

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 29
Friday, January 21, 1983, 9:00 a.m.
Room 119, Administration Building
500 South Denver Avenue, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT

Alberty
Martin
Tyndall
Walker
Wines

STAFF PRESENT

Compton
Gardner
Jones
Martin

OTHERS PRESENT

Carpenter, Legal
Department
J. Edwards, Building
Inspector

The notice and agenda of said meeting were posted in the Office of the County Clerk on January 20, 1983, at 9:49 a.m., as well as in the Reception Area of the INCOG Offices.

After declaring a quorum present, Chairman Walker called the meeting to order at 9:08 a.m.

MINUTES:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve the minutes of November 19, 1982 (No. 27) and December 17, 1982 (No. 28).

WITHDRAWN CASES:

Case No. 304

It was suggested that this case be withdrawn because Case No. 304 and Case No. 312 are the same application. Commissioner Lewis Harris advised that Case No. 312 was a substitute application for Case No. 304.

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to withdraw Case No. 304 from the agenda.

Case No. 313

Chairman Walker advised that the applicant, Erma Eads, submitted a letter shortly after the application was filed stating that the relief was no longer needed (Exhibit "A-1"). Ms. Eads requested that the Case be withdrawn and that the \$50.00 filing fee be refunded.

On MOTION of WINES and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to withdraw this Case and to refund the \$50.00 filing fee.

Case No. 319

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to withdraw Case No. 319 from the agenda.

UNFINISHED BUSINESS:

Case No. 310

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in Agriculture Districts - Request for a variance of the lot area from 2 acres to 23,580 square feet; and a variance of the lot width requirement from 200' to 90' in order to permit a lot split. This property is located at the NE corner of 143rd West Avenue and Highway #51.

Presentation:

B. Kenneth Cox, Jr., 3526 South Toledo Place, was present representing the owners of the subject property, Carl and Pearl Harp. The application was before the Board on December 17, 1982, but due to some change of the legal description necessitated by the location of the septic tanks, the case was readvertised. The lot split request was approved by the TMAPC, subject to this Board's approval of the variance requested. The subject tract is one lot with two existing houses on the lot owned by a father and son, who intend to split the tract so the properties will be separated.

Protestants: None.

Board Action:

On MOTION of ALBERTY and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 330 - Bulk and Area Requirements in Agriculture District) of the lot area from 2 acres to 23,580 square feet and a variance of the lot width requirement from 200' to 90' in order to permit a lot split (L-15639) on the following described property:

A tract of ground situated in the E/2 of the SW/4 of Section 12, Township 19 North, Range 10 East of the Indian Base and Meridian, in Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof, being more particularly described as follows to wit:

Beginning at a point on the North property line of the Oklahoma State Highway No. 51, said point being 696.57' West and 289.61' South of the NE corner of the SE/4 of the SW/4 of Section 12; thence North 335'; thence West 90'; thence South 185'; thence Southeasterly to a point on the North right-of-way line of Oklahoma Highway No. 51 and 30 feet West of the point of beginning as measured along the North right-of-way of said Highway No. 51; thence North 67°38'06" East along said right-of-way a distance of 30' to the point of beginning.

Case No. 302

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Request to allow a mobile home in an RS District. This property is located at 5625 North Utica Place.

Presentation:

Margaret Kaese, 5629 North Utica Place, was present stating that they presently have one mobile home on the property, which is on a septic

Case No. 302 (continued)

system and are proposing to place another mobile home on the property. The applicant has applied for a second septic system but the percolation test failed the second time.

Protestants: None.

Board Comments:

Mr. Albery advised that the application was previously before the Board and the applicant was advised to return to the Health Department in order to try and resolve the problem. Chairman Walker advised that the Board is required by law to address the sewage issue on any property for possible sewer facility or septic system. Because the land failed to absorb the moisture the Board cannot approve the application at this time.

Board Action:

On MOTION of ALBERTY and SECOND by MARTIN, the Board voted 5-0-0 (Albery, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to deny a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts) to allow a mobile home in an RS District, on the following described property:

Lot 9, Block 1, Carr Addition to the City of Tulsa, Oklahoma.

Case No. 312

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Request for a water theme park, accessory uses will include administration office, snack bar, maintenance building, arcade and gift shop. This property is located at the NW corner of 21st St. and Yale Avenue.

