

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 200
Thursday, January 23, 1997, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

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

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, January 17, 1996, at 2:27 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** the minutes of December 17, 1996 (No. 199).

NEW APPLICATIONS

Case No. 1474

Action Requested:

Variance of minimum lot area to permit a lot split. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located 13625 South 129th East Avenue.

Presentation:

The applicant, **Jeff Black**, 3006 West Washington Place, Broken Arrow, submitted a plat of survey (Exhibit A-1) and stated the subject property is under 4 acres and is owned by his parents. He explained that he would like to split the subject property down the middle and build a home for his family on the south part of the property. He stated the proposed lot meets all of the requirements for the frontage, except for an 1/8 of an acre under the minimum 2 acre requirement.

Case No. 1474 (continued)

Comments and Questions:

Mr. Alberty asked the applicant if his parents owned Tract A of the platted survey submitted? He answered affirmatively.

Mr. Alberty asked the applicant if he was trying to make a three-way split? He answered negatively.

Mr. Alberty asked the applicant what the nature of his hardship is for this lot split? He stated he wanted to take care of his parents in the future. He further stated it would be a convenience if he could build his home on the south part of the property near his parents.

Mr. Walker stated that there are smaller lots across the road from the subject property.

Protestants:

Robert Himmered, 13617 South 129th East Avenue, stated his property is adjacent to the subject property, which is to the north and east. Mr. Himmered further stated he owns Tract B. He questioned where the new dwelling would be built and if it is a single-family dwelling? He informed the Board that there are covenants that need to be addressed.

Comments and Questions:

Mr. Walker informed Mr. Himmered that covenants, which run with the land, are a civil matter and the Board does not deal with the enforcement of covenants.

Applicant's Rebuttal:

Mr. Black stated that his plans are to build the new dwelling where the metal barn currently exists. He explained that he will tear down the metal barn and build a single-family dwelling. He commented that he is aware of the covenants and he intends to abide by the covenants.

Comments and Questions:

Mr. Alberty stated that the hardship that would run with the land would be based on the fact that RS zoning exists across the street and there could be five (5) lots made of this tract if it were zoned RS. He further stated the hardship would lie in the fact that there are other lots in the area of this size or smaller.

Case No. 1474 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** of minimum lot area to permit a lot split. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6; per plan submitted; finding there are lots in the area this size or smaller; finding that the property across the street from the subject property is zoned RS; 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:

A tract of land in NW/4, SW/4, Sec. 9, T-17-N, R-14-E, I.B.M., Tulsa County, Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows, to-wit: Beg. W line of said NW/4, SW/4 95' S of the NW/c thereof; thence S 89°35'23"E and parallel with N line thereof for 212.53'; thence S 63°49'01" E for 99.16'; thence S 8°59'15" E for 164.91'; thence due S. for 359.18'; thence N 89°35'23" W and parallel with the N line of said NW/4, SW/4 for 327.27' to the W line thereof; thence due N along said W line for 665' to POB, Tulsa County, Oklahoma.

Case No. 1475

Action Requested:

Variance to allow 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and a Variance of bulk and area requirements in an AG district from 2.2 acres per dwelling unit to 1.31 acres. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located 16411 East 167th Place South.

Presentation:

The applicant, **Sandra Sullivan**, represented by Clarence Sullivan, 16411 East 167th Place South, submitted maps and photographs (Exhibit B-1) and letters of support (Exhibit B-2). Mr. Sullivan stated his job requires that he live within seven (7) miles of Bixby. He explained his father owns the subject property and has given him permission to move a double wide mobile home onto the backside of his lot, which would be on the southside of his father's property.

Comments and Questions:

Mr. Walker asked the applicant if there were other lots in the area that have more than one residence? He stated the lots to the west of the subject property have been split up and developed.

Protestants:

Pat Lohmen, 16565 East 167th Street, stated she lives adjacent to the subject property on the west side. She explained that two years ago she purchased the property to have some solitude and not be surrounded by houses. She stated she called the Health Department and was told that Mr. Sullivan's land did not pass the perc test. She further stated Mr. Sullivan is proposing to use an aerobics system for his sewer system. She commented that the rest of the property owners have septic systems and Mr. Sullivan should have a septic system that works as well. She expressed concerns that with Mr. Sullivan's grade being sharp it will be a hazard to get to his property from the highway. Ms. Lohmen went into detail of the type of traffic that uses the highway (trucks, sod farm trucks, chemical trucks, etc.). She requested the Board to deny this application.

