

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 40
Friday, November 18, 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
Wiles

OTHERS PRESENT

J. Edwards, Building Inspector

The notice and agenda of said meeting were posted in the Office of the County Clerk on Tuesday, November 15, 1983, at 11:15 a.m., as well as in the Reception Area of the INCOG offices.

MINUTES:

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 approve the Minutes of the October 21, 1983, meeting (No. 39).

UNFINISHED BUSINESS:

Case No. 388

Action Requested:

Variance - Section 1420 (a) - Nonconforming Use of Buildings or Buildings and Land in Combination - Use Unit 1223 - Request for a variance to expand a nonconforming use in an RE zoned District under the provisions of Section 1670, located South of the SW corner of 76th Street North and 117th East Avenue.

Presentation:

Water Products of Oklahoma was represented by its President, Roy Fickle, 105 West 9th Street, Owasso, Oklahoma. He informed that they are trying to buy or lease a right-of-way across the property to the west of them which will give them access, so they will not have to use 117th East Avenue. They would like this case continued until the next meeting so they can finalize their transaction, and then they would like to come back before the Board to ask for permission to expand their building. He informed that they ran a survey about the traffic that came to their property in a weeks time and they found that there were seven semi-trucks and 155 pickup trucks and cars that came--this number included the traffic which their employees generated. They are now planning to expand their building in the opposite direction from their original plans.

Protestants: None.

Board Action:

On MOTION of WALKER and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to continue Case No. 388 to the December 16, 1983, meeting.

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request for an exception to permit a Church in an RE zoned district under the provisions of Section 1680, located 1/4 mile South of the SE corner of 76th Street North and 117th East Avenue.

Presentation:

Robert L. Hobbs, 6535 East 76th Street North, represented the United Pentecostal Church of Owasso. He informed he was able to be heard by the Owasso Board of Adjustment, but they still voted to oppose the application. The Church would still like the Board to grant their request so they can build a church building on the subject property. He informed that it is apparent that the people in the neighborhood are not objecting to a church on the lot, but are objecting to this Church. He presented some pictures of the subject property and described the surrounding area. There are a lot of nonresidential uses in the surrounding area. Mr. Hobbs feels that they will have very little effect on the traffic in the area. He informed that 117th Street is only from 18 inches to 2 feet narrower than some of the other streets in Owasso. He wanted the Board to take into consideration that the Church members are also Tulsa County tax payers and he feels that they should have the right to use the street. He feels that they would be traveling on the street when many other people would not be using it. He informed they have already bought the property and they would like the requested permission granted. He presented his plans to the Board.

Protestants:

Charles Hodges, 1643 North College Avenue, informed that he is the future property owner of the property to the east of the subject property. His father owns the property right now. He is concerned with water drainage problems that have occurred on the subject property in the past. If the Church is approved, he would like a proper runoff system put into the Church layout.

Ronald Young, 7272 North 117th East Avenue, lives directly across the street from the subject property. He informed that everyone within three hundred feet of the subject property wants to keep the area as residential as is possible. They are concerned that their traffic problem will be increased. Mr. Walker asked the applicant what his feelings were about the Water Company that is on 117th Street, and he informed that he was not really involved in the traffic problems that his business caused, because the traffic for that business goes north of him.

Applicant's Rebuttal:

Mr. Hobbs submitted a petition from the Church members asking that their request be granted (Exhibit "B-4").

The sectional president of the United Pentecostal Church informed that they do not want to cause a scene. He informed that it is traditional in the United States to build church buildings in residential neighborhoods. They do not want to have any problems with residents in the area, and he feels that the drainage problem could

Case No. 296 (continued)

be worked out. He does not feel that there is a valid argument in the case of a traffic problem--he does not feel that they will add that much more traffic. They would like to work with the people who live in the area. He feels that they would add to the community, not take away from it.

Comments:

Mr. Alberty informed that the Board had received a letter (Exhibit "B-1") from the Owasso Board of Adjustment before the previous meeting which stated that they recommended denial of this application. The applicant was not present at this meeting to state his case. He informed that the case was continued from the October meeting to allow the applicant to be heard by the Owasso Board of Adjustment. Mr. Alberty informed that a petition signed by people of the area who oppose this application was resubmitted (Exhibit "B-2").