Presentation:

Commissioner Lewis Harris was present and stated that this application is a substitute application for Case No. 304, which was filed by the proposed developer of the water theme park. Commissioner Harris submitted a site plan (Exhibit "B-1").

A group of investors approached the County Commissioners last spring concerning the construction of the water theme park to be located on the southeast corner of the Tulsa County Fairgrounds. A tremendous amount of study, effort, time and research has been put into the design and proposal of the project.

Commissioner Harris advised that there will be no loud music permitted at the park but would request permission to install a paging system. The proposed lighting would be directed inward so as not to adversely affect adjoining residential and business areas. Commissioner Harris felt that a free-standing sign would not be needed in advertising the water park.

The parking issue has been a very serious question and has been seriously considered. The southeast corner of the Fairgrounds has been used for overflow parking or additional parking spaces during the State Fair. To address the loss of that much parking space, the applicant intends to open up the oval of the race track and permit overflow parking to use

Case No. 312 (continued)

the interior of the race track during the 10-day run of the fair. Ray Jordan, County Engineer, has calculated the space available for parking inside the race track, plus two other smaller tracts to the north side of the Fairgrounds. They feel the replacement for the lost parking spaces will more than accommodate the changes of planning and parking during the Fair.

The noisiest ride, the Rampage, is proposed for the water park and will be kept away from the adjacent main arterial streets (21st and Yale), being placed back into the interior plot and all requirements for building setback lines have been accommodated for by this design. Commissioner Harris then addressed the issue of days and hours of operation. He requested that the Board restrict the closing to no later than 11:00 p.m. This use would be primarily a summertime operation and would be open roughly 100 days. He requested that the concession stand, gift shop,.. should remain open all year long because those activities are enclosed.

Ray Jordan, County Engineer, was present and presented a basic layout of the proposed plot and advised that amendments need to be made by moving some of the buildings and activities 15 feet north. Mr. Jordan also presented a layout showing the calculated acreage necessary to replace the parking. The oval of the race track contains approximately 13.69 acres, 1.96 acres outside the race track, and 2.72 acres north of the race track can all be utilized for parking purposes for the water theme park. Also an acre of land by the naval reserve building will be added to the paved parking area. The parking spaces which would be lost for the operation of the park would be approximately 12.7 acres, but that space which could be used for parking would be in excess of 18 acres.

Protestants:

Louise McKay, 1752 South Fulton Avenue, was present representing the Wedgewood Homeowner's Association and submitted a protest petition containing approximately 962 signatures (Exhibit "B-2"). The signatures were obtained from property owners north, south, east and west of the Tulsa County Fairgrounds. Ms. McKay advised that Yale Avenue and 21st Street have the highest traffic count in Tulsa and if the proposed use were approved, traffic congestion would only increase. The proposed parking on the Fairgrounds would also present a problem as approximately 1,500 parking spaces would be lost in developing the 12 acres for the water theme park even though additional parking will be provided for. There would also be a need for security on the Fairgrounds if the use were approved. Ms. McKay expressed a concern with the loud noise, and possible burglary and vandalism which would severely affect the surrounding neighborhood.

The present sanitary sewer system on the Fairgrounds is overtaxed and sewage backup during the Fair has been in existence in the past. The system can't allow for an additional load that a restaurant would impose. She suggested that the sewer lines need to be replaced or updated. Ms. McKay advised that she was informed that there are mines under the subject property and inquired to the depth and their location. Ms. McKay advised that she had done extensive research on the proposed use by phoning other similar operations and strongly urged the Board to deny the application.

Case No. 312 (continued)

Eugene Colleoni, District #4 Chairman to the Greater Council, was present expressing his gratitude to the County Commission for informing the public by newspaper that the case would be heard by this Board today. Mr. Colleoni expressed a strong concern with the parking which will be provided and the projected traffic congestion and hazard. Mr. Colleoni addressed the closing hour of operation and felt that the water theme park should not remain open later than 10:00 p.m. He also addressed other issues such as noise level, security, and water to be used for this operation. The lighting should not be erected high and should be directed inward. A sign, as was stated earlier, would not be needed.

Prior Price, a businessman in Mayo Meadow Shopping Center, was present expressing a tremendous concern with the proposed parking. He also felt that private businesses should not be permitted in the Fairgrounds as they will take away from surrounding shopping areas and businesses.

