

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 156
Thursday, May 18, 1993, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chairman Eller Looney Tyndall Walker		Jones Moore	Glenn, Building Insp.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, May 14, 1993, at 1:53 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Alberty called the meeting to order at 1:30 p.m.

MINUTES:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the **Minutes** of April 29, 1993 (No. 155).

UNFINISHED BUSINESS

Case No. 1144

Action Requested:

Special Exception to permit church use in an RE zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located SW/c of East 86th Street North and U. S. Highway 75.

Comments and Questions:

Mr. Jones informed that this application was continued from the previous Board hearing and, at that time, there was a question as to the availability of access to the property. He clarified that, after research of maps in the County Assessor's office, it was determined that there is a dedicated street right-of-way that extends to the subject tract.

Presentation:

The applicant, **Stephen Berry**, 1817 East 66th Street North, stated that Dr. Linton presented the application at the previous meeting. He requested that church use only be approved, and added that the school affiliated with the church will continue to operate at another location. A plot plan (Exhibit A-4) was submitted.

Protestants:

Bill Kelley, 4448 East 86th Street North, informed that the land in question is residential in nature, and submitted photographs (Exhibit A-1) of nearby dwellings. In regard to street access, Mr. Kelly pointed out that the County Board of Commissioners deeded back to him a 30' portion of the dedicated road (Exhibit A-3) leading to the subject property. Mr. Kelly stated that he then deeded that part of the street to Mr. Hightower, who lives on the corner to the north of the property in question. He pointed out that the road does not comply with County specifications. Mr. Kelley stated that the church, which is a commercial use, would create a traffic problem in the neighborhood, and would be detrimental to property values.

Louise Pennington, 4446 East 86th Street North, stated that the church would bring hundreds of people to the neighborhood, and many cars and buses, with only one ingress and egress to the property. Ms. Pennington voiced a concern that a school will be requested in the future.

Danny Hightower stated that he lives in the west lot near the entrance to the road that serves the property. He pointed out that the traffic generated by the church would present a safety hazard for his small children. Mr. Hightower stated that the construction of the golf course should cause substantial residential growth to the west. He asked the Board to deny the request and preserve the residential character of the neighborhood.

In response to Mr. Walker, Mr. Alberty explained that, although a church could generate a lot of activity, it is not considered a commercial land use and, if the church is approved at this location, a commercial activity could not occupy the premises in the future. Mr. Alberty informed that the Zoning Code anticipates that churches will be located in residential areas, and they are permitted by special exception.

Paul Pennington, 4443 East 86th Street North, stated that he is convinced that a church at this location would devalue his property.

Applicant's Rebuttal:

Mr. Berry pointed out that developers usually reserve an area for church use in residential developments, and this church will serve the community and will not be detrimental to the neighborhood. He pointed out that the fact that this is a high traffic area makes the subject property a desirable location for a church.

Case No. 1144 (continued)

Additional Comments:

Mr. Alberty commented that residential use is established at this location and, although churches are appropriate in residential areas, he is not supportive of the use at this location, due to the fact that the church site is interior and does not have direct access to 86th Street North.

Mr. Looney agreed with Mr. Alberty, and noted that the car and bus traffic through the residential area would not be appropriate, and future school use would add to the traffic problem.

Mr. Walker remarked that he ordinarily feels responsible to reflect the opinion of the local community; however, in this case the vested interest may have distorted the picture. He stated that he does not see the church as being detrimental to the area, as has been portrayed. Mr. Walker informed that he is supportive of a church at this location, but is not in favor of school use on the property.

Mr. Tyndall stated that he has a problem with the limited access to the street; however, other commercial activities in the area appear to be much less compatible with the residential area than church use. Mr. Tyndall informed that he is supportive of the church, with no school use.

Mr. Eller stated that he is not inclined to approve school use at this location, but is supportive of the church.

Board Action:

Mr. Looney's motion for denial of the application died for lack of a second.

On **MOTION** of **WALKER**, the Board voted 3-2-0 (Eller, Tyndall, Walker, "aye"; Alberty, Looney, "nay"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit church use only, with no school, in an RE zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; per plan submitted; subject to platting, building permit and Health Department approval; finding that there are mixed uses in the area; and finding church use to be compatible with the neighborhood and in harmony with the spirit and intent of the Code; on the following described property:

Case No. 1144 (continued)

E/2, NW/4, NE/4 and E/2, W/2, NW/4, NE/4, Section 28, T-21-N, R-13-E of the IBM, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof, less and except U. S. Highway 75 ROW and less and except that portion described and recorded as Country Corner Estates.

NEW APPLICATIONS

Case No. 1153

Action Requested:

Variance to permit two dwelling units on one lot of record - **Section 208. ONE SINGLE-FAMILY DWELLING UNIT PER LOT OF RECORD** - Use Unit 6, located 13218 North 95th East Avenue.

