The City of Durant encourages participation form all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

# DURANT BOARD OF ADJUSTMENT

**5:30 PM** | **Roscoe J. Hatfield Council Chambers, 300 West Evergreen, Durant, Oklahoma** | **December 16, 2021**

## AGENDA

**CALL TO ORDER**

**INVOCATION/FLAG SALUTE**

**ROLL CALL**

**ORDER OF BUSINESS**

1. **Consent Items**

   *To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.*

   a. Consider Approval of Regular Meeting Minutes of November 18, 2021

2. **Consider Items Removed from Consent**

3. **Administration**

4. **Public Hearings**

   a. BOA 2021-06 Request by Durant Independent School District (Washington Irving Elementary School) for a variance to §154.041 (C) (1) pertaining to the replacement of a nonconforming sign for property located at 812 W. Locust Street

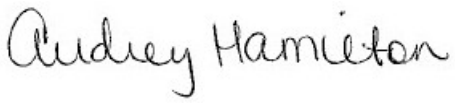
   b. BOA 2021-07 Request by Terry Bowler for a variance to § 157.032 District Regulations pertaining to lot size requirements for property located at 2608 Rodeo Road

5. **New Business**

**ADJOURNMENT**

CERTIFICATE
This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice

of the date, time and place of this meeting was filed with the City Clerk of Durant on the 28th day of October, 2020 and that an agenda of said meeting was posted at the place of such meeting at 09:00 a.m. on the 14h day of December, 2021.



_____

Audrey Hamilton, City of Durant

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 28th day of October, 2020 and that an agenda of said meeting was posted at the place of such meeting at 09:00 a.m. on the 16th day of November, 2021.

Audrey Hamilton

_____

Audrey Hamilton, City of Durant

**MINUTES OF THE MEETING OF DURANT BOARD OF ADJUSTMENT**
**November 18, 2021 AT 5:30 PM, Roscoe J. Hatfield**
**Council Chambers,**
**300 West Evergreen,**
**Durant, Oklahoma**

## CALL TO ORDER

Board of Adjustment Chair Rhynes called the meeting to order at 5:35 p.m.

## INVOCATION/FLAG SALUTE

Board Member Jones provided the invocation. Board Chair Rhynes led the flag salute.

## ROLL CALL

Present:
Board of Adjustment Chairman David Rhynes
Board Member Mike Allen
Board Member Wayne Jones

Absent:
Board of Adjustment Vice Chairman Mike Davis
Board Member Conner Alford

## ORDER OF BUSINESS

### 1. Consent Items

*To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.*

a. Consider Approval of Regular Meeting Minutes of October 28, 2021

Motion was made by Board Member Jones and seconded by Board Member Allen to approve the minutes as presented.

Motion Passed with the following vote:

Ayes: Rhynes, Allen, Jones

Nays: None

Abstain: None

b. Discussion, Consideration and Possible Action on the 2022 Board of Adjustment Regular Meeting Calendar

Danielle O'Neal reviewed with the Board a draft of the 2022 Calendar for Board of Adjustment meetings.

Motion was made by Board Member Allen and seconded by Board Member Jones to approve the 2022 calendar and move the November and December meeting dates to the week before.

Motion Passed with the following vote:

Ayes: Rhynes, Allen, Jones

Nays: None

Abstain: None

**2. Consider Items Removed from Consent**

**3. Administration**

**4. Public Hearings**

a. BOA 2021-05 Request by Durant Independent School District (Durant Middle School) for a variance to §159.14 Tables (A) pertaining to an animated or moving sign/monument sign to be placed within a residential zoned area and §159.14 Tables (B) pertaining to an animated or moving / electronic reader board sign vertical clearance and setback for property located at 802 W Walnut Street

Danielle O'Neal asked the Board to take no action on this item. The applicant has withdrawn their request.

Board Chairman Rhynes called for no action to be taken on the item at this time.

b. BOA 2021-06 Request by Durant Independent School District (Washington Irving Elementary School) for a variance to §159.14 Tables (A) pertaining to animated or moving sign/monument sign to be placed within a residential zoned area and §159.14 Tables (B) pertaining to an animated or moving / electronic reader board sign vertical clearance and setback for property located at 812 W. Locust Street

Danielle O'Neal asked the Board to take no action on this item.

Board Chairman Rhynes called for no action to be taken on the item at this time.

**5. New Business**

There was no new business.

**ADJOURNMENT**

Motion made by Board Member Jones and seconded by Board Member Allen to adjourn the meeting.

# THE CITY OF DURANT
## Office of Community Development

DURANT
· OKLAHOMA ·

Date: 12/16/2021
To: Board of Adjustment
Case: BOA 2021-06
From: Danielle O'Neal, Community Development Director
Re: Request by Durant Independent School District (Washington Irving Elementary School) for a variance to §159.041 (C) (1) pertaining to a nonconforming sign for property located at 812 W. Locust Street

---

**Request:** The Durant Independent School District (Washington Irving Elementary School) is asking for a variance to §159.041 (C) (1) pertaining to a nonconforming sign for property located at 812 W. Locust Street.

**Current Zoning:** R-2, Two-Family Residential

**Surrounding Properties:**

| Direction | Zoning | Use |
|---|---|---|
| North | R-2 | Residential |
| East | R-2 | Residential |
| South | R-2 | Residential |
| West | R-2 | Residential |

**Lot Characteristics**

| | |
|---|---|
| Width | ~300 ft. |
| Depth | ~300 ft. |
| Total Area | ~2.07 acres (90,000 sq. ft.) |

**Background:** The applicant approached staff regarding the desire to place an animated / moving sign at the Washington Irving Elementary School location. There is an existing lighted changeable letter sign that the applicant is wanting to replace the existing sign face to an animated / moving sign.

The existing sign is considered nonconforming; however, a part of the nonconforming ordinance states the replacement of the sign would reduce visual clutter. Since the sign is going to an animated / moving sign, staff could not state that the replacement sign would reduce visual clutter. Therefore, the applicant is requesting a variance so they can replace the existing sign for an animated / moving sign.

Notifications have been made to the surrounding property owners. At the time of this report, staff received a written response opposed to the request and a phone call stating they were for the request. The written response is attached to this report.

**Analysis:** §158.030 of the City of Durant Code of Ordinances states the following with regards to a variance, and should be taken into consideration when making a decision.

*"A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the Zoning Ordinance may be granted, in whole, in part or upon reasonable conditions as provided herein, only upon a finding by the Board of Adjustment that:*

*(A) The application of the ordinance to the particular piece of property would create an unnecessary hardship or result in exceptional practical difficulties;*

*(B) The conditions are peculiar to the particular piece of property involved;*

*(C) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the ordinance or the Comprehensive Plan; and*

*(D) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.*

The following is the ordinance language regarding nonconforming sign:

**§ 159.041 NONCONFORMING SIGNS.**

(A) A legal nonconforming sign is a sign which does not conform to each and every applicable provision of the city's signage regulations, but was:

(1) Lawfully in existence prior to the passage of Ordinance 1345, as adopted on September 10, 2001;

(2) Lawfully in existence and in use in the city prior to and at the time the provisions of the city's signage regulations with which it does not conform became effective: or

(3) Lawfully in existence and in use on property outside the city at the time of annexation of such property to the city.

