

**COUNTY BOARD OF ADJUSTMENT**

MINUTES of Meeting No. 166  
Tuesday, March 15, 1994, 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 Looney Tyndall Walker, Chairman	Eller	Gardner Moore Russell	Glenn, Building Inspection Fields, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, March 11, 1994, at 3:42 p.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** the **Minutes** of February 15, 1994 (No. 165).

**Comments and Questions:**

Ms. Russell informed that **Mr. Gary Underwood**, counsel for the applicant, has requested that Case No. 1244 be continued.

Mr. Underwood stated that he has recently been retained and has not had sufficient time to adequately prepare for this hearing. He asked that the application be continued to the next scheduled meeting.

After discussion, it was the consensus of the Board that the case should be heard as it appears on the agenda, since the applicant was aware of the one year approval for this use.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **DENY** the request for a continuance; finding that the request was not timely and that the applicant was aware of the hearing date one year in advance.

**NEW APPLICATIONS**

**Case No. 1231**

**Action Requested:**

Variance of required building setbacks, a special exception to permit retail sales in an IL District and a special exception to modify or remove the screening requirement - **SECTION 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 23, located 5401 West Skelly Drive.

Case No. 1231 (continued)

**Presentation:**

The applicant, **Roy Johnsen**, 201 West 5th, Suite 440, submitted a plot plan (Exhibit A-1) and informed that he is representing OK Fireworks. He informed that his client has been in the area since 1964 and has purchased adjacent properties as they became available. Mr. Johnsen stated that the Comprehensive Plan designates the area as industrial. He requested that his client be permitted to expand the existing warehouse to the north into an area that is currently used for truck parking. Mr. Johnsen requested that retail sales be permitted in the area that will be changed from CG to an IL zoning classification. He noted that the building wall will be extended and will serve as screening along the east boundary. A location map (Exhibit A-2) and photographs (Exhibit A-3) were submitted.

**Comments and Questions:**

Mr. Walker asked where the trailers will be relocated on the property, and Mr. Johnsen stated that the number will be reduced, because of the proposed construction, and the balance of the trailers will be moved to the north and west of the current location.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** of required building setbacks, a **special exception** to permit retail sales in an IL District and a **special exception** to modify or remove the screening requirement - **SECTION 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 23; finding the use to be existing, and compatible with the neighborhood; and finding that expansion of the existing structure will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lots 1 - 4, Block 3, Opportunity Heights, Tulsa County, Oklahoma.

**Case No. 1233**

**Action Requested:**

Special Exception to permit a private airport in an AG zoned district - **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 2, located 191st between Highway 75 and Elwood Avenue.

**Presentation:**

The applicant, **Reed Johnson**, 6936 East 20th Place, submitted a plot plan (B-2) and explained that he is proposing to construct a dwelling and a private airstrip. Mr. Johnson submitted a letter from FAA (Exhibit B-3) and photographs (Exhibit B-1) of the surrounding properties. He stated that the area is sparsely populated and that air travel will be limited to his aircraft and an occasional visit from friends.

Case No. 1233 (continued)

**Comments and Questions:**

In response to Mr. Walker, the applicant stated that he flies with people that have antique and classic planes with low powered engines. He added that the proposed airstrip could accommodate a light twin, but would not be adequate for landing a larger plane.

Mr. Alberty asked if hanger space will be provided for other aircraft, and Mr. Johnson stated that he will only have hanger space for his plane.

In reply to Mr. Alberty, the applicant stated that he will not sell aircraft fuel on the premises, and will own no more than two planes.

**Protestants:**

**Ken Ellison**, 3105 East Skelly Drive, submitted a petition of opposition (Exhibit B-4) and stated that property owners in the section are concerned with low flying airplanes and an unlimited number of landings at this location. Mr. Ellison stated that a low flying airplane could startle cattle in the nearby fields, and would have a negative impact on property values in the area. He suggested that Mr. Johnson could store his aircraft at the airport located near Jenks, approximately six miles to the north.

Mr. Alberty asked Mr. Ellison if he is representing all individuals that signed the protest petition, and he replied that he represents **Ray Craft**, who contacted the landowners in the area. Mr. Ellison stated that his client owns abutting property to the south and has children that live on the land.

