

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 196
Tuesday, September 17, 1996, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Tyndall	Looney, Chairman Walker	Beach Huntsinger Gardner	Glenn, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, September 13, 1996, at 12:58 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Mr. Tyndall called the meeting to order at 1:40 p.m.

MINUTES:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** the **Minutes** of August 20, 1996 (No. 195).

UNFINISHED BUSINESS

Case No. 1444

Action Requested:

Special Exception to permit a children's day care in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 5, located 4702 East 76th Street North.

Presentation:

The applicant, **Ronnie Hill**, 4702 East 76th Street North, submitted a site plan (Exhibit A-1) and photographs (Exhibit A-2). Mr. Hill stated he had a site plan prepared.

Protestants: None.

Comments and Questions:

Mr. Alberty asked the applicant if his site plan had a chance to go through the County Inspector? Mr. Hill stated he went to the County Inspector's office to talk with them.

Case No. 1444 (continued)

Mr. Alberty asked Mr. Glenn if he has had a chance to see the site plan? He stated he had not seen the site plan, but did talk to Mr. Hill about the Building Codes for a day care facility.

In response to Mr. Glenn, Mr. Hill stated he talked with Mr. Glenn about the Building Codes and Mr. Glenn limited him to six (6) kids under the age of 2 1/2 in the day care.

Mr. Glenn corrected Mr. Hill and stated he can only have five (5) children under the age of 2 1/2 in the day care.

Mr. Glenn, Board members, Mr. Beach and Mr. Hill reviewed the site plan and photographs. After reviewing the site plan, photographs and discussing parking, it was determined that Mr. Glenn had no problems with the site plan.

Mr. Alberty asked the applicant what the second floor of the day care would be used for? Mr. Hill stated he will be using the second floor for day care.

Mr. Alberty stated there were protestants at the last meeting and this case was continued to this date, however there are no protestants today.

Mr. Alberty asked staff if they had any information from the protestants? Mr. Gardner answered negatively.

In response to Mr. Alberty, Mr. Glenn stated the day care can have five (5) or less children under the age of 2 1/2. He further stated the applicant can have more children, whatever number of children he is licensed for, which would include those under 2 1/2 years old.

Mr. Alberty asked the applicant if he understood the limits? Mr. Hill answered affirmatively.

Mr. Alberty asked the applicant how many children he expected to have at the day care? He stated it will be somewhere between 25 and 30 children.

Mr. Alberty asked the applicant if the State Licensing Board will require a fenced in play area outside? Mr. Hill answered affirmatively. He commented he is aware of all the requirements and his wife is in the day care field.

Case No. 1444 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **APPROVE** a **Special Exception** to permit a children's day care in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 5; subject to a maximum of 30 children; subject to a maximum of 5 children under the age of 2 1/2 years old; subject to the site plan submitted, unless it is necessary to modify the plan by the County Inspector; subject to securing State Licensing for the day care; and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code; on the following described property:

Beg. 330'S, NE/c, NW, NE, NE, TH, W 345.1' to W R/W LN HWY N along HWY R/W 186.63' Nely along HWY R/W 289.14' Ely along HWY R/W 60.81' to EL NW NE NE S to POB, Sec. 33, T-21-N, R-13-E, 1.743acs, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 1450

Action Requested:

Variance of required frontage on a public street or dedicated right-of-way from 30' to 0'. **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 4512 South 73rd West Avenue.

Presentation:

The applicant, **Debbie Garner**, 6531 West 34th Street, stated she purchased 10 acres of property along with another couple three (3) years ago. She explained that she had to obtain a lot split through the City of Sand Springs in order to build her house. Ms. Garner stated she followed the City of Sand Springs instructions and received a lot split. She further stated she was told she could get a 25' easement back to her property through the Ecklund's property. She indicated in the Ecklund's legal description it is stated LESS AND EXCEPT 25' for an easement to get to her property and when the two property owners quit claim deeded the easement to each other, she obtained an easement to her property. Ms. Garner stated that when she went to get a building permit she was told that the legal description was not good enough. She indicated her claim of hardship is that she followed the procedures that she was told to do through the City of Sand Springs and Mr. Glenn is aware that she has been caught in the wheels of bureaucracy in the process of obtaining a lot split. She stated she did not know any other requirements were necessary other than an easement.

Case No. 1450 (continued)

Protestants:

None.

Comments and Questions:

Mr. Alberty asked the applicant if she actually processed a lot split with the City of Sand Springs and was it approved? She answered affirmatively.

