

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 158  
Tuesday, July 20, 1993, 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 Walker	Looney Tyndall	Moore Russell	Fields, Glenn, Building Insp.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, July 16, 1993, at 1:47 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 **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, Looney, "absent") to **APPROVE** the **Minutes** of June 15, 1993 (No. 157).

**UNFINISHED BUSINESS**

**Case No. 1170**

**Action Requested:**

Special Exception to permit a mobile home in an RS District - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9, located 6727 West 27th Street South.

**Presentation:**

The applicant, **Gary Hamby**, 1715 East 56th Street, stated that there is an existing older home on his property, and it is his intent to replace the structure with a single-wide mobile unit. He informed that his sister will occupy the new unit, which will be placed next door to his parents.

**Comments and Questions:**

Mr. Alberty noted there are numerous mobile homes in the area, and the applicant stated that the septic system has been approved by the County and the mobile home will comply with all other County requirements.

**Protestants:**

None.

Case No. 1170 (continued)

**Board Action:**

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **APPROVE** a **Special Exception** to permit a mobile home in an RS District - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9; subject to a building permit and Health Department approval; and subject to compliance with all County requirements; finding that there are other mobile homes in the area, and approval of the request will not be detrimental to the neighborhood; on the following described property:

East 100' of the south 200.6', Lot 3, east 100.5' of north 103', Lot 3, and the west 10', Lot 4, Block 3, Bridges Acres, Tulsa County, Oklahoma.

**Case No. 1171**

**Action Requested:**

Use Variance to permit an air filter recycling business in an RS zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 25, located 5947 South 97th West Avenue.

**Presentation:**

The applicant, **Frank Hixon**, 5947 South 97th West Avenue, requested permission to continue the operation of a small shop at the rear of his residential dwelling. The applicant submitted photographs (Exhibit A-1), newspaper articles concerning small businesses (Exhibit A-2) and a petition of support (Exhibit A-4) signed by property owners in the area. Mr. Hixon stated that the land is agricultural in nature and the recycling business is not noisy or detrimental to the neighborhood. He requested that approval of the request be limited to his ownership only, which would prevent the future operation of an undesirable business at this location.

**Comments and Questions:**

Mr. Alberty asked the applicant which building contains the recycling operation, and he replied that both buildings are used for business purposes.

Mr. Hixon explained that the property in question was previously used by Israel metal works and the land has been cleared of all metal debris. He stated that it is only necessary that one large delivery truck visit the property each month, because most merchandise is picked up and delivered. Mr. Hixon stated that the recycling process consists of sandblasting and cleaning used

Case No. 1171 (continued)

filters. He informed that the business is contained within the existing buildings, is not noisy and does not operate late at night.

Mr. Alberty inquired as to the number of employees, and the applicant stated that the business employs eight shop workers, two salesmen on the road and one in the office. He added that his mobile home is utilized as an office.

Mr. Alberty noted that Mr. Hixon's application in May of 1993 requested an accessory building, which was approved with the stipulation that the building not be used for commercial purposes.

In response to Mr. Alberty, the applicant stated that he has been operating the recycling business at this location for approximately two years.

Mr. Alberty asked Mr. Hixon if he was aware that his business would not be permitted when he purchased the property, and he replied that the big building was in place and he assumed that the business would be allowed. He added that he does not anticipate that his business will grow to such a degree that more than 15 employees will be needed.

Mr. Walker inquired as to the location of employee parking, and the applicant stated that spaces are provided at various locations on the property.

In response to Mr. Walker, Mr. Hixon stated that the truck that makes deliveries to the property is one that customarily delivers in the Tulsa area, which is approximately 28' long.

The applicant stated that three nearby neighbors have accompanied him to the meeting, and are supportive of the application.

**Interested Parties:**

**Mike Meyers**, 8133 West 61st Street, stated that he lives approximately one mile east of the subject property, and that the business operation is barely visible from the street and is properly maintained. He requested that the application be approved.

**Pete Bennett**, 9400 West 61st Street, stated that he lives across the street from the applicant and the recycling operation is quiet, and the business is not detrimental to the neighborhood.

Case No. 1171 (continued)

**Laurie Hixon**, 5947 South 97th West Avenue, stated that the small business provides jobs in the community, and is the only one of this type in the area.

**Protestants:**

**Joseph Parise**, 5760 South 97th West Avenue, informed that he lives approximately 500 yards from the subject property, and is opposed to the oil filters that are stacked outside the buildings. He pointed out that the neighborhood opposed the previous metal works business for approximately five years before the offensive operation was removed, and that he is against the operation of another business at this location. He pointed out that the business continues to expand, with the addition of employees and buildings, and asked that the application be denied. Mr. Parise stated that he has observed two tractor trailer trucks parked on the property at the same time. A petition of opposition (Exhibit A-3) was submitted.