**Bill Darr**, 5113 East 97th Street, stated that he owns 27 acres to the east of the subject tract, and bought the property because of the quiet country atmosphere. Mr. Darr stated that he does not currently live on his property, but is proposing to construct a home there in the future.

**Ross Moore** stated that he lives at 181st Street and Elwood Avenue and that he and his parents own a large tract of land in the neighborhood. Mr. Moore voiced a concern with the airplane flying over his cattle, and noted that he has had prior problems with low flying aircraft causing his cattle to stampede.

**Applicant's Rebuttal:**

Mr. Johnson stated he is not aware that an air strip in an area would depreciate property values, but would rather enhance values. He pointed out that he would not be flying any lower than other aircraft, and would abide by FAA regulations. The applicant stated that the Riverside Airport near Jenks is very congested and is not a desirable location to store his plane.

**Additional Comments:**

Mr. Alberty inquired as to the proposed improvements on the property, and the applicant stated that he plans to begin construction on a new dwelling during the summer.

Mr. Alberty stated that he is not convinced that the airstrip will have a negative impact on property values; however, is concerned with the fact that the neighborhood is not supportive of the project. He pointed out that the Board must find the use to be harmonious and not injurious to the surrounding area.

Case No. 1233 (continued)

Mr. Tyndall remarked that the airport could cause a noise problem for the residents of the neighborhood, and that he will not support the request.

Mr. Looney stated that he is convinced that an airport at the proposed location would not be in harmony with the neighborhood.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **DENY** a Special Exception to permit a private airport in an AG zoned district - **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 2; finding the use to be incompatible with the neighborhood; on the following described property:

S/2, E 2/3, S/2, NE/4, Section 11, T-16-N, R-12-E, Tulsa County, Oklahoma.

**Case No. 1234**

**Action Requested:**

Variance to permit two dwelling units per lot of record, and a variance of the lot area and land area per dwelling unit - **SECTION 208. ONE DWELLING UNIT PER LOT OF RECORD** and **SECTION 430. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 11512 East 69th Street North.

**Presentation:**

The applicant, **Deloris Livingston**, 11512 East 69th Street North, Owasso, Oklahoma, was represented by her mother, **Mary Lemmons**, who requested permission to install a mobile home on the back portion of the subject property. She stated that the lot is large enough to support two dwelling units. Photographs (Exhibit C-1) and a plot plan (Exhibit C-2) were submitted.

**Comments and Questions:**

Mr. Walker asked if the mobile unit will have a septic system, and Ms. Lemmons answered in the affirmative. She noted that there are numerous mobile homes in the neighborhood.

Mr. Alberty remarked that the subject tract abuts industrial property to the west, and mobile home use would not be inconsistent with the area.

**Protestants:**

**Danny Salts**, 11505 East 68th Street North, stated that he is concerned that additional mobile homes in the neighborhood will have a negative impact on property values.

**Applicant's Rebuttal:**

Ms. Lemmons stated that there is a mobile home located next door to the protestant, and others in the area.

Case No. 1234 (continued)

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** to permit two dwelling units per lot of record, and a **variance** of the lot area and land area per dwelling unit - **SECTION 208. ONE DWELLING UNIT PER LOT OF RECORD** and **SECTION 430. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; subject to a building permit and Health Department approval; finding a hardship demonstrated by the proximity of the subject property to an industrial use and the fact that there are numerous mobile homes in the area; on the following described property:

West 105' of Lot 8, Jonesville, a subdivision of Tulsa County, Oklahoma.

**Case No. 1235**

**Action Requested:**

Use Variance to permit office and storage of equipment in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 14, located 715 East 131st Street South.

**Presentation:**

The applicant, **Bob Farrell**, 611 East 146th Street, Glenpool, Oklahoma, stated that he is proposing to purchase the subject property for use as an office and storage. He informed that a landscaping business previously operated at this location. A petition of support (Exhibit D-1) and photographs (Exhibit D-2) were submitted.

**Comments and Questions:**

In response to Mr. Walker, the applicant stated that he operates an electrical contracting business, and the major portion of his business consists of wiring new homes in the area.

Mr. Walker asked if poles and equipment are stored outside, and the applicant stated that he can store all equipment and material inside the building.

