

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of MEETING No. 42
Thursday, December 22, 1983, 9:30 a.m.
Room 119, Administration Building
500 South Denver, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT

Alberty, Chairman
Martin
Tyndall
Walker (in at 9:48 a.m.)
Wines

STAFF PRESENT

Gardner
Jones
Wiles

OTHERS PRESENT

J. Edwards,
Building Insp.

The Notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, December 16, 1983, at 4:24 p.m., as well as in the Reception Area of the INCOG offices.

MINUTES:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 4-0-0 (Alberty, Martin, Tyndall, Wines, "aye"; no "nays"; no "abstentions"; Walker, "absent") to approve the Minutes of the November 18, 1983, meeting (No. 40) and the Minutes of the December 16, 1983, meeting (No. 41).

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:

The applicant, Water Products of Oklahoma, P. O. Box 349, requested by letter (Exhibit "A-1") that this case be continued to the January 20, 1984, meeting.

Protestants: None.

Board Action:

On MOTION of MARTIN and SECOND by WINES, the Board voted 4-0-0 (Alberty, Martin, Tyndall, Wines, "aye"; no "nays"; no "abstentions"; Walker, "absent") to continue Case No. 388 to the January 20, 1984, meeting.

Case No. 397

Action Requested:

Special Exception - Section 320.1 - Accessory Uses In Agriculture Districts - 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, Oklahoma, presented some pictures of the area and described the surrounding uses. He informed that he has revised the type of structure that will be on the property to comply with the Sand Springs condition that it be residential looking. It is a log structure. This case was continued from the November meeting so that there could be a referral made by the Sand Springs Board of Adjustment. The house is being built at this time. The floor plan is basically the same as his original plans. The applicant is currently living on the property in a mobile home. The business will be conducted in the garage area. The house will be built from a kit. He will operate Tuesday through Saturday from 8 a.m. until 5 p.m. He does not have any other job. He informed that the Sand Springs Board of Adjustment had some concerns about the size of the sign and outside employment. This area is not very heavily populated. He informed that there are several businesses north of him over the county line. The sign will be 2' by 3'--six square feet and will read "L & S Gun and Sports".

Protestants: None.

Comments and Questions:

Mr. Alberty informed the Board received a letter from the Sand Springs Board of Adjustment which recommended approval of this application (Exhibit "B-1") with consideration being given to requiring the applicant to comply with the provisions of Section 440.2 of the Tulsa County Zoning Code, except as specifically modified by the Board as follows:

- (a) The modification of Item B to allow a 6 square-foot sign to be placed on the property, and
- (b) the proposed structure of the house must be used primarily for residential purposes, constructed in a residential manner, and appear to be a residential dwelling.

Mr. Alberty stated that at the last meeting the Board was a little concerned about the sporting goods request. He asked the applicant to elaborate on what he was talking about. Mr. Quimby informed the Board that the items he will sell will be accessories for guns. He will be selling only guns and related accessory items.

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 approve a Special Exception (Section 320.1 - Accessory Uses In Agriculture Districts - Accessory Uses Permitted - under the provisions of Use Unit 1214) to permit a home occupation (gunsmith and sporting goods) in an AG zoned district under the provisions of Section 1680, subject to the sporting goods being limited to accessory items dealing with fire arms, subject to the limitation of a six square-foot sign, subject to the house having a residential look, for this owner only, with the hours of operation being from 8 a.m. until 5 p.m., from Tuesday through Saturday, and subject to the other conditions of a home occupation, on the following described property:

Case No. 397 (continued)

A tract or parcel of land being a portion of the South 466.69' of the North 736.69' of the East 466.69' of the SE/4, NE/4 of Section 3, Township 19 North, Range 10 East, Tulsa County, Oklahoma, being more particularly described as follows:

Beginning at a point 270' South 00⁰-02' East of the Northeast corner of the SE/4, NE/4, Section 3; thence South 89⁰-25'-00" West parallel with the North line of said SE/4, NE/4 a distance of 208.71'; thence South 00⁰-02'-00" East a distance of 208.71'; thence North 89⁰-25'-00" East parallel to the North line of said SE/4, NE/4, a distance of 208.71'; thence North 00⁰-02' West along the East line of said Section a distance of 208.71' to the Point of Beginning, containing 1.00 acres of land, more or less. Subject to Easements and Rights-of-Way of Record and Statute.