**Mike Bellew**, 9723 West 61st Street, stated that the business does not create an excessive amount of noise; however, the stacked filters are an eyesore. Mr. Bellew noted that the creek that runs across the Hixon property also travels across his property, and voiced a concern that the recycling process might produce a residue that would pollute the water. He asked the Board to preserve the integrity of the neighborhood and deny the request.

**Hazel Nuttall**, 6200 South 97th West Avenue, informed that business operations at this location have caused neighborhood problems for many years. She pointed out that the business is detrimental to the area, and is hazardous to the welfare of the children waiting for the school bus at this location. Ms. Nuttall noted that there was little opposition to the previous request for an additional accessory building on the property, but the neighborhood is opposed to a business at this location.

In response to Mr. Alberty, four area residents indicated that they were present to oppose the application.

**Applicant's Rebuttal:**

Ms. Hixon pointed out that her residence is on the property in question, and it is also her concern that the property and the creek be kept free of trash and debris.

**Additional Comments:**

Mr. Walker asked Ms. Hixon if the recycling business is the family's sole source of income, and she answered in the affirmative.

Case No. 1171 (continued)

Mr. Walker inquired as to family's source of income prior to the beginning of the recycling business, and Ms. Hixon replied that she was previously a commercial artist, and Mr. Hixon worked for a filter company.

Mr. Alberty informed that the Board is charged with administering the County Zoning Code, and the property in question has a residential zoning classification. He pointed out that, although he understands the need for small businesses, this is not the proper location to begin an industrial operation. Mr. Alberty stated that it appears that the applicant was less than straightforward when he made a previous request to enlarge a nonconforming oversized accessory structure. Mr. Alberty pointed out that the Board approved the enlargement of that building, with the stipulation that there be no commercial activity in the structure.

Mr. Walker stated that he was present at the previous hearing, and it was his understanding that the Board approved that request, because there would be no commercial activity on the property.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **DENY** a **Use Variance** to permit an air filter recycling business in an RS zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 25; finding that the applicant failed to present a hardship for the variance request; finding the filter recycling business to be incompatible with the residential neighborhood; and finding that approval of the request would be injurious to the area and violate the spirit and intent of the Code and the Comprehensive Plan; 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.

**Case No. 1172**

**Action Requested:**

Special Exception to permit a mobile home in an RM zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICT** - Use Unit 9, located 7810 West 16th Street South.

Case No. 1172 (continued)

**Comments and Questions:**

Ms. Russell informed that the Sand Springs Board of Adjustment has heard the case and has recommended approval (Exhibit H-1), subject to all Code restrictions and requirements.

**Presentation:**

The applicant, **Earl Lewellin**, 7810 West 16th Street South, explained that his mobile home was recently destroyed by fire, and requested permission to install a new unit at the same location. Mr. Lewellin stated that he will comply with all County requirements.

**Protestants:**

None.

**Board Action:**

On MOTION of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **APPROVE** a **Special Exception** to permit a mobile home in an RM zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICT** - Use Unit 9; subject to compliance with all County conditions; finding that a mobile home has been at the current location for several years and has proved to be compatible with the surrounding area; on the following described property:

East 62' north 163', Tract 19, Lot 7, Billington Acres, Tulsa County, Oklahoma.

**Case No. 1173**

**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 6, located 8505 East 116th Street North.

**Presentation:**

The applicant, **Jerry Burd**, 8505 East 116th Street North, Owasso, Oklahoma, explained that he built a barn on his 10-acre tract in order to have living quarters during the construction of a new dwelling. He requested permission to build the house and retain the living quarters in the barn.

**Comments and Questions:**

Mr. Alberty noted that the tract has sufficient land area to support two dwelling units.

Case No. 1173 (continued)

**Protestants:**

None.

**Board Action:**

On MOTION of WALKER, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "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 6; subject to building permit and Health Department approval; finding a hardship demonstrated by the size of the tract (10 acres) and the fact that the acreage contains sufficient land area to accommodate two dwelling units; on the following described property:

W/2, W/2, SE/4, SW/4, Section 1, T-21-N, R-13-E,  
Tulsa County, Oklahoma.

**Case No. 1174**

**Action Requested:**

Special Exception to permit a mobile home in an RS zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9, located NW/c 85th West Avenue and 61st Street South.