In reply to Mr. Walker, Mr. Farrell informed that he owns a trenching machine, which is stored inside. He stated that vehicles will also be parked inside the existing building.

Mr. Gardner advised that, if inclined to approve the use, specific conditions should be imposed concerning the outside storage of materials and equipment.

Mr. Tyndall stated that he is familiar with the property and the use is appropriate for the area. He noted that the building is existing and stated that he is supportive of the application, as presented.

Mr. Alberty remarked that he considers the contracting business to be a more intense use than the landscaping business that previously occupied the property.

Mr. Gardner stated that, based on the fact that a business has been operating on the property and the neighborhood is supportive of the operation, the use could be made compatible with proper conditions.

Case No. 1235 (continued)

Mr. Walker stated that he would not be supportive of the application if any materials are stored outside.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 2-2-0 (Looney, Tyndall, "aye"; Alberty, Walker, "nay"; no "abstentions"; Eller "absent") to **APPROVE** a **Use Variance** to permit office and storage of equipment in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 14; subject to no outside storage of materials, trailers or vehicles; subject to signage being limited to one 4' by 6' wall sign, with no lighting; subject to no expansion of the existing structure; and subject to no more than two tractor trailers temporarily on site for delivering supplies to the business.

The application was denied due to the lack of three affirmative votes.

A part of the SW/4, SE/4, Section 1, T-17-N, R-12-E of the IBM, being more particularly described as follows: Beginning at the SE/c of said SW/4, SE/4 of said Section 1; thence S89°45'27"W a distance of 330.18'; thence N0°00'29"W a distance of 1324.56'; thence N89°44'51"E a distance of 330.24'; thence S0°00'29"E a distance of 1324.61' to the POB, Tulsa County, Oklahoma.

**Case No. 1236**

**Action Requested:**

Variance to permit two dwelling units on one lot of record - **SECTION 208. ONE DWELLING UNIT PER LOT OF RECORD** - Use Unit 6, located NE/c of 8th Road and Valley Drive, Sand Springs, Oklahoma.

**Presentation:**

The applicant, **Shirley Treat**, 1607 South 167th West Avenue, Sand Springs, Oklahoma, submitted a plot plan (Exhibit E-1) and stated that the tract in question contains two existing dwellings. She explained that a lot split is being acquired in order to sell a portion of the land to the church that is located on abutting property.

**Comments and Questions:**

Ms. Russell informed that the applicant has applied for a lot split in Sand Springs and can comply with all requirements except for two dwellings units on one lot of record.

Mr. Walker stated that he is familiar with the area and finds the request to be reasonable.

Mr. Alberty remarked that only lot lines will be rearranged, and there will be no physical changes on the property.

**Protestants:**

None.

Case No. 1236 (continued)

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** to permit two dwelling units on one lot of record - **SECTION 208. ONE DWELLING UNIT PER LOT OF RECORD** - Use Unit 6; per plan submitted; finding that the homes are existing and only lot lines will be changed; finding that approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lots 8 and 9, Block 9, Charles Page Home Acres No. 2, Tulsa County, Oklahoma.

**Case No. 1237**

**Action Requested:**

Variance of the required 30' of frontage on a public street - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 16240 North Utica Avenue.

**Presentation:**

The applicant, **Harry Swift**, 1103 Southview Lane, Skiatook, Oklahoma, was represented by **Jaymi Swift**, who submitted a plot plan (Exhibit F-1) and requested permission to construct a dwelling on a 2½-acre tract. She stated that the land surrounding the subject property is owned by her family and they have granted an access easement across their land.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; per plan submitted; subject to the applicant supplying a copy of the access easement filed of record; finding that the land surrounding the tract is family owned, and that approval of the request will not be detrimental to the area; on the following described property:

SW/4, SE/4, NE/4, NW/4, Section 18, T-22-N, R-13-E, Tulsa County, Oklahoma.

**Case No. 1238**

**Action Requested:**

Variance of the maximum square footage for a detached accessory building from 750 sq ft to 2020 sq ft - **SECTION 240.2.E. Permitted Yard Obstructions** - Use Unit 6, located 3458 South 65th West Avenue.

