

**COUNTY BOARD OF ADJUSTMENT**  
Agenda (No. 137)  
Tuesday, October 15, 1991, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Alberty, Chairman Eller Looney Tyndall	Walker	Gardner Jones Moore	Fields, Building Inspection Glenn, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk, as well as in the Reception Area of the INCOG offices, on Monday, October 14, 1991 at 11:43 a.m.

After declaring a quorum present, Chairman Alberty called the meeting to order at 1:33 p.m.

**MINUTES:**

On **MOTION** of **TYNDALL**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** the **Minutes** of September 17, 1991 (No. 136).

**NEW APPLICATIONS**

**Case No. 1045**

**Action Requested:**

Special Exception to permit a resale shop with outdoor storage - **Section 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15, located 11409 North 113th East Avenue.

**Presentation:**

The applicant, **Ray Hatfield**, 11409 N. 113th East Avenue, Tulsa, Oklahoma, requested permission to continue the operation of a resale shop with outside storage of merchandise. He informed that the tract is zoned for commercial use, and there have been various types of sales operations conducted on the property in the past.

**Comments and Questions:**

Mr. Alberty asked the applicant if he is the operator of the business, and he replied that he owns the property and leases it to the operator.

In reply to Mr. Alberty's question, Mr. Hatfield stated that the life of the temporary building, which has a gravel floor and no foundation, will probably be less than five years.

Case No. 1045 (continued)

Mr. Alberty asked if merchandise is offered for sale inside the building, and Mr. Hatfield stated that customers shop inside the building, but is not sure if it complies with the current Zoning Code.

In response to Mr. Alberty's inquiry concerning the type of merchandise offered for sale, the applicant stated that various small secondhand items are for sale in the building, and lawnmowers, garden tools, etc., are displayed outside until they are sold.

**Protestants:**

**Wayne Vines**, owner of the strip center across the street from the business in question, pointed out that the seven-day-a-week garage sale operating on the property has an adverse impact on the surrounding area. Mr. Vines stated that the business is unsightly and a health hazard, since all types of furniture and mattresses are left outside in the rain. He informed that some businesses have closed since Highway 169 was moved to the east of the old route; however, the area could experience a recovery because of the new sports complex that is under construction. Mr. Vines requested that the application be denied. Photographs (Exhibit A-2) were submitted.

**Interested Parties:**

**Steve Compton**, who represented the City of Owasso, informed that the Board of Adjustment heard this referral case in September and found a resale shop to be an appropriate use for the area if Code requirements are met. He stated that the Board has recommended that no outside storage of merchandise be permitted on the property, and that the use meet all Code requirements. A letter (Exhibit A-1) from the Owasso Board of Adjustment was submitted.

**Additional Comments:**

Mr. Alberty remarked that he is familiar with the area, and finds the existing business to be in violation of the Code and an eyesore in the community.

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, "absent") to **DENY** a **Special Exception** to permit a resale shop with outdoor storage - **Section 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS - Use Unit 15**; finding the use to be detrimental to the area, and in violation of the spirit and intent of the Code; on the following described property:

South 165', north 406', east 132', west 164', SW/4, NW/4, NW/4, Section 8, T-21-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1046

Action Requested:

Use Variance to allow bait shop, grocery store, convenience store, boat and RV sales, repair and storage and mini-storage - **Section 310. PERMITTED USES IN AGRICULTURE DISTRICTS** - Use Unit 17, located 26500 West 21st Street.

Presentation:

The applicant, **I. M. Puryear**, Route 3, Box 860, Sand Springs, Oklahoma, was not present.

Comments and Questions:

Mr. Gardner informed that the applicant has asked for a continuance until a zoning change request is heard by the Board of County Commissioners.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, "absent") to **CONTINUE** Case No. 1046 to November 19, 1991, as requested by the applicant.

Case No. 1047

Action Requested:

Variance of the required 30' of frontage on a public street to 0' to permit a private road - **Section 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 119th Street North and Memorial Drive.

Presentation:

The applicant, **Gloria Huckaby**, 562 South Allegheny, Tulsa, Oklahoma, submitted a plot plan (Exhibit B-1), and informed that she owns the property in question. She stated that the subdivision plat was approved by the Tulsa Metropolitan Area Planning Commission (TMAPC) on August 21, 1991, at which time the requirement for the installation of a public street was waived, per conditions. Ms. Huckaby informed that a variance of the 30' frontage on a public street was one of the approval conditions. She explained that a private road, rather than a dedicated street, will be maintained by the property owners in the subdivision, and if a public road is ever installed, the expense of bringing the private road up to County standards will be borne by the property owners. Ms. Huckaby stated that a sign will be installed to notify prospective buyers that the streets in the subdivision are private streets. She pointed out that the County Engineer has assisted her in drawing up covenants for the subdivision, and the County Commissioner for the district has indicated approval of the project. Ms. Huckaby stated that, if the application is denied, her only alternative would be to abandon the platting process and sell the property in four ten-acre tracts.