Mr. Jones informed that the Owasso Board of Adjustment voted 3-0-1 to deny the applicant's request at a second hearing. A letter will be submitted (Exhibit "B-3").

Mr. Alberty informed that Church and other community-serving uses are uses that are considered uses that may be found appropriate in residential settings. The Board has the charge and the responsibility to determine if this case is a compatible land use with the existing area. He is concerned about a use that would allow at certain times increased traffic on a street that was not intended for that use. He informed that most of the other nonresidential uses in the area do have direct access to one of the arterial street systems which is designed to carry more traffic.

Mr. Martin finds it difficult to not be responsive to the local situation. One of the responsibilities of the Board is to listen to the people who are closest to the subject property and make decisions partly based on their feelings. He feels that the Board has to be concerned with the question of the community and what they have said concerning the application. He feels that he would have to vote against this application.

Mr. Walker informed the Board wants to be responsible to the local Board of Adjustment and their local action, but he feels that this Board might help make some decisions that might politically be moved just because of the volume of people that show up on a local basis. He feels that the complaints of the local residents could be satisfied by certain actions that the Church could take. He informed that most Churches are located in residential areas and he does not think that approval of this application would cause an increased traffic problem in the area. He would speak in support of the Church and would vote to approve this application.

Mr. Alberty is concerned about the Church being in an environment that may already be a hostile-type of environment.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-2-0 (Alberty, Martin, Tyndall, "aye"; Walker, Wines, "nay"; no "abstentions"; none, "absent") to DENY a Special Exception (Section 410 -

Case No. 296 (continued)

Principal Uses Permitted In Residential Districts - under the provisions of Use Unit 1205) to permit a Church in an RE zoned district under the provisions of Section 1680, on the following described property:

The West 300.5' of the North 329.93' of the NW/4 of the SE/4 of the NW/4 of Section 32, Township 21 North, Range 14 East, of the I.B. & M., Tulsa County, State of Oklahoma, according to the plat thereof.

MINOR VARIANCES AND EXCEPTIONS:

Case No. 399

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in the Agriculture District - Use Unit 1205 - Request for a variance of the land area from 2.2 acres to 2.02 and 1.66 acres and a variance of lot area from 2 acres to 1.78 and 1.66 acres to permit a lot split in an AG District under the provisions of Section 1670, located south and west of the SW corner of Highway #64 and 161st East Avenue.

Presentation:

Stephen Watkins was represented by Jack Spradling, 5840 South Memorial Drive. He informed that this is an application by the Methodist Church which owns the piece of property. He informed that the church building is located on the west end of the property. The tract to the east is vacant and the Church would like to sell this tract. If the Church members decide to expand, they will not do it on this tract of land. The old building is not suitable for expansion and they would have to move the parsonage before they could expand on this land. They need some money and they have a prospective buyer who wants to build a residence on the property to the east. He informed that the tract to the east does have access. He informed that the property is on septic tank and they have had percolation tests run by the Health Department and the land does perc.

Protestants: None.

Comments:

Mr. Alberty informed that the Planning Commission did approve this lot split at their November 16, 1983, meeting.

Board Action:

On MOTION of MARTIN and SECOND by WALKER, 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 the Agriculture District - under the provisions of Use Unit 1205) of land area from 2.2 acres to 2.02 and 1.66 acres and a variance of lot area from 2 acres to 1.78 and 1.66 acres to permit a lot split (L-16004) in an AG zoned district under the provisions of Section 1670, subject to Health Department approval should there be a septic tank installed, on the following described property:

The East 765' of the North 210' of the N/2 of the SE/4 of the SE/4 of Section 27, Township 17 North, Range 14 East, Tulsa County, Oklahoma (plus or minus 3.68 acres).

11.18.83:40(4)

Case No. 402

Action Requested:

Variance - Section 207 - Street Frontage Required - Use Unit 1206 - Request for a variance of the required minimum 30 feet of frontage on a public street or dedicated right-of-way to 0 feet to permit a lot split in an AG zoned District under the provisions of Section 1670.