(B) All legal nonconforming signs, billboards, or commercial advertising structures specifically describing the business or nature of a conforming or legal nonconforming building, structure, or use on the premises may be maintained during the lawful lifetime of the building, structure, or use.

(C) Replacement, alteration, or relocation on same parcel.

(1) Although the resulting sign will not be in conformance in all respects with the provisions of the signage regulations, a sign permit may be issued to allow replacement, alteration, or relocation on the same parcel of a legal nonconforming sign provided that:

(a) The resulting sign is no larger in square footage than the original legal nonconforming sign;

(b) The resulting sign has received design approval from the Director of Community Development; and

(c) The Director of Community Development has determined that the resulting sign will reduce visual clutter or visual blight.

The Future Land Use Map has this area as Low-Density Residential. Current City Code requires schools to be within residential zoned areas.

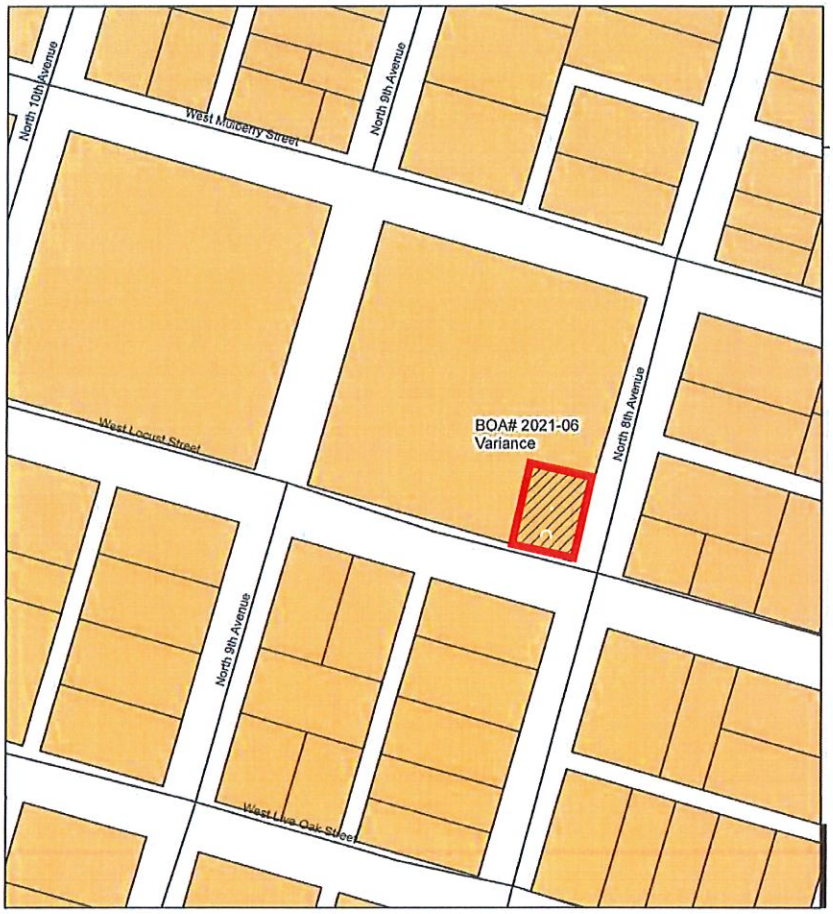
**Staff Recommendation:** Staff does not have a problem with this request; however, staff could not state that the new sign would reduce visual clutter. Additionally, staff recognizes this is an existing sign that is being upgraded.

**Required Action:** Hold a public hearing and approve or deny the variance to allow the replacement of the existing nonconforming sign to an animated / moving sign. Any specific conditions imposed by the Board should be read into the any approval motion.

## Aerial Maps

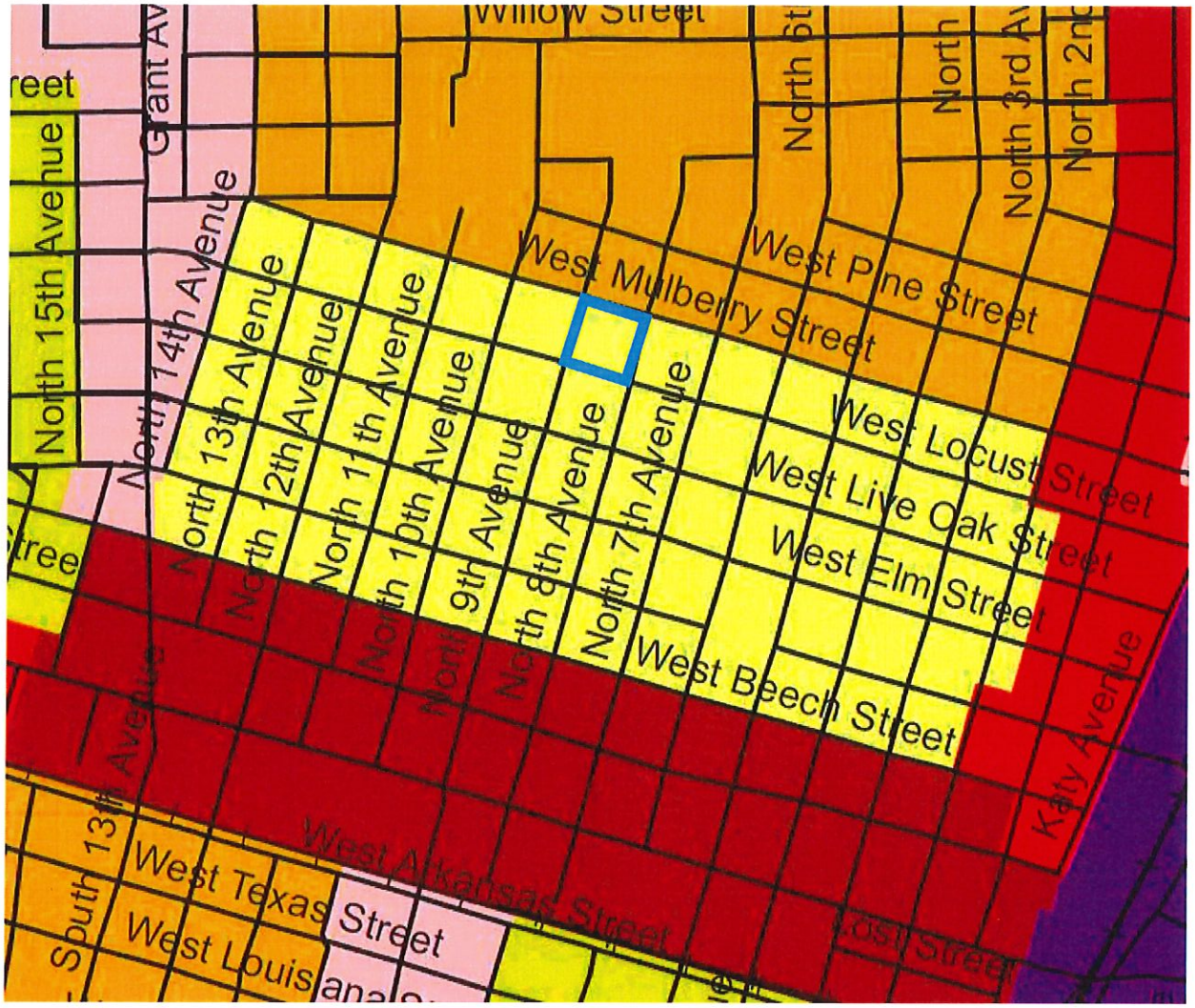
North 10th Avenue
West Mulberry Street
North 9th Avenue
BOA# 2021-06
Variance
West Locust Street
North 9th Avenue
West Live Oak Street