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 North 17th East Avenue and East 136th Street North.

Presentation:

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

Protestants: None.

Comments:

Mr. Jones informed that the applicant was not present at the November meeting and he did send a letter to her stating that she did need to be at this meeting.

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 continue Case No. 400 to the January 20, 1984, meeting.

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 feet, 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 feet to permit a lot split in an AG zoned district under the provisions of Section 1670, located

Case No. 402 (continued)

East of the SE corner of Old Highway #64 and 161st East Avenue.

Presentation:

Melvin Cheatham, P. O. Box 665, Leonard, Oklahoma, submitted his new lot split. He informed that they no longer need all the variances, because instead of trying to make another piece of property, they have eliminated the south-half of the 2-1/2 acre tract. They are just taking the 1.5 acres which already has road frontage--they do not need the variance for the road frontage. They do need to vary the lot frontage from the 200 required feet to 196.3 feet which he has now. He is attaching the half-acre that he is proposing to buy to his existing property--which is about 3 acres. They are asking for two lots now rather than three. He is now asking for a variance to vary the frontage from 200 to 196.77 feet and the lot area on tract "C" from 2 acres to 1.0386 acres. He is eliminating his requests for the other variances.

Protestants: None.

Comments:

Mr. Jones informed that the Planning Commission approved this lot split at their December 21, 1983, meeting. He submitted a new map (Exhibit "C-1") to show how the lot split was slightly modified.

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) of lot width from 200 to 196 feet, and a variance of lot area from 2 acres to 1.0386 acres to permit a lot split (L-15963) in an AG zoned district under the provisions of Section 1670, on the following described property:

Beginning at a point on the north property line of U. S. Highway #64, 718.2 feet South and 792.36 feet East of the Northwest corner of the SW/4 of Section 26, Township 17 North, Range 14 East of the Indian Base and Meridian, Tulsa County, Oklahoma; thence South 89°-57' East a distance of 190 feet; thence North 0°-1' West a distance of 630.56 feet to a point on the Southeast property line of the County Road (Old Highway #64); thence South 74°-54' West along the Southeast property line of the County Road a distance of 196.77 feet; thence South a distance of 578.5 feet to the point of beginning, containing 2.64 acres, more or less, LESS the South 135.28' thereof.

NEW APPLICATIONS:

Case No. 408

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture Districts - Use Unit 1205 - Request for an exception to permit church use in an AG zoned district under the provisions of Section 1680, located north of the NW corner of 129th East Avenue and 106th Street North.

Presentation:

Harold Kopp, Route 1, Box 669, Owasso, Oklahoma, was present representing the Seventh Day Adventist Church. He informed that the minister of the Church, Mr. Ferguson, has the plans for the Church. Mr. Kopp presently owns the subject property. He informed that they are comfortable with the conditions that have been imposed by the Owasso Board of Adjustment. They have not yet gone to the County Health Department to obtain approval for a septic system. They are aware that this would be a condition of approval. There has been a site plan prepared. He presented the general layout of the Church building. The subject tract is 2-1/2 acres in size and they propose to put the building near the back corner. The building is a T-shape, and the front of the church building will be facing 129th East Avenue. They informed that it would be a while before they construct their building.

Protestants: None.

