

TULSA COUNTY BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 45  
Friday, March 16, 1984, 9:00 a.m.  
Room 119, Administration Building  
500 South Denver Avenue, Plaza Level  
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chairman Martin Tyndall	Walker Wines	Gardner Jones Wiles	Carpenter, Legal Dept. (out at 9:26 a.m.) J. Edwards Building Insp.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Tuesday, March 13, 1984, at 1:21 p.m., as well as in the Reception Area of the INCOG offices.

Chairman Alberty called the meeting to order at 9:07 a.m.

MINUTES:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve the Minutes of February 17, 1984 (No. 44).

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 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, P. O. Box 349, Owasso, was represented by Vernon Anderson, P. O. Box 349, Owasso. Mr. Anderson informed they have not been able to acquire anything for access to the rear of the property as they were asked to do. He described the difficulties they have had in trying to obtain another access, and he informed that even if they could obtain the land, it would be very expensive for them because of a large drainage ditch behind the property. He informed they could expand their building a great deal and not cover 10 percent of the area of the property. Mr. Anderson informed that the City of Owasso approved their request. He described their business and informed they are cramped in their existing building. He feels this will improve the area. They have considered relocation to another site, but finances prohibit them from doing so. If this request is denied, they will continue operating under the conditions under which they are now operating. He does not know of any unfavorable reaction from the neighborhood concerning the use they are now making of the subject property. He has had only one complaint from any of his neighbors, and that complaint had to do with a dust problem. The drive and the yard now have

Case No. 388 (continued)

a dust-free surface--this eliminates all the dust. He informed that the City of Owasso uses their warehouse for their use. The City maintains the street that the business uses.

Comments and Questions:

Mr. Alberty informed in his opinion it is critical to ascertain another access point to this property for it to be approved. He does not feel the Board is dealing with a nonconforming use in this case. He described his understanding of a nonconforming use and informed this property has had an illegal use. It has never achieved the proper zoning. He feels the Board is influenced by the fact that this is adjacent to light industrial zoning. His concern was that of access--that the traffic that is necessary to operate this business must ingress and egress on what is otherwise a residential road. His problem was not with the industrial use of the land.

Mr. Gardner informed the minutes from the first hearing of this case reflect that there were people from the neighborhood at the meeting who were concerned with the use of their street by big trucks which were associated with the business. This was continued for so long for the applicants to find some other access to the property. He feels that it is significant that the building is there without a permit and no one is trying to shut him down from using the existing building. He is concerned that if the building is doubled, it will also increase the traffic on the residential street. Mr. Gardner informed that the applicant could probably get his property zoned industrial for the rectangular shaped part, but not with access out to a residential street. If he had access to the north and to the west, he could get zoning and do what he wants to do. He reminded the Board that they denied a church use on this street because of the additional traffic that it would bring into the neighborhood.

Mr. Anderson informed their traffic would not increase. Their objective is to be able to move some of their materials inside. This will not increase the business or the traffic at all.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to DENY a Variance (Section 1420 (a) - Nonconforming Use of Buildings or Buildings and Land in Combination - under the provisions of Use Unit 1223) to expand a nonconforming use in an RE District under the provisions of Section 1670, on the following described property:

The SW/4 of the SE/4 of the NW/4 of the NW/4 and the North 40 feet of the SE/4 of the SE/4 of the NW/4 of the NW/4 of Section Thirty-Two (32), Township Twenty-One (21) North, Range Fourteen (14) East of the I.B. & M., Tulsa County, State of Oklahoma.

Case No. 419

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 District under the provisions of Section 1670, located at the SE corner of North Madison Avenue and 60th Street North.

Presentation:

Jay C. Swartz, Box 386, Sperry, informed his house burned down and he would like to put a mobile home on the lot. The house was used for rental purposes and the mobile home would be used for rental purposes as well. There are four other mobile homes within 300 feet of the subject tract. The mobile home would be hooked up to the sanitary sewer. There are sewer lines, water and gas already to the lot from the house that burned. He informed he talked to three of his neighbors about this proposal, and they do not have any objections. The mobile home is on the lot.

Protestants: None.

Comments:

Mr. Edwards informed the Building Inspections office has no problem with this.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1208) to permit a mobile home in an RS District under the provisions of Section 1670, subject to Health Department approval and the issuance of a building permit, on the following described property:

Lots 2 and 3, Block 7, Original Town of Turley, Tulsa County, State of Oklahoma.

NEW APPLICATIONS:

Case No. 429

Action Requested:

Variance - Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 1227 - Request for a variance to permit an auto salvage in an AG District under the provisions of Section 1670, located at the SW corner of Coyote Trail and 225th West Avenue.

Presentation:

Clark Collins, Route 2, Box 310, Sand Springs, was represented by Richard Amatucci, 1135 East 38th Street, Suite 105.

Mr. Edwards of the Building Inspections office informed the applicant went over this application with him and Commissioner Young. He had originally intended to file a zoning application. The applicant represented that there is a legal nonconforming salvage in operation on the subject property. They would like to move the existing salvage to another location on the 40-acre tract. Commissioner Young felt that a Board application would be more palatable to the County Commissioners than a zoning application would be. He informed this is advertised as

a variance of the zoning, but it is a variance of the portion of the Ordinance that says a person cannot move the use around. He had a question as to whether or not this was properly advertised and whether or not it is a nonconforming use.