## Zoning Map




- A1 - Agriculture
- C0 - Professional & Business Office
- C1 - Convenient Commercial
- C2 - Highway Commercial
- C3 - General Commercial
- CBD - Central Business District
- H1 - Health Facilities
- I1 - Light Industrial
- I2 - Medium Industrial
- R1 - Single Family Residential
- R2 - Two Family Residential
- R3 - General Residential - Multi-Family

**Future Land Use Map**




**Future Land Use**

- City
- Recreation
- Agriculture
- Hosptial/Health
- CBD
- Industrial
- Commercial
- Mixed Use - Commercial/Industrial
- Mixed Use - Commercial/Residential
- Mixed Residential
- Residential - Low Density
- Residential - Low to Medium Density

# THE CITY OF DURANT
## Office of Community Development
### Board of Adjustment Application

DURANT · OKLAHOMA ·

*Petition #* BOA 2021-06 *Fee $* $300

| | | |
|---|---|---|
| Name: Gary Canada | Gary.canada@durantisd.org | Phone #1 580-924-3805 |
| Mailing Address: 812 West Locust St. | | Phone #2 580-924-1276 |
| City: Durant State: OK Zip: 74701 | | Fax # 580-920-4939 |
| Applicant's Interest in Property: Applying for a variance in order to install a digital marquee at Washington Irving Elementary School. | | |

1. I, the undersigned, request a hearing before the Board of Adjustment, in regard to the following:
   - ☐ Appeal Of The Zoning Administrator's decision/Interpretation
   - ☐ Change From One Nonconforming Use To Another Nonconforming Use
   - X Variance

2. Description of request being made (indicate appropriate section or subsections of the local zoning ordinance, where applicable): Installation of a digital marquee where the current marquee is located on 8th street, between Locust and Mulberry St.

3. Reasons for request (may be attached): In order to do a better job communicating with our students, parents, staff, and stakeholders about what's happening at Washington Irving Elementary School and the Durant Independent School District. We are requesting a variance be approved for the installation of a digital marquee.

4. Legal description (if applicable, may be attached): Attached

5. Is site plan attached (if determined necessary by the administrative official) containing the applicable requirements of the local zoning ordinance?

   Yes X No _____

6. Location of property: 812 West Locust St. Present Zoning:

7. The foregoing information and attachments are true and accurate to the best of my knowledge:

*Applicant (Signature)* Gary Canada *Date* 8/23/21

| | | | |
|---|---|---|---|
| Date Filed<br>Initial | Date Payment Received<br>Initial | Notification Mailed<br>Date<br>Initial | Comments |
| Proof of Publication Received<br>Date Initial | Property Posting Verified<br>Date Initial | | **Comprehensive Plan Recommendations** |

| Staff Recommendation<br>___Approve<br>___Deny | PC Recommendation<br>___Approve<br>___Deny | City Council Action<br>___Approve<br>___Deny | Ordinance # |
|---|---|---|---|

# WARRANTY DEED

No64482

KNOW ALL MEN BY THESE PRESENTS: That L. K. Hughey and wife Maude W. Hughey,

of Bryan County, State of Oklahoma, part ies of the first part, in consideration of the sum of

DOLLARS,

Three Thousand ----------

in hand paid, the receipt of which is hereby acknowledged, ~~and the further consideration of~~ XX

do hereby grant, bargain, sell and convey unto Board of Education; City of Durant, Okla.

of Bryan County, State of Oklahoma, part y of the second part, the following described real property and premises, situate in Bryan County, State of Oklahoma, to-wit:

All of Block # 57 in the City of Durant, Okla.

BRYAN COUNTY, OK COUNTY CLERK

STATE OF OKLAHOMA } SS
BRYAN COUNTY
I hereby certify that the foregoing is a true, correct and full copy of the instrument herewith set out as appears of record in this office this 13 day of Aug 2021
Tammy Reynolds County Clerk
By

together with all improvements thereon and the appurtenances thereunto belonging and warrant the title to the same.

TO HAVE AND TO HOLD said described premises unto the said part of the second part, heirs and assigns forever, ~~free~~, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and ~~in~~cumbrances of whatsoever nature

Signed and delivered this 22 day of September 1919

L. K. Hughey,
Maude W. Hughey,

$3.00 revenue stamp attached,

STATE OF OKLAHOMA, } ss.
Bryan County }

BEFORE ME Fred Lowry,
a Notary Public in and for said County and State, on this 22nd day of September 19 19
personally appeared L. K. Hughey and wife Maude W. Hughey,
to me ~~well~~ known to be the identical person s who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.
(SEAL) Witness my hand and official seal, the day and year above set forth.

My Commission expires Feby, 16th 1922 Fred Lowry, Notary Public.

Filed for record on the 25 day of Sept, 1919, at 3:50 o'clock P. M.

By Emma Mae Trimble Deputy. John Finney County Clerk

(SEAL)

STATE OF OKLAHOMA }
BRYAN COUNTY } SS

I hereby certify that the foregoing is a true, correct and full copy of the instrument herewith set out as appears of record in this office this 13 day of Aug 2021
Tammy Reynolds County Clerk
by

STATE OF OKLAHOMA,
Grady County, ss.

I, W. M. Bandurant, Ex-Officio Clerk of the County Court, in and for the County and State aforesaid, do hereby certify that the instrument hereto attached is a full, true and correct copy of Order Confirming report of Commissioners in the matter therein entitled as the same appears of record in this office.

Witness my hand and the seal of said Court at Chickasha Oklahoma, on this 5th day of July, 1909.