Jack Green, 2841 East 21st Place, was present commending Ms. Louise McKay on her presentation and reiterated some of the various aspects which she discussed. Mr. Green expressed a strong concern with the parking and the security which would be required to control the parking. He also advised that the neighborhood would be adversely affected by the noise, not only made by the operation of machines but also by vocal projections.

A woman in the audience expressed a concern with the water pressure stating that the water pressure in the summertime is very low in the residential area surrounding the Fairgrounds. Additional restroom facilities and a restaurant will further affect the water pressure.

Applicant's Rebuttal:

Commissioner Harris addressed the question of the mines mentioned earlier and advised that there were coal mines years ago in the subject area. A couple of shafts were located to the north and were from 40' to 60' deep and are now filled with water. The engineers associated with the proposed use have not expressed any building concern. Commissioner Harris then advised that he had received a letter from the City of Tulsa Water and Sewer Department stating that they have no problem with the fill of the water system as the water will be recycled.

The Board was assured that the water theme park would not be in operation at the same time as the State Fair as the traffic and parking would be entirely too congested. Ray Jordan addressed the noise level issue.

Comments:

Chairman Walker stated that he would like to see some information concerning the amount of parking to be provided. He also suggested that a decibel range be established concerning the noise level which could be monitored and felt that it should be made a condition if the application is approved.

Mr. Albery inquired as to a specific number of parking spaces which would be required for the use and was concerned that adequate parking would be provided. Mr. Gardner advised that a study has not been made, but he was familiar with the parking in the area. He then stated that

Case No. 312 (continued)

he felt that there would be more than adequate parking for the proposed use provided that the State Fair and the water theme park are not in operation at the same time.

Chairman Walker suggested that the following conditions or restrictions be addressed in the approval of the application:

1. Loud speakers should be limited for the purpose of internal paging and should not be used for the purpose of playing music.
2. That the lighting be directed inward so as not to adversely affect adjoining residential areas.
3. That a free standing sign be prohibited and no flashing lights be permitted which would be visible from the residential area.
4. That the applicant furnish specific figures concerning the parking displacement issue, contingent upon a plan for the use of the interior of the race track and the two other specific areas outside the track which were offered.
5. That the loudest activities, including the Rampage, should be relocated on the plot plan to the north and west to be the furthest away from the nearest residential area. It was also suggested to shift the plot plan northward 15' to allow for the proper building setbacks from 21st Street.
6. Specific hours of operation.
7. Limit the use to 100 days of operation.
8. That the water theme park should not be in operation during the Tulsa State Fair (would permit indoor games but no outdoor rides).
9. Noise level readings should be established for the park and a maximum noise level be adhered to.
10. Free parking shall be provided for users of the park.

Mr. Alberty suggested that the case be approved as submitted and that the above enumerated items be conditions or restrictions on the approval and that there be security provided on the subject property. Mr. Martin then stated that the Board had not been supplied with adequate information and specific figures to place definite conditions and restrictions. David Carpenter, County Legal Counsel, suggested that the Board approve the application, subject to the applicant returning to the Board with a list of proposed conditions for the operation. The Board could then review those conditions and act on the specific restrictions.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve the Special Exception (Section 310 - Principal Uses Permitted in the Agriculture District) for a water theme park, and accessory uses to include administration office, snack bar, maintenance building, arcade and gift shop, subject to the applicant

Case No. 312 (continued)

returning to the Board and furnishing a list of specific conditions and restrictions, as per those recommendations enumerated above, and a revised site plan, which depicts all of the proposed construction changes, and depicts an area to be designated and enumerated for off-street parking for the park, on the following described property:

The South 900' of the East 1,000' of the SE/4 of Section 9, Township 19 North, Range 13 East, in the City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS:

Case No. 314

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Request for off-street parking for church use. This property is located at the SE corner of 15th Street and 81st West Avenue.

Presentation:

Lillian Lindsey, 113 South 42nd West Avenue, the minister of Harvest Time Assembly, was present requesting permission to use the subject property for parking for the Church. The Church purchased the adjoining property for future expansion and now intends to utilize that land for parking. The parking area is a gravel lot and has screening.

Protestants: None.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts) for off-street parking for Church use, on the following described property:

The North 15 feet of Lot 11, Block 7, Billington Acre Tracts, Tulsa County, State of Oklahoma.

Case No. 315

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Request to allow a mobile home in an RS District. This property is located at the SE corner of 140th Street North and 11th East Avenue.