Mr. Gardner stated the applicant is not caught up in bureaucracy, it is a requirement that all lots have 30' of frontage on a dedicated public street so that she can access her property. He further stated without this requirement being met she cannot obtain a building permit. He explained the hardship is self-imposed. He commented he is not sure why the City of Sand Springs approved a lot split without meeting the requirement of the zoning, because this is a zoning issue. Mr. Gardner stated that the City of Sand Springs does not have any zoning control, but they do have platting jurisdiction and that could account for why the City of Sand Springs did not consider the zoning. He further stated the City of Sand Springs is a part of the INCOG agency and a phone call to the agency would have cleared up the zoning requirement.

Mr. Alberty stated if the municipality approved their lot split, whether it was in error or not, there is an implied approval of that lot and this is a record that someone approved the lot split. He further stated the applicant went to someone whom they thought was responsible and if that particular agency committed a mistake there is certainly an implied approval in this case.

Mr. Alberty asked the applicant if the 25' easement has been filed of record? She stated it has been filed and it is on the legal description.

Mr. Alberty asked the applicant if her lot has a 25' handle or an easement that goes out to Sand Springs? She stated the property that she crosses to get to her property gives a legal description that states: LESS and EXCEPT 25'; subject to N 25' for a roadway easement.

Mr. Alberty asked the applicant if she had a lot split approval number and the date that it was approved by the City of Sand Springs? Ms. Garner stated she does have a lot split approval number, however she does not have the lot split with her.

In response to Mr. Alberty's question, Mr. Glenn stated the lot split has been approved and he saw the approval.

Case No. 1450 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **APPROVE** a **Variance** of required frontage on a public street or dedicated right-of-way from 30' to 0'. **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; finding that the City of Sand Springs in affect approved the lot split and the applicants felt that they had sought all necessary approvals; finding that the 25' access easement has been filed of record in Tulsa County; finding that the approval of this application will not be injurious to the area, nor harmful to the spirit and intent of the Code; on the following described property:

W/2, S/2, S/2, SE/4 NW/4, Sec. 30, T-19-N, R-12-E, Tulsa County, Oklahoma.

Case No. 1451

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 9, located 3969 South 225th West Avenue.

Presentation:

The applicant, **J. Bart and Sheila M. Hays**, submitted a site plan (Exhibit B-1) and stated he is currently living in an old frame home that his wife was raised in and they also have a rent home that is on the same subject property, which is five (5) acres. He indicated that he would like to build a new home and either tear down the old frame home or use it as a shed for storage.

Protestants:

None.

Comments and Questions:

Mr. Alberty asked the applicant if the house they would be replacing is the house located to the South? He stated there is a home on the north boundary and a home in the center of the land. He further stated the home in the center of the land is the one they would move out of and turn into a residential accessory building or tear down.

Mr. Alberty asked the applicant if the new home would be to the south of the old frame home in the center of the land? He answered affirmatively.

Mr. Gardner stated that since the applicant is only asking for two dwelling units per lot of record, then the frame home will have to come down or be converted to a residential accessory building.

Case No. 1451 (continued)

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "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 9; per plan submitted; subject to the frame house being used as a residential accessory building (storage); subject to the building inspectors approval; finding that there are two dwellings existing on the property and the application is to replace one of the dwellings with a permanent built structure; finding the tract is over 5 acres in size and that the approval of this application will not be injurious to the area, nor harmful to the spirit and intent of the Code, on the following described property:

Beginning 859.8' N, SW/c, SW/4; thence E for 546.75'; thence S for 417.4'; thence W 546.75'; thence N 417.4' to POB, LESS W 25' for Road, Sec. 22, T-19-N, R-10-E, Tulsa County, Oklahoma.

Case No. 1452

Action Requested:

Variance to allow a telecommunications tower 150' in height. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4, located South of 161st Street South and West of U.S. 75.

Presentation:

The applicant, **Earl Higgins/John Kirby**, 11529 East Pine Street, submitted a site plan (Exhibit C-1) and stated he represents SW Bell. He indicated he would like to erect a telecommunications tower on Mr. Orcutt's property at approximately 116th Street South on the West side of Highway 75.

Protestants: None.

Comments and Questions:

Mr. Tyndall asked the applicant if it would take ten (10) acres to erect the telecommunications tower? Mr. Higgins answered negatively. He stated the telecommunications tower will be located on a 100' x 100' piece of property in the west corner of the property. He explained the site will be west of the Williams Brother's pipeline that runs across the property and west of Highway 75.

Mr. Higgins stated the site for the telecommunications tower is 930' from the highway right-of-way.

Case No. 1452 (continued)

In response to Mr. Beach, Mr. Higgins stated the property owner wanted to leave the frontage property available for highway commercial uses.

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **APPROVE** a Special Exception to allow a telecommunications tower 150' in height. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4; per plan submitted; finding that the approval of this application will not be injurious to the area, nor harmful to the spirit and intent of the Code, on the following described property:

The S 330' of SE/4, NE/4, Sec. 27, T-17-N, R-12-E, I.B.M., Tulsa County, Oklahoma.

