

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 169  
Tuesday, June 21, 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>
Eller Looney Tyndall Walker, Chairman	Alberty	Gardner Moore Russell Jones	Fields, Building Inspection Glenn, Building Inspection Graham, Asst. District Attorney

The notice and agenda of said meeting were posted in the Office of the County Clerk on Wednesday, June 15, 1994, at 3:59 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 **ELLER**, the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Looney, "absent") to **APPROVE** a the **Minutes** of May 17, 1994 (No. 168).

**NEW APPLICATIONS**

**Case No. 1267**

**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 3817 East 126th Street North.

**Presentation:**

The applicant, **Don Doherty**, 3817 East 126th Street North, Skiatook, requested permission to install a mobile home on his 20-acre tract. He informed that a mobile home was previously at this location, and asked that the application be approved to permit his step-son to live near by in order to assist in the care of his mother. A plot plan (Exhibit A-1) was submitted.

Case No. 1267 (continued)

**Comments and Questions:**

Mr. Walker noted that the tract is large enough to accommodate two dwelling units and could be split into several lots that would comply with Code requirements.

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Looney, "absent") to **APPROVE** a **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; per plan submitted; subject to a building permit and Health Department approval; finding that the 20- acre tract is large enough to accommodate two dwelling units, and a lot split could be acquired to split the tract into several lots that would comply with Code requirements; on the following described property:

W/2, SE/4, SW/4, Section 33, T-22-N, R-13-E, Tulsa County, Oklahoma.

**Case No. 1268**

**Action Requested:**

Variance of the required lot width from 200' to 150', and a variance of the required lot area and land area to permit a lot split - **SECTION 330 BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT** - Use Unit 6, located 10104 East 136th Street North..

**Presentation:**

The applicant, **John Harrold**, 10104 East 136th Street North, Collinsville, Oklahoma, informed that he owns two and one-half acres of land and requested permission to split off a 100' by 240' portion containing his dwelling. He stated that the remainder of the tract will be purchased by his daughter, who lives on abutting property to the south. Mr. Harrold informed that there is a one-acre lot across the street from his home, and other small lots in the area.

**Comments and Questions:**

Mr. Walker asked if the land will have road access, and Mr. Harrold informed that his daughter accesses her property from the south (135th Street North).

Mr. Gardner stated that the lots would be subject to Health Department approval of the septic system.

**Protestants:**

None.

Case No. 1268 (continued)

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Variance** of the required lot width from 200' to 150', and a variance of the required lot area and land area to permit a lot split - **SECTION 330 BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT** - Use Unit 6; subject to Health Department approval; finding that there are other lots in the neighborhood with similar lot widths and area; and finding that approval of the request will not cause substantial detriment to the public good, or violate the spirit, purpose and intent of the Code; on the following described property:

West 311', NW/4, NE/4, NW/4 and east 19', NE/4, NW/4, NW/4, Section 31, T-22-N, R-14-E, Tulsa County, Oklahoma.

**Case No. 1269**

**Action Requested:**

Special Exception to permit a tavern in an IM zoned district - **SECTION 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 19, located 6522-6528 West Charles Page Boulevard.

**Presentation:**

The applicant, **Harold Coffman**, 317 North Second Avenue, Stroud, Oklahoma, stated that he is operating a bar at the above stated address, and requested permission to move his operation two doors down from the present location.

**Comments and Questions:**

Mr. Walker asked if the bar will cease to operate at the current location, and the applicant answered in the affirmative.

Mr. Gardner asked if the bar space will be increased, and Mr. Coffman stated that the space will be increased approximately one and one-half times (2400 sq ft total).

**Protestants:**

Ms. Russell informed that Staff has received one letter of protest (Exhibit B-1) to the application.

**Ruby Smith** stated that there is a church very near the proposed bar, and noted that the surrounding neighborhood is opposed to the application. She stated that the existing bars are disruptive and cause numerous problems for the surrounding residents.

Case No. 1269 (continued)

Mr. Fields informed that the church is more than 300' from the bar, as measured according to Code stipulations.

In response to Mr. Walker, Ms. Graham advised that the Code requires that the 300' spacing requirement be measured from the church property to the nearest entrance to the bar.

In response to Mr. Looney, Ms. Smith stated that the church is across the street from the shopping center.

**Interested Parties:**

**Francis Weldon**, 304 South 71st West Avenue, stated that the bar in question is a respectable operation, and asked the Board to approve the request.

**Brenda Eades**, 5124 Charles Page Boulevard, stated that she goes to the bar often and is supportive of the application.

**Applicant's Rebuttal:**

Mr. Coffman stated that customers do not use the back door of the bar and there is no parking in the rear. He noted that all deliveries are made through the front door, and the back door is used exclusively for trash removal. Mr. Coffman remarked that the bar is well over 300' from the church.