Presentation:

Wayne Ferguson, 14007 North 115th East Avenue, Collinsville, Oklahoma, was present requesting permission to place a mobile home on the subject property. A septic system is already existing on the property.

Protestants:

Richard Perrier, 13889 North 115th East Avenue, was present and submitted a protest petition signed by six (6) property owners in the surrounding area (Exhibit "C-1"). Mr. Perrier advised that the subject area is a

Case No. 315 (continued)

very historical area and there is only one mobile home in the area that was placed there years ago. If the mobile home in question is approved, it will decrease property values because most of the homes are fairly new.

Oliver Lindell, 11505 East 139th Street North, was present expressing a concern for his children as the traffic will increase.

Comments and Questions:

Mr. Walker asked if there were any other mobile homes in the area and Mr. Ferguson answered in the affirmative and described their locations. Mr. Ferguson advised that the mobile home will be for his elderly mother and traffic will not be increased.

Mr. Martin expressed a concern about placing the mobile home in a residential area and felt that it would change the character of the neighborhood.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to deny a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts) to allow a mobile home in an RS District, on the following described property:

Lot 6, Block 21, Highland Park Addition to the City of Collinsville, Tulsa County, Oklahoma.

Case No. 316

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Request to allow two dwellings located south and east of 166th Street North and Memorial Drive.

Presentation:

Frank Vandiver, Rt. 1, Box 601-B, Collinsville, Oklahoma, was present stating that he intends to place two mobile homes on the 5-acre subject tract. The applicant will reside in one mobile home and his elderly parents will reside in the second one.

Protestants: None.

Comments:

The Board asked if there are other mobile homes in the area and Mr. Vandiver answered in the affirmative.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record) to allow two dwellings, subject to approval of Tulsa City-County Health Department and subject to the issuance of a building permit, on the following described property:

Case No. 316 (continued)

The W/2 of the NE/4 of the NW/4 of the NW/4 of Section 13, Township 22 North, Range 13 East of the I. B. & M., Tulsa County, Oklahoma.

Case No. 317

Action Requested:

Variance - Section 208 - One Single-Family Residence Per Lot of Record - Request to allow two dwelling units on one lot of record; and a Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Request to allow a mobile home in an RS District located at 4345 West 59th Street.

Presentation:

Ken Ackley, 4345 West 59th Street, was present stating that he owns 2.6 acres with a house located at the front on 59th Street and proposes to place a mobile home on the back of the lot. The mobile home will be used for rental purposes. There are other mobile homes in the immediate area.

Protestants: None.

Board Comments:

Chairman Walker read a letter from Leonard Kragel, 4337 West 59th Street, requesting that the application be granted (Exhibit "D-1").

Board Action:

On MOTION of ALBERTY and SECOND by TYNDALL, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 208 - One Single-Family Residence Per Lot of Record); and a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts), subject to Tulsa City-County Health Department, and, subject to the issuance of a building permit, on the following described property:

A certain tract of land lying and being in the SE/4 of the SW/4 of Section 33, Township 19 North, Range 12 East, Tulsa County, Oklahoma, beginning at a point on the North line of the SE/4 of the SW/4, which point is 3,670' West of the NE corner of the SE/4 of the SE/4 of Section 33, Township 19 North, Range 12 East; thence due West 199.9'; thence due South 568.5'; thence parallel to the North line and due East 199.9'; thence parallel to the West line and due North 568.5' to the point of beginning.

Case No. 318

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Request to locate a mobile home in an RS District; and a Variance - Section 430 - Bulk and Area Requirements in the Residential Districts - Request for a variance to permit 12' of frontage and with 7,600 square feet of lot area to permit a lot split approved by the TMAPC. This property is located at 7103 North Peoria Avenue.

Presentation:

Ronald Reynolds, 1351 East 61st Street, Apt. 18-G, was present requesting permission to place a mobile home on the subject property for his

Case No. 318 (continued)

elderly father to reside. There is an existing house on the property which Mr. Reynolds intends to refurbish for himself and the mobile home would be placed on the subject property for Mr. Reynolds to care for his father.

Protestants: None.

Comments:

Mr. Martin asked if there are other mobile homes in the area and Mr. Reynolds advised that there are approximately 12 in the surrounding area.