Case No. 1453

Action Requested:

Principal Use Variance to permit a kennel in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15, located 2808 East 151st Street South.

Presentation:

The applicant, **Norma K. Hendrix**, 2808 East 151st Street South, Bixby, submitted a site plan (Exhibit D-1) and stated she would like a variance to permit her to have a dog kennel on her property.

Protestants: None.

Comments and Questions:

Mr. Tyndall asked the applicant if this request is for strictly a dog kennel and not exotic animals? She stated it will be strictly a dog kennel.

Mr. Alberty asked the applicant what breed of dogs and how many she would have in her kennel? Ms. Hendrix stated it will be a boarding kennel and she would like to keep 20 to 25 dogs for the future. She explained she will be starting with 10 runs presently. The applicant detailed that the facility will be indoor/outdoor with its own septic and lateral lines. She further detailed there will be heating and air. Ms. Hendrix indicated the dogs would not be outside late in the evening where it would cause a nuisance for other neighbors.

Case No. 1453 (continued)

Mr. Alberty asked the applicant if this will be a boarding kennel as opposed to a breeding kennel? She answered affirmatively. Ms. Hendrix indicated that in the future she may want to breed Yorkshire Terriers. She stated she has raised dogs and knows how to train dogs.

Mr. Alberty asked the applicant if there are existing buildings on the property that she will use? She stated there are a few pens that the previous owner had installed and she will use the round pen for a play area for the dogs. She compared the boarding kennel to a pet resort and it will be a very clean facility. Ms. Hendrix stated she would be living on the property so she will make sure the smells are kept down and the facility is clean. She further stated the pens would not be unattended, but more like an exercise pen and running pen. She indicated that during the winter months at night the dogs will be brought in between 5:00 p.m. and 6:00 p.m. She stated she would like to extend the outside hours during the summer to 7:00 p.m., because of the nicer weather and cooler air in the evenings.

Mr. Alberty asked Mr. Glenn if the County had any building codes that apply to kennels? He answered negatively. Mr. Glenn stated that as the area grows the applicant may need to install a screening fence to keep the noise down, however there is no problem at this point.

Mr. Tyndall stated he drove by the subject property and didn't see where there would be a need for a screening fence at the present time. He further stated there is a four lane highway in front of the subject property and there will be more noise from the traffic than the dogs. He indicated if the area was developed residential at a later date, then the applicant may need to install a screening fence.

In response to Mr. Beach, Ms. Hendrix stated she has a neighbor to the west of her, but not to the east.

In response to Mr. Beach, Ms. Hendrix stated there is five (5) acres of undeveloped land between her and the east property. She further stated there is no development behind or to the side of her property.

Mr. Glenn stated the screening fence may be needed later but it doesn't have to be a condition. He further stated he mentioned the screening fence only to let the applicant know that sometime in the future it may be required because of the nuisance factor.

In response to Mr. Glenn, Ms. Hendrix stated she would not be opposed to erecting a screening fence in the future to keep the noise down.

Case No. 1453 (continued)

Mr. Alberty asked the applicant how close would the outside dog runs be to the east property line? Ms. Hendrix stated she is visiting other pet motels to get the best points before building, but she can back off the fence line if necessary.

Mr. Alberty asked the applicant if she would be opposed to a 50' setback from the east property line or if anything was erected any closer than 50' of the east property line, it would require a screening fence? She stated she had no problem with that stipulation.

Mr. Alberty asked the applicant if she planned to install her outside runs to the east? She stated she is not sure, it would depend on the design of the building.

Mr. Alberty stated if the applicant installed her dog runs to the west of the building, then the building could stay where it is proposed.

In response to Mr. Alberty, the applicant asked if there could be a stipulation that if the runs are built to the west the proposed building can stay within 15' from the east property line and if she builds her dog runs further north or south of the building, then the setback will need to be 50' from the east property line.

Mr. Tyndall stated the site plan as it is proposed could stand and stipulate that the dog runs have to be built on the west side of the building.

Mr. Alberty asked the applicant if she would be agreeable to putting her dog runs on the west side? She agreed to build her dog runs on the west side.

Mr. Tyndall asked Mr. Gardner what the limit for signage would be for this application? Mr. Gardner stated it would be treated as an approved Board of Adjustment use and a sign is allowed on each street frontage of a permitted non-residential use. He further stated the sign cannot exceed 32 SF in surface area, nor 15' in height.