Applicant's Rebuttal:

Mr. Sullivan stated that he did contact DDQ and have applied for an aquatic system that has been nationally approved.

Comments and Questions:

Mr. Alberty asked the applicant if he will be entering from the new highway? He answered affirmatively.

Mr. Alberty asked the applicant if his father will be entering from the old highway on the north side? He answered affirmatively.

Mr. Sullivan stated that once he installs his trailer he will be making improvements to the land. He explained that there are a few ditches on the property that he plans to fill in.

Mr. Alberty asked the applicant if the total area for application is 2.2 acres? Mr. Sullivan stated his father's deed reads 2.62 acres.

Mr. Alberty asked the applicant if he wanted to create two lots that will be 1.31? Mr. Sullivan agreed but stated he does not want to split his father 's land.

Ms. Lohmen requested a clarification of Bulk and Area? Mr. Alberty explained that the Bulk and Area Requirements are certain specifications and conditions that are required per zoning district. It requires a lot to be of a certain size, setbacks, lot coverage, etc. He stated it is basically the specifications which are peculiar to each zoning district. He further stated that in this subject zoning district it is required to have 2.2 acres per dwelling unit. The applicant is wanting to put two dwelling units on 2.62 acres and by splitting the property it will be 1.31 acres.

Case No. 1475 (continued)

Mr. Walker stated that the lot next door to the subject property is smaller than normal. He further stated that the function of this area is basically residential and there is a residential area to the west of the subject property.

Mr. Alberty stated that the two lots to the west have actually been divided in ownership to what looks like four (4) lots.

Mr. Alberty stated that due to the fact that this is a long narrow lot, and this is the pattern of development that has already been established this does not look peculiar in this area. He indicated that there are two lots to the west that have two dwellings side by side.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** to allow 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and a **Variance** of bulk and area requirements in an AG district from 2.2 acres per dwelling unit to 1.31 acres. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6; per plan submitted; subject to a building permit and Health Department approval; subject to ties downs and skirting; 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:

Part NW, SW, Beg., NE/c, NW, SW; thence S 716.60, W 163.14, N 679.29, NE 149.15, E. 19.14, Sec. 26, T-17-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1476

Action Requested:

Special Exception to permit a mobile home in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9, located 1547 East 72nd Street North.

Presentation:

The applicant, **Ed Winterhalder**, 7679 North 140th East Avenue, Owasso, submitted a plat (Exhibit C-1), plot plan (Exhibit C-2) and photographs (Exhibit C-3). Mr. Winterhalder stated he would like to install a mobile home on the subject property which is currently undeveloped. He explained the subject property has been vacant for several years and the neighborhood is mixed housing with several mobile homes in the immediate area. Mr. Winterhalder commented that he planned to build on the subject property eventually, and at such time, the mobile home would be removed.

Comments and Questions:

Mr. Walker asked the applicant how close the other mobile homes were located? He stated within a 1,000 yards there are approximately five or six mobile homes.

Mr. Walker asked the applicant if there is one adjoining the subject lot? He stated the closest mobile home is approximately 400' away from the subject property.

Mr. Looney asked the applicant if the mobile home would face Trenton? He answered affirmatively. He explained that the drive would come out on 72nd Street.

Mr. Walker asked the applicant if sewer or septic is available for the subject property? He indicated that there is sewer available on 72nd along with water and utilities.

Mr. Alberty asked the applicant if he had a time frame for when he will build a home and move out the mobile home? He stated sometime in the next two or three years.

Mr. Alberty asked the applicant, if the Board where inclined to approve this application, would he have a problem with the Board setting a time period? He stated he would not have a problem with a time period.

Mr. Alberty informed the applicant that there has been a precedent set in the subject area, however, the neighbors would like to see the mobile homes transition out.

In response to Mr. Alberty, Mr. Winterhalder stated it is his intention to bring the neighborhood back to life and he is in favor of transitioning out mobile homes.