Comments and Questions:

Mr. Alberty read the letter of referral from the Owasso Board of Adjustment (Exhibit "D-1") which recommended approval of this application subject to four conditions: (1) That they buffer all outdoor lighting away from nearby residences, (2) that they require adequate off-street paved parking for all Church traffic--no Church parking should be allowed on 107th Street North or 129th East Avenue, (3) that they be allowed one access on 129th East Avenue and one on 107th Street North, and mark the remaining boundaries as limits-of-no-access, and (4) that they meet the bulk and area requirements of an AG zoned district.

Mr. Alberty informed that this is subject to a plat. He informed that this Board normally sees a detail site plan which shows the access points, where the structure will be located, and the parking. If the motion today is for an approval, it will probably be subject to the applicant returning to the Board to show the Board their site plan for their approval.

Mr. Edwards informed that the applicant has not incorporated the zoning requirements for parking ratios and a sign. They need to be sure the plot plan does not require another action by this Board.

Mr. Martin wondered if they should come back and furnish the Board with a site plan that has been given to the Staff to review the parking requirements.

Mr. Edwards informed the applicant that there is a state law that says if the price of a building is \$40,000 or over, it has to have a licensed engineer's set of plans.

Case No. 408 (continued)

Mr. Wines suggested that they have the septic test made before they make their plans. The applicant informed that a percolation test was run just south of there that was approved.

Mr. Martin suggested that this case be continued for two months so that plans could be prepared.

Mr. Gardner suggested that the Board consider approving the Church use, subject to them returning in 60 days with a plot plan for their approval. That way they know that they have Church use approved for the property and they can spend some money on plans and Health Department requirements before returning.

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 Districts - under the provisions of Use Unit 1206) to permit Church use in an AG zoned district under the provisions of Section 1680, subject to the conditions outlined by the Owasso Board of Adjustment, and subject to the applicant's returning to the Board with a site plan, on the following described property:

The SE/4 of the NE/4 of the SE/4 of the SE/4 of Section 8, Township 21 North, Range 14 East, Tulsa County, Oklahoma.

Case No. 409

Action Requested:

Variance - Section 440.2 (b) - Special Exception Uses In Residential Districts, Requirements - Use Units 1213 and 1214 - Request for a variance of the sign restrictions for a Home Occupation in an AG zoned district under the provisions of Section 1670.

Special Exception - Section 320.1 - Request for an exception to permit a Home Occupation (barber shop and craft shop) in an AG zoned district under the provisions of Section 1680, located north of the NW corner of 86th Street North and Memorial Drive.

Presentation:

James E. Grayson, Route 1, Box 1113, Owasso, Oklahoma, informed that the building housing the businesses would face Memorial Drive. He lives on the subject property. The businesses will not be in his residence--they will be in a converted storage building. He already has a honey bee business on the property. The building is a 30' x 40' metal structure and is located in front of his house. He thinks that in an AG District the building is a customary accessory building. The building was built for this purpose. All three businesses will be in the building. He has two barber chairs in the building, but he will be working by himself. The three businesses will be separated by partitions. The crafts will be handiwork items. He informed that there is quite a bit of commercial operation around his property--he described the surrounding area. The applicant informed that he would not object to having a time limit put on the approval of this application. He informed that the people around him are glad that he wants to have the businesses on the property. He informed that he would probably have about 10 customers a day in the barber shop, and he feels that

Case No. 409 (continued)

there would be very few customers coming to the craft shop each day. There is a graveled area for parking. He would like to have about a 4' x 6' sign. He informed that the florist shop across the street from him has a sign that is approximately 24 square feet. He informed that there will be no lights on the sign. He submitted 3 photographs of the subject property (Exhibit "E-1").

Protestants: None.

Comments:

Mr. Alberty informed that this does not comply with the home occupation condition since it is not in the principal residence structure.

Mr. Gardner informed the applicant is advertised for a variance of the sign restriction--this may be considered broad enough notice to consider variances of other home occupation rules. The business has to be either in a principal home or a customary accessory building--the Board has to determine whether the building he is wanting to convert is a customary accessory building. In an AG District, it may be.

