

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 223  
Tuesday, December 15, 1998, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Alberty Looney Tyndall, Chair Walker, Secretary	Dillard	Beach Stump Bruce	

The notice and agenda of said meeting were posted in the Office of the County Clerk on Thursday, December 10, 1998, at 2:29 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair Tyndall called the meeting to order at 1:32 p.m.

**MINUTES:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney Tyndall, Walker "aye"; no "nays", no "abstentions"; Dillard "absent") to **APPROVE** the Minutes of November 17, 1998 (No. 222).

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**UNFINISHED BUSINESS**

**Case No. 1610:**

**Action Requested:**

Special Exception to permit an existing church and accessory uses in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5** OR Variance to expand a nonconforming church use. **SECTION 1420. NONCONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION**, located 3029 S. 57<sup>th</sup> W. Ave.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; Dillard "absent") to **CONTINUE** Case No. 1610 to the meeting of January 21, 1999.

## NEW APPLICATIONS

### Case No. 1615

#### Action Requested:

Special Exception to permit auto sales in a CS District. **SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17** and a Variance to permit display of merchandise offered for sale within 300' of an R District. **SECTION 1217.3.A.-B. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions**, located 11710 E. 76<sup>th</sup> St. N.

#### Comments and Questions:

Mr. Beach stated that the Variance of the screening requirement was not properly advertised and will be continued to the meeting of January 21, 1999.

#### Presentation:

The applicant, **Ronald D. Thompson**, submitted a site plan (Exhibit A-2) and stated that he would like to put an auto sales facility on his property. It would be a small operation of perhaps five to six cars at a time. Mr. Thompson pointed out that there is a cemetery directly across the street from his property. Mr. Thompson submitted photos of his property and the surrounding property (Exhibit A-1). Mr. Thompson's property is not located within the City limits of Owasso. Mr. Thompson submitted a petition of support from neighbors (Exhibit A-3).

#### Comments and Questions:

Mr. Alberty asked the applicant if the car sales is his principal business and the applicant responded negatively.

Mr. Looney stated that he was at the Tulsa Metropolitan Area Planning Commission meeting when Mr. Thompson presented his case and he has presented it exactly the same way to the Board as he did to the Planning Commission and the Planning Commission approved Commercial zoning with the understanding that he would come before the County Board of Adjustment. Mr. Looney stated that he supports this application.

Mr. Looney mentioned waiving the screening requirement because the applicant has so few cars on his property and the only place it would be appropriate would be the east side of the property. If the property owner to the east is not requesting the screening then it is not needed.

Mr. Tyndall asked the applicant if he has a hard surface area to display the cars on. Mr. Thompson responded that he has a gravel area large enough to park six vehicles. Mr. Tyndall believes that the Code will