Presentation:

The applicant, **Michael Philippi**, 8903 North 123rd East Avenue, Owasso, Oklahoma, who submitted a plat of survey (Exhibit B-1) and plot plan (Exhibit B-2), requested permission to construct a dwelling on a portion of land that has an existing mobile home. He explained that the mobile unit, which is occupied by his mother-in-law, is located on the front portion of the tract, and the new dwelling will be constructed to the rear of the property. The applicant informed that there is a similar arrangement of dwellings on a nearby lot.

Comments and Questions:

Mr. Alberty inquired as to the hardship for the variance request, and Mr. Philippi replied that there is a creek running through the property, which prevents ordinary development. He informed that the front portion of the tract is too low to construct a permanent dwelling.

Mr. Jones informed that the applicant has sufficient lot area for a lot split, but would not have the required street frontage.

Mr. Alberty asked Mr. Philippi if the mobile home will be removed if his mother-in-law moves to another location, and he answered in the affirmative.

Mr. Glenn stated that the raising of livestock on the property would require Board approval.

Protestants:

None.

Case No. 1153 (continued)

Board Action:

On MOTION of LOONEY, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit two dwelling units (one mobile home and one permanent dwelling) on one lot of record - **Section 208. ONE SINGLE-FAMILY DWELLING UNIT PER LOT OF RECORD** - Use Unit 6; per plan submitted, subject to the mobile unit being temporary, and being removed from the property when the current occupant no longer resides at this location; subject to building permit and Health Department approval; finding that there are other lots with two dwelling units; and finding a hardship demonstrated by the creek on the property, and the long narrow shape of the lot; on the following described property:

W 616.94' of E 1331.38' of S 197.8' of N 1741.20' NE/4, Section 36, T-22-N, R-13-E, subject to roadway easement of E 30' and gas line easement of E 50', Tulsa County, Oklahoma.

Case No. 1154

Action Requested:

Use Variance to permit a kennel (Use Unit 15) in an AG zoned district, and for a variance of the 30' of frontage on a public street - **Section 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15, located north and west of 161st East Avenue and East 146th Street South.

Presentation:

The applicant, **Mary Jo Potts**, 111 East 56th Street North, stated that she purchased the subject property for use as a dog kennel, and pointed out that it is isolated from residences and would not be detrimental to the area. A plot plan (Exhibit C-1) and a brochure (Exhibit C-2) were submitted.

Comments and Questions:

Mr. Alberty asked Ms. Potts how she proposes to access the property, and she replied that there is a 15' road easement along the south property line, which extends from 151st Street to 161st Street.

After research, Mr. Jones informed that the 15' road along the south property line is actually a mutual access easement, and not dedicated right-of-way.

Case No. 1154 (continued)

Mr. Alberty asked the applicant if a residence is proposed at this location, and she replied that she would like to live near the kennel, but the mobile unit currently on the property will not be used for a dwelling.

In regard to flood elevations, Mr. Glenn informed that 589' above mean sea level would be a safe elevation, and the elevation of the property can only be determined by a survey.

Ms. Potts noted that it is difficult to find a location for a kennel, and the only land that seems to be appropriate is property that is undesirable for any other use.

Mr. Alberty stated that the Code permits other animals to be raised in an agricultural district, and it seems that the fact that it restricts the raising of dogs may constitute a hardship.

Mr. Walker inquired as to the maximum number of dogs the kennel will accommodate, and the applicant stated that she is proposing to keep approximately 50 dogs. She added that a special septic system, which is designed only for dog kennels, will be installed.

Mr. Glenn informed that the flood elevation requirements are determined by the U. S. federal government.

The applicant informed that the entire kennel is mobile, and can be moved at any time.

Protestants:

None.

Board Action:

On MOTION of LOONEY, the Board voted 4-1-0 (Alberty, Eller, Looney, Tyndall, "aye"; Walker, "nay"; no "abstentions"; none "absent") to **APPROVE** a Use Variance to permit a kennel (Use Unit 15) in an AG zoned district, and for a variance of the 30' of frontage on a public street - **Section 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15; subject to the kennel being elevated 1' above the 100-year floodplain; subject to building permit and Health Department approval; finding a hardship imposed by the fact that the Code permits the raising of other animals in an AG District, but restricts the raising of dogs; and finding the use to be compatible with the surrounding agriculture uses; on the following described property:

Case No. 1154 (continued)

N/2 of the south 20 acres of Lot 2 in Section 15, Township 17 North, Range 14 East of the IBM, Tulsa County, Oklahoma, according to the recorded plat thereof subject to an agreement between adjoining landowners creating road easement and right-of-way filed with and made a part of the conveyance of this tract, with said tract having an access to public roadways over a 15' wide ingress/egress roadway easement described as being the north 15' over and across the south 10 acres of Lot 1 and the south 10 acres of Lot 2 and the south 10 acres of Lot 3, all in Section 15, Township 17 North, Range 14 East of the IBM, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

Case No. 1155

Action Requested:

Variance of the lot width from 200' to 136', variance of lot area from 2 acres to .994 acres and variance of the land area to permit a lot split - **Section 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located north and west of West 41st Street and Campbell Creek Road.