**Presentation:**

The applicant, **Carl Madewell**, 3458 South 65th West Avenue, submitted a plot plan (Exhibit G-1) and stated that he has a workshop in the existing accessory building. Mr. Madewell requested permission to construct a second building to house his van and antique car. He informed that he was not aware that Board of Adjustment approval was required, and the building is partially constructed. Mr. Madewell stated that there is no neighborhood opposition to the project.

**Comments and Questions:**

Mr. Tyndall asked if the building will be used for storage only, and the applicant answered in the affirmative.

Mr. Alberty noted that the property is large enough to split into three residential lots, which would permit a total of 2250 sq ft for accessory buildings.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** of the maximum square footage for a detached accessory building from 750 sq ft to 2020 sq ft - **SECTION 240.2.E. Permitted Yard Obstructions** - Use Unit 6; per plan submitted; subject to the execution of a document filed of record that would prohibit the operation of a business on the property; finding the large lot could actually be split into three residential lots with accessory buildings totaling more than the requested square footage; on the following described property:

Lot 4, Yearout Acreage, Tulsa County, Oklahoma.

**Case No. 1239**

**Action Requested:**

Variance of the required 30' of frontage on a public street to 25' - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located north of the NW/c 149th West Avenue and East 17th Street.

**Presentation:**

The applicant, **Bryan Beene**, 351 South 149th West Avenue, Sand Springs, Oklahoma, stated that he is proposing to construct a dwelling on a 15-acre tract that has 25' of frontage on a public street. He explained that 149th West Avenue dead ends at his property line, with 25' of the street frontage being on his property and 25' on the adjacent tract.



Case No. 1239 (continued)

**Comments and Questions:**

Mr. Alberty asked if only one residence will be constructed on the property, and Mr. Beene answered in the affirmative.

**Protestants:**

**C. H. Todd**, 1616 South 145th West Avenue, Sand Springs, Oklahoma, a property owner adjacent to the subject tract, stated that he is not opposed to the driveway being constructed if it is the full width of the road. A plot plan (Exhibit H-1) and photographs (Exhibit H-2) were submitted.

**Applicant's Rebuttal:**

Mr. Beene stated that 149th Street comes to a dead end at his property, and that he has complied with all County requirements.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street to 25' - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; subject to the construction of only one dwelling on the property; finding that the street comes to a dead end at the subject property and the boundary line of the tract aligns with the centerline of the street; and finding that approval of the request will not cause substantial detriment to the public good, or violate the spirit and intent of the Code; on the following described property:

Part of the N/2, SE/4, and all E/2, W/2, SW/4, NE/4 and part E/2, SW/4, NE/4, beginning SE/c centerline of South 149th West Avenue and PT 25.07 SW/4, NW/c Lot 4, Block 1, Riverside West II thence west 245', southwest 50', northwest 222.83', north 641', east 49.69', north 350' to high bank river thence NL SW/4, NE/4, W to NW/c, E/2, W/2, SW/4, NE/4, thence to SW/c E/2, W/2, SW/4, NE/4, thence south 428.93' to NL Riverside West III thence easterly along Riverside III and Riverside West II to POB, Section 8, T-19-N, R-11-E, Tulsa County, Oklahoma.

**Case No. 1240**

**Action Requested:**

Variance of the maximum square footage for a detached accessory building from 750 sq ft to 3000 sq ft - **SECTION 420.2.E. Permitted Yard Obstructions** - Use Unit 6, located 5620 North Lewis Avenue

**Presentation:**

The applicant, **Jeffrey Eagan**, 5620 North Lewis, submitted photographs (Exhibit J-1) and a plot plan (Exhibit J-2), and explained that he removed an old accessory building, which eliminated all storage on his property. He requested permission to construct a storage facility to house his antique car and personal items. Mr. Eagan stated that he restores antique automobiles and needs work space.

**Comments and Questions:**

In response to Mr. Walker, the applicant stated that the storage building will be 40' by 75'. He informed that the roof peak 14' and a 12' door will be installed.

Case No. 1240 (continued)

After discussion, it was the consensus of the Board that the proposed 3000 sq ft accessory building would be too large for the lot.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **CONTINUE** Case No. 1240 to April 19, 1994 to allow the applicant sufficient time to submit a revised site plan for a smaller accessory building.