Variance - Section 330 - Bulk and Area Requirements in the Agriculture District - Request for a variance of lot width from 200' to 190', a variance of lot area from 2 acres to .87 and 1.17 acres, a variance of land area from 2.2 acres to 1-acre, and a variance of the frontage requirement on a public street from 30' to 0' to permit a lot split in an AG zoned district under the provisions of Section 1670, located east of the SE corner of Old Highway #64 and 161st East Avenue.

Presentation:

The applicant, Melvin Cheatham, P. O. Box 665, Leonard, Oklahoma, requested by letter (Exhibit "A-1") that this case be continued until the December 16, 1983, meeting.

Protestants: None.

Board Action:

On MOTION of TYNDALL and SECOND by WINES, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to continue Case No. 402 to the December 16, 1983, meeting.

Case No. 404

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in the Agriculture District - Use Unit 1206 - Request for a variance of lot width from 200' to two lots of 165', a variance of lot area from 2 acres to one lot of .9 acres, and a variance of land area from 2.2 acres to one lot of 1.09 acres to permit a lot split in an AG zoned district under the provisions of Section 1670, located west of the SW corner of 161st Street South and Lewis Avenue.

Presentation:

The applicant, Randy Bell, P. O. Box 15607, was not present.

Protestants: None.

Comments:

Mr. Jones informed that this is a lot split which was approved by the Planning Commission. He submitted a survey of the proposed split (Exhibit "C-1") and the Lot Split form (Exhibit "C-2").

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 approve a Variance (Section 330 - Bulk and Area Requirements in the Agriculture District - under the provisions of Use Unit 1206) of lot width from 200' to two lots of 165', a variance of lot area from 2 acres to one lot of .9 acres,

Case No. 404 (continued)

and a variance of land area from 2.2 acres to one lot of 1.09 acres to permit a lot split (L-16009) in an AG zoned district under the provisions of Section 1670, on the following described property:

The E/2 of the NE/4 of the NW/4 of the NE/4 of Section 30,
Township 17 North, Range 13 East, Tulsa County, Oklahoma.

NEW APPLICATIONS:

Case No. 397

Action Requested:

Special Exception - Section 320.1 - Accessory Uses Permitted - Use Unit 1214 - Request for an exception to permit a Home Occupation (gunsmith and sporting goods) in an AG zoned district under the provisions of Section 1680, located west of 209th West Avenue and north of Highway #64.

Presentation:

Glen Quimby, Route 1, Box 219, Sand Springs, presented a set of plans. He informed the building on the subject property is located in a large field and he has a sole owner around him. This is a one-acre tract. He described the surrounding area to demonstrate that he was not in an all residential area. He informed that the Osage County Line is approximately 300 yards to the north of him, and he would not need this special exception in that area because they have no zoning restrictions at all. He will have retail items for sale, but his main job is gunsmithing--refinishing and repair on guns. He informed there are several businesses in the area.

Protestants: None.

Interested Party:

Larry Sellers, Route 1, Box 345-B, Sand Springs, owns a business in the area. He informed that the people in the surrounding area have no objections to the application. He informed that much of the property in the area was rezoned Commercial by Sand Springs without the knowledge of the people. He described the businesses in the area.

Comments:

Mr. Martin asked the applicant why this case has not been heard by the local Board that would have jurisdiction in Sand Springs, and the applicant informed that he had tried to get the property annexed into Sand Springs so that they could try to remedy the problem within the city. Sand Springs has City Limits all around his property, but there is a strip of property that is not in the Sand Springs City Limits. He talked to Pat Treadway, the Sand Springs planner, who informed him that commercial zoning in this area would not be in compliance with the Comprehensive Plan.

Mr. Martin informed that one of the things that this Board prefers to see when an applicant comes in is a communication from the local community where this matter has been heard on referral before it gets to the Board so the Board can be influenced by what the local community would like to do. He is concerned about how the City of Sand Springs would feel about this application. He would like for

Case No. 397 (continued)

the applicant to appear before a local board even though it might not be in their jurisdiction as a city property.