Protestants:

Jeff Kirkland, 1727 East 73rd Street North, stated he is opposed to this application. He commented that on a corner lot the structures are more visible. Mr. Kirkland indicated the mobile home on a corner lot will have greater detrimental effect on the neighborhood's nearby property values. He stated the Zoning Code excludes mobile homes from an RS-2 district to protect the property values. Mr. Kirkland stated that if the applicant must live in a mobile home there is a mobile home park, "Spring Valley", at the northwest corner of 66th Street North and North Lewis, which is within one mile of the subject property. He commented that his neighborhood will become a mobile home park if the current trend continues. Mr. Kirkland concluded that if more mobile homes are allowed in this neighborhood, then there will never be new construction because no one will build a new home next to a trailer house or even within site of a trailer house.

Comments and Questions:

Mr. Walker asked Mr. Kirkland where he lived in regards to the subject property? He stated he is one block north and approximately 1 1/2 block east.

Case No. 1476 (continued)

Applicant's Rebuttal:

Mr. Winterhalder stated he is one of the last homeowners to have built a new home in the neighborhood. He further stated he built a new home three (3) blocks south of the subject property three (3) years ago. He indicated that he has built several new homes in the area from the ground up to replace old torn down homes. He commented that every piece of property he has acquired, he has brought back to life and his intention with this piece of property is the same.

Comments and Questions:

Mr. Walker asked the applicant where he would build his home on the subject property? He stated the mobile home will be located in the center of the lot.

Mr. Tyndall asked the applicant if he would be living in the mobile home or would this be rental property? He stated he had the property sold contingent upon approval and then eventually build a home for the same party.

Mr. Looney asked the applicant if he has sold the subject property? He stated the sale of the property is contingent upon the variance approval and then a couple of years down the road he will eventually build for the owner.

Mr. Looney asked the applicant if he knew the size of the mobile home that will be moved in? He answered negatively.

In response to Mr. Looney, Mr. Winterhalder did not know the age of the proposed mobile home.

Mr. Looney commented that the complexion of this application changes since Mr. Winterhalder plans to sell or rent this property.

Mr. Alberty stated that Mr. Kirkland has made some very good points regarding mobile homes being approved in this area and how the area is becoming saturated with mobile homes.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; none "absent") to **DENY** a **Special Exception** to permit a mobile home in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

E 70', S150', Lot 12, Block 6, Golden Hill Addition, Tulsa County, Oklahoma.

Case No. 1477

Action Requested:

Special exception to allow a residential care home for approximately 10 residents in an AG district. (No medical treatment provided). **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 8, located North of NE/c East 131st Street South and South 129th East Avenue.

Presentation:

The applicant, **Beverly L. Pryon**, 13200 East 130th Street, Broken Arrow, submitted a site plan (Exhibit D-1) and stated she would like to amend her original application from ten (10) to seven (7) residents. She explained that the Fire Marshall inspected her home and it would be too cost prohibitive due to the modifications necessary for the home. She indicated the State will allow her to have up to seven (7) residents without the modifications. She further indicated that since she is modifying her application from ten (10) to seven (7), she does not have to go through the process and she does not have to notify her neighbors. Ms. Pryon stated that there will be seven (7) elderly people that will live in her home and she will take care of the seven (7) elderly people. She explained that her family will continue to live in the home until there are two (2) or three (3) residents in her home. She stated that once there are two (2) to three (3) residents then she has plans to move into a smaller home close by. She explained that this will be her full-time business. Ms. Pryon stated the residential care home will be an asset to the neighborhood because it will be her business and the landscaping will continue to be improved.

Comments and Questions:

Mr. Walker asked the applicant if she needed to make application before the board since she has amended her application from ten (10) to seven (7) residents? She stated that Don Garrison from the Oklahoma State Department of Health, Director of the Residential Care Division, informed her that if she has seven (7) or less residents, then she does not have to go through this process. She further stated that the only reason she is here is because she had made the application for ten (10) and that she needed to come to clarify the change that has taken place.

Mr. Walker asked the applicant if she wanted the Board to hear this application or not? She stated her neighbors had some concerns and they should be heard.

In response to Mr. Gardner, Ms. Pryon stated that this is not a neighborhood group home. She explained that a group home means people who are with disabilities or the mentally ill. She further explained that a residential care home is for elderly residents who are ambulatory, which means that they are able to move about themselves and can take care of their own affairs.