Mr. Alberty was concerned that this is a commercial use as opposed to something that might be a home occupation. He would feel more comfortable if he saw a plan. He feels that the whole intent of the home occupation is to not permit commercial development or use of the property. He feels this application may be stretching the intent of the home occupation.

Mr. Wines would rather see the application handled by this Board than by trying to have the area rezoned.

Mr. Walker would not feel uncomfortable with just the barber shop without the crafts or with just the crafts without the barber shop.

Mr. Martin informed that the types of businesses that would be conducted here would not increase the nuisance in the neighborhood. It appears to him to be a good, quiet, clean operation. He wondered if it was possible for the Board to consider an approval of this with a time limitation on it to give the Board an opportunity to monitor it to see if there is any problem with it.

Mr. Gardner informed that Mr. Martin's suggestion would be possible. He thinks that what makes it a very commercial activity is the crafts. The barber shop use could be in his home.

Mr. Martin informed that if the Board found that there were any objectionable features to this additional aspect of the commercialism, they would then be in a position to reconsider the application and either extend the period of time or deny it. He does not have a problem with it. He feels that within the confines of private property, if it does not present any real nuisances to the neighborhood or is not an eyesore, then it would not be something that the Board should necessarily object to.

Mr. Gardner informed if this was zoned for business, the applicant could have a business sign. If it was zoned for office, he would be restricted to 32 square feet for his sign, and if it was zoned residential he would be limited to a 12 square-foot sign.

Case No. 409 (continued)

Mr. Martin suggested granting this application with a time limitation of one year. He does not think that the craft aspect will be objectionable.

Mr. Alberty informed that if the Board finds that this is an accessory building, an additional variance is not needed.

Board Action:

On MOTION of MARTIN and SECOND by WINES, the Board voted 4-1-0 (Martin, Tyndall, Walker, Wines, "aye"; Alberty, "nay"; no "abstentions"; none, "absent") to approve a Variance (Section 440.2 (b) - Special Exception Uses in Residential Districts, Requirements - under the provisions of Use Units 1213 and 1214) of the sign restrictions for a Home Occupation in an AG zoned district under the provisions of Section 1670, and a Special Exception (Section 320.1) to permit a barber shop and craft shop in an AG zoned district under the provisions of Section 1680, for a period of one year, with the limitations that the sign be a permanently attached sign, unlighted and that it be no larger than 24 square feet, on the following described property:

The North 266' of the NE/4, SE/4, SE/4 of Section 23, Township 21 North, Range 13 East, Tulsa County, Oklahoma.

Case No. 410

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 RS zoned district under the provisions of Section 1680.

Variance - Section 1205 - Community Services, Cultural and Recreational Facilities - Use Unit 1205 - Request for a variance of the 1-acre lot size requirement to .97 acre under the provisions of Section 1670, located at the NW corner of 129th East Avenue and 130th Street South.

Presentation:

Deca Engineering, Inc., P. O. Box 182, Broken Arrow, Oklahoma, was represented by John Burrello, 7801 Park Avenue, Broken Arrow, of the Christ Community Church. He informed that the subject property is ideally located for the members of the Church. They have a contract on the property, subject to the approval of the zoning. He submitted a site plan (Exhibit "F-1"). The proposed building is 2,400 square feet in size and has 37 parking places. The congregation consists of about 50 members. The plat shows that the congregation plans for future expansion with the final size being a maximum of 4,800 square feet. To prepare for future parking needs, they have also purchased a piece of property across the street. He informed that one of the houses to the west will face them and one will not. He informed that the plat has limits of access to 129th East Avenue. The access to the property would not go by the actual residences. The building will be a frame building with at least half of it being rocked--this is consistent with the residences in the area. He is not sure of the kind of roof they will have on the proposed building. There are no members of the congregation that live in this area--the members live in Broken Arrow, Bixby, and Tulsa. These lots are more suitable to their needs because of the economy--they have limited funds. They also like the subject property

Case No. 410 (continued)

because it is very visible from the major intersection of 131st and 129th. It is almost a corner lot. The subject property is right next to a U-Tote-M convenience store. They are presently meeting in the Indian Springs Shopping Center. They have only Sunday morning services. He informed that the house to the north of him would be approximately 5 to 10 feet from his property line.

Protestants:

Judy Folske, 12802 East 130th Street South, Broken Arrow, Oklahoma, represented several people in the area. She submitted two protest petitions (Exhibit "F-2" and Exhibit "F-3") and a letter of protest (Exhibit "F-4"). The petitions consist of the names of most of the people in the area. Ms. Folske's house is right next to the lot that would be used exclusively for parking. She submitted a small plat of the neighborhood (Exhibit "F-5") and described the surrounding area. She informed that the covenants in the area call for a residential area, and they bought their property knowing this. There are some commercial lots in the area. They have a small traffic problem in the area now, and she is concerned that this problem could be increased and could cause a hazard to the children in the area. They object to the lot separation for several reasons, one of which is that it will increase the pedestrian traffic in the neighborhood which will be hazardous to the Church members and to the residents. She is also concerned with a drainage problem that they have in the area--this could be increased with a parking lot going in right next door to her. She feels that there are other sites which would be more appropriate for this use. She informed that the subdivision was incorporated in 1972, and most of the houses are less than 10 years old. The average price range would be between \$80,000 and \$110,000. She also informed that their restrictive covenants do not allow the erection of signs.

Applicant's Rebuttal:

Mr. Burrello informed that when they first looked at the property and talked to the people in the area, they got a very favorable reaction. If they had seen the expression of protest at that time, they would not have tried to build here. Their contract to purchase the property is with the developer of the addition.

Comments:

Mr. Martin read the letter of referral from the Broken Arrow Board of Adjustment which recommended denial of this application (Exhibit "F-6").

Mr. Alberty informed that the access points to the property are from the residential streets rather than from 129th East Avenue.

Mr. Gardner informed that obviously these lots were designed and platted for single-family development. He feels the Board should take this factor into consideration.

Mr. Alberty informed that this is a developing subdivision--it is not an old subdivision where these are leftover tracts. The lots could have single-family homes on them.

Mr. Alberty informed the protestant that the restrictive covenants of the area are a private matter to be enforced by the homeowners.

Case No. 410 (continued)

Mr. Martin was concerned about having a Church in an area where they will not be welcome.

Mr. Alberty has some reservations about retrofitting a use that was not intended to be used on the property when it was originally developed. These are single-family lots and he would be opposed to anything on these lots other than single-family residences. He does not feel that this is an appropriate place for the Church.

Mr. Martin informed this is a case where the applicant is trying to make use of land that was not necessarily intended for that purpose. There is a difference between a residential lot and a lot upon which a Church or any other structure should be built.

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 DENY a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1205) to permit a Church in an RS zoned district under the provisions of Section 1680, and a Variance (Section 1205 - Community Services, Cultural and Recreational Facilities - under the provisions of Use Unit 1205) of the one acre lot size requirement to .97 acres under the provisions of Section 1670, on the following described property:

Lots 5 and 6, Block 2, and Lot 1, Block 6, Willow Springs Plaza Addition, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

Case No. 411

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Requests an exception for Church use and revival with camp grounds in an RS zoned district under the provisions of Section 1680, located at the SE corner of North 61st Street and Delaware Avenue.

Presentation:

The applicant, Hobert Enkey, 1670 South Ash Place, Broken Arrow, was not present.

Protestants: None.

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. 411 to the January 20, 1984, meeting.

There being no further business, the meeting adjourned at 11:03 a.m.

Date Approved

Jan 20, 1984

B. Wayne Alberty
Chairman

12.22.83:42(10)