Presentation:

The applicant, **Billie Johnson**, 29 East Portland, Sapulpa, Oklahoma, requested permission to install a mobile home on a one-acre tract that her sister has deeded to her. Ms. Johnson explained that her sister is terminally ill and it is necessary that she live nearby to assist in her care.

Comments and Questions:

Mr. Jones informed that the applicant has filed a lot split application, and the one-acre lot does not comply with the required width, lot area and land area.

Mr. Alberty pointed out that a minimum of two acres is required for a lot in an Agriculture District.

Mr. Alberty asked the applicant if the mobile unit will be her permanent residence, and she answered in the affirmative. She added that she has already purchased the mobile home.

After discussion, it was the consensus of the Board that there is an absence of a hardship, and that Ms. Johnson could acquire additional land from her sister and comply with the Code.

Case No. 1155 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-1-0 (Alberty, Eller, Tyndall, Walker, "aye"; Looney, "nay"; no "abstentions"; none "absent") to **DENY** a **Variance** of the lot width from 200' to 136', **variance** of lot area from 2 acres to .994 acres and **variance** of the land area to permit a lot split - **Section 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6; finding that a hardship was not presented that would warrant the granting of the variance requests; on the following described property:

A tract of land in the NW/4 NE/4, Section 22, T-19-N, R-10-E, IBM, Tulsa County, Oklahoma, being more particularly described as follows, commencing at the intersection of Campbell Creek Road (60' of ROW) as recorded in Book 1427, Page 559 of the Deed Records of Tulsa County, with the south line of said NW/4 of NE/4 of said Section 22, thence with the centerline of said Campbell Creek County Road N 11°01' E a distance of 229.00' to a point of curvature of a curve to the right, having a radius of 1910.1', thence northeasterly with said curve to the right and with the centerline of said Campbell Creek County Road, for a total arc length of 106.07' to the POB of the herein described tract of land, thence, westerly along a line 330' north and parallel to the south line of said NW/4 NE/4 of said Section 22, a distance of 331.9', more or less, to a point, thence N 01°18'28" E, a distance of 136.00' to a point, thence S 85°17'36" E, a distance of 363.00' to a point in the centerline of said Campbell Creek County Road, said point being in a curve to the left, having a radius of 1910.1' thence southwesterly with said curve to the left and with the centerline of said Campbell Creek County Road for a total arc length of 113.00' to the POB of the herein described tract of land, and containing .993 acres of land more or less, Tulsa County, Oklahoma.

Case No. 1156

Action Requested:

Special exception to permit church use in an AG zoned district and for a variance of the all-weather surface requirement to permit parking - Section 710. **PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS, SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS and SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5, located 2721 East 201st Street South.

Presentation:

The applicant, **Liberty Baptist Chapel**, 2721 East 201st Street South, Mounds, Oklahoma, was represented by **Mike Coibion**, who submitted a plot plan (Exhibit E-1) for expansion. He informed that an office complex is proposed for the first phase of construction, and the second phase will be a fellowship hall.

Comments and Questions:

Mr. Alberty noted that the Liberty Fire Station appears on the plot plan, and Mr. Coibion informed that the church leases that portion of the property.

In response to Mr. Alberty, Mr. Coibion stated that a sanctuary, an educational building and a recreation facility are existing buildings.

Mr. Alberty inquired as to the total church membership, and Mr. Coibion replied that approximately 350 individuals worship at this location, with an expectation of approximately 500 members in the future.

In regard to the request for gravel parking, Mr. Coibion stated that the existing parking lot is paved, and that he is not sure why the parking request appeared on the case report. He pointed out that the applicant could have anticipated temporary gravel parking during the future construction period.

Mr. Walker asked Mr. Coibion the length of time temporary gravel parking would be used, and he reiterated that the existing parking is hard surface, and all future parking will have a similar covering, except for construction periods.

Mr. Jones informed that, if the parking lot is to be covered with a hard surface material, the Board could strike the variance request.