Mr. Gardner advised that the Planning Commission approved the lot split on the property. A condition of approval should be that the property cannot be used for business purposes based on the individual two lots. The applicant would have to go back and assemble the land into one piece of property if it would be used for commercial purposes in the future.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts) to locate a mobile home in an RS District; and a Variance (Section 430 - Bulk and Area Requirements in the Residential Districts) to permit 12' of frontage and with 7,600 square feet of lot area to permit a lot split (L-15667), to condition the approval of this use and should the zoning change to permit a commercial use, the properties would have to be combined back into one piece of property, subject to the issuance of a building permit, and approval of the Tulsa City-County Health Department, on the following described property:

The South 80' of the East 190' of Lot 6, Block 7, Golden Hill Addition, Tulsa County, Oklahoma.

Case No. 320

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Request to allow a travel trailer in an AG District; and a Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Request to allow more than one dwelling per lot of record. This property is located at 11402 South 193rd East Avenue.

Presentation:

The Staff advised that the applicant was unable to be present for the meeting due to inclement weather conditions and requested that the case be continued. Mr. Martin read a letter from the Broken Arrow Board of Adjustment stating that their Board voted 2-2-0 to recommend denial of the application (Exhibit "E-1").

Protestants:

Naomi Medlock, Rt. 2, Box 135, Broken Arrow, Oklahoma, was present and submitted a protest petition signed by approximately 21 property owners in the subject area (Exhibit "E-2"). Ms. Medlock advised that this

Case No. 320 (continued)

Board previously approved one mobile home to be placed on the subject tract. A travel trailer has been moved on the 4-acre subject tract behind the presently existing mobile home. Ms. Medlock submitted a photograph depicting the two mobile homes (Exhibit "E-3"). The first mobile home has a septic system and 200' of lateral lines and the new mobile home is to be selfcontained. She felt that if the second mobile home is approved it will decrease property values in the surrounding area and will make the homes in the area undesirable.

Discussion:

Discussion ensued as if the application should be acted upon since the applicant was unable to be present. The first application was approved because the applicant could have filed a lot split and would not need this Board's approval to place the second mobile home on the other tract; however, 3 units on this same piece of property is not consistent with the area. The Board decided to act on the case and felt that the applicant should not be granted the continuance because all other applicants and protestants were present for their cases.

Board Action:

On MOTION of TYNDALL and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to deny a Special Exception (Section 310 - Principal Uses Permitted in the Agriculture District) to allow a travel trailer in an AG District; and a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record) to allow more than one dwelling per lot of record, on the following described property:

The East 563' of the South 325' of the NE/4 of the NE/4, Section 36, Township 18 North, Range 14 East, LESS the North 25' for road, Tulsa County, Oklahoma.

The Board directed the Building Inspector to inspect the subject property to assure that the applicant adheres to the Board's decision.

Case No. 321

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record- Request to locate five dwelling units on one lot of record. This property is located at 250 East 130th Street North.

Presentation:

Herbert Murphy, 250 East 130th Street North, Rt. 2, Skiatook, Oklahoma, was present requesting permission to place five (5) mobile homes on the ten-acre subject tract. Mr. Murphy advised that he had talked to some of the property owners in the area and they had no objection to the proposal. The applicant also advised that there are other mobile homes in the area.

Protestant:

Jerry McCoy, Rt. 1, Box 574, Sperry, Oklahoma, was present stating that he owns property across the street from the subject property and does not support the application. A septic system or sewage system could not adequately serve the five mobile homes as requested. If the mobile

Case No. 321 (continued)

homes are approved it would be considered a commercial area because it would be a mobile home park.

Board Comments and Questions:

Mr. Martin inquired about the number of mobile homes as requested and Mr. Murphy advised the subject property is owned by himself, his brother, and his father and the mobile homes will be a family thing.

Chairman Walker read a letter from Tulsa City-County Health Department, which states that the best method to serve the subject property's sewage disposal needs is to build one total retention sewage lagoon, because the soil does not pass percolation tests and would not be suitable for septic tanks and lateral lines (Exhibit "F-1"). The Board decided that the proper request would be that the applicant split the property into four lots and provide a septic system for each piece of property. The Board expressed a real concern with the number of mobile homes and the proposed sewage system to serve the property.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to deny a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record) to locate five (5) dwelling units on one lot of record, on the following described property:

The SE/4 of the NW/4 of the SW/4 of Section 36, Township 22 North, Range 12 East, Tulsa County, Oklahoma.

