaining that her neighbor, Mr. Remos, was running an auto repair shop on his property, and transporting vehicles in and out of his property. So the neighbor asked that Ms. Harris be cited for the same thing, retail sales. It was his opinion from the activity he witnessed and what Mr. Remos told him, that Mr. Remos was running an auto repair business.

Mr. Dillard suggested a continuation to allow the applicant and neighbors to come to some agreement.

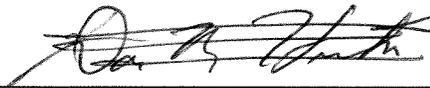
Board Action:

On **MOTION** of **Dillard**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson, "aye"; no "nays"; no "abstentions"; Charney "absent") to **CONTINUE** a Case No. 2204 to the meeting on April 18, 2006 to allow the applicant and neighbors time to resolve their issues, so the Board can make a decision.

N440 E/2 E/2 SE LESS W.16AC THEREOF FOR RD SEC 3322 14 6.500ACS
(TR 1 & 2 PH 1), Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 3:10 p.m.

Date approved:

 4-18-06



Chair