Case No. 1156 (continued)

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit church use in an AG zoned district, and to **STRIKE** a **variance** of the all-weather surface requirement to permit parking - **Section 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS, SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS and SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5; per plan submitted; finding that church use has been at this location for several years and has proved to be compatible with the surrounding area; finding that the expansion will not be detrimental to the neighborhood or violate the spirit and intent of the Code; and finding that the parking lot will be covered with a hard surface material and the applicant is not in need of the relief requested; on the following described property:

Part of the SW/4 of Section 8-16-13, IBM, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof, more particularly described as follows: Beginning at a point 1115' west of the SE/c of the SW/4, said point being on the south line of said SW/4, thence N 660', thence W and parallel to the south line of the SW/4 659.7' thence south 660' to a point on the south line of said SW/4, thence east along the south line of SW/4 a distance of 659.7' to the POB, Tulsa County, Oklahoma.

Case No. 1157

Action Requested:

Variance of the maximum size for a detached accessory building in an RS zoned district from 750 sq ft to 1500 sq ft - **Section 240.2.E. Permitted Yard Obstructions** - Use Unit 6, located 1603 South 168th West Avenue.

Presentation:

The applicant, **Carl Morris**, was represented by the property owner, **Clarence Vickers**, 1603 South 168th West Avenue. He explained that Mr. Morris has been employed to construct a pole barn, and it was discovered that the proposed building will be larger than the Code permits. He pointed out that there are numerous barns in the area.

Case No. 1157 (continued)

Comments and Questions:

There was discussion as to the number and total square footage of existing accessory buildings on the property. It was the consensus of the Board that the case should be continued to permit Mr. Vickers sufficient time to prepare a plot plan depicting the size and location of all existing and proposed buildings.

Mr. Glen noted that there are existing accessory buildings totaling approximately 1460 sq ft.

Board Action:

On MOTION of TYNDALL, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 1157 to June 15, 1993 to permit the applicant sufficient time to prepare a plot plan.

Case No. 1158

Action Requested:

Variance to permit two dwelling units per one lot of record, **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, located 26914 West 21st Street South.

Presentation:

The applicant, **Sharon Goddard**, Route 3, Box 852, Sand Springs, Oklahoma, was represented by **Gary Walker**, 26914 West 21st Street, who requested that his sister be permitted to replace an existing mobile home with a new unit. He stated that the two mobiles have been on the lot during the past eight years. Mr. Walker informed that he and his mother live in the two mobile homes located on the abutting tract.

Comments and Questions:

In response to Mr. Alberty, Mr. Walker stated that it is necessary for his sister to live nearby in order to assist in caring for their mother.

Board Action:

On MOTION of WALKER, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Variance to permit two dwelling units per one lot of record - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9; subject to a building permit and Health Department approval; finding that two mobile homes have been at this location for several years, and the number of units will not be increased; on the following described property:

Case No. 1158 (continued)

West 250', north 427.4', NW/4, NE/4, NW/4,
Section 18, T-19-N, R-10-E, Tulsa County, Oklahoma.

Case No. 1159

Action Requested:

Variance to expand a legal nonconforming use (detached accessory building) from 1800 sq ft to 1982 sq ft -
Section 1450.A. STRUCTURAL NONCONFORMITIES - Use Unit 6,
located 5947 South 97th West Avenue.

Presentation:

The applicant, **Frank Hixon**, 5947 South 97th West Avenue, Sand Springs, Oklahoma, submitted a plot plan (Exhibit F-1) and stated that he was not aware of the Code limitation of 750 sq ft for an accessory building. Mr. Hixon informed that he is in need of additional storage space for his boat and is proposing to connect two existing storage facilities.

Comments and Questions:

Mr. Alberty asked if the 13' addition will connect the two buildings, and the applicant answered in the affirmative.

Mr. Walker pointed out that, although the area is zoned residential, it is agricultural in nature.

Mr. Alberty asked if a business is in operation on the property, and the applicant stated that he has pecan trees, and the pecans are sold there.

Mr. Glenn requested that, if inclined to approve the application, the approval be conditioned on no business operation on the property.

In response to Mr. Alberty, the applicant stated that he is operating an air filter cleaning business on the property, and is proposing to seek proper zoning for that use.

Mr. Tyndall asked the applicant if his business has employees, and he answered in the affirmative.

Mr. Walker asked Mr. Hixon if he would have sufficient space to store his boat if the commercial business was moved to another location, and he replied that he needs sufficient space to store his five vehicles, a motorcycle and the boat. He pointed out that the boat will be stored in the 13' space that will connect the two buildings.

Case No. 1159 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** to expand a legal nonconforming use (detached accessory building) from 1800 sq ft to 1982 sq ft - **Section 1450.A. STRUCTURAL NONCONFORMITIES** - Use Unit 6; per plan submitted; subject to no commercial business activity being conducted on the property; finding that the residential zoned area is agricultural in nature, and approval of the request will not be detrimental to the neighborhood; on the following described property:

South 340', west 330', SW/4, SW/4, less west 50' and south 50', Section 36, T-19-N, R-11-E, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:35 p.m.

Date Approved:

June 15, 1993

Wayne Alberty
Chairman