**Case No. 1241**

**Action Requested:**

Variance of the maximum square footage for a detached accessory building from 750 sq ft to 1664 sq ft - **SECTION 240.2.E. Permitted Yard Obstructions** - Use Unit 6, located 1542 East 69th Street North.

**Presentation:**

The applicant, **Brian Thornton**, 1542 East 69th Street North, stated that he is proposing to remove an existing 900 sq ft accessory building and construct a new structure. A plot plan (Exhibit K-1) was submitted.

**Comments and Questions:**

Mr. Looney inquired as to the specific use of the building, and the applicant stated that he is proposing to park four cars and lawn equipment in the new structure.

**Protestants:**

**Barbara Bartholic**, 1408 East 69th Street North, stated that she is not opposed to the application if Mr. Thornton does not operate a salvage or repair business on the property.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** of the maximum square footage for a detached accessory building from 750 sq ft to 1664 sq ft - **SECTION 240.2.E. Permitted Yard Obstructions** - Use Unit 6; per plan submitted (8' by 24' and 19.9' in height); subject to filing of record a document prohibiting commercial use of the building; subject to the existing storage facility being removed prior to completion of the new facility; finding that the tract is large enough to support the proposed building; and finding that approval of the request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; on the following described property:

W 71.5' Lot 1, and E/2 Lot 2, Block 10, Golden Hill Addition, Tulsa County, Oklahoma.

**Case No. 1242**

**Action Requested:**

Variance to permit an ID/bulletin sign in excess of 32 sq ft and 15' in height - **SECTION 320.2.B. - Accessory Use Conditions** - Use Unit 5, located 13413 East 106th Street North.

**Presentation:**

The applicant, **Ed Sunday**, 14709 East 99th Street North, Owasso, Oklahoma, was represented by **Leonard Pirtle**, 101 West 9th Street, Owasso, Oklahoma, who informed that the proposed signage does not comply with current Code requirements. He submitted a location map (Exhibit L-1) and explained that the additional sign height is due to land elevation and the proposed sign face has been designed to be large enough to be read by passing motorists on the highway. Mr. Pirtle stated that the church operates a day school and other organizations also use the building for various activities.

**Comments and Questions:**

Mr. Alberty pointed out that commercial zoning along the expressway could have a larger and taller sign by right.

Mr. Tyndall inquired as to the location of the sign on the property, and Mr. Pirtle informed that the sign will be installed 12' from the boundary line.

**Protestants:** None

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Variance** to permit an ID/bulletin sign in excess of 32 sq ft and 15' in height - **SECTION 320.2.B. - Accessory Use Conditions** - Use Unit 5; per plan submitted (8' by 24' and 19.9' in height); finding a hardship demonstrated by the size of the tract; and finding that a larger and taller sign would be permitted by right if the area along the expressway was zoned for commercial uses; on the following described property:

A tract of land in the SE/4, SW/4, Section 9, T-21-N, R-14-E of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof, being more particularly described as follows: Commencing at the SW/c of said SE/4, SW/4, Section 9; thence N88°44'40"E along the south line of said SE/4, 450'; thence N01°13'58"W parallel to the west line of said SE/4 77.43' to the POB, said POB being on the north ROW line of the west exit ramp from U. S. Highway 169; thence continuing N01°13'58"W parallel to the west line of said SE/4 633'; thence N88°44'37"E 453.47' to a point 100' west of and at a right angle to the west line of U. S. Highway 169; thence S11°12'59"W parallel to and 100' west of the west U. S. Highway 169 ROW line, 522.76'; thence S88°44'40"W parallel to and 100' north of the north ROW line of the west exit ramp of U. S. Highway 169 120'; thence S83°02'02"W parallel to and 100' north of the north ROW line of the west exit ramp from U. S. Highway 169, 94.95' thence S01°13'58"E parallel to the west line of said SE/4 100.50'; thence S82°02'02"W along the north ROW line of the west exit ramp from U. S. Highway 169, 126.94' to the POB, Tulsa County, Oklahoma.

**Case No. 1243**

**Action Requested:**

Special Exception to permit church use and related uses in an RE zoned district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located east of the NW/c of 129th East Avenue and East 66th Street North.

**Presentation:**

The applicant, **Mingo Holiness Assembly of God**, 9414 East 46th Street North, was represented by **James Brown**, who requested permission to construct a church building on the property at the above stated location. He informed that the church is moving from another site.