Mr. Fields advised that the new location has never been used for a bar and, if approved, could allow three bars to be in operation in the shopping center.

**Pamela Coffman** informed that the other bar tenant does not have a lease, but rents the space from month to month.

**Additional Comments:**

Mr. Walker stated that he would not be amenable to approving additional space for bar use in the center.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **DENY** a **Special Exception** to permit a tavern in an IM zoned district - **SECTION 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 19; finding that the addition of a third bar in the center would be detrimental to the neighborhood, and would violate the spirit and intent of the Code; on the following described property:

All that part of the NE/4, NE/4, Section 7, T-19-N, R-12-E, Tulsa County, Oklahoma, south of the U. S. Highway 64 ROW line, less the west 569.11' thereof.

## Case No. 1270

### **Action Requested**

Special Exception to permit a drive-through Christmas display to begin Thanksgiving week - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 2, located north of the NE/c of Highway 75 and East 161st Street South.

### **Presentation**

The applicant, **Marvin Luke**, 8217 South 76th East Avenue, submitted a plot plan (Exhibit C-1) and explained that he is proposing to install a drive-through Christmas lighting display on the 80-acre tract.

### **Comments and Questions:**

Mr. Walker asked if the display will continue each year, and the applicant replied that the use will be permanent.

In response to Mr. Walker, Mr. Luke stated that he anticipates that approximately 1000 to 2000 cars could visit the site each night. He informed that the County road will be improved by the County if the volume of traffic demands such improvements. He stated that one-half mile of on-site stacking will be provided on the property. Mr. Luke stated that he has conferred with the Department of Transportation and they have indicated that they will install special signage for the event. He added that police will be available for traffic control.

In reply to Mr. Tyndall, the applicant stated that all customers will remain in their vehicles and there will be no concession stands erected on the property.

It was the consensus of the Board that the application could be approved in concept, with the applicant returning with a detail site plan for the project.

### **Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Special Exception** to permit a drive-through Christmas display to begin Thanksgiving week - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 2; subject to no concessions on the property; subject to the applicant supplying County Staff with a detail site plan depicting signage, road development, traffic control, the volume of traffic anticipated and ingress and egress points; finding the use to be compatible with the area; on the following described property:

N/2, SW/4, Section 23, T-17-N, R-12-E, Tulsa County, Oklahoma.

**Case No. 1272**

**Action Requested:**

Use Variance to permit a cable company contracting service - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15, located west of NW/c or East 91st Street and 185th East Avenue.

**Presentation:**

The applicant, **Zack Harris**, 1001 West Houston, requested permission to construct a home and a shop on the subject tract. Mr. Harris explained that he is a private contractor for General Telephone and is proposing to live on the subject property and store his equipment at this location. He informed that six reels of cable will be kept on the tract and all equipment maintenance will be completed at this location. Mr. Harris stated that he has met with homeowners in the area and did not anticipate the neighborhood opposition to the application.

**Comments and Questions:**

Mr. Walker inquired as to the number of employees, and Mr. Harris informed that he has six employees that drive to his business.

Mr. Tyndall asked where the business office will be located, and Mr. Harris stated that a portion of the metal building will be used for an office, and the remainder will be used as a maintenance area for his equipment.

In reply to Mr. Looney, the applicant stated that there are other businesses in the area.

In response to Mr. Glenn, the applicant stated that his equipment consists of 6 vehicles, back hoes, trenchers and occasionally a bulldozer.

Letters and a petition of opposition (Exhibit D-2) were submitted.

**Comments and Questions:**

In reply to Ms. Russell, the applicant informed that the owner of the property has accompanied him to this meeting, and is consenting to the sale of the property for the stated purposes.

Ms. Russell informed that Staff has received 20 letters of opposition to the project, and a letter from Broken Arrow (Exhibit D-1) stating that the use is not in agreement with the Comprehensive Plan. She informed that the Broken Arrow planner is out of the country and they did not formally hear the case.

A petition of opposition and letters (Exhibit D-2) were submitted.

Case No. 1272 (continued)

**Protestants:**

**Betsy Hoffmeier**, 9300 South 190th East Avenue, stated that she is a spokesperson for the Martin Community Group, and they strenuously object to the application. She informed that the proposed use will create dust, traffic problems and set a bad precedent for the neighborhood, and is generally inappropriate for the quiet residential area,

**Richard Zwart**, 9555 South 187th East Avenue, informed that there is not a commercial business or an industrial use in the area and asked the Board to protect the integrity of the neighborhood and deny the application. Mr. Zwart noted that the applicant has not stated a hardship for the variance request.

**Paul Martin**, 9220 South 187th East Avenue, noted that the use variance request for the contracting service is a type of spot zoning and would cause a traffic problem for the area. He asked the Board to deny the request.