Mr. Jones informed this case was referred to the City of Sand Springs for referral basis, but they received it too late to set it for public hearing. The case can be referred back to Sand Springs for them to give this Board a recommendation. Mr. Jones informed he visited with Pat Treadway who mentioned to him as Staff his recommendation is that he had no problem with the application, but he could not speak for their Board outside of public hearing.

Mr. Alberty does not think that Sand Springs would support a change in zoning on the property to Commercial, since it does not meet with the Comprehensive Plan for this area. He also thinks that the applicant's use as he understands it is very possibly a commercial use, and he feels that there might be aspects of this application that might be considered home occupation, but he feels the applicant is basically asking for a retail use. He is not inclined to approve this type of use subverting the Zoning Regulations. He is not sure that the applicant could comply with the requirements of the home occupation.

Mr. Walker informed that the gunsmithing looks like a very appropriate home occupation, but there is nothing home occupation about selling sporting goods. He would like to see the two parts of the application separated.

Mr. Tyndall informed that in a store of this type, you generally don't have a long line of people waiting. He suggested that the Board put a time limit on the request.

Mr. Martin thinks that consistent with the policies that the Board follows, it is really not in keeping with what the Board does to make a decision on this case until they have heard from the local community.

Mr. Alberty feels that continuing the case would be appropriate, and it would be his intention to make a decision at the next meeting regardless of whether Sand Springs has had an opportunity to hear the case. He advised the applicant to clarify in his own mind precisely what he wants to do--narrow down and be very specific.

Mr. Wines would like to see pictures of the area when this case is heard again.

Board Action:

On MOTION of MARTIN and SECOND by WALKER, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to continue Case No. 397 to the December 16, 1983, meeting.

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an exception to permit a mobile home in an RS zoned district under the provisions of Section 1680, located at 1102 Willow Road, Sand Springs, Okla.

Presentation:

Nancy Luedtke was represented by her father, Harry McCallum, 5612 Bermuda Avenue, Sand Springs, who informed they would like to put a modular home on the subject property. It will be brought in on wheels, but will be put on a permanent foundation. The roof will conform with the conventional buildings in the area. The applicant owns three lots, two of which are vacant. The modular home will be for Mrs. Luedtke's handicapped son. He informed that the closest neighbor has no objection as long as the home is put on a foundation and has a roof to meet conventional standards. He informed that they were to be heard by the Sand Springs Board of Adjustment, but there was not a quorum at the November 8, 1983, meeting. He informed that modular homes can outdo some conventional homes. Mrs. Luedtke has a home on the middle lot of the three lots. The subject property is a separate lot from the lot that the house is built on. There are no other modular homes in the subdivision, but there are some within a quarter of a mile south. The property is on a septic system. This is a double-wide mobile home--modular home.

Protestant:

James Lowcutt, 1309 Itchy Creek Drive, lives in the subdivision that the subject property is located in. He informed that the requirements of their subdivision would not allow a mobile home to be moved in. He informed that the house on the lot next to the subject property is in a floodway and he has seen water running through their garage. He also informed that there is a lot of trouble with the septic systems in the area.

Several letters (Exhibit "D-1") and a Protest Petition (Exhibit "D-2") were submitted in protest to this application.

Comments:

Mr. Alberty informed that this case has not been heard by the Sand Springs Board of Adjustment.

Mr. Martin feels that the Board needs the input from the City of Sand Springs. He made a motion that this item be continued so that the City of Sand Springs can hear it first, but the motion died for lack of a second.

Mr. Edwards informed that a single-wide mobile home would require Board approval, but a double-wide (modular home) is the same as a house under the Code and would not require Board approval.

Mr. Alberty informed the protestant that restrictive covenants are a private agreement that would have to be settled in a court of law.

The applicant requested to withdraw this case.

Case No. 398 (continued)

Board Action:

On MOTION of WALKER 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. 398.

Case No. 400

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1208 - Request for an exception to permit a mobile home in an RS zoned district under the provisions of Section 1680, located east of the NE corner of 17th Street and East 136th Street No.

Presentation:

The applicant, Shirley Drywater, 11521 East 136th Street North, was not present.

Protestants: None.