Mr. Amatucci informed the applicant has a legal nonconforming salvage yard on his 30-acre tract of land. This salvage yard has been in existence at its present site since 1966. He submitted an aerial photograph (Exhibit "A-1") and informed that the aerial shows that prior to September of 1980, there was an operating salvage yard on that 30-acre tract. They are proposing to move the existing salvage yard to a 6.5 acre tract on the edge of the subject property. The cars would all be consolidated into a single area instead of being scattered about the 30-acre tract. There would be a privacy fence put along the west end of the property. If any residential area were to develop around the tract, a privacy fence would be put up to protect and differentiate between the salvage yard (industrial usage) and any residential usage. They do not anticipate at this time any transfer of title. If there was a sign put up, it would be a small, non-flashing sign for the salvage yard. The cars would be moved at the earliest opportunity if this is approved. He submitted signatures from approximately 60 area residents (Exhibit "A-2") who do not object to this. He also submitted 13 photographs (Exhibit "A-3").

Comments and Questions:

Mr. Alberty asked Mr. Amatucci why his client is wanting to move the salvage operation. Mr. Amatucci informed the applicant wants to free the rest of the land for his primary purpose, which is agriculture.

Mr. Alberty asked if the property they want to move the operation to is any less suitable for agriculture uses, and Mr. Collins informed the property is good only for pastureland.

Mr. Amatucci submitted a color-coded map (Exhibit "A-4") and informed there is another salvage yard in the area.

Mr. Alberty asked how many cars the applicant has on the property, and Mr. Amatucci informed he probably has between 75 to 100 at the present time. He would be willing to limit the operation to that number of automobiles if that was a necessary criteria for this application. They feel that the 6.5 acres could accommodate up to 340-350 cars without stacking them on top of each other. They would like the opportunity to expand the operation within the confines of the 6.5 acres.

Mr. Gardner informed the use of the 30-acre tract with one ownership has been determined to be nonconforming because there are automobiles there now. There is some debate as to whether or not a person would be expanding the nonconforming use by putting more automobiles on the tract. If they were wanting to put it on a different piece of property, they would be expanding the use. He informed that under the terms of the Code, an automobile salvage would have to be removed within five years if the buildings and other uses associated with it do not come up to certain standards. He described what the Code says about this. He felt the Board needs to determine whether or not they are consolidating the nonconforming use from a 30-acre tract down to a 6.5 acre tract. This could be better than what is on the property now.

Case No. 429 (continued)

There was discussion about what the Code says about nonconforming uses.

Mr. Martin asked if the Board is dealing with the question of the legality of changing the site of the nonconforming use. Mr. Gardner informed the property is all under one ownership. From a legal standpoint, they are on the 30-acre tract.

Mr. Gardner informed they way this is advertised as a use variance gives the Board broad jurisdiction. He does not see any problem with it.

Mr. Martin informed it is difficult for him to see how consolidation and screening of this could bring about unfavorable results. He does not feel changing what they have as they are proposing to do would be any more of a problem than the very fact that it is in existence anyway.

Mr. Alberty feels that anything to enhance this operation, if it has been determined that it is a nonconforming use, would be better. He feels that it has been determined that this is a nonconforming use. His concern is whether or not they should approve this for the entire 6 1/2 acres or just a portion of that. He would consider reducing it further than what is under application.

Mr. Martin asked about the other salvage yard in the area, and the applicant informed him that it is about 40 acres in size.

Mr. Alberty feels that the applicant needs to have a screening fence now, or it will not serve any purpose. The applicant described the surrounding area, and informed there is already screening of brush and trees.

Mr. Martin asked if the applicant would have a problem with the Board placing a condition on approval that they screen the property, and the applicant informed they would not, except to the north which is property that they own. They will screen along the front of the property.

The building that will be on the tract is about 30' by 30'. They will move the existing building from the existing location on the salvage yard.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Variance (Section 310 - Principal Uses Permitted in the Agriculture District - under the provisions of Use Unit 1227) to permit an auto salvage in an AG District under the provisions of Section 1670, subject to the use of the property not to exceed 300 cars, and subject to the applicant screening the property on the front, on the following described property:

A tract of land in the NE/4, SE/4, Section 28, Township 19 North, Range 10 East, Tulsa County, Oklahoma, more particularly described as follows: Beginning at a point West 259.7 feet from the SE corner of Said NE/4, SE/4; thence West a distance of 1,060.3 feet to a point; thence North a distance of 260 feet to a point; thence East a distance of 1,103.675 feet to a point; thence North 9<sup>0</sup>-28'-17.2" West (at centerline of Coyote Trail) a distance of 263.593 feet to a point; thence East 259.7 feet to the Point of Beginning, containing 6.4581 acres.

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 District under the provisions of Section 1680.

Variance - Section 240.2 - Permitted Yard Obstructions - Use Unit 1209 - Request for a variance of the 750 square foot maximum to allow a 2,800 square foot accessory building in an RS District under the provisions of Section 1670, located north of the NE corner of 51st West Avenue and 41st Street.

Presentation:

James Brown, P. O. Box 9341, informed he has put a mobile home on the subject tract, and he would like to get it hooked up. The mobile home has been on the subject property since 1980. There is a fire-gutted house on the property that Mr. Brown plans to tear down. All utilities were to the house, but the lateral lines were not sufficient, so he is putting in all new utilities. The mobile home has been vacant since he moved it on the property. He needs the accessory building to store his possessions in. He does not plan to operate a business out of the accessory building. Mr. Brown informed there are several mobile homes in the area of the subject property. He described the area and where the other mobile homes are located. He also informed there are several other large accessory buildings like the one he is proposing in the area that are used for storage. As finances allow, Mr. Brown does plan to build a home on the subject tract.