Case No. 1477 (continued)

Ms. Pryon stated that Linda Helms, who represents the State Fire Marshall, told her that at one time the number of elderly residents was six (6) but now has been raised to seven (7) residents.

Mr. Gardner informed the Board that the zoning is under their jurisdiction and the Board needs to see what the Zoning Code states to determine if she needs to be here.

Mr. Glenn stated the County can adopt the State Code or be more restrictive than the State Code and currently the County's Codes are more restrictive. He further stated that if this application is approved then she will be required to go through platting, have a state license, no signs are allowed and she can not alter the structure.

Mr. Walker asked the applicant to describe her residents? She stated that the residents are a population of people that have become fragile and can no longer remain safe living alone. She explained that the residents cannot cook and cannot do their own laundry, but yet they are not at a place in their life where they want to go to a nursing home. She stated that there will be someone present 24 hours a day to assist the residents.

Mr. Walker stated the neighborhood group home in the Code seems to be the exact definition that Ms. Pryon is talking about.

Mr. Glenn indicated that the application would fall under the County's definition of a community group home.

In response to Mr. Glenn's statement, Ms. Pryon stated she is not running a community group home, but rather a residential care facility and they are totally two different organizations.

Mr. Gardner stated that regardless of what the State calls this home, it has to fit into the County's Zoning Code and either it is a single-family by definition or you can look at one of the other definitions and determine what it is. He further stated that the elderly is a protected class of people the same as physically limited and handicapped people. Mr. Gardner indicated that the definition of neighborhood group home and family group home include the elderly as well. If she is a single family she does not need to be here and if there is anything more than single family then the Board has to determine what it is. Mr. Gardner stated the application falls in one of the two categories and the County Board of Adjustment has jurisdiction in either case and she does need to have this application (7 elderly residents) heard by the Board. Mr. Gardner stated that the City's definition of single-family is six (6) unrelated individuals plus two care givers and the County's definition is five (5) unrelated individuals plus two care givers. He explained that if the applicant was in the City of Tulsa and she

Case No. 1477 (continued)

applied for seven (7) residents elderly, she would be going before the City Board of Adjustment for approval for the additional person as a community group home.

Mr. Glenn stated that if the applicant had come to his office for a permit, he would have sent her to the Board of Adjustment for approval of a community group home.

The Board agreed that Ms. Pyron needed to be heard by the Board of Adjustment for approval of the seven (7) residents.

Presentation: (continued)

Ms. Pyron informed the Board she has a friend with her who has operated a residential care facility in a residential area for three (3) years and would like her to speak with the Board regarding what her experiences have been.

Interested Parties:

Nancy Johnson 11785 South 87th East Avenue, Bixby, stated she has had a residential home for approximately 3 1/2 years. She further stated the residential home has worked very well and the residents have been accepted by the neighborhood. She commented that the residential home is not a nuisance or an annoyance to the people in the neighborhood. She stated the residents are mobile, but they do not get out and they do not cause any problems. She indicated that the public driving by the home would never know that it is a residential home for the elderly.

Comments and Questions:

Mr. Looney asked Ms. Johnson if she had six (6) residents? She answered affirmatively.

Mr. Looney asked Ms. Johnson, just out of curiosity, if she applied approval for her operation? She answered affirmatively. She stated that when the City of Bixby's definition differs from the Federal definition then the City has to change their definition to be in agreement with the Federal and the City did change their definition.

Ms. Johnson concluded that anyone who would like to visit her residential home for the elderly is welcome to come by anytime.

Mr. Alberty asked Ms. Pyron if she planned to have two attendants in addition to the seven residents? She stated that there will only be one attendant at the home 24 hours a day. She further stated that this application went through the Broken Arrow Board of Adjustment and the only restriction was that there would be no more than two attendants present at any one time.

Case No. 1477 (continued)

Mr. Beach asked the applicant if there will be food service? She answered affirmatively. She explained there will be 24 hour supervision, three meals a day, laundry, etc. She stated that the residential center will become the residents home.

Mr. Beach stated the facility will also be subject to approval by the State Health Department.

In response to Mr. Beach's statement, Ms. Pyron stated she is in the process of going through each of the standards that the State Health Department requires. She acknowledged that she has to be licensed by the State Health Department before she can operate.