**Presentation:**

The applicant, **Tommy Taber**, 5864 South 85th West Avenue, stated that he previously owned a 5-acre tract that was split into two lots. He requested permission to install a mobile home for his father, who is ill and requires assistance. Mr. Taber pointed out that there are numerous mobile homes in the immediate vicinity.

**Comments and Questions:**

Mr. Glenn asked the applicant if he has acquired a lot split on the property, and he answered in the affirmative. Mr. Taber stated that his daughter owns one-fourth of the original 5 acres, and his father will live on one-fourth acre. He added that there are three separate deeds to the land.

Mr. Gardner advised that the applicant will be required to prove that the property was divided into three tracts, as depicted on the case map, for at least five years or the deeds would be null and void.

There was discussion as to the validity of the division of the property, and it was the consensus of the Board that, if approved, a condition could be imposed that the lot split requirement be met.

Case No. 1174 (continued)

**Protestants:**

None.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **APPROVE** a **Special Exception** to permit a mobile home in an RS zoned district - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9; subject to compliance with all County requirements; and subject to the applicant confirming the validity of the lot split; finding a hardship demonstrated by the size of the tract, and the fact that there is sufficient land area to accommodate the additional dwelling unit; and finding that there are numerous mobile homes in the neighborhood; on the following described property:

East 177.5', south 355', E/2, SE/4, SW/4, SE/4, less the east 25' and less south 50' thereof for roads, Section 36, T-19-N, R-11-E, Tulsa County, Oklahoma.

**Case No. 1175**

**Action Requested:**

Variance to permit two dwelling units on one lot of record - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6, located 3939 East 161st Street South.

**Presentation:**

The applicant, **David Owens**, 3939 East 161st Street, Bixby, Oklahoma, submitted a plot plan (B-1) and informed that he owns a 10-acre tract, which contains a small house and a shed. Mr. Owens stated that he has removed the shed and is proposing to construct another small house on the tract for his residence.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **APPROVE** a **Variance** to permit two dwelling units on one lot of record - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6; finding a hardship demonstrated by the large size of the tract, and the fact that there is sufficient land area to accommodate two dwelling units; on the following described property:



Case No. 1175 (continued)

E/2, E/2, SE/4, SW/4, Section 21, T-17-N, R-13-E,  
Tulsa County, Oklahoma.

**Case No. 1176**

**Action Requested:**

Variance of the required setback from an abutting R District from 75' to 19', and a variance of the required setback from the centerline of an abutting street from 50' to 35' - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**, located NE/c of South 45th West Avenue and West 56th Street South.

**Comments and Questions:**

Mr. Gardner advised that the area surrounding the subject property is planned for industrial uses, and the closest residential properties are to the south and east. He pointed out that the proposed building location is near the north and west boundaries of the property.

**Presentation:**

The applicant, **James Beckert**, 810 South Cincinnati, Suite 400, submitted a plot plan (Exhibit C-1) and stated that he is representing the property owners. He informed that the building will contain a diesel repair operation, which is to be located in the northwest corner of the lot. Mr. Beckert informed that there has been no neighborhood opposition to the project.

**Comments and Questions:**

Mr. Alberty noted that the setback request is from a residentially zoned property to the north that is not used for residential purposes, and that the proposed building will be set back further than 75' from the dwelling to the east.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **APPROVE** a **Variance** of the required setback from an abutting R District from 75' to 19', and a **variance** of the required setback from the centerline of an abutting street from 50' to 35' - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**; per plan submitted; finding that the entire area is in transition to industrial uses; finding that the variance of setback is from residential property to the north that is not used for residential purposes; and finding that there are other buildings in

Case No. 1176 (continued)

the area that are as close or closer to the street than the proposed building; on the following described property:

Lots 14-17, Block 5, Opportunity Heights, Tulsa County, Oklahoma.

**Case No. 1177**

**Action Requested:**

Special Exception to permit Use Unit 12 (barbecue restaurant) in an AG zoned district - **Section 1420.F. NONCONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION** - Use Unit 12, located 9800 North Peoria.

**Presentation:**

The applicant, **Tony Elliott**, PO Box 885, Sperry, Oklahoma, submitted a plot plan (Exhibit D-1), and requested permission to operate a restaurant in an Agriculture District. He stated that there has been a business in the building since 1952, and that he was not aware of the agricultural zoning classification.

**Comments and Questions:**

Mr. Alberty asked if the building was previously used as a bait shop, and the applicant answered in the affirmative.

Mr. Alberty noted that the previous use is more intense than the proposed restaurant.

In response to Mr. Alberty, the applicant informed that the restaurant is 25' by 50', with a total occupancy of 35.

Mr. Eller inquired as to available parking, and Mr. Elliott stated that customer parking is located on all sides of the building.