Mr. Alberty asked the applicant if she had planned on putting signs up? She stated that she thought about naming the farm and putting an archway with the name in the archway. She further stated under the name of the farm she would put a sign saying "kennel". She didn't think she would be putting up large signs.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **APPROVE** a **Principal Use Variance** to permit a boarding kennels only in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15, subject to a maximum number of 25 total animals; subject to the applicant's site plan for the location of the dog kennels, that any outside dog runs will be located to the

Case No. 1453 (continued)

west of the proposed building,; subject to condition that if single family residences is developed to the east property, the area along the common property line with the single family residence and the dog kennels be screened with a 6' solid surface screening fence and in the alternative, if the dog runs are to be built to the north or south of the proposed building then that area of the dog runs, including the building would need to be initially screened with a 6' screening fence; finding that the applicant will be living on the subject property; finding that the property is zoned agricultural and is near an improved four lane highway; and finding that the approval of this application will not be injurious to the area, nor harmful to the spirit or intent of the Code, on the following described property:

A tract of land that is part of the E/2, NE/4, NE/4, NW/4, Sec. 20, T-17-N, R-13-E, I.B.M., according to the U.S. Government Survey thereof, said tract of land being described as follows; starting at NW/c, E/2, NE/4, NE/4, NW/4, said Sec. 20; thence S0°26'28"E for 250.00' to POB; thence N89°29'47"E for 300.88'; thence S0°25'55"E for 412.23'; thence S89°29'51"W for 300.82'; to the SW/c, E/2, NE/4, NE/4, NW/4; thence N0°26'28"W for 412.23' to the POB., Tulsa County, Oklahoma.

Case No. 1454

Action Requested:

Variance to allow 2 dwelling units on one lot of record in an AG district. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6, located 10333 North Sheridan Road.

Presentation:

The applicant, **Ray Thompson/United Built Homes**, representing Mr. & Mrs. Tevebough, submitted a site plan (Exhibit E-1) and stated he is wanting to build a 2000 SF home for the Tevebough's and the home will replace the mobile home they are currently living in. He further stated that as soon as the home is completed, the mobile home will be removed. He explained the other mobile home on the subject property has been located on the property for many years and will remain.

Protestants:

None.

Comments and Questions:

Mr. Tyndall asked the applicant which mobile home will be removed from the subject property? Mr. Thompson indicated the mobile located to the south next to the gravel drive.

Case No. 1454 (continued)

Mr. Alberty asked the applicant if the Tevebough's plan to live in the mobile home until the proposed home is built and then remove the mobile home? He answered affirmatively.

In response to Mr. Alberty, Mr. Thompson stated there will be three (3) dwelling units on the subject property until the proposed home is completed, at which time the mobile home will be removed, leaving only two (2) dwelling units on the subject property.

Mr. Alberty asked the applicant if there are any inoperable vehicles on the subject property and if he knows the status of the vehicles? He stated he did not know the status of all the vehicles, but he does know that there are probably a couple of vehicles that are inoperable. He further stated that Mr. Tevebough does body work on cars as a hobby. Mr. Thompson commented that he did make mention to Mr. Glenn that he would have Mr. Tevebough contact him in regards to the status of the vehicles.

Mr. Alberty stated he personally doesn't have any problem with the dwelling, especially the stick built home replacing a mobile home, which already have two (2) existing dwelling units located on the subject property. He further stated he does have a problem with inoperable vehicles if parked inside a building. He commented he would be prepared to make a motion subject to removal of any inoperable vehicles on the property if they are displayed in open air. Mr. Alberty stated the property owner can have inoperable vehicles stored in an enclosed building, but not displayed out on the property.

Mr. Glenn stated he told Mr. Thompson that there will not be a building permit issued until the issue of the vehicles is addressed and taken care of.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **APPROVE** a **Variance** to allow 2 dwelling units on one lot of record in an AG district. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6; per plan submitted; subject to the condition that as soon as the home is available for occupancy that one of the mobile homes will be removed; subject to the condition that all or any inoperable vehicles be removed prior to the issuance of a building permit, unless the inoperable vehicles are stored inside an enclosed structure; subject to approval of the Health Department; finding that there are two dwellings existing on the property and the application is to replace one of the dwellings with a permanent built structure; and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

W/2, S/2, S/2, NW/4, NW/4, Sec. 14, T-21-N, R-13-E, I.B.M., Tulsa County, Oklahoma.

OTHER BUSINESS

Election of Officers

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **ELECT** Roland Walker to the office of Chairman for the County Board of Adjustment.

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **ELECT** Wayne Alberty to the office of Vice-Chair for the County Board of Adjustment.

On **MOTION** of **ALBERTY**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker "absent") to **ELECT** John Tyndall to the office of Secretary for the County Board of Adjustment.

There being no further business, the meeting was adjourned at 2:31 p.m.

Date approved: Oct 15, 1996

Roland L Walker
Chair