The Protestants shared the following concerns:

Well water contamination; septic systems having to be enlarged; increased traffic on narrow streets; property values dropping; detrimental to the neighborhood; elderly residents wandering into creeks, ponds, etc.; setting a precedent; loss of privacy; the atmosphere changing in the neighborhood; safety concerns.

Protestants:

Tom Baronson, 13290 East 130th Street South, submitted a petition of protest (Exhibit D-4).

Hugh & Sally Bright, 12969 East 131st, submitted a letter of protest (Exhibit D-2).

Joann Ledbetter, 13006 South 133rd East Avenue, submitted photographs (Exhibit D-5).

Carolyn Bear, 13025 East 130th Street South, and **Charles Bear**, (Carolyn Bear's son), 9232 South Houston, spoke in protest.

Applicant's Rebuttal:

Ms. Pryon stated she is a registered nurse and she holds a Master's Degree in Public Health. She addressed the well and septic system concerns stating that Mr. Silva of the Department of Health explained that the regulation for septic is by your bedrooms. She explained that the current septic system was installed with enough lines for four bedrooms. She further explained the septic system will stay as it is currently until she utilizes a front room for a 5th bedroom. Ms. Pryon indicated that when she uses the 5th bedroom she will have to add 130' of lateral lines. In regard to the dead-end street concerns, Ms. Pryon thought the dead-end street will be an advantage and will keep the traffic limited. Ms. Pryon indicated she owns the street in front of her home and it has never been given to the City of Broken Arrow. She commented the streets are not narrow or an unusual width and she does not see where there will be a problem for emergency vehicles. She stated she did not feel that the residential care facility will decrease anyone's property value, because she has every intention of continuing to own and operate this facility for many years. Ms. Pryon listed several improvements she hopes to do in the near future: Landscaping and replace wire

Case No. 1477 (continued)

fencing with white fencing. She indicated the home has more than adequate space for the seven (7) residents proposed to live in the home. Ms. Pryon stated she will be required by the State to carry liability insurance for the residents in her home. She further stated the residents will be watched closely 24 hours a day. Ms. Pryon indicated she understands her liability for the well being of the residents. In regard to health care, Ms. Pryon stated the State requires that a home health care agency provides the health care for the residents. She indicated she will be contracted with a home health care agency to provide services needed. Regarding the parking issue, Ms. Pryon stated she has a very long driveway and she owns the street, which has more than adequate spacing for at least 25 cars. She remarked that there will never be 25 cars parked at any one time. She indicated she expected two (2) cars to be parked at the home during the day. Ms. Pryon concluded that this facility will be a reputable, well run organization and there should not be any concerns for safety. She indicated that this facility will not change the atmosphere of the neighborhood and it will remain a residential neighborhood.

Comments and Questions:

Mr. Walker asked Ms. Pryon if the residents become bedridden are they allowed to remain at the residential care facility? She stated that if they are not mobile and become bedridden then they are required by the State to move into a nursing home facility.

Mr. Walker asked the applicant if the residents will be local people or from different towns or states? She stated it will be strictly private pay and the residents can come from anywhere.

Mr. Walker asked the applicant if there will be any kind of screening before the residents are allowed to move in? She stated the criteria for admissions is that they have to be over 18 years old, ambulatory or mobilize themselves in a wheelchair.

Mr. Alberty asked the applicant for the approximate square footage of her home? Ms. Pryon stated her home is 2200 SF. She explained that currently she has four (4) official bedrooms and a 5th room that will become a bedroom when the need arises.

Mr. Tyndall asked the applicant if this will be a permanent business? She stated she intends for the facility to become a permanent business. She further stated that eventually her family will move out of this facility and it will become a residential care facility for seven (7) elderly people, which will be her full-time business.

In response to Mr. Eller, Ms. Pryon stated she is in the process of applying for her license from the State of Oklahoma.

Case No. 1477 (continued)

Mr. Looney stated he is troubled with this use in a 2200 SF home with 7 to 8 people occupying it at any one time. He expressed concerns of seven (7) people, unrelated, living together with only 250' SF per person. Under the circumstances, Mr. Looney expressed he did not feel that this would be compatible with the community. He addressed the fact that there will not be any support from the neighborhood for this facility.