**Leona Brown**, 18697 East 91st Street, stated that her property is adjacent to the subject tract and voiced a concern with noise, traffic, vandalism and the negative impact the use could create.

**Donald Penn**, 9219 South 187th East Avenue, stated that he chose this neighborhood for his home because of the quiet country atmosphere, and asked the Board to deny the request.

**Jim McKelvey**, 9109 South 187th East Avenue, stated that he opposes the application for all of the reasons previously stated.

**Gary Payne**, 9221 South 190th East Avenue, stated that the use is not compatible with the established neighborhood, and the weight of the traffic would have an adverse impact on existing roadways.

**Ed Hutchings**, 9209 South 187th East Avenue, noted that the east boundary of the proposed business will be approximately 150 yards from his home.

**Lois McGlothlin**, 18610 East 91st Street, stated that she is opposed to the proposed use of the tract.

**Donna Isbell**, 9230 South 187th East Avenue, informed that she lives adjacent to the subject property and the proposed shop will be immediately behind her property, about 75' from her home.

Case No. 1272 (continued)

**Stephanie Martin**, 9220 South 187th East Avenue, stated that she has recently moved to the neighborhood and asked the Board to protect her investment by denying the request.

**Pamela Morris**, 18919 East 93rd Street, informed that she recently purchased approximately three acres in the neighborhood and asked the Board to preserve the rural residential atmosphere. She informed that the existing tower is an eyesore for the community and asked the Board that they deny the application for a cable company.

**Kermit Hoffmeier**, 9300 South 190th East Avenue, noted that the proposed use is not consistent with current or future development in the area. He suggested that the applicant build a home on the tract and operate his business at another location. Mr. Hoffmeier stated that this type of operation would be difficult to police and the use is not appropriate for the area.

**Additional Comments:**

Mr. Harris stated that it is not his intention to devalue property in the neighborhood; however, the subject property is the right size and location for his use. He pointed out that his business would not cause a traffic problem for the nearby property owners, because his vehicles would not enter the residential neighborhood. He informed that he currently travels 91st Street each day, and would continue to do so if the use is permitted. Mr. Harris stated that Broken Arrow advised him that they did not have jurisdiction over the land in question.

**Don Allred**, 6702 South 234th East Avenue, Broken Arrow, Oklahoma, stated that he is the owner of the property.

Mr. Looney stated that the use does not appear to be compatible with the surrounding residential neighborhood.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **DENY** a **Use Variance** to permit a cable company contracting service - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15; finding the use to be too intense for the area and incompatible with the neighborhood; finding that the applicant failed to present a hardship for the variance request; and finding that the proposed use is not in harmony with the Comprehensive Plan for the area; on the following described property:



Case No. 1272 (continued)

Beginning 212' east NW/c NE/4, thence south 1058.53', east 180', north 1058.32', west 180' to POB and beginning 208' east NW/3, NE/4, thence south 1058.53', east 184', north 1058.01', west 184' to POB, Section 24, T-18-N, R-14-E, Tulsa County, Oklahoma.

**Case No. 1273**

**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 and 9, located NW/c 131st Street South and South 185th East Avenue.

**Presentation:**

The applicant, **Della Christian**, Route 6, Box 169, Broken Arrow, Oklahoma, requested permission to install a mobile home on her property, which will be occupied by her daughter. Photographs (Exhibit E-1) and a newspaper advertisement (Exhibit E-2) were submitted. Ms. Christian stated that there are other tracts in the area with more than one dwelling unit, and one two and one-half acre tract has three dwellings.

**Comments and Questions:**

Ms. Russell stated that it is her determination that the applicant needs additional relief. She explained that AG zoning requires 2.2 acres per dwelling unit and this request will require additional advertising.

Mr. Gardner advised that, if inclined to approve the use, the Board could approve the request for two dwelling units and continue the balance of the application.

It was the consensus of the Board that the use is consistent with the neighborhood.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "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 and 9, subject to a building permit and Health Department approval; and to **CONTINUE** the balance of the application to July 19, 1994; on the following described property:

Case No. 1273 (continued)

SE/4, SE/4, SE/4, SW/4 and east 1' of SW/4, SE/4, SE/4, SW/4, Section 1, T-17-N, R-14-E, Tulsa County, Oklahoma.

**Case No. 1274**

**Action Requested:**

Special Exception to construct a little league golf course in an AG zoned district, and for a variance of the all-weather surface requirement for off-street parking - and **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** and **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5, located north of the NE/c of 121st Street South and South 129th East Avenue.