Comments and Questions:

Mr. Jones informed a protest petition was submitted (Exhibit "B-1"). There were also five photographs submitted (Exhibit "B-2").

Mr. Martin informed the submitted protest petition refers to some wrecked vehicles and asked the applicant if he would like to comment on the occasion of six wrecked vehicles and what work he is doing on those. Mr. Brown informed he is not working on the vehicles. He described each of the vehicles that are on the lot--there are five. He informed the vehicles have been on the subject property for a couple of years.

Mr. Martin informed there are places that are more compatible for having wrecked cars than a residentially zoned area.

Mr. Brown informed the cars are for his own personal use, and Mr. Martin stated that, at some point, what a person does with his own personal use should not work to the disadvantage of the neighbors. Mr. Martin asked Mr. Brown how long the cars would be on the property, and Mr. Brown explained what he does with the cars. Mr. Martin stated that what Mr. Brown is doing sounds like a salvage operation to him.

Mr. Edwards informed he received a complaint on Mr. Brown and he wrote him an official notice. Mr. Brown gave him a reasonable explanation of what he was doing and agreed to get the cars off the lot. The citation was issued on February 29, 1984. Mr. Edwards pointed out to the applicant that the protestants would probably be more interested in what would be going on in the accessory building because of the size of it. He suggested to Mr. Brown that he get the junk off the lot. Mr. Edwards informed he did not see anything wrong with what the applicant was doing, except that it was just trashy.

Case No. 430 (continued)

Mr. Brown informed there are four cars on the lot right now--two he will keep, and two he will get rid of.

Protestants:

C. L. Rice, 3720 South 51st West Avenue, informed the house on the subject property burned over five years ago, and no attempt has been made to tear it down or to clean it up. He informed that the applicant does work on other people's cars. Since the applicant has started this work, there have been an increase of traffic on the street. The applicant told Mr. Rice two years ago that he planned on starting a used parts business. He told one of the other neighbors that he planned to start a salvage business. The majority of the people are either retired or near retirement age. He is concerned that approval of this application will decrease their property values 30 to 40 percent. Mr. Rice informed that Mr. Brown is dumping trash and junk on the back of the lot and is causing rats to get bad. They would like the application to be denied and the lot to be cleaned up. He is concerned that this lot will become a junk yard if the application is approved. He described the lot where the applicant lives now.

Comments and Questions:

Mr. Alberty asked Mr. Rice if he would be opposed to a mobile home and an accessory building being put on the lot if he had no reason to be concerned about the property and its upkeep. Mr. Rice informed he would be opposed to it and he thinks the rest of the neighborhood would be opposed to it as well. He informed that the only other large buildings in the neighborhood are business owned. He informed that there is one mobile home within a block of them and it is kept very neat.

Mr. Martin informed the Board is not comfortable in granting mobile home occupancy in residentially zoned areas. Generally speaking, there has to be a reason for it. In this area it would appear that there are mobile homes and some of them are being well-kept. He wanted to know if under circumstances where a request was being made just for the occupancy of a mobile home in a residentially zoned area, if the neighbors would object to it. Mr. Rice informed he thinks they would object.

Protestants:

Carl Sexton, 3731 South 51st West Avenue, owns the property adjoining the subject property on the south side. He informed they have a nice home on their property, and most of the other houses in the area are nice and clean. He informed there is only one mobile home in the area and no one has ever complained about it. The next closest mobile home is two blocks away on a 10-acre tract of land. There are no other large buildings in the area other than the ones that he owns and uses to run a business out of in the proper zoning. The neighbors are concerned about the condition of the land and the size of the proposed building. They also are concerned that the applicant will run a business in their residential area.

Mrs. Sexton, 3731 South 51st West Avenue, informed the appraiser told them that the one mobile home in the area would decrease their property values. She feels that another one would do the same.

Applicant's Rebuttal:

Mr. Brown stated that he does not intend to have a business on the property at all. He informed he has not had any traffic coming into the area--he has not even lived there. He does not work on other people's vehicles--

Case No. 430 (continued)

only his own. He informed he is a mechanic and a carpenter.

Mrs. Brown informed when they first bought their property and put their cars there, it was zoned AG. It was later zoned RS.

Mr. Brown informed he does not plan to open a salvage on the subject tract. He will move the cars away, tear the house down, and clean up the property. He stated that there has been a sign on the property for three years, and there has been no trash dumped there. He burned a lot of trash that was there. He plans to bring in a landfill and cover up the existing trash that was there before he bought the property. Mr. Brown informed he is now living in a mobile home in a trailer park.

Board Action:

On MOTION of TYNDALL and SECOND by MARTIN, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to DENY 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 District under the provisions of Section 1680, and a Variance (Section 240.2 - Permitted Yard Obstructions - under the provisions of Use Unit 1209) of the 750 square foot maximum to allow a 2,800 square foot accessory building in an RS District under the provisions of Section 1670, on the following described property:

The South 163.75' of the West 272.15' of Lot 1, Parks Acres Addition, an Addition to Tulsa County, State of Oklahoma.

Case No. 431

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 1205 - Request for an exception to permit a church and church uses in an AG District under the provisions of Section 1680, located at 7700 West Cameron Avenue.

Presentation:

Glen E. McGuire, 12908 East 34th Street, represented the Victory Assembly of God Church. They would like to build a church building on this 17 1/2 acres. He was not aware that the permission for church use that was granted in 1974 had expired. There are approximately 70 members of the congregation. He submitted a petition signed by about 43 members of the congregation (Exhibit "C-1"). He also presented a picture of what the church building will look like. They do not plan to operate a day camp on the property. The entire church building will be 5,094 square feet and will accommodate a maximum of 150 people in the sanctuary. He submitted a set of plans (Exhibit "C-2"). They would like to construct the facility immediately if this application is approved. He informed he was not aware of the County Engineer's request that approval be subject to their review.

Comments and Questions:

Mr. Jones submitted a letter of referral from Sand Springs which recommended approval per conditions (Exhibit "C-3") and a letter of approval from a surrounding property owner (Exhibit "C-4").



Mr. Alberty informed they have a memorandum in the file from Tom Raines, the Assistant County Engineer, stating that due to the terrain on the Old North Road, should this application be approved, they would like it to be subject to their review and approval of any access points on that road (Exhibit "C-5").

Mr. Gardner informed there is a time limitation in the Ordinance that says if you don't use a Special Exception or a Variance within three years of the time it is given, it expires.

Mr. Gardner informed that anytime a Special Exception is granted, there is a provision under the Zoning Code that the applicant has to plat it, replat it, or get the requirement waived. This has to be taken care of before the Building Inspector will issue a permit.

There was discussion about whether this is part of an old PUD.

Interested Party:

Doug Martin from Osage County represented his parents, Mr. & Mrs. D. E. Martin, Route 6, Box 596, whose property immediately adjoins the subject property, and the New Mexico Capital Corporation whose property immediately adjoins this. These are the only two property owners with a common boundary with this piece of property. Both of the property owners have no objection to a nice properly constructed church with appropriate waste facilities and proper attention to runoff and flood waters. They do object to a mobile home because of the history of the property. When the exception was previously granted, a mobile home was moved on the property that looked pretty trashy. He is concerned about the waste water and he realizes that the County will exercise some control over it, but he feels that it is important that the applicant think about the need for it. The previous applicant did not seem concerned about this subject. Mr. Martin informed the property has some problems in terms of terrain. He described the terrain. If this is approved, they would like the approval based upon some conditions: (1) They would like the words "church related" removed from the application--they do not want a mobile home; (2) they would like a time limit placed on this; (3) they would like it to be clear that no permits will be issued until the waste water and runoff water situations have been properly addressed. The property has remained open and has been used for a public dump. They have not seemed disposed to secure the property and clean it up.

Comments and questions:

Mr. Martin stated the things that the protestant brought up would be things that the applicant would want to look into anyway. He asked the applicant if there would be a mobile home on the tract, and the applicant informed him that there would not be.

Mr. Martin informed he does not have a problem with this application.

Mr. Alberty informed he would like the Planning Commission to review this piece of property and make a determination about the platting. He would like a motion to be made that would be subject to the Planning Commission's review and subject to a drainage plan and the Health Department with regard to the septic tank, and subject to the County Engineer's review of the access points. The Planning Commission should decide whether this property needs to be platted or not.

Mr. Martin asked if the applicant would have any trouble with a time limitation being placed for them to proceed with the construction of

Case No. 431 (continued)

the facility in a timely and professional manner. Mr. McGuire informed they would not have a problem with that. They have already been in contact with the Health Department about the waste water. The drainage would be no different from what it is now.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Special Exception (Section 310 - Principal Uses Permitted in the Agriculture District - under the provisions of Use Unit 1205) to permit a church in an AG District under the provisions of Section 1680, subject to the necessity for the applicant to proceed in accordance with the conditions of the Planning Commission and whatever conditions are applicable to construction and satisfying the needs of waste water treatment and matters of that kind, subject to construction commencing on or before one year from the date of approval, subject to this not being for any accessory uses--only the use specific of a church, and subject to no mobile home being placed on the property, on the following described property:

A tract of ground situated in a portion of Lots 3, 4, and 5, and the SE/4 of the NW/4 of Section 6, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, Oklahoma, and being more particularly described as follows, to wit:

Beginning at a point on the North line of Section 6, 1,168.0 feet East of the Northwest corner thereof; thence East along Said North line a distance of 677.36 feet; thence South a distance of 190.0 feet; thence South  $67^{\circ}-14'-25''$  East a distance of 34.01 feet to a point on a curve on the Westernly property line of the North Sand Springs Road; thence in a Southwesternly direction along Said Roadway property line around a curve to the left whose radius is 169.8 feet a distance of 115.4 feet to a point of tangent; thence South  $16^{\circ}-13'$  East a distance of 368.6 feet to a point of curve; thence around a curve to the right whose radius is 236.48 feet a distance of 314.16 feet to a point of tangent; thence South  $59^{\circ}-54'$  West a distance of 260.44 feet to a point of curve; thence around a curve to the right whose radius is 236.48 feet a distance of 378.68 feet to a point of tangent; thence North  $28^{\circ}-21'$  West a distance of 316.08 feet to a point on the Easternly property line of the Sand Springs Road a distance of 1,162.8 feet East of the West line of Section 6; thence North  $0^{\circ}-24'-20''$  East a distance of 697.24 feet to the point of beginning, containing in all 17.072 acres, LESS and EXCEPT that portion lying East of the West line of the Sand Springs 100-foot fence line and LESS the North 100 feet thereof.

Case No. 432

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Use Unit 1206 - Request for a variance to permit two dwellings per lot of record in an AG District under the provisions of Section 1670, located at the SW corner of 137th Street North and North 87th East Avenue.

Case No. 432 (continued)

Presentation:

David Willis, 8711 East 137th Street North, informed they would like to move a second mobile home on their 2 1/2 acre tract. The existing mobile home only takes up about an acre of the land. The second mobile home will be for his mother-in-law to live in. They have had a perc test and have had approval from the Health Department. They also have the approval of all of their neighbors adjoining their property. The lot directly behind them has two dwelling units on it. Mr. Willis informed he does plan to maintain ownership of the lot.

Protestants: None.

Comments:

Mr. Gardner informed the applicant is stating that he has family and that is the need for this situation. He thinks the Board should limit this to that. He does not think the area is designed or equipped for all of the 2 1/2 acres to be split and double the density. It should be tied to this applicant's stated reason as opposed to renting it out later.

The applicant informed he would have no problem with a condition limiting it to family.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record - under the provisions of Use Unit 1206) to permit two dwellings per lot of record in an AG District under the provisions of Section 1670, subject to the stated uses, and in particular that the second mobile home be occupied by a member of the family, and that at any time that that situation was not the case, there be a willingness to remove the mobile home from the property, and subject to the issuance of a building permit and approval of the Health Department, on the following described property:

A 2.51 acre tract of land situated in the E/2 of the SW/4 of Section 25, Township 22 North, Range 13 East, Tulsa County, State of Oklahoma described to wit: Beginning at a point 659.44 feet due West and North 00°-05'-06" East a distance of 663.21 feet from the Southeast corner of Said E/2 of the SW/4, Section 25, Township 22 North, Range 13 East; thence due East a distance of 329.71 feet to a point; thence North 00°-05'-03" East a distance of 331.61 feet to a point; thence due West a distance of 329.71 feet to a point; thence South 00°-05'-06" West a distance of 331.61 feet to the point of beginning, according to the U. S. Governments Survey thereof.

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 1205 - Request for an exception to permit a church use in an AG District under the provisions of Section 1680, located south of the SE corner of East 191st Street and South Lewis Avenue.

Presentation:

John L. Bennett, Route 1, Box 136, Mounds, submitted a plot plan (Exhibit "D-1") and a map (Exhibit "D-2"). He informed there is an existing house on the subject property that has about 1,650 square feet. In this entire section, the build-up of the area has been relatively slight. They have attempted to place themselves on the edge of the developing area in order to suit what apparently will be a new community. There is a school in the area as well as an existing church. There is also a fire station and a small community store in the area. There are ten residences in the area. He further described other structures in the area. They are currently planning to meet in the existing home. There are two commercial greenhouses located adjacent to the subject property. The subject property is located on approximately 2 1/2 acres. They are approximately 78 feet from the nearest home. They plan to construct a church building on the back of the subject property and then turn the existing structure into a parsonage. They have about 100 people who are meeting in the home, and they are increasing in size, so they do not think they will be able to stay there too long. The new building will be constructed to seat from 200 to 250 people. They intend to construct a privacy fence between the subject property and the property with the residence that is the closest to them. Mr. Bennett described the two large greenhouses on the property adjacent to the subject property. The property is located on the major thoroughfare of Lewis and, therefore, will not cause any bottleneck in the traffic. The proposed building will be either a wood-frame building or a steel structure with rock siding on it. The building will be permanent and will correspond to the value of the homes in the area. The homes are mostly of brick construction. They have cleaned up some of the property and have fixed up the house. There is a sewage pond on the property that holds overflow sewage for the house. They feel that they will increase the land values of the residences in the immediate area.

Protestants:

George B. Parker, Route 1, Box 118, Mounds, informed when they purchased their property, it was with the understanding that all improvements in the area would be brick one-family homes with at least two full baths. There could not be more than one home for each platted area of approximately 4 1/2 acres. He described other limitations on the property in the area. He informed the property next to the subject property has a small pond on it that has been there for many years that would be a danger to small children of a public facility such as the church. He has been told by neighbors that several small children were playing around the pond when the group was meeting or working on the property. The parking of all the cars in the area is a fire hazard to the whole community because of the catalytic converters on cars. He does not know of any members of the church who live closer than 4 miles from the subject tract. He feels that something like this has to be compatible with the neighbors.

Case No. 433 (continued)

Ward Oliphant, Route 1, Box 116, Mounds, informed he owns the property just north of the subject property. His property has the greenhouses on it--they are portable greenhouses. The neighbors did not object to him putting the portable greenhouses on the property. He informed the protestants are not speaking against the right of assembly, but where that assembly will take place. The community was planned as a residential community with light agriculture. The existing building on the subject tract was built to be a residence, not a church. They were under the impression that this building was going to be the building used for the church. The building does not meet any building codes or fire codes for a public meeting building. He submitted an agenda of what has occurred on the subject property (Exhibit "D-3"). Parking will always be a problem on this land. The property was terraced by the U. S. Government and O.S.U. through a grant for erosion and flood control. This occurred several years ago. Putting parking lots and driveways on the property will disrupt the terracing. He does not think that the church members have looked into the problems with the property. They object to the noise that has been on the property up to this point. He presented some photographs and informed the cars parking in the front yard are very unsightly. Lewis is not a major thoroughfare. This property is located right in the middle of the residential area, not on the edge. The major thoroughfare is 201st. He feels they will have a traffic problem if this is approved. He does not know many of the people of the church by recognition which makes him think they are not part of this community. He does not think there is a need for this church in the middle of the residential area. Mr. Oliphant informed his greenhouses did not need a building permit because they are not permanent structures. He is in the wholesale business.

Mr. Oliphant informed they have a private agreement that they have all adhered to in the neighborhood. The other church in the area located there in 1970 or 1971. Mr. Oilphant informed the existing church in the area is more acceptable because of its location--it is on 201st which is the major thoroughfare. It is located right next to the school. The community plan set aside the area of the school for commercial uses and churches.

Mr. H. H. Dukes, 5827 East 50th Street, described the development of the area. He read from the original private restrictions that have been referred to. This is a small agricultural residential area. They allocated property along 201st Street for such things as stores and churches. There is property still available in the area that would be good for church use. He presented some photographs of the residences in the area. Mr. Dukes informed the percolation test on this tract failed in three places. They are building lagoon systems to meet the requirements. He described what the requirements would be for a lagoon for residential uses and what they would be for church use. He informed that the school has two large lagoon systems and the existing church has a lagoon system as well. He informed that a lagoon system on the subject tract would not be possible because it must be located 100 feet from a property line. The subject tract is 220 feet wide.

There was a letter submitted from Mr. Ray Malone which opposes this application (Exhibit "D-4").

Case No. 433 (continued)

J. P. Courts, Route 1, Box 114, Mounds, was the first property owner in the area, and he objects to this application. He is concerned about the sewage situation in the area.

Applicant's Rebuttal:

Mr. Bennett pointed out that both the church and the school appear able to conform to the County Health Code requirements as far as sewage is concerned. They feel that they will be able to conform to the County Code requirements as well. They have no intentions of infringing on anyone else's rights. He submitted an attorney's opinion they had done in reference to the piece of land prior to the time they bought it, and in that attorney's opinion, there are no covenant agreements recorded with the County Courthouse. They were not aware of a gentlemen's agreement in the area. They intend to abide by all legal regulations. To the best of their knowledge, they were conforming to all the requirements they had that had been noted on the legal ownership documents. They have had to park along Lewis because of the rain. They have not had the authority to build a suitable parking facility for their people. The existing house is a temporary place for them to meet. They have been in the community for over a year and have met in the school house. There is no other place in the area that they could meet that has an existing structure on it. Mr. Bennett pointed out that most churches at one point or another have started in somebody's home. They want to enhance the area.

Comments and Questions:

Mr. Martin asked if the Health Department would be able to look at an application and determine if the land will handle the sewage needs of a church of a certain size, and Mr. Edwards informed that they would.

Mr. Gardner informed they are required to plat, replat, or get that provision waived. The Planning Commission along with the Health Department and other agencies have to address these questions. Under the Zoning Code these things would be properly addressed. The Board needs to primarily concern itself with the use--whether it is appropriate or inappropriate. If the Board is concerned about certain things, they should make conditions.

Mr. Alberty informed he feels that use changes such as this need to be accepted by the immediate community. In the past where there have been established area residents who are not willing to accept the change, he has been against the change in the use.

Mr. Martin informed he finds it difficult to understand why the use of part of this area by one church is acceptable and the use by another church is not acceptable. He finds it difficult to see how the use of this property violates any of the accepted standards for land use. He informed the Board is more concerned about a church going into a rather densely populated area and buying an undeveloped lot. He informed that there will always be someone to object to anything. He respects that right, but he does not see in the presentations anything that would say that the use of the property, subject to its ability to satisfy the sanitary sewage requirements and the Health Department, would be inappropriate. If it will not meet the requirements and Health Department requirements, then it should not be allowed.

Case No. 433 (continued)

Mr. Alberty agreed that there is no locational criteria that has been presented that would make this a bad location for a church other than the fact that the immediate property owners are not in favor of it.

Mr. Martin moved that this application be approved, subject to the strict interpretation of the usability of this by all proper Health Department standards.

Mr. Tyndall asked if there had been a time frame presented for the completion of the proposed building. There had not been one. Mr. Martin informed he has no objection to a time frame being injected. He is talking about the use of the property. If it will not meet the Health Department requirements, then the application should be denied.

Mr. Martin's motion for approval died for the lack of a second.

Mr. Martin suggested that they continue this until a date that the applicant could have a testing of the property to the satisfaction of whatever agency would be required. This information could then be submitted to the Board. He does not want to see the property used for this purpose if it is incompatible with health standards.

Mr. Gardner suggested that this case could be continued for one month with the requirement that the applicant meet with the Health Department and find out if the existing system is meeting the needs of the congregation and if the land will handle a new facility.

Mr. Tyndall moved that this application be denied, but this motion died for the lack of a second.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to continue Case No. 433 to the April 13, 1984, meeting.

Additional Comments:

Mr. Alberty recommended that the applicant check with the Health Department before the next meeting.

Case No. 434

Action Requested:

Variance - Section 240.2 (e) Yards - Permitted Yard Obstructions - Use Unit 1206 - Request for a variance of the maximum Area of 750 sq. ft. for an accessory building to permit a 1,400 sq. ft. accessory building in an RS District under the provisions of Section 1670, located west of the SW corner of West 34th Street and 68th West Avenue.

Presentation:

A. B. Maxwell, 7108 West 34th Street, submitted a plot plan (Exhibit "E-1") and informed he wants to use this building to store antique and classic-type cars. The cars are already completely restored. The facility will be built to hold 9 cars and will be strictly a noncommercial use. The subject tract is 3 acres minus the road easement. There are other large accessory buildings in the area. He will be able to

Case No. 434 (continued)

meet with all the required setbacks. None of the surrounding property owners are opposed to the application. The building will be built of rough cedar to match his house and will have a composition roof. It will probably be rocked halfway up. He informed he will service the vehicles which is a customary accessory use.

Protestants: None.

Comments:

Mr. Gardner suggested that the Board condition this to the storage of operable vehicles (classic show automobiles).

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker Wines, "absent") to approve a Variance (Section 240.2 (e) - Yards - Permitted Yard Obstructions - under the provisions of Use Unit 1206) of the maximum area of 750 sq. ft. for an accessory building to permit a 1,400 sq. ft. accessory building in an RS District under the provisions of Section 1670, subject to this building never being used for inoperable vehicles, on the following described property:

The West 396' of the South 305.8' of the NE/4 of the SW/4 of the NE/4 of Section 19, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof.

Case No. 435

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 RM-2 District under the provisions of Section 1680.

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Use Units 1206 and 1209 - Request for a variance to permit 3 dwellings (1 house, 2 mobile homes) per lot of record in an RM-2 District under the provisions of Section 1670, located south of the NE corner of 75th West Avenue and West 17th Street.

Presentation:

Walter D. Nelson, 4348 Sunburst East, Sand Springs, informed he would like to move a mobile home on his future mother-in-law's property. There are other mobile homes in the area. They do not plan to split up the property. Mr. Nelson's future mother-in-law informed that she lives in the house and her son lives in the existing mobile home. This mobile home will be for her daughter and Mr. Nelson. She informed that her daughter does not intend to live there forever. They will save their money until they are able to buy a house. They have had a percolation test approved.

Protestants: None.

Comments and Questions:

Mr. Jones submitted a letter of referral from Sand Springs which stated they voted in a public hearing not to oppose this application (Exhibit "F-1").



Case No. 435 (continued)

Mr. Alberty informed the subject tract is less than an acre in size.

Mr. Martin asked the applicant how long he would like the approval, and Mr. Nelson informed at the most they would need it for 15 years.

Mr. Edwards informed the applicant is asking for this approval, subject to it being only for family.

Mr. Tyndall made a motion that this application be denied.

Mr. Nelson's fiancée informed across the street is a salvage yard. That property is messed up and is used for rental property. They will not mess up the subject property.

Mr. Alberty informed the area is mixed. This is an unprecedented situation. He would feel more comfortable with a five year time limitation. If there is still a need at that time, they could come back before the Board and the Board could reconsider it at that time.

Mr. Tyndall's motion died for the lack of a second.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "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 RM-2 District under the provisions of Section 1680, and a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record - under the provisions of Use Units 1206 and 1209) to permit 3 dwellings (1 house, 2 mobile homes) per lot of record in an RM-2 District under the provisions of Section 1670, for a period of five years, subject to the issuance of a building permit and Health Department approval, on the following described property:

Tract 30, Lot 6, Billington Acres Tract, an Addition to Tulsa County, State of Oklahoma.

Case No. 436

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record Use Unit 1209 - Request for a variance to allow one single-family dwelling and one mobile home on one lot of record in an AG District under the provisions of Section 1670, located west of the NW corner of 176th Street North and Memorial Drive.

Presentation:

Bobbie Coggins was represented by Terry Coggins, 410 South 14th Street, Collinsville, Okla. He informed the subject tract is 10 acres in size and he would like to put a mobile home and a house on the property. The mobile home will be for his parents and his sister, and he will build a home for him. He wants to keep the property under one ownership. He will check with the Health Department to see what will be required to put in a septic system for both dwellings. He would like this approval to be for a permanent-type use.

Case No. 436 (continued)

Protestants: None.

Comments:

Mr. Alberty informed the mobile home is a use that is permitted by right in an AG District. All the Board is looking at is the permission to put two dwellings on the tract.

Board Action:

On MOTION of TYNDALL and SECOND by MARTIN, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record - under the provisions of Use Unit 1209) to allow one single-family dwelling and one mobile home on one lot of record in an AG District under the provisions of Section 1670, subject to the Health Department approval and the issuance of a building permit on the following described property:

The E/2 of the W/2, of the SW/4 of the SE/4 of Section 2, Township 22 North, Range 13 East, less and except the North 50', Tulsa County, State of Oklahoma.

Case No. 437

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Use Unit 1209 - Request for a variance to permit two mobile homes per lot of record in an AG District under the provisions of Section 1670, located west of the NW corner of 176th Street North and Memorial Drive.

Presentation:

Lisa Thulin, Route 3, Box 763-15, Collinsville, Okla., informed they would like to move a second mobile home onto the 10-acre tract of land. The land will be kept under one ownership, and family members will occupy the mobile home.

Protestants: None.

Comments:

There was discussion about the legal description--there was an error made in the description. They are applying for only the east-half of the 20-acre description. Mr. Gardner informed the legal description would have to be revised.

Mr. Jones informed that he spoke with the City Planner for Collinsville, and he had no problem with this.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record - under the provisions of Use Unit 1209) to permit two mobile homes per lot of record in an AG District under the provisions of Section 1670, subject to the issuance of a Building Permit and approval of the Health Department, on the following described property:

Case No. 437 (continued)

The E/2 of the W/2 of the SW/4 of the SE/4 and the W/2 of the E/2 of SW/4 of the SE/4 of Section 2, Township 22 North, Range 13 East, Tulsa County, State of Oklahoma.

Case No. 438

Action Requested:

Variance - Section 410 - Principal Uses Permitted in Residential Districts- Use Unit 1203 - Request for a use variance to allow a Use Unit 3 (keeping of horses) in an RS District under the provisions of Section 1670.

Variance - Section 240.2 (e) - Yards - Permitted Yard Obstructions - Use Unit 1203 - Request for a variance of the allowed 750 sq. ft. to allow for a 1,600 sq. ft. storage building in an RS District under the provisions of Section 1670, located at the NW corner of 59th Street North and North Cincinnati Avenue.

Presentation:

Ronald Stephens, 2811 North Trenton Avenue, informed he and his twin brother bought the property together. The subject tract is five acres in size. The accessory building will be used for a barn for the horses. The horses will be for their own personal use. He informed that the barn will be approximately 1,705 sq. ft. rather than 1,600 sq. ft.

Protestants: None.

Comments and Questions:

Mr. Gardner explained the application and why he had advised the applicant to come before the Board. The applicant's property is one lot away from agricultural property. The Staff has no problem with this application as it has been presented.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the provisions of Use Unit 1203) to allow a Use Unit 3 (keeping of horses) in an RS District under the provisions of Section 1670, and a Variance (Section 240.2 (e) - Yards - Permitted Yard Obstructions - under the provisions of Use Unit 1203) of the allowed 750 sq. ft. to allow for a 1,705 sq. ft. storage building in an RS District under the provisions of Section 1670, on the following described property:

The S/2 of the NE/4 of the SE/4, less the E/2 of the SW/4 of the NE/4 of the SE/4, and less the S/2 of the S/2 of the SE/4 of the NE/4 of the SE/4 in Section 2, Township 20 North, Range 12 East of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof.

Additional Comments:

Mr. Gardner asked if the Board wanted to limit the number of horses, and Mr. Alberty informed he was under the impression it was for three horses. Mr. Stephens informed that he and his brother want three horses each, which would make a total of six horses. They will share the barn. He stated that the neighbors have no objection to this.

Case No. 438 (continued)

Mr. Gardner informed the rule of thumb is that a person needs about an acre of ground per animal. Six would not be excessive on five acres.

There was discussion about the number of horses the Health Department would allow them to keep.

Amended Motion:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to amend his motion to make the approval subject to Health Department approval as to the number of horses to be allowed.

Case No. 439

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 1205 - Request for an exception to permit a church in an AG District under the provisions of Section 1680, located west of the NW corner of 146th Street North and Memorial Drive.

Presentation:

Clarence S. Barlow, Rt. 1, Box 422, Collinsville, Okla., was represented by Roger Malone, Route 1, Box 219 F, Ramona, Oklahoma. He informed this church has a contract on the subject property contingent upon securing this Special Exception. They are currently meeting in Vera, Oklahoma, in a small dilapidated church building. The subject property is vacant at this time. They plan to build a 40' by 80' building, but they have no specific plans. They will comply with the Code regulations. There will be no adjacent structures to the proposed church building. There are single-family homes on the lots next to the subject property. They are a conventional-type church and are quiet. He informed that none of the members live right in the area.

Comments:

There was discussion about what is now in the area and what used to be there.

Mr. Jones informed the applicant is aware of the platting requirements for the property.

Protestants:

Joan Tinker, 12629 North 77th East Avenue, owns the property that adjoins the subject property on the north. The original landowner graded a small dead-end road that runs on the west side of the subject property. They have to maintain this road. They do not object strenuously to the use of the land as a church, but they would like the people to adhere to the original restrictions as far as the type of building. She would like for the access and egress from the church to be on 146th Street North. She informed the previous owners of the subject property had a percolation test run that failed. They are concerned that it might be necessary for a church to install a lagoon system-- they do not want that. A lagoon system could be dangerous to animals and small children. She submitted a petition (Exhibit "G-1"). They are not really opposed to a church, but they want it to meet the requirements that their homes had to meet.

Case No. 439 (continued)

Lyle Tillinghast, 14727 North 77th East Avenue, informed they would expect the applicants to meet all the restrictive covenants that are recorded in the Courthouse. He thinks the applicant will have difficulty with a septic system--the land just won't percolate. He would like the applicant to talk to the County about maintaining the road.

Applicant's Rebuttal:

Mr. Malone informed that if the land does not percolate, they are not interested in a lagoon system either. They would like approval to be conditioned upon the land percolating. They do not want to be a nuisance to the area.

Comments and Questions:

Mr. Martin asked the applicant if he would have an objection to conforming to the requirements of the private covenants. Mr. Malone informed he would like to know what these requirements are. There was discussion about some of these requirements.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 3-0-0 (Alberty, Martin, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, Wines, "absent") to approve a Special Exception (Section 310 - Principal Uses Permitted in the Agriculture District - under the provisions of Use Unit 1205) to permit a church in an AG District under the provisions of Section 1680, subject to Health Department approval for septic tank system only, subject to plot plan approval by the Staff, subject to all other conditions regarding building permits and a plat, and subject to the conditions that the structure be at least 50 percent masonry stone or brick, that the setback from the west property line be a minimum of 75 feet, and that ingress and egress be limited to Highway 20, subject to the County Engineer's approval, on the following described property:

The SW/4 of the SW/4, of the SE/4 of the SE/4 of Section 23,  
Township 22 North, Range 13 East, Tulsa County, State of Okla.

Additional Comments:

Mr. Edwards informed that if a building costs more than \$40,000, the plans must have the stamp of a registered professional engineer on them.

There being no further business, the Chair adjourned the meeting at 12:41 p.m.

Date Approved

April 13, 1984

Wayne Alberty  
Chairman