Mr. Tyndall stated it seems that this is an interior part of a residential neighborhood and it does not seem appropriate for this location.

Mr. Alberty commented he is still confused on how this facility would be interpreted. He advised that the State indicated the applicant can house six (6) people and the based on the County Code she can house a family of five (5) unrelated people as a family. Mr. Alberty expressed the opinion that the approval of a group home would be inconsistent with the neighborhood, but if there is an opportunity for her to proceed with this facility within the definition of the Code, then it seems that she is almost there. Mr. Alberty stated he is swayed by the fact that the neighborhood is almost unanimously against this proposal. Mr. Alberty stated he could not support this as an approved community group home.

Mr. Walker stated he felt that the people living in the facility should be from the area or near the area.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; none "absent") to **DENY** a **Special Exception** to allow a residential care home or community group home for approximately 7 residents in an AG district. (No medical treatment provided).

SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS -

Use Unit 8, finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Part of the E/2, SW/4, SW/4, Sec. 4, T-17-N, R-14-E, E of I.B.M., Tulsa County, Oklahoma, according to the U.S. Government Survey thereof, being more particularly described to-wit: Beg. 680' S, NE/c of said E/2, SW/4, SW/4, thence S 140'; W 386'; thence N 440'; thence E 366'; thence S 300'; thence E 20' to a POB, Less the S 50' thereof for roadway.

Chair, Ron Walker out 3:05 p.m.

Vice Chair, Wayne Alberty continued meeting

Case No. 1478

Action Requested:

Special Exception to allow a manufactured home in a RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9, located SE/c East 72nd North and North Trenton.

Presentation:

The applicant, **Elizabeth L. Kirste**, 1210 South 107th East Avenue, Lot 79, submitted a site plan (Exhibit E-1) and stated she is trying to purchase the subject three acre lot with the contingent on approval that she can move her manufactured home on the lot. Ms. Kirste indicated she would clean the property and she intends to retire on this lot. She explained that her manufactured home is only two years old.

Comments and Questions:

Mr. Alberty informed the applicant that there appears to be several structures on the property according to the aerial photograph. He asked the applicant if she could address this issue? She stated there is a home and garage that will be torn down and disposed of. She indicated her manufactured home will be placed approximately in the same area the current home is located. She commented that she intends to have only one structure on the property.

Interested Parties:

Ray Bates, 6330 North Utica, stated he supports this application because this will enhance the neighborhood. He explained that the property values are down in this area due to abandoned properties. He commented that he did not believe that manufactured homes are a detriment to the community and they have not caused the deterioration. Mr. Bates stated the subject area has been in deterioration for years and this will enhance the property. He explained that Ms. Kirste is a single woman that will be retiring in approximately five (5) years and would like to move onto the subject property permanently. Mr. Bates indicated the subject property has been an eye sore for many years and this will be an improvement. Mr. Bates detailed the number of manufactured homes to be approximately 50 from the area of 56th Street to 76th Street and from Peoria to Lewis. Mr. Bates indicated that the number of mobile homes in the subject area does not include the mobile home park on 66th and Lewis.

Protestants:

Jeff Kirkland, 1727 East 73rd Street North, stated he opposes this application, which is diagonally across from the case denied early (Case No. 1476). Mr. Kirkland indicated that his objections for this application are the same as for the earlier application (Case No. 1476) and he will not repeat his objections unless there are specific questions.

Case No. 1478 (continued)

Comments and Questions:

Mr. Looney commented that this application is a different situation than the earlier case because the applicant wants to live on the premises.

In response to Mr. Looney, Mr. Kirkland stated the applicant already has her trailer parked in a trailer park. He further stated that the neighborhood is turning into a trailer park with all of the mobile homes being allowed in the area.

Mr. Alberty stated the Board looks at these applications on a case by case basis and looking at the pictures on this property this is a very un-sightly property. He further stated the subject property is a three (3) acre tract, which could be divided into six (6) or eight (8) single-family lots. Mr. Alberty commented he is convinced by the fact that all of the un-sightly buildings are going to come down and there is going to be only one manufactured home on the large tract. Mr. Alberty stated the earlier case was a clean property, a smaller lot and would not be owner occupied.