Mr. Gardner advised that thirteen parking spaces will be required.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **APPROVE** a **Special Exception** to permit Use Unit 12 (barbecue restaurant) in an AG zoned district - **Section 1420.F. NONCONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION** - Use

Case No. 1177 (continued)

Unit 12; per plan submitted; finding that the proposed use is less intense than the previous nonconforming business, and will not increase incompatibility with present or future uses; on the following described property:

West 105', Lot 12, less beginning SW/c thence north 28.52', east 105.01', south 29.02', west 105' to POB, Block 2, McNeil Addition, Tulsa County, Oklahoma.

Case No. 1178

Action Requested:

Variance of the setback from an abutting R District from 75' to 56' to permit the construction of a building - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 25, located 6900 North Mingo Valley Expressway.

Presentation:

The applicant, **Charles Helscel**, Box 341, Owasso, Oklahoma, submitted a plot plan (Exhibit E-1) and explained that some of the residents have been concerned with trucks traveling the residential street in order to back into the building. He informed that a new building is proposed to the rear of the property, which will alleviate this neighborhood problem. Mr. Helscel stated that the hill serves as a screen, because the building is 8' below the ground line, with a chain link fence also in place. The applicant stated that the neighbors have asked that honeysuckle be planted along the fence, and he will comply with their request.

Protestants:

None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **APPROVE** a **Variance** of the setback from an abutting R District from 75' to 56' to permit the construction of a building - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 25; per plan submitted; finding that the new building will not extend as close to the lot line as the existing building; and finding that the building is lower than the abutting residential district: on the following described property:

Case No. 1178 (continued)

NW/4, NW/4, SW/4, less 2.46 acres for highway and less south 20' thereof for road and less east 155', north 482.55' thereof and less beginning SE/c, NW/4, NW/4, SW/4 thence west 193', north 178', east 193', south 178' to POB and less west 140', east 333', south 145', NW/4, NW/4, SW/4 thereof, Section 32, T-21-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1179

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 9, located 3753 South 37th West Avenue.

Comments and Questions:

Ms. Russell informed that the applicant, **Sherry Andrews**, has requested by letter that Case No. 1170 be continued to August 17, 1993.

Presentation:

The applicant, **Sherry Andrews**, Route 90, Box 998, Tulsa, Oklahoma, was not present.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **CONTINUE** Case No. 1179 to August 17, 1993.

Case No. 1180

Action Requested:

Variance of the required 30' of frontage on a public street to 0' - **Section 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located south of southwest corner West 11th Street South and Beeline.

Comments and Questions:

Ms. Russell informed that the application was taken in error, and the applicant is not in need of the relief requested.

Presentation:

The applicant, **Chesapeake Building Company**, 7307 South Yale, Suite 110, was not represented.

Case No. 1180 (continued)

**Board Action:**

On MOTION of WALKER, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **WITHDRAW** Case No. 1180; finding that the applicant is not in need of the relief requested.

**Case No. 1181**

**Action Requested:**

Special Exception to permit a church in an IL zoned district and a variance of the all-weather surface requirement for off-street parking - **Section 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 5, located north of NE/c of West 61st Street and South 65th West Avenue.

**Comments and Questions:**

Ms. Russell advised that a representative for the church has indicated that the application may be withdrawn, but has not contacted her concerning the church's actual intent.

**Presentation:**

The applicant, **Solid Rock Fellowship**, 318 West 32nd Place, Sand Springs, Oklahoma, was not represented.

**Board Action:**

On MOTION of ELLER, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **CONTINUE** Case No. 1181 to August 17, 1993 to allow Staff sufficient time to contact the applicant concerning the case.

**OTHER BUSINESS**

**Case No. 1180**

**Action Requested:**

The applicant, Chesapeake Building Company requests a refund of fees for Case No. 1180.

**Comments and Questions:**

Ms. Russell advised that the application was taken in error, and suggested that the entire fee of \$215.00 be refunded.

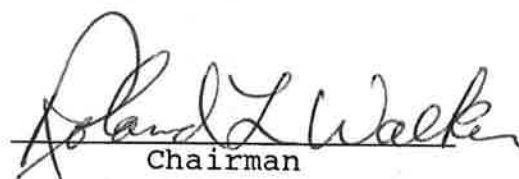
Case No. 1180 (continued)

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Alberty, Eller, Walker, "aye"; no "nays"; no "abstentions"; Looney, Tyndall, "absent") to **REFUND** the \$215.00 filing fee.

There being no further business, the meeting was adjourned at 2:49 p.m.

Date Approved 8-17-93

  
Chairman