W. M. Bandurant,
Ex-Officio County Court Clerk
(SEAL) Clerk of the County Court.

This instrument was filed for record this July 6, 1909, at 10.20 o'clock a. m.
W. L. Poole,
Record 36 Page 236. Register of Deeds, Bryan County, Okla.

#7517

The following is the resolution passed by the Trustees of the General Assembly of the Presbyterian Church, in the United States, at a call meeting, held March 17th, 1909.

Charlotte, N. C. March 17, 1909.

"The Board met at a call meeting of President, in the office of Mr. Geo. E. Wilson, and was opened with prayer by Rev. A. R. Shaw. Present:-Geo. E. Wilson, A. R. Shaw, D. W. Oates, P. M. Brown, J. H. Wearn, A. G. Brenizer and Jno. R. Pharr.

The purpose of the meeting to confer upon the President and Secretary authority to execute a Deed to the Board of Education, Durant, Okla. for

Lots-1-2-3-4-5-& 6, in Block #58, in the City of Durant, Okla., formerly Durant, Chactaw Nation, Indian Territory, and according to the plot of said City, as approved by the Secretary of Interior.

On motion of Mr. Brown, the following resolution was unanimously adopted:- That the President of this Board be and he is hereby authorized and directed to execute a real estate deed conveying Lots Nos. 1-2-3-4-5 & 6, in the City of Durant, Chactaw Nation, Indian Territory, to the Board of Education of the City of Durant, Okla., and according to the plot of said City, as approved by the Secretary of the Interior for the consideration of $20,000.00. Said Deed to be signed by the President and countersigned by the Secretary and to affix the corporate seal to the said Deed, and to deliver the said Deed. And to do any and every other act necessary to be done to vest the title to the said real estate in the said Board of Education of the City of Durant, Okla.

This deed was read and formerly executed in the presence of the Board."

I John R. Pharr, Secty. & Treas., of the Trustees of the General Assembly of the Presbyterian Church, in the United States, do hereby certify that the foregoing is a true copy of the resolution of the said Board of Trustees, passed March 17, 1909, at a call meeting, as appears by my records.

Witness my hand and official seal, this the 4th day of May, 1909.

(SEAL) Jno. R. Pharr, Sec'y. & Treas.

This instrument was filed for record this July 6, 1909, at 3.30 o'clock p.m.
W. L. Poole,
Record 36 Page 237. Register of Deeds, Bryan County, Okla.

#7520

IN THE DISTRICT COURT WITHIN AND FOR THE COUNTY OF BRYAN,
STATE OF OKLAHOMA.

The First National Bank of Durant,.....Plaintiff

vs

D. O. Nail,.....Defendant.

ORDER APPROVING SHERIFF'S SALE.

now on this 5th day of July, 1909, comes the plaintiff, The First National Bank of Durant, by its attorney, Chas. C. Parker, and moves the court to confirm a sale of real estate made by the sheriff of bryan County State of Oklahoma on the 10th day of June, A. D. 1909 under a writ of execution issued out of the office of the Clerk of the District Court of said County and State, dated the 22nd day of April, 1909: said sale being of the following described property to-wit: all of the right, title and interest of D. O. Nail in and to a one-third undivided interest, subject to the life estate in and to the

W/2 of SE/4 of Sec. three (3), Twp. Five (5) South, Range nine (9) East; Also Lot one (1) and the NE/4 of SE/4 of NE/4; and the N/2 of SW/4 of NE/4 and the SE/4 of SW/4 of NE/4 of Section three (3), Twp. five (5) South and Range nine (9) East. All said property being situated in Bryan Count., State of Oklahoma.
to O. H. Perkins.

and the Court having examined the proceedings of said sheriff, under said writ of execution, finds that the same have been performed in all respects in conformity to law: and no exceptions being filed nor objections made, it is ordered and adjudged by the court, that said sale and the proceedings be, and the same are hereby approved and confirmed, and it further ordered that A. S. Hamilton, Sheriff of Bryan County make and execute to the said purchaser at said

Prepared by:
Michael Campo

The Sign Depot
Durant, OK

(580) 931-9363
info@signdepotdurant.com

18" x 96" Traditional Lighted Sign
w/ LED Internal Illumination

48" x 96" Electronic Message Center
Pitch 10mm - Full Color
w/ Auto Dimming by Sensor
and/or Schedule

Pole w/ 96" x 39" Decorative Skin

Prepared by:
Michael Campo

The Sign Depot
Durant, OK

(580) 931-9363
info@signdepotdurant.com

**PUBLIC COMMENT FORM**

City of Durant
Community Development Department ***(please return by November 10, 2021)***
300 W. Evergreen St.
P.O. Box 578
Durant, OK, 74701

___ I am **FOR** the requested variance as explained on the attached public notice for Petition # BOA2021-06

X I am **AGAINST** the requested variance as explained on the attached public notice for Petition #BOA2021-06

Date, Location & Time of Zoning Board of Adjustment meeting:

Thursday, November 18, 2021, 5:30 pm
Durant City Hall, Council Chambers, 300 W Evergreen Street, Durant OK 74701

Name: Scott Bryant & G. Macy Bryant
*(please print)*

Address: 214 & 218 W Sycamore
Durant OK 74701

Signature: G Macy Bryant

Date: 11/29/2021

**COMMENTS:**

# THE CITY OF DURANT
## Office of Community Development

DURANT
· OKLAHOMA ·

Date: 12/16/2021
To: Board of Adjustment
Case: BOA 2021-07
From: Danielle O'Neal, Community Development Director
Re: Request by Terry Bowler for a variance to §157.032 District Regulations pertaining to lot size requirements for property located at 2608 Rodeo Road

**Request:** Terry Bowler is asking for a variance to §157.032 District Regulations pertaining to lot size requirements for property located at 2608 Rodeo Road.

**Current Zoning:** A-1, General Agriculture

**Surrounding Properties:**

| Direction | Zoning | Use |
|---|---|---|
| North | R-1 | Residential |
| East | R-1 | Residential |
| South | A-1 | Residential |
| West | R-1 | Residential |

**Lot Characteristics**

| | |
|---|---|
| Width | ~200 ft. |
| Depth | ~200 ft. |
| Total Area | ~1.00 acre |

**Background:** The applicant approached staff regarding the desire to place a manufactured home at the above location; however, the current lot size does not meet the current requirements for the zoning type. Current requirements require a lot zoned as A-1, General Agriculture to have a lot size minimum of 5 acres. The lot in question is only 1 acre; therefore, the applicant is requesting a variance to the lot size requirements so he can place a manufactured home on the lot.

Notifications have been made to the surrounding property owners. At the time of this report, staff has not received and letters or phone calls.

**Analysis:** §158.030 of the City of Durant Code of Ordinances states the following with regards to a variance, and should be taken into consideration when making a decision.