In response to Mr. Alberty's statement, Mr. Kirkland asked that if this application is approved that there be stipulations made that the house be raised and the other structures be cleaned up with a time limit.

Applicant's Rebuttal:

Ms. Kirste explained that she no longer wants to rent a small space in a trailer park and that is why she is buying the lot to move her manufactured home on. Ms. Kirste indicated the structures will be torn down and the lot cleaned up as soon as possible. She estimates it will be late spring or early summer before she can get this done. She informed the Board that she will be living on the lot and she does not intend to move. Ms. Kirste stated she will be retiring in approximately seven (7) years and would like to have her land paid off before that time. Ms. Kirste commented that currently she is living in a trailer park and her water, sewer and trash is supposedly paid by the park, however the utilities have been turned off numerous times because the park does not pay the bills on time. She asserted that she would like to be responsible for her own bills so that they will not be turned off.

Comments and Questions:

Mr. Alberty asked the applicant if her intent is to clear the property before she moves her manufactured home onto the lot? She answered affirmatively.

In response to Mr. Alberty, Ms. Kirste stated the utilities are available and the lot is on the City's sewer system.

Mr. Tyndall stated this proposal is an improvement to what is currently on the lot. He further stated it will be a substantial improvement to the neighborhood.

Case No. 1478 (continued)

Board Action:

On **MOTION** of **TYNDALL** to **APPROVE** a **Special Exception** to allow a manufactured home in a RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9, per plan submitted; subject to the approval of the Health Department; subject to tie downs and skirting; subject to a building permit; subject to removal of existing structures and lot cleaned up within a six (6) months time period; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code.

The Vice Chair, Mr. Alberty, declared the motion died for lack of a second and opened for a new motion.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** a **Special Exception** to allow a manufactured home in a RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9; per plan submitted; subject to being an owner occupied mobile home; subject to the property being cleared, cleaned and existing buildings removed before issuing a building permit; subject to the tract of land remaining its current size (3 acres); subject to approval of the Health Department; subject to tie downs and skirting; 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:

Lots 5 & 6, Block 8, Golden Hill Addition, Tulsa County, Oklahoma.

Case No. 1479

Action Requested:

Special Exception to permit a mini-storage in a CS zoned district. **SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** and a Variance of the required all weather surface. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17, located Keystone Expressway and 209th West Avenue.

Comments and Questions:

Mr. Alberty acknowledged the Sand Springs Board of Adjustment did approve this application with the following conditions: Lighting and a security fence.

Presentation:

The applicant, **Rhonda Sellers**, 508 South 205th West Avenue, Sand Springs, submitted a site plan (Exhibit F-2) and photographs (Exhibit F-1). Ms. Sellers stated she is in business with her sister (Janiece Peterson) and they jointly own the subject property. She cited the property is located at Woody's Corner, 209th West Avenue and the Keystone Expressway. She explained that the property is west of the current building structure and is zoned CS. Ms. Sellers indicated her plans are to build a small mini-storage, 12' x 199', with 21 units, a security fence and lighted with mercury vapor lights. She stated the building will be constructed out of metal with a pitched roof and roll metal doors. The color will match the awning of the current building closest to the mini-storage. Ms. Sellers indicated she has been working with the County Building Inspector to comply with all of the Codes. She pointed out that the adjoining business, owned by her sister, is an unpaved lot and leaving the proposed property unpaved will not impose any hardships on any other property owners in the area. She informed the Board that the Sand Springs Board of Adjustment approved this proposal with conditions as stated earlier by Mr. Albery.

Comments and Questions:

Mr. Looney asked the applicant why she did not want to pave the lot? She stated that it is her understanding that if you pave 20% of the lot than you have to build a retention pond and the lot is such a size that there is not adequate space.

Mr. Albery asked the applicant if the property that abuts the subject property on the east line is paved or unpaved? She stated the property to the east is gravel and to the west is an open field that is on the market for sale.

Mr. Glenn indicated that the lot can drain to an existing detention area and is not opposed to gravel parking.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Albery, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** a **Special Exception** to permit a mini-storage in a CS zoned district. **SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** and a **Variance** of the required all weather surface. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17; per plan submitted; subject to proper lighting and security fencing; finding that the drainage is improved by not paving the parking area; 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:

Part NE, SE, Sec. 3, T-19-N, R-10-E, Beg. 875 S, 335 W, NE/c; thence W 50, S 256.92, Nely curve to a point, N to POB, Tulsa County, Oklahoma.