**Comments and Questions:**

In response to Mr. Walker, the applicant stated that the church operates a day school, along with normal church activities.

Mr. Alberty asked if the day school consists of classes from kindergarten to 12th grade, and Mr. Brown answered in the affirmative.

**Interested Parties:**

**Barbara Smith**, 6539 North 137th East Avenue, stated that she is supportive of the application, as presented.

**Protestants:** None.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Special Exception** to permit church use and related uses (day school K thru 12th) in an RE zoned district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; subject to the applicant returning to the Board for detail site plan approval prior to applying for a building permit; finding the use to be compatible with the area, and in harmony with the spirit and intent of the Code; on the following described property:

W/2, SE/4, SW/4, Section 33, T-21-N, R-14-E, Tulsa County, Oklahoma.

**Case No. 1244**

**Action Requested:**

Use Variance to permit a mobile automobile crusher in an IL zoned district - **SECTION 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 25, located 7002 North Peoria Avenue.

**Presentation:**

The applicant, **Dama Bogle**, 5710 East 25th Street, was represented by **Gary Underwood**, 6363 East 31st Street, who stated that notice of this hearing designated the meeting place as being in the City Council Room, and some people supporting this application may not have found the correct meeting room. He stated that this could have been confusing to those individuals receiving hearing notices. Mr. Underwood requested that the previous denial of a continuance be reconsidered, and that the application be continued to the next scheduled meeting date.

Case No. 1244 (continued)

Ms. Russell advised that incorrect notices were sent out to surrounding property owners; however, they were corrected and new notices were mailed on February 25, 1994, within the required 15-day time period. The notices stated that the County Board of Adjustment would meet March 15, 1994, 1:30 p.m., County Commission Room (Room 119), County Administration Building.

After discussion, it was the consensus of the Board that, since corrected notices were mailed within the designated time period, the application should be presented as scheduled.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **DENY** a second continuance request; finding that all property owners within 300' of the subject property were properly notified of the hearing.

**Presentation:**

Mr. Underwood submitted letters of support and photographs (Exhibit N-1) and noted that the property leased by his client is much smaller than the tract of land designated on the case map. He stated that the business was previously approved for one year, and since that time a screening fence has been installed and gravel has been added to decrease dust and tracking out on the street. Mr. Underwood stated that the mobile auto crusher is compatible with existing uses in the area, and pointed out that there are salvage operations, vacant buildings and numerous trashy lots in the immediate vicinity.

**Comments and Questions:**

Mr. Walker asked Mr. Underwood if his client has complied with all previously imposed conditions, and he replied that all conditions have been met except screening along the railroad tracks. He added that there is a heavy tree cover in this area, and the business in question is not visible from that direction.

In reply to Mr. Alberty, Mr. Underwood stated that there are usually no more than 30 vehicles on the property leased by Ms. Bogle. He added that there may have been more cars on the lot at times when the crusher was being repaired, or the weather prevented crushing. .

Mr. Alberty asked Mr. Underwood to confer with his client and determine if the business could continue to operate successfully if the current crushing hours were limited to less than the permitted hours of 8 a.m. to 5 p.m.

**Protestants:**

**J. B. Long** stated that he lives approximately 150' north of the property in question and that the business creates dust, noise and odor for the nearby residents. He noted that as many as 75 cars have been on the lot at one time and many of them are stacked four or five deep.

**Louise Fancher**, 1101 East 71st Street North, stated that her property abuts the subject tract on the west, and that the business stores tires, barrels and other items outside. Ms. Fancher stated that the residents of the area are victims of this business operation.

Case No. 1244 (continued)

Mr. Walker asked if the business could be acceptable if conditions were imposed, and Ms. Fancher stated that she is opposed to parking along Peoria and expanding across the railroad tracks. She stated that traffic on Peoria is sometimes blocked to permit trucks to enter and leave the business.

In response to Mr. Alberty, Mr. Gardner advised that the Building Inspector has found the business to be nonconforming and advised that the issue before the Board at this time is the use of the mobile auto crusher. He suggested that, if the Board is inclined to approve the application, the crusher could be moved to another location on the lot that would be farther from the residential properties.