*"A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the Zoning Ordinance may be granted, in whole, in part or upon reasonable conditions as provided herein, only upon a finding by the Board of Adjustment that:*

*(A) The application of the ordinance to the particular piece of property would create an unnecessary hardship or result in exceptional practical difficulties;*

*(B) The conditions are peculiar to the particular piece of property involved;*

*(C) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the ordinance or the Comprehensive Plan; and*

*(D) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.*

The following is the ordinance language regarding lot size requirements:

**§ 157.032 DISTRICT REGULATIONS.**

No lot or yard shall be established in any district that does not meet the minimum requirements set forth in the following table. No building or structure shall be erected or enlarged to exceed these regulations, except as elsewhere provided in these regulations.

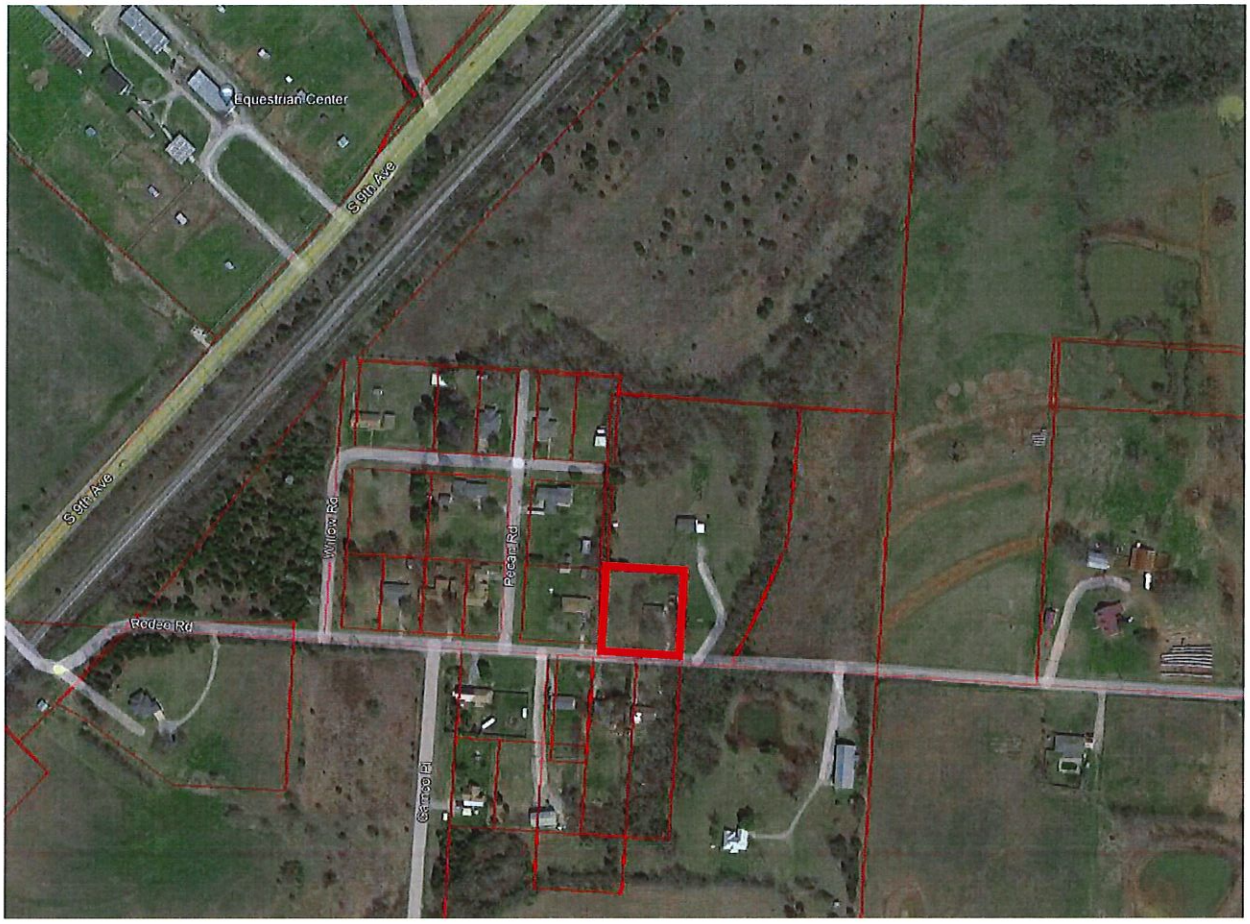
| Zoning Districts | Lot Area Min. | Lot Width at Front Building Line (A) | Building Coverage (%) | Impervious Coverage (%) | Front (B) | Yards Min. Setback Side Interior | | Exterior | Rear | Height Max. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Adj. Res. District | Adj. Non-Res. District | | | |
| A-1 Agriculture | 5 acres | 150' | 30% incl. acc. bldg. | | 50' | 25' | 25' | 25' | 50' | 35' |

The Future Land Use Map has this area as Low-Density Residential. It should be noted that a manufactured home is allowed within the A-1, General Agriculture Zoning District.

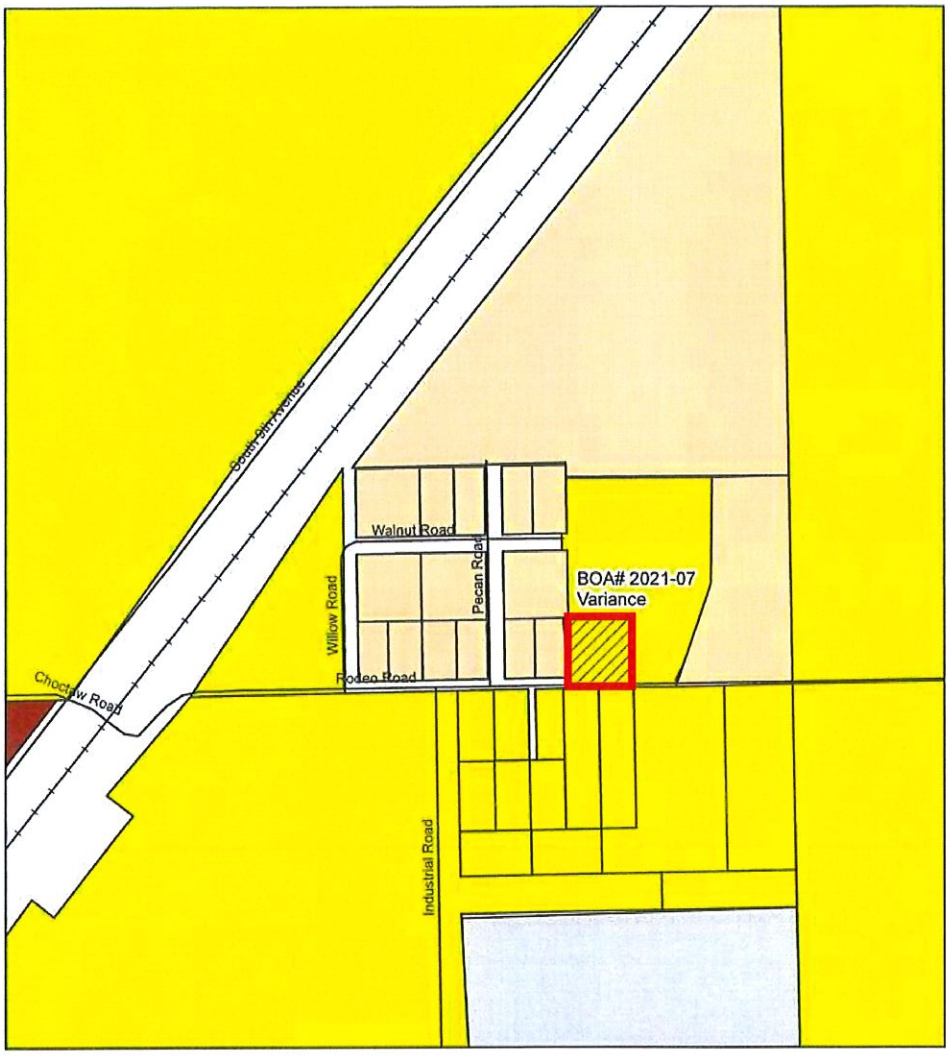
**Staff Recommendation:** Staff does not have a problem with this request; however, staff could not allow a manufactured home on a lot that does not meet current lot size requirements for the zoning district.