Case No. 1480

Action Requested:

Special Exception to permit a cellular telephone antenna tower to be 180' tall in an AG district. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17, located West of NW/c 76th Street North and Peoria.

Presentation:

The applicant, **Roy Johnsen**, 201 W. 5th St., Suite 440, representing AT&T Wireless, submitted a plat of survey (Exhibit G-1) and stated the subject property has a total of 19 acres, which is owned by the Howell family for more than 20 years. He further stated the owners presently live on the property and intend to continue living on the property. Mr. Johnsen indicated that there is a non-conforming salvage yard to the north, and slightly east, of the subject property. Mr. Johnsen indicated that there is a large IM zoned district on 75th Street. He commented that primarily the area of the proposed site is AG zoned. Mr. Johnsen stated initially the proposed site was located in the southeast corner of the property, north of the right-of-way line of 76th Street North, and the nearest residential structure would be 180' to the southeast of the site. He explained that there was another residential structure would be 190' to the southwest of the site. Mr. Johnsen stated that the Engineers indicated the tower needed to be moved north. He informed the Board he would like to amend his application to move the tower 198' to the north. He indicated that to the east and north of the subject property is undeveloped property, which is all floodplain and would probably never be developed.

Comments and Questions:

Mr. Glenn stated that if the tower is moved 198' to the north it will be in the floodplain.

In response to Mr. Glenn, Mr. Johnsen stated he is aware that the tower may be in the floodplain and they will meet all of the requirements of the Code.

Mr. Johnsen stated he would like to have the opportunity to move the tower to the west (keeping in the 110% setback from 76th St. N.) if it is proved necessary, because of the floodplain

Mr. Looney asked the applicant how close the site will be to the road? He stated the subject property's frontage is 430' and at the nearest point it would be 400' from the road.

Mr. Looney asked the applicant if there are any other towers in the immediate area? He stated he drove a mile north of the subject property and did not see any towers, but he thought there might be a tower on a large hill south and west of the subject site.

Case No. 1480 (continued)

Mr. Alberty asked Mr. Johnsen if his intent is to stay out of the floodplain and is asking for flexibility to move the tower to the west? He answered affirmatively. Mr. Johnsen stated that in no event will he move closer to the south boundary than the 110% setback of the 180' monopole height.

In response to Mr. Glenn, Mr. Johnsen stated his client will move to the most favorable site.

Mr. Looney asked the applicant if there will be a future co-location on this tower? Mr. Johnsen stated his client does not anticipate co-location on this particular tower, however AT&T Wireless does construct their towers for future co-location on the majority of their towers.

Mr. Alberty stated that there may be locations where the Board may want to require co-locations on towers and that it would probably be where there is already an existing tower within 1/4 of a mile or the tower cannot meet the spacing.

Mr. Alberty informed the Board that there has been a letter of protest submitted (Exhibit G-2).

In response to Mr. Johnsen, Mr. Alberty explained that the protestant's property is at the exact opposite end of property form where the tower site will be located.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays", no "abstentions"; Walker "absent") to **APPROVE** a **Special Exception** to permit a cellular telephone antenna tower to be 180' tall in an AG district. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17; subject to a removal provision if abandoned for 180 days; subject to setback provision being worked out with the County for the best location of the tower with 110% setback from residences; 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:

Starting at a point. Said point to be on the S line of Sec. 25, T-21-N, R-12-E, I.B.M., Tulsa County, Oklahoma, 487.8' W of SE/c of said section; thence W along said section line to the E side of Midland Valley ROW; thence NW along the E side of the Midland Valley ROW to point of intersection of the E side of the Midland Valley ROW with the N/4 section line of SW/4, SE/4 of said section; thence E along said quarter section line to a point due N of the POB; thence S to the POB. all being located in the S/2, Sec. 25, T-21-N, R-12-E, Tulsa County, Oklahoma, according to the U.S. Government.

There being no further business, the meeting was adjourned at 3:50 p.m.

Date approved: 2-20-97

Roland L. Walker
Chair