**Presentation:**

The applicant, **Jim Ingram**, 3113 East 67th Street, submitted a packet (Exhibit F-1) explaining the project, and informed that he is proposing to construct a golfing facility for children. He submitted a plot plan (Exhibit F-2) and stated that his family has been involved in golfing for many years. Mr. Ingram pointed out that 12 acres of the property will be used as it exists, with no grading, filling or major construction. He informed that the existing dwelling will be remodeled and utilized for a club house if the project is successful. He stated that the 40 acres will actually become three small golf courses, one for training beginners, one for intermediate and one for older children.

**Comments and Questions:**

In response to Mr. Walker, the applicant stated that he is not proposing to install hard surface parking areas at this time.

Mr. Tyndall inquired as to rest room facilities for the project, and the applicant stated that initially portable units will be used throughout the area.

**Protestants:**

**Rocky Lewis**, 12926 East 121st Street, stated that he lives across the street from the subject tract, and is interested in proposed maintenance of the property. He informed that a well supplies water for his home and is concerned about sewage disposal for the project. Mr. Lewis stated that he is supportive of the concept.

Case No. 1274 (continued)

**Leta Hoffman**, 13030 East 121st Street, stated that she is in attendance to hear more about the project, and is supportive of the concept. She voiced a concern that the approval of the golf course might permit other uses on the property, and Mr. Walker advised her that approval of the request would allow the land to be used only for a golf course, and other uses, such as a shopping center, would not be permitted. Ms. Hoffman stated that she lives directly across from a proposed parking lot, and is opposed to a large dirt parking area.

**John Sanford**, 5310 South 70th East Place, stated that he owns property in the area and is supportive of the application. He informed that he is not opposed to gravel parking lots, but requested that the major entries to the lots be paved.

**Comments and Questions:**

Mr. Fields stated that he met with the County Engineer regarding the regulatory floodway across the property, and requested that, if approved, the approval be made subject to County Engineering approval of the drainage plan. He further requested that the applicant also obtain ingress and egress approval by the County Engineer.

Mr. Gardner informed that the applicant could conceal the parking area from the residence across the street by adding berms.

**Applicant's Rebuttal:**

Mr. Ingram stated that he is interested in upgrading the area and constructing a facility that will be an asset to the neighborhood. He informed that three ponds exist on the property and the creek is filled with debris, which will be cleared.

Mr. Tyndall asked if lights will be installed on the property, and the applicant stated that there will be no lighting.

After discussion, it was the consensus of the Board that they could support the application, per conditions.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a Special Exception to construct a little league golf course in an AG zoned district, and for a variance of the all-weather surface requirement for off-street parking to permit parking on the grass or gravel (no dirt parking) for two years only - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** and **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5; per plan submitted; subject to Health Department approval of sewage disposal; subject to 50' of paving being installed from the street toward each parking area; subject to the parking areas being screened from the road and

Case No. 1274 (continued)

nearby residences by berming; subject to County Engineer approval of a drainage plan and ingress and egress to the facility; subject to signage being limited to a 4' by 8' sign on each street frontage; subject to a building permit; finding the use, per conditions, to be compatible with the surrounding area; on the following described property;

SW/4, SW/4, Section 33, T-18-N, R-14-E, Tulsa County, Oklahoma.

### **OTHER BUSINESS**

Consider directing Staff to amend Section 1690.1 of the Tulsa County Zoning Code dealing with appeals from the Tulsa County Board of Adjustment to District Court.

#### **Comments and Questions:**

Mr. Jones suggested that the County Zoning Code be revised to comply with State law that requires an appeal of the Board's decision to be heard as a judicial review. Mr. Jones discussed a recent appeal in regard to a landing strip in an agricultural district. Mr. Jones noted that counsel for the applicant has argued that a landing strip is not an airport, but is an accessory use in an agriculture district. He suggested that, if this argument is upheld by the Judge, the Board direct the County District Attorney to appeal the case to the State Supreme Court.

#### **Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** calling a public hearing for the purpose of amending Section 169.1 of the County Zoning Code stating that an appeal of the decision of the County Board of Adjustment should be heard as a judicial review.

#### **Board Action:**

On **MOTION** of **TYNDALL** the Board voted 4-0-0 (Eller, Tyndall, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **DIRECT** the District Attorney's office to appeal to the State Supreme Court any finding by the District Court that an airport or landing strip is a customary and accessory use in an Agriculture District.

Other Business (continued)

Consider Executive Session, pursuant to Title 25, Section 307.B.4. to discuss pending appeals to District Court for CBOA Case No. 1192, CJ 94 00048 and CBOA 1233, CJ 94 01962.

**Comments and Questions:**

Mr. Jones advised that the Executive Session will not be conducted as scheduled. He informed that counsel, **Denise Graham**, had a previous engagement and will not be present to discuss pending appeals.

There being no further business, the meeting was adjourned at 4:15 p.m.

Date Approved 7-19-94

  
Chairman