**Required Action:** Hold a public hearing and approve or deny the variance to allow a manufactured home to be placed on a one-acre lot. Any specific conditions imposed by the Board should be read into the any approval motion.

## Aerial Maps

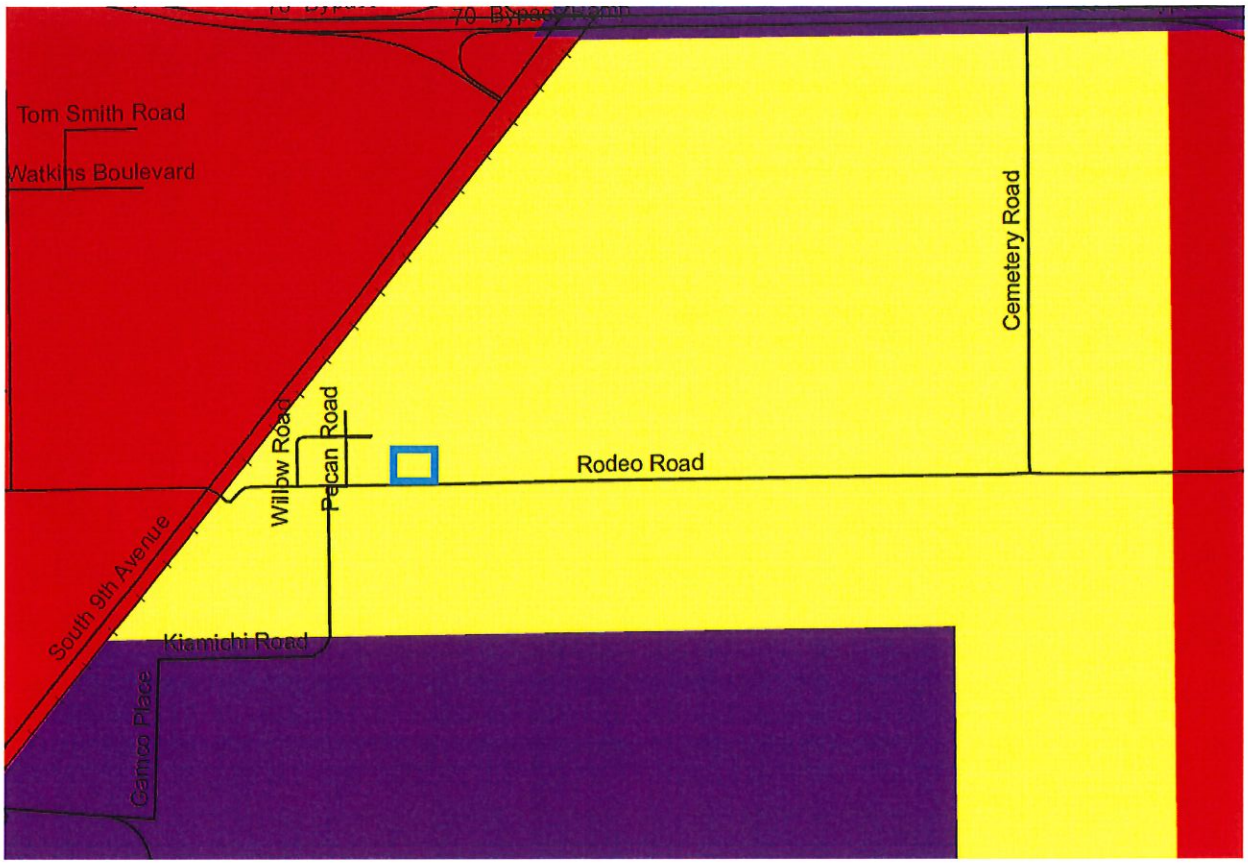

Equestrian Center
S 6th Ave
S 6th Ave
Willow Rd
Pedee Rd
Pedee Rd
Cypress Ln

## Zoning Map




- A1 - Agriculture
- C0 - Professional & Business Office
- C1 - Convenient Commercial
- C2 - Highway Commercial
- C3 - General Commercial
- CBD - Central Business District
- H1 - Health Facilities
- I1 - Light Industrial
- I2 - Medium Industrial
- R1 - Single Family Residential
- R2 - Two Family Residential
- R3 - General Residential - Multi-Family

**Future Land Use Map**




*Location is approximate*

**Future Land Use**

- City
- Recreation
- Agriculture
- Hosptial/Health
- CBD
- Industrial
- Commercial
- Mixed Use - Commercial/Industrial
- Mixed Use - Commercial/Residential
- Mixed Residential
- Residential - Low Density
- Residential - Low to Medium Density

# THE CITY OF DURANT

## Office of Community Development

### Board of Adjustment Application

DURANT · OKLAHOMA ·

Petition # BOA2021-07 Fee $ 300

| | | |
|---|---|---|
| Name: Terry G. Bowler | Email: terry74701@yahoo.com | Phone #1 580-380-2334 |
| Mailing Address: 732 4th Avenue | | Phone #2 580-230-9430 |
| City: Cartwright State: OK Zip: 74731 | | Fax # |
| Applicant's Interest in Property: To reside in a new manufactured home | | |

1. I, the undersigned, request a hearing before the Board of Adjustment, in regard to the following:
   - ☐ Appeal Of The Zoning Administrator's decision/Interpretation
   - ☐ Change From One Nonconforming Use To Another Nonconforming Use
   - ☒ Variance
2. Description of request being made (indicate appropriate section or subsections of the local zoning ordinance, where applicable): To place a mobile home on the lot.
3. Reasons for request (may be attached): current lot is 1 Acre.
4. Legal description (if applicable, may be attached): SEE ATTACHED
5. Is site plan attached (if determined necessary by the administrative official) containing the applicable requirements of the local zoning ordinance?
   Yes _____ No X
6. Location of property: 2608 Rodeo Road Durant, OK 74701 Present Zoning: A-3
7. The foregoing information and attachments are true and accurate to the best of my knowledge:

*Applicant (Signature)* Terry Bowler *Date* 11/5/21

| | | | |
|---|---|---|---|
| Date Filed<br>Initial | Date Payment Received<br>Initial | Notification Mailed<br>Date<br>Initial | Comments |
| Proof of Publication Received<br>Date Initial | Property Posting Verified<br>Date Initial | | **Comprehensive Plan Recommendations** |
| Staff Recommendation<br>___Approve<br>___Deny | PC Recommendation<br>___Approve<br>___Deny | City Council Action<br>___Approve<br>___Deny | Ordinance # |

**WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS:

THAT **Terry Bowler**, a single person, party of the first part, in consideration of the sum of Ten ($10.00) and more Dollars, the receipt of which is hereby acknowledged, do by these presents, grants, bargain, sell and convey unto the **Terry Bowler**, 732 N. 4th Ave., Cartwright, OK 74731, the property herein described, party of the second part, and his grantees and heirs, all of the following described real property and premises, situated in Bryan County, State of Oklahoma, to-wit:

> Beginning at the Southwest Corner of the SE/4 of the SE/4 of the SW/4 of Section 7, Township 7 South, Range 9 East of the Indian Base and Meridian, Bryan County, Oklahoma; Thence East 208.71 feet; Thence North 208.71; Thence West 208.71 feet; Thence South 208.71 feet to the Point of Beginning, according to the Government Survey thereof

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

TO HAVE AND TO HOLD said described premises unto party of the second part, his grantees and heirs, forever, free, clear and discharged of and from all former grants, titles, charges, taxes, judgments, mortgages and other liens and encumbrances of whatsoever nature.

SIGNED AND SEALED this 4 day of November, 2021.

Terry Bowler

STATE OF OKLAHOMA )
) ss. ACKNOWLEDGMENT
COUNTY OF BRYAN )

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this 4 day of November, 2021, personally appeared **Terry Bowler**, a single person, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal on this 4 day of November, 2021.

Notary Public

My Commission expires: 03-28-23

FILED
BRYAN COUNTY, OKLAHOMA
DISTRICT COURT CLERK

DEC 8 2017

DONNA ALEXANDER
COURT CLERK
BY _____ Deputy

IN THE DISTRICT COURT OF BRYAN COUNTY
STATE OF OKLAHOMA

TERRY BOWLER,
Plaintiff,

and

SHELBY O'BRIEN TIDWELL a/k/a
SHELBY TIDWELL and
TINA VAUGHN TIDWELL a/k/a
TINA TIDWELL,
Defendants.

Case No. CV-2017-73

I-2017-700656 Book 1456 Pg: 492
12/20/2017 8:21 am Pg 0492-0492
Fee: $ 13.00 Doc: $ 0.00
Tammy Reynolds - Bryan County Clerk
State of Oklahoma

**ORDER NUNC PRO TUNC**

NOW, on this 8th day of Dec, 2017, the above-captioned cause comes on for hearing on the Motion for Order Nunc Pro Tunc. Plaintiff, Terry Bowler appears through his attorney, Chris D. Jones. The Court finds that the Motion for Order Nunc Pro Tunc is meritorious and should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that all matters of the court filings herein, including the Journal Entry of Judgment, remain in full force and effect except that the description of the real property should be amended to read as follows:

Beginning at the Southwest Corner of the SE/4 of the SE/4 of the SW/4 of Section 7, Township 7 South, Range 9 East of the Indian Base and Meridian, Bryan County, Oklahoma; Thence East 208.71 feet; Thence North 208.71; Thence West 208.71 feet; Thence South 208.71 feet to the Point of Beginning, according to the Government Survey thereof.

COUNTY CLERK
BRYAN COUNTY, OK

IT IS SO ORDERED.

R. Campbell
JUDGE OF THE DISTRICT COURT

Approved:

Chris D. Jones, OBA No. 21247
Jones Law, PC
113 N. 3rd Ave.
Durant, OK 74701
Telephone (580) 924-1444
Facsimile (580) 924-0444
www.joneslawpc.net

I, DONNA ALEXANDER, Court Clerk for Bryan County Okla., hereby certify that the foregoing is a true, correct and complete copy of the instrument herewith set out as appears of record in the Court Clerk's Office at Bryan County, Okla.
This 8th day of December, 2017
DONNA ALEXANDER, Court Clerk
By _____ Deputy

COURT CLERK SEAL BRYAN COUNTY, OK

I-2017-699923 Book 1454 Pg: 85
11/16/2017 2:02 pm Pg 0085-0087
Fee: $ 17.00 Doc: $ 0.00
Tammy Reynolds - Bryan County Clerk
State of Oklahoma

IN THE DISTRICT COURT OF BRYAN COUNTY
STATE OF OKLAHOMA

TERRY BOWLER,
Plaintiff,

and

SHELBY O'BRIEN TIDWELL a/k/a
SHELBY TIDWELL and
TINA VAUGHN TIDWELL a/k/a
TINA TIDWELL,
Defendants.

Case No. CV-2017-73

FILED
BRYAN COUNTY, OKLAHOMA
DISTRICT COURT CLERK
NOV 13 2017
DONNA ALEXANDER
COURT CLERK
BY _____ Deputy

**JOURNAL ENTRY OF JUDGMENT**

**NOW** on this 13th day of November, 2017, Plaintiff, Terry Bowler, appeared by and through his attorney, Chris D. Jones. All Defendants herein appeared not. The Court thereupon examined the pleadings, process and files in this cause, and being fully advised in the premises, finds, orders, adjudges and decrees as follows:

**JUDICIAL DETERMINATION OF TITLE**

1. The Court finds that the Defendants served by summons are as follows, to-wit: Shelby O'Brien Tidwell a/k/a Shelby Tidwell.

2. The Court finds that the Defendants served by publication are as follows, to-wit: Tina Vaughn Tidwell a/k/a Tina Tidwell.

3. The Court finds that the following Defendant entered an appearance herein and disclaimed any and all interest in and to the real property, to-wit: Shelby O'Brien Tidwell a/k/a Shelby Tidwell.

4. The Court finds that the following Defendants executed a Quit Claim Deed conveying the real property to the Plaintiff, to-wit: Shelby O'Brien Tidwell a/k/a Shelby Tidwell and Tina Vaughn Tidwell a/k/a Tina Tidwell.