Case No. 1047 (continued)

**Comments and Questions:**

Mr. Alberty asked the applicant to state the basis for requesting a variance, and Ms. Huckaby replied that she was not successful in obtaining right-of-way from abutting property owners to construct a public road.

In response to Mr. Alberty, the applicant stated that specifications for the roadway have not been developed, but they will be subject to TMAPC and County approval. She added that the proposed road will be constructed of all-weather material.

There was discussion concerning other alternatives for accessing the property, and Mr. Jones clarified that Ms. Huckaby's alternate plan of selling the property in 10-acre tracts and obtaining lot splits would not be feasible, since the Building Inspector would not issue building permits for construction without Board approval.

Mr. Alberty advised that the plat seems to have gained the approval of TMAPC and the Technical Advisory Committee, except for the required frontage on a public street.

Mr. Jones pointed out that only the Board of Adjustment has the power to grant a variance of the 30' required frontage.

In response to Mr. Looney, the applicant stated that she has only received sketch plat approval from TMAPC, and final approval will include a review of the road construction plans.

Mr. Gardner advised that, although the street will be private and will not be maintained by the County, it must be constructed to comply with County requirements and specifications.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 3-1-0 (Alberty, Eller, Looney, "aye"; Tyndall, "nay"; no "abstentions"; Walker, "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street to 0' to permit a private road - **Section 207. STREET FRONTAGE REQUIRED** - Use Unit 6; subject to strict adherence to TMAPC conditions and all County requirements; finding that the applicant was not able to obtain right-of-way from abutting property owners for the construction of a public street; and finding that the private street will not be maintained by the County, but will be constructed in accordance with County requirements; on the following described property:

S/2, N/2, SE/4 and NW/4, SE/4, SE/4, Section 2, T-21-N, R-13-E, which is all of Prairie Home Estates Addition, Tulsa County.

Case No. 1048

Action Requested:

Appeal of the decision of the Building Inspector that the present use is a heliport - **Section 1650. APPEALS FROM THE COUNTY INSPECTOR** - Use Unit 6.

Special Exception to permit a heliport in an AG District - **Section 1202.2. AREA-WIDE SPECIAL EXCEPTION USES** - Use Unit 2, located 4300 South Butternut, Broken Arrow.

Comments and Questions:

Mr. Jones informed that the Broken Arrow Board of Adjustment heard the case on October 14, 1991 and recommended denial, based on the lack of information, incompatibility with surrounding uses and the fact that the use is not in harmony with the Comprehensive Plan (Exhibit C-1).

Presentation:

The applicant, **Wayne Crain**, 4300 South Butternut, Broken Arrow, Oklahoma, stated that he is before the Board because of a citation received on September 6, 1991 from the County Inspector, Ron Fields. He explained that he is appealing the decision of the Building Inspector in determining that a heliport is being operated on his property. Mr. Crain pointed out that he has been landing a helicopter on his 40-acre tract for several years, and was not aware that he was violating the law. In regard to Federal Aviation Administration (FAA) approval, the applicant stated that he has made application to FAA, but has not reviewed approval at this time. Mr. Crain stated that he has installed fencing on the west side of his property, and is proposing to construct a 6' fence on the south boundary line.

Comments and Questions:

Mr. Alberty asked the applicant if he is operating a heliport at the present time, and Mr. Crain replied that he is not operating a heliport.

Mr. Jones clarified that the special exception to permit a heliport was placed on the agenda in order that the applicant can request the use if the appeal is denied.

In response to Mr. Alberty, Mr. Crain stated that he owns an interest in a helicopter, but only flies for recreation, and has no intent of operating a commercial business of any type on the subject property. The applicant stated that he does not intend to store aircraft or fuel on the premises.

Mr. Alberty inquired as to the maximum number of helicopters that might visit the site, and the applicant replied that there will be no more than two helicopters on the property at any given time.

In reply to Mr. Looney, the applicant stated that the helicopters that land on the property are Robinson R-22, which are small copters.

**Protestants:**

**Dick Thomas**, 4409 West Eagle Pass Court, Broken Arrow, Oklahoma, stated that he lives in the housing addition abutting the subject property, and that he is familiar with various types of airplanes and helicopters. He stated that one aircraft accident has already occurred in the area, and is concerned for the safety of his family if the request is approved. Mr. Thomas pointed out that a 6' fence does not provide protection for the residents of the addition. He stated that noise is also a problem, and asked the Board to deny the request.

**Mack Beavers**, who stated that he lives in the Trails Addition near 101st Street and Garnett Road, informed the Board that the homeowners in that addition are opposed to the installation of a heliport on the property in question.