**Barbara Bartholic**, 1408 East 69th Street North, stated that her family owns four homes in the neighborhood. She stated that she works in her home and is concerned with the continual noise caused by the car crusher. She informed that she is not opposed to the business if the noise from the crusher can be muffled.

**Maxine Capps**, 1822 North Xenophon, stated that she owns property in the neighborhood and has lived in the area many years. She remarked that the applicant has not complied with conditions imposed at the previous hearing. Ms. Capps stated that these types of salvage businesses have deteriorated the neighborhood.

**Applicant's Rebuttal:**

Mr. Underwood stated that his client is not proposing to expand the business across the railroad tracks. He stated that the automobile repair shop across the street generates as much noise as the use in question, and there are many similar uses in the area. Mr. Underwood pointed out that the car crusher is mobile and is not on the property at all times, and that his client is amenable to a further reduction in the hours of operation for the crusher.

**Bob Torix**, Route 1, Box 251, Sand Springs, Oklahoma, informed that he is the owner of the subject property. He stated that a portion of the area surrounding the lot in question is currently being used for salvage. Mr. Torix noted that the use is fenced, except for the rear boundary which has a heavy tree cover.

Mr. Alberty stated that noise seems to be the main issue, and asked if the noise from the crusher can be reduced.

**John Bogle**, 7002 North Peoria Avenue, stated that a new more efficient car crusher has recently been purchased. He informed that the crusher does not produce an extremely loud noise, and pointed out that operators of the machine are not required to wear ear plugs. He noted that farm tractors travel up the street daily and restrict traffic flow more than trucks entering the street from his business.

Mr. Alberty stated that the applicant has had one year to prove compatibility with the community, and it appears that the use is not acceptable to residents of the neighborhood.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 2-2-0 (Alberty, Walker, "aye"; Looney, Tyndall, "nay"; no "abstentions"; Eller "absent") to **DENY** Case No. 1244; finding the use to be incompatible with the area.\*

\*Three affirmative votes are required to approve the application.

Case No. 1244 (continued)

**Additional Comments:**

Mr. Tyndall remarked that the protestants addressed the issue of auto salvage use more than that of the auto crusher.

Mr. Looney stated that there seems to be confusion as to the difference between the salvage operation and the use of the auto crusher.

Mr. Alberty noted that it appears that the residential neighborhood is being subjected to a high level of noise.

Mr. Walker stated that the area is in transition and both residential and industrial uses occupy properties in the neighborhood.

After numerous individuals supporting the application stated that they did not have an opportunity to speak, Mr. Walker invited all interested parties to address the Board.

**Harold Dopps**, P. O. Box 126, Sperry Oklahoma, stated that he owns a portable welding business and works for Mr. Bogle. He noted that his portable welding machine makes more noise than the car crusher in question.

A resident of 1148 East 48th Street North stated that he is employed by Mr. Bogle and depends on this job to support his family. He noted that there are other noise makers in the area that are tolerated, such as airplanes constantly flying overhead. It was noted that a car can be crushed in 10 minutes.

**John Lewis** stated that he operates a shop across the street, and does business with the applicant. He informed that tires brought to the site are picked up regularly by a local tire company. He pointed out that the crusher is no louder than the City ditch diggers working along Peoria Avenue.

**Wayne Silky**, Route 8, Box 635, Turley, Oklahoma, informed that he brings metal to the site for crushing, and gravel has been added to the lot regularly during the year. He pointed out that the business provides a place to dispose of discarded metal articles in the area.

**Charles Anderson**, 2635 East 36th Street North, stated that he works on Mr. Bogle's equipment and is supportive of the application.

**Bob Torix**, Route 1, Box 251, Sand Springs, Oklahoma, informed that he is the owner of the subject property. He noted that support for his family is provided by leasing the property, and that he has attempted to address neighborhood complaints. Mr. Torix informed that he checks the property each week to assure compliance with conditions imposed by the Board. He stated that he spent a great deal of money for fencing and was under the impression that the use was complying with all conditions.

**Ken Jones** stated that he operates a business across the street from the subject property, and is supportive of the application.

**Ray Bates**, 6330 North Utica, stated that he is planning chairman for District 24, and noted that the trend toward automotive uses in this area started many years ago. He stated that it appears that the applicant has attempted to comply with imposed conditions, and requested that they be permitted to operate for one additional year to bring the use into full compliance.