5. Upon examination of the files and records in this cause of action, the Court finds that the Affidavit for Publication, the Affidavit in Lieu of Mailing and the Publication Notice are all in due form, regular and statutory, and that due and statutory service by publication, as provided by law has been had on each of the Defendants who are named in Paragraph 9 above and each of them as having been served by publication on September 22nd, 29th and October 6th, 2017, and that all of the above named parties are in default, and the Court approves the service and finds that this is a proper case in which to enter judgment.

6. The Court further finds that an inquiry was made by Plaintiffs of all reasonably available sources which were in fact searched and that said inquiry failed to yield the information necessary to establish the whereabouts or mailing addresses of the named Defendants so served by publication; and that Plaintiff and his attorney exercised due diligence to ascertain the names and residences of the Defendants served by publication in the above entitled cause of action by personally checking the primary sources at hand to determine the whereabouts of the Defendants served by publication, and each of them, including the primary sources such as the local tax assessor's records, the local County Treasurer's records, the local probate records, the Abstract of Title on the property herein and other judicial records, as well as all secondary sources available, including, but not limited to, the telephone directories, and the City directories, before they resorted to the use of publication process against those Defendants so served by publication.

7. The Court did, thereupon, conduct a judicial inquiry into the sufficiency of Plaintiff's search to determine the names and whereabouts of the Defendants who were served herein by publication; and, based on the evidence adduced, the Court finds that Plaintiff has exercised due diligence and has conducted a meaningful search of all reasonably available sources at

hand. The Court approves the publication service given herein as meeting both statutory requirements and the minimum standards of state and federal due process.

8. The Court further finds that on the 14th day of September, 2017, Plaintiff filed its Affidavit as to Military Service stating that the Plaintiff and affiant do not posses enough personal information for the named Defendants to determine whether a named Defendant is presently engaged in the military service of the United States, as provided by the Servicemembers Civil Relief Act of 2003 (SCRA). Therefore, the Court finds that if any of said Defendants are in the military service, their rights are not prejudiced in their defense of this action within the meaning of the Act; that the interest of the Defendants will not be prejudiced by a trial, and no bond should be required under said Act.

9. That Plaintiff's attorney Chris D. Jones did claim a statutory attorney fee lien in Paragraph 22 of the Petition in accordance with 5 Okla. Stat. Ann. § 6.

**WHEREUPON**, the Plaintiff's evidence is introduced and Plaintiff rest; after being fully advised in the premises the Court finds that all issues of fact and law generally in favor of Plaintiff and against Defendants and also finds that the allegations of the petition are generally true and correct and that judgment should be rendered and entered in accordance therewith.

**THE COURT THEREFORE: FINDS, ORDERS, ADJUDGES AND DECREES AS FOLLOWS, TO-WIT**:

10. That Plaintiff Terry Bowler is the owner of and in possession of the subject real property legally described as follows:

> Beginning at the Southwest Corner of the SE/4 of the SE/4 of the SW/4 of Section 7, Township 7 South, Range 8 East of the Indian Base and Meridian, Bryan County, Oklahoma; Thence East 208.71 feet; Thence North 208.71; Thence West 208.71 feet; Thence South 208.71 feet to the Point of Beginning, according to the Government Survey thereof. (The Property)

11. That the Plaintiff and the predecessors, in the chain of title have been in the open, hostile, notorious, visible, continuous and exclusive possession of said property for a period exceeding fifteen (15) years and have met all elements required to establish a title by prescription; and all Defendants named herein as claiming some right, title, interest, claim or estate in and to said property are barred from any such right, title, claim, estate or interest in and to said property by reason of the statute of limitations of the State of Oklahoma.

12. That the named Defendants, and each of them named herein, claim some right, title, lien, estate, encumbrance, claim, assessment or interest in and to the real property involved in this cause of action adverse to that of the Plaintiff and each of the named Defendants have no such right, title, lien, estate, encumbrance, claim, assessment or interest in and to the property involved in this cause of action.

13. That hereinafter certain book and page numbers will be referred to, and reference to the same has reference to the records of the office of the County Clerk of Bryan County, State of Oklahoma, unless otherwise designated herein; and records so referred to here are incorporated in these proceedings as though fully copied at length.

14. That Plaintiff Terry Bowler became vested with fee simple and merchantable title in and to the above described property in the following manner, to-wit:

a. The Property was conveyed to Shelby O. Tidwell and Lorena Helen Tidwell by the terms of a Warranty Deed filed August 23, 1994, of record in Book 856 Page 208, Bryan County, Oklahoma.

b. The Property was conveyed to Shelby O'Brien Tidwell by the terms of a Decree of Divorce filed June 5, 1996, of record in Book 881 Pages 805-813, Bryan County, Oklahoma.



I-2017-699923 Book 1454 Pg: 86
11/16/2017 2:02 pm Pg 0085-0087
Fee: $ 17.00 Doc: $ 0.00
Tammy Reynolds - Bryan County Clerk
State of Oklahoma

c. An Affidavit As To Contract filed April 2, 2013, of record in Book 1333, Page 968-973, Bryan County, Oklahoma.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** by the Court that the Defendants as previously named herein, and their spouses, if any, and each of them specifically named herein, have no right, title, lien, estate, encumbrance, claim, assessment or interest in and to the real property involved in this cause of action.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** by the Court that Plaintiff's attorney Chris D. Jones is allowed to claim a statutory attorney fee lien in accordance with 5 Okla. Stat. Ann. § 6.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** by the Court that the title and possession of in and to the real property legally described as follows to-wit:

> Beginning at the Southwest Corner of the SE/4 of the SE/4 of the SW/4 of Section 7, Township 7 South, Range 8 East of the Indian Base and Meridian, Bryan County, Oklahoma; Thence East 208.71 feet; Thence North 208.71; Thence West 208.71 feet; Thence South 208.71 feet to the Point of Beginning, according to the Government Survey thereof.

be, and the entirety of the same is hereby forever settled and quieted to Plaintiff Terry Bowler as against all claims or demands by any of the above named Defendants, except as adjudicated herein, and from those claiming or to claim under them or any of them.

Mark Campbell

JUDGE OF THE DISTRICT COURT

Approved by:

Chris D. Jones OBA No. 21247
Jones Law, PC
113 N. 3rd Ave.
Durant, Oklahoma 74701
Telephone (580) 924-1444
Fax (580) 924-0444
www.joneslawpc.net
Attorney for Plaintiff

I, DONNA ALEXANDER, Court Clerk for Bryan County Okla., hereby certify that the foregoing is a true, correct and complete copy of the instrument herewith set out as appears of record in the Court Clerk's Office at Bryan County, Okla.
This 13 day of Nov, 20 17
DONNA ALEXANDER, Court Clerk
By _____ Deputy

COURT CLERK SEAL BRYAN COUNTY, OKLAHOMA

I-2017-699923 Book 1454 Pg: 87
11/16/2017 2:02 pm Pg 0085-0087
Fee: $ 17.00 Doc: $ 0.00
Tammy Reynolds - Bryan County Clerk
State of Oklahoma