Comments:

Mr. Jones informed there were some problems with this case and he would suggest that the Board continue it until the December 16, 1983, meeting.

Board Action:

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 continue Case No. 400 to the December 16, 1983, meeting.

Case No. 401

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 1220 - Request for an exception to permit a softball diamond in an AG zoned district under the provisions of Section 1680, located south of the SW corner of 76th Street North and North Memorial Drive.

Presentation:

Jack Montooth, 9833 North 147th East Avenue, Owasso, presented a drawing of the proposed property and a letter from the Parks and Recreation Department in Owasso to further explain what he would like to do. He informed that the Owasso area needs more sports facilities because of the fast growth of the town. He would like to run a private commercial softball two-diamond complex on the subject property. He does not know of any opposition to his proposal. The nearest resident is the owner of the subject property right now--he would have no objection to the application. Memorial Drive is not improved all the way to the subject property. He will have to put in a driveway.

Protestants: None.

Comments:

Mr. Martin asked why this was not heard in Owasso before coming here, and he was informed that the subject property is outside of Owasso's Fenceline.

Case No. 401 (continued)

Mr. Martin informed there is a similar facility just a couple of miles from where he lives in Broken Arrow, and he has never heard any concerns expressed about it. He had no problem with this application.

Board Action:

On MOTION of MARTIN and SECOND by WINES, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - under the provisions of Use Unit 1220) to permit a softball diamond in an AG zoned district under the provisions of Section 1680, on the following described property:

Part of Section 35, Township 21 North, Range 13 East; beginning at the SE corner of the NE/4; thence West along the South line of said SE/4 a distance of 720.2'; thence North parallel with the East line of Section 35 a distance of 604.9'; thence East a distance of 720.2' to a point on the East line of Section 35' thence South a distance of 604.9' to the point of beginning, Tulsa County, Oklahoma, containing 10.0 acres.

Case No. 403

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Use Unit 1208 - Request for a variance to permit two dwelling units per lot of record (one existing residence plus one proposed mobile home) in an RS zoned district under the provisions of Section 1670.

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Request for an exception to permit a mobile home in an RS zoned district under the provisions of Section 1680, located east of the SE corner of 161st West Avenue and West 19th Place South.

Presentation:

Stanley Withrow, 15815 West 19th Place, Sand Springs, informed he would like to move a mobile home on the subject property for his elderly mother to live in so that he can help to take care of her. There are three mobile homes within a block of the subject property on the same side of the street. Straight across the street there are eight or ten mobile homes. He would like this use approved for as long as his mother is living. He informed that his neighbors have no objection to this application.

Protestants: None.

Comments:

Mr. Martin informed that in the past the Board has sometimes approved cases similar to this, subject to the occupancy of the person whose condition is the occasion of the application.

Board Action:

On MOTION of MARTIN and SECOND by WALKER, 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 - under the provisions

Case No. 403 (continued)

of Use Unit 1208) to permit two dwelling units per lot of record (one existing residence plus one proposed mobile home) in an RS zoned district under the provisions of Section 1670, and a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts) to permit a mobile home in an RS zoned district under the provisions of Section 1680, subject to the use being confined to the occupancy of the family of the applicant in question and subject to the Health Department approval, on the following described property:

The East 197.34' of the West 926.37' of that part of the SW/4 of the SW/4 that lies North of the S.L. & S.F. Railroad in Section 8, Township 19 North, Range 11 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof.

Case No. 405 & Case No. 406

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 24 (a) - Request for an exception to permit Oil and Gas Extraction in an AG-R zoned district under the provisions of Section 1680. Case No. 405 located west of the SW corner of 137th East Avenue and 201st Street South and Case No. 406 located west of the NW corner of 205th Street South and South 137th East Avenue.