**Don Phillips**, 5302 West Orlando Circle, Broken Arrow, Oklahoma, informed that he is the director of the Cedar Ridge North Homeowners Association, and is protesting the application on behalf of the members of the association. He pointed out that there are four major residential neighborhoods within the immediate vicinity of the proposed heliport, and there have been numerous incidents of low flying aircraft in the area. Mr. Phillips stated that the proposed use would have an adverse impact on the neighborhood, and asked the Board to uphold the decision of the Building Inspector and deny the request for a heliport.

**Interested Parties:**

**Tom Gutman**, 10625 South Garnett, Tulsa, Oklahoma, stated that he recently constructed a home in the area and is not opposed to the use of a helicopter on the property in question. He pointed out that the property has been used for occasional landing of aircraft for approximately three years. Mr. Gutman stated that helicopters land and take off at several sites in the area, and numerous landings are made at Cedar Ridge Country Club. He suggested that all other nonemergency landings in the vicinity should cease if Mr. Crain is denied the right to occasionally land a helicopter on his property.

**Additional Comments:**

**Debbie Turman**, 4400 South Butternut, Broken Arrow, Oklahoma, informed that the problem for the residents of the area began in June 1991. She stated that on several occasions the helicopters play games over the area around the creek, which is very near the housing addition. Ms. Thurman submitted a petition of opposition (Exhibit C-2) signed by property owners in the area.

**Margaret Hicks**, 10669 South Garnett Road, Broken Arrow, Oklahoma, informed that the back portion of her 20-acre tract abuts Mr. Crain's property, and feels that the proposed single-family development on her land would be hampered by the approval of a heliport.

Case No. 1048 (continued)

**William Bean**, 4405 West Eagle Pass Court, Broken Arrow, Oklahoma, stated that the flight pattern along Haikey Creek is at a very low altitude, and his children are frightened when the helicopters play games over that area.

**Mark Gollahon**, 10515 South Garnett, Broken Arrow, Oklahoma, stated that his land is currently rented to individuals that raise horses, and the low flying aircraft spook the horses and could cause the renters to look elsewhere for pasture.

**Norman Stevens**, 4408 South Butternut, Broken Arrow, Oklahoma, pointed out that Mr. Gutman owns a fixed wing aircraft, and it appears that all types of airplanes and helicopters will land on the proposed site. He pointed out that many loads of fill dirt have been moved to Mr. Crain's property, and voiced a concern that filling of the low area will create a flooding problem for nearby residents.

**Steve Turman**, 4400 South Butternut, Broken Arrow, Oklahoma, stated that the proposed landing strip is directly behind the houses in the addition.

**Interested Parties:**

**Ron Fields**, County Inspection, stated that he made the determination that the use should be classified under Use Unit 2. Mr. Fields stated that, although the issue is unrelated to this case, he is monitoring the moving of dirt on the property.

**Applicant's Rebuttal:**

Mr. Crain stated that the individuals flying in the area are professional pilots, and the aircraft have passed all required inspections. He stated that all other nonemergency aircraft landings in the area should cease if he is not permitted to land a helicopter on his property.

Mr. Alberty asked Mr. Crain if he is proposing to land fixed wing aircraft on the site if the application is approved, and he answered in the affirmative. Mr. Alberty advised that landing this type of aircraft would require approval for an airport.

After discussion concerning uses that are permitted in Agriculture Districts, it was the consensus of the Board that the proposed heliport is not an appropriate use at this location.

Mr. Gardner clarified that there are private and public heliports, and Use Unit 2 states that some uses therein may be suitable for any district, but because of their potential adverse influence on adjacent properties, Board approval is required.

Case No. 1048 (continued)

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, "absent") to **UPHOLD** the **Decision** of the Building Inspector that the present use is a heliport - **Section 1650. APPEALS FROM THE COUNTY INSPECTOR** - Use Unit 6.

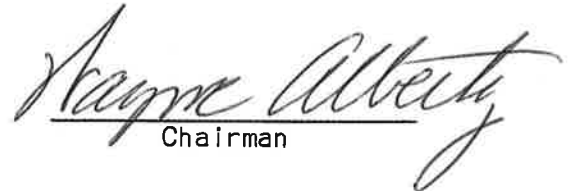
**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, "absent") to **DENY** a **Special Exception** to permit a heliport in an AG District - **Section 1202.2. AREA-WIDE SPECIAL EXCEPTION USES** - Use Unit 2; finding the use to be detrimental to the neighborhood, and inappropriate in the developing residential area; on the following described property:

NE/4, SW/4, Section 29, T-18-N, R-14-E, Tulsa County, Oklahoma.

Date Approved

11/19/91

  
Chairman