Case No. 323

Action Requested:

Variance - Section 410 - Principal Uses Permitted in the Residential District - Request for an appeal from a decision of the Building Inspector to allow a nonconforming use (dog kennel) in an RS District. This property is located at 5729 West 22nd Street.

Presentation:

Jim Lawrence, 1606 First National Bank Building, attorney representing the Handleys was present and advised that the dog kennel is a prior nonconforming use. The kennel was purchased in January 1982, by the Handleys and at that time the operation of a kennel was in effect. The structure in question was erected in 1978, and has been used as a breeding and boarding kennel since that time by the prior owners, the Dunns. Mr. Lawrence advised that if the use is not nonconforming it is an agricultural use under the Statutes of the State of Oklahoma and as such, is outside the power of this Board or the County to regulate. Mr. Lawrence advised that the prior owners did use the property for breeding of dogs and operated it as a kennel.

Protestants:

Attorney Frank Zeigler, 2117 South 59th West Avenue, was present to address the issue of nonconforming use of the subject property. Mr. Zeigler advised that at the previous hearing the protestants had advised that there was no dog training academy being conducted by the previous owners of the subject property, however, the existence of some dogs on that property was admitted by the protestants. The amount and intensity of dogs by the prior owner is questioned. There are presently

Case No. 323 (continued)

25 dobermans on the property and an obedience school is also being conducted. According to previous testimony, the Handleys have built additional kennels, modified and made improvements to the subject property. The protestants feel that the use had been intensified and felt it would be offensive to the neighborhood if it were granted.

Carolyn Hensley, 5719 West 22nd Street, was present stating that she owned the property in 1977, when the property was sold to the Dunns at which time there was not a kennel. Ms. Hensley felt that the Dunn's did not have a building permit to erect the buildings for the dogs. She advised that the Dunn's did not breed their dogs at this location.

Board Comments:

Mr. Alberty advised at the previous meeting the Board suggested that the case be continued to allow the applicant time to provide the Board evidence that the kennel was a nonconforming use. No information has been submitted to the Board which proves that the use is nonconforming. The Board did not feel that they should allow the use to continue in this residential area as it is not compatible with the neighborhood.

Board Action:

On MOTION of ALBERTY and SECOND by TYNDALL, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to uphold the Building Inspector and to deny (Section 410 - Principal Uses Permitted in the Residential District) the appeal from the decision of the Building Inspector to permit a dog kennel in an RS District, and to allow the applicant 120 days in which to dispense with the present operation, on the following described property:

That part of Lots 9 & 10, Block 1, Second West Tulsa View Acres, beginning at the SE corner of Lot 10; thence due North and a distance of 221' to the NE corner of Lot 9; thence due West a distance of 97' & 9" to a point; thence due South a distance of 221' to a point; thence due East a distance of 97' & 9" to the point of beginning, and being located in an RS Zoned District; City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS:

Case No. 262

Consider approval of final plat for Case #262.

Presentation:

Jack Finley, 3336 East 32nd Street, was present and presented the Board with a copy of the final plat. Mr. Finley advised that the application was previously before the Board and was approved, subject to the applicant returning with the final plat for the Board's review. The Board also suggested that the applicant check with P.S.O. concerning the 150' utility easement. The owner of the subject property is seeking permission to allow mobile homes in this RS zoned area and the plat has been changed from 166 units to 165 units and one overflow lot. Mr. Finley advised that he received a letter from P.S.O. that a covenant should be placed in the abstract which would modify the concern of the building over that easement. The covenants have been changed accordingly to

Case No. 262 (continued)

reflect that Lot 30, Block 2 has been dedicated as a waste water treatment easement.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 4-0-1 (Alberty, Martin, Tyndall, Walker, "aye"; no "nays"; Wines, "abstaining"; none, "absent") to approve the final plat, subject to the P.S.O. letter being recorded in the abstract, and that the applicant submit a copy of the final covenants to this Board.

Case No. 303

Consider approval of proof of existence before 1980.

Presentation:

Ricky Jones advised that the applicant has presented the Staff sufficient evidence that Fletcher Foundry has been in existence since 1975 (Exhibit "G-1"), and would be considered a legal nonconforming use.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve the application based upon the evidence submitted proving that the business was in operation in 1975, and is a legal nonconforming use.

There being no further business the meeting was adjourned at 12:55 p.m.

Date Approved _____

Feb 18, 1983

Roland L. Walker
Chairman