Presentation:

Kenneth Hunter and UTC Energy Resources were represented by Donald Henson, P. O. Box 993, Okmulgee. Mr. Henson is an attorney from Okmulgee. He informed that UTC Resources is a Texas Corporation that has in the past been drilling several oil and gas wells in northern Okmulgee County. UTC Resources did not know that the tract in question was zoned Agriculture-Residential for Tulsa County and they drilled a well on each lot. He submitted a plat (Exhibits "E & F-1"), and informed that all of the Corporation Commission Regulations have been met. This well is more than 200 feet from any residence in the area. He informed that if a house was built on each of the lots surrounding the subject property, they would still be 200 feet from any residences. Within a mile radius of the subject property there are approximately 10 to 15 oil and/or gas wells that are already present. It is his understanding that one of the reasons an exception must be obtained is to show that there will be no harm to the public welfare and to make sure that it is not a nuisance. The well on the subject property is extremely low-pressure. There is very little gas, mostly just oil. They do plan to fence the well site. He would like this granted because the area is more agriculture than it is residential. They would be willing to do whatever is fair and reasonable in order for the Board to grant this exception. On the 80 acres directly north of the addition, there are five wells. He submitted a map which showed where the subject property is in relation to Bixby (Exhibits "E & F-2"). He informed that the lots in the area are very large.

Kenneth Hunter, 12700 Park Central Drive, Suite 1414, Dallas, Texas, informed that there is extensive drilling in the area--four wells were drilled recently just north of the subject property. He informed there are other wells in Bixby Ranch Estates, but they were not recently drilled.

Protestants:

Clarence Oliver, 1665 South Ash Avenue, Broken Arrow, represented his

son, who owns the property that the gas well is located on. His testimony is primarily for Case No. 406, but Case No. 405 is in the residential development. He informed that many of the protesters are concerned with both wells. He submitted a folder with 35 documents which showed several date discrepancies and information concerning the drilling of the wells and how the drilling process proceeded (Exhibits "E&F-3"). He also submitted 35 photographs of the area (Exhibit "E-4"). (See Case #406 (Exhibit "F-4").) He informed that in the opinion of the residents of the area, the action of UTC Energy Resources and the oil company operating for them has caused and will cause substantial detriment to the public good. He does not feel that the action taken by this company is in harmony with the spirit and the intent of the Zoning Code of Tulsa County. He informed that the information he would like to present will show that the operator willfully and knowingly has violated not only state regulations, but county regulations, continues to violate them, and has caused a condition to exist in a very beautiful residential development which is injurious to the neighborhood, is detrimental to the public health and welfare, and has caused substantial financial loss to Mr. and Mrs. Oliver and others living in this addition. He described the folder of exhibits. He informed that the gas well is a high producer. He also informed that the sludge pits are major problems. One of them is creating a pollution problem in the drainage system north and west of one of the well locations. The drainage in the area has permitted oil to percolate into the ground and move into a pond constructed for a fish pond. This pond is located about 1,500 feet northwest of the well site. At times when there is heavy water drainage, there is an oil slick on the pond. Mr. Oliver informed that this is a highly developed residential area, and there are no operating oil wells in this addition with the exception of these two that have been illegally drilled. There have been old wells that have been capped, but they are no longer in operation. He informed that everyone they contacted in the area was in opposition to this application. He submitted a petition with the signatures of these people. The people in the area feel that great financial loss is occurring to them because of the wells, they feel that a residential area is being damaged, and they feel that future growth will be affected. He described the pictures which he had submitted. He informed that the existence of this well clearly is not in the public interest and it is to the detriment of the purpose, the spirit, and the intent of the Zoning Code. He feels that granting the exception would be injurious to the neighborhood. The people in the area did know that they did not buy the mineral rights when they bought their property.

R. E. Ransom, 8323 East 12th Place, owns the property just west of the subject property. He informed that the infringement of the wells goes over on his property.

Cindy Leeglider, Route 1, Box 291-A, Bixby, informed she lives about a half-mile south of the subject property on 201st. She informed that when the pressure is released off of the wellhead, she can hear it inside her house. They also have problems with the oil rigs that come in tearing up the streets. She informed that the people who come in to service the wells harrass the children in the area. She feels that the wells are detrimental to the community. She would like to see the oil wells capped.

Case No. 405 and Case No. 406 (continued)

Horace Lindley, 1141 South Wheeling, owns property in the area of the subject property. He informed that he supported Mr. Oliver's presentation and all of his intentions.

Julie Shuman informed she owns Lot 2 of Block 2 in the area. This is the property that has the existing pond. They have done significant excavation to clean and clear the pond to provide a fishing area for local people and their families. She protests this application because they came to the area as newcomers and found out the laws and the zoning before they purchased their property and did anything with it. She feels like the corporation is in a much better position to examine the laws in this area than she was. She informed the pond now is not good and would not support any type of fish.

Steven Foster owns Lot 14 of Block 2 in Bixby Ranch Estates. He informed that he has witnessed the oil slick on the fish pond that is in question and the heavy equipment moving up and down a gravel rural road not designed for such usage. He has witnessed the destruction of Mr. Oliver's property. He was aware that he did not buy the mineral rights to the property. He was also aware at the time of purchase in 1977 that there were zoning restrictions and restrictive covenants in the area. They bought the property hoping that they would be protected in the future by these covenants and zoning restrictions. They feel that the property value is being threatened by any future exploration and by the drilling that has already been done. They want to keep the property wooded.

Applicant's Rebuttal:

Mr. Henson informed that many of the things that Mr. Oliver said about land damages could be determined in District Court. He feels that the Oklahoma Corporation Commission should be the ones that decide whether or not the correct procedures were followed in drilling the well and in filling the sludge pits. He informed that the restrictive covenants do not apply to prior mineral owners--these are between the parties that own the property in the area. He does not feel this is harmful to the area. He informed that Mr. Oliver negotiated with UTC and took a \$1,500 draft and cashed it. Mr. Oliver told the people where to go in and where to drill. Mr. Henson feels that the real problem goes back to when the residents bought the property without having the mineral rights--it would be subject to being drilled on and subject to the zoning exception. He feels that if it does not cause any real danger and is 200 feet away from any house, then it should be granted. He informed the wells do not have high pressure. The high producing well uses less than 100 pounds of pressure, which is not high. He reminded the Board who would benefit from these wells other than the oil company. He informed that they are in compliance with the Corporation Commission. He said that he does not know anything about the oil slick on the pond, but it is 1,500 feet away which is a long way for oil to travel over the ground. He feels like, overall, the Board has to look at whether or not there will be harm and danger to the community. He informed there are very few houses in the area.

Comments:

Mr. Compton informed this is before the Board because they are requesting to drill an oil well in a residential/agriculture district and it is not permitted by right. It is permitted by right in an AG district.

Case No. 405 and 406 (continued)

Mr. Alberty asked the applicant if he was considering something other than a standard pump, and he was informed by the applicant that there would be a standard pump jack and they would fence it in. There would be a tank battery, but there would be no large storage systems at all. He informed that the gas will be pumped through pipelines.

Mr. Alberty informed that several letters protesting this application were received by the Board (Exhibits "E & F-5").

Mr. Alberty informed that the Board is instructed to look at this strictly from a land use compatibility situation. The fact that they are within a situation where the well was not drilled within 200 feet or will not be located within 200 feet is not the only consideration that the Board must look at. They must look at whether or not a producing well in this vicinity is an appropriate use for this area.

Mr. Gardner informed that the Board has on occasion reviewed similar requests for drilling of oil wells in areas that had been subdivided primarily in the north part of the County. In those instances there was very little development and very little concern over drilling of wells within the area. The fact that an area has been platted is not the only criteria. The Board must look at the facts of development. If a subdivision is planned for residential, this shows intent. If the area has been developed to the extent shown by Mr. Oliver, there is no question about it--there is a subdivision designed primarily for the purpose of residential. This then becomes a matter of compatibility. The smaller the lots, the greater the problem in trying to have an oil well be compatible within a residential area. The larger the lot the better the argument could be made for compatible land use relationships. It is a matter of degree as to what state the situation is in. He feels that in this instance there is no question about this being a developing subdivision rather than just a platted subdivision--lines on a map, but no physical development having taken place. He informed that to him it is awfully difficult to make oil drilling compatible with residential. He would think that whatever decision the Board would make here would also apply to other vacant lots in the area if the facts are similar--it could set a precedent for the drilling of oil wells in the area.

Mr. Martin had trouble separating a situation where someone comes in and asks for permission to drill a well from a situation where the wells are already drilled and substantial money has been spent. He asked how they make an exception after-the-fact.

Mr. Gardner informed that in taking an action on this application, if they approve it, they are saying that it is compatible and appropriate within this area. If they deny it, they are saying that it is not compatible and appropriate within this area. The fact that it already exists just gives the Board a better idea of whether or not it is compatible. He does not think the Board should be concerned with the fact of whether or not the well is already drilled. They should make their decision on whether or not this is an appropriate place to be drilling oil wells. If this is denied or approved there are other actions that can be taken by aggrieved parties-- district court.

Case No. 405 and 406 (continued)

Mr. Martin informed that whatever the Board decides will put a hardship on either the applicant or the protestants.

Mr. Gardner does not feel the County Attorney should give an opinion-- they cannot substitute their judgment for the Board's judgment. This is strictly a matter of judgment on the Board's part. If they don't understand the Zoning Code or what is required, then the District Attorney could explain it. He informed that the District Attorney's office is charged with the responsibility to defend this Board's action regardless of what action they take.

Mr. Wines informed that the applicant has spent a great deal of money on these wells already.

Mr. Walker feels that the decision for this case will be ultimately made in District Court. He does not believe that this activity should be permitted and feels that it is not conducive to fit in with the environment.

Board Action: Case No. 405

On MOTION of WALKER and SECOND by MARTIN, the Board voted 4-1-0 (Alberty, Martin, Tyndall, Walker, "aye"; Wines, "nay"; no "abstentions"; none, "absent") to DENY a Special Exception (Section 310 - Principal Uses Permitted in the Agriculture District - under the provisions of Use Unit 24 (a)) to permit Oil and Gas Extraction in an AG-R zoned district under the provisions of Section 1680, on the following described property:

Lot 4, Block 2, Bixby Ranch Estates Addition, Tulsa County, Okla.

Special Discussion:

Mr. Martin informed that the Board's action indicates that they feel that this is an incompatible use in a residential area.

Board Action: Case No. 406

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 4-1-0 (Alberty, Martin, Tyndall, Walker, "aye"; Wines, "nay"; no "abstentions"; none, "absent") to DENY a Special Exception (Section 310 - Principal Uses Permitted in the Agriculture District - under the provisions of Use Unit 24 (a)) to permit Oil and Gas Extraction in an AG-R zoned district under the provisions of Section 1680, on the following described property:

Lot 9, Block 2, Bixby Ranch Estates Addition, Tulsa County, Oklahoma.

Special Discussion:

Mr. Martin informed that the Board's action indicates that they feel this is an incompatible use in a residential area.

Case No. 407

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an exception to permit a mobile home in an RS zoned district under the provisions of Section 1680, located north of the NE corner of 121st Street and 33rd West Avenue, at 1/2 mile mark.

Case No. 407

Presentation:

W. O. Owen, 11601 South 33rd West Avenue, informed that he thought that the land was zoned AG, so he has prepared the land to move his mobile home on. He would like the mobile home put on the property so his son can move in it and overlook his property--it is for security reasons.

Protestants: None.

Comments:

Mr. Alberty informed the applicant that there might be a potential flooding problem in the area, and Mr. Owen informed him that they have had no major problems with flooding.

Mr. Jones informed that according to a flood hazard review done by Don Hallock, none of the property is located in the 100-year floodplain or the regulatory floodway.

Board Action:

On MOTION of WALKER 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 Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1209) to permit a mobile home in an RS zoned district under the provisions of Section 1680, subject to Health Department approval, on the following described property:

Beginning at a point 208.7' East of the NW corner of SW/4 of Section 34, Township 18 North, Range 12 East; thence East 350.0'; thence South 100.0'; thence South 49°-28'-34" West 328.89'; thence West 308.7'; thence North 105.0'; thence East 208.7'; thence North 208.7' to the point of beginning, containing 2.41 acres, more or less, in Tulsa County, State of Oklahoma, according to the U. S. Survey thereof.

There being no further business, the Chair adjourned the meeting at 11:48 a.m.

Date Approved Dec. 22, 1983

B. Wayne Alberty
Chairman