Case No. 1244 (continued)

**John Lewis** stated that he makes his living selling scrap metals, and noted that the property has been improved during the year.

**Jimmy Cole** stated that he is supportive of Mr. Bogle's car crushing operation.

**Don Brummit**, Route 1, Box 457, Sperry, Oklahoma, stated that the noise from the crusher is not louder than other activity in the area.

**Dama Bogle** stated that she owns the business in question and the initial beginning of salvage operations in the area has already caused any depreciation of property values that might occur. She pointed out that these types of businesses are existing and it would be impossible to turn the trend around by denying her application. Ms. Bogle stated that the new crusher makes less noise, and asked that they be given an opportunity to finish the improvements proposed for the property.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **RECONSIDER** the previous motion for denial of the application.

**Comments and Questions:**

Mr. Looney stated that he is supportive of the application for one year, to allow the applicant sufficient time to complete proposed upgrading of the site. He informed that the applicant should remedy the traffic problems, limit hours of operation for the crusher and remove parked cars by the street.

Mr. Gardner stated that moving the crusher to the south and away from the residences may cause the use to be more compatible with the neighborhood.

Mr. Alberty suggested that the application to be continued until the next meeting to permit the Board to view the property.

Mr. Gardner advised that the case could be continued in review session, with additional input being submitted in writing for Board review. He stated that the Board could ask questions of interested parties or the applicant if needed. Mr. Gardner suggested that Staff set up a specific meeting date for all Board members and interested parties to view the property and observe the car crusher in operation.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **CONTINUE** Case No. 1244 to April 19, 1994, to permit Staff to set a specific meeting time for Board members and interested parties to view the property and observe the car crusher in operation.



**Case No. 1245**

**Action Requested:**

Special Exception to permit a sand operation in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 24, located 171st and Highway 64, located 171st and Highway 64.

**Presentation:**

The applicant, **B. L. Pitts**, 1303 Archer, Claremore, Oklahoma, stated that he is proposing to purchase the subject property for a sand operation. A location map (Exhibit P-1) was submitted.

**Comments and Questions:**

Mr. Walker asked Mr. Pitts if there is dredging involved in his sand operation, and he answered in the affirmative.

In response to Mr. Walker, the applicant stated that the area in question floods and there will be no permanent buildings on the property.

Mr. Gardner asked if sand will be excavated near the railroad, and Mr. Pitts stated that his operation will be on a 6.5-acre tract near the river and that he is not proposing to purchase the land near the old railroad track location. He added that the sand trucks will not travel through residential neighborhoods.

Mr. Tyndall inquired as to the days and hours of operation, and the applicant stated that the business will probably open at 7 a.m. and close at 5 p.m., Monday through Friday and 7 a.m. to noon on Saturday.

Mr. Glenn informed that, if inclined to approve the application, the approval should be conditioned on the applicant supplying a detail site plan, and acquiring a Developmental Permit from the County.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** a **Special Exception** to permit a sand operation in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 24; per location map submitted (6.5 acres); subject to hours and days of operation being 7 a.m. to 5 p.m., Monday through Friday and 7 a.m. to noon on Saturday; and subject to the applicant supplying a detail site plan, and acquiring a Developmental Permit from the County before beginning operation; on the following described property:

E/2, NE/4 lying north and east of NLY right-of-way line Missouri Pacific Railroad, Tulsa County, Oklahoma.

**OTHER BUSINESS**

**Consider Amendment to Rules of Procedure.**

**Comments and Questions:**

Mr. Gardner explained that the proposed amendment concerns reconsideration of cases heard by the Board and is listed as number five under General Procedures.


5. A motion to reconsider any action of the Board can be made by a member who voted with the prevailing side at any time during the meeting or at the next regularly scheduled meeting of the Board, provided that any interested persons who appeared and spoke on the matter are still in the audience or have been notified in writing, five (5) working days in advance, of a request to reconsider at the next regularly scheduled meeting. (03:15:94)

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller "absent") to **APPROVE** the proposed amendment to the Rules of Procedure, as presented.

There being no further business, the meeting was adjourned at 5:20 p.m.

Date Approved

  
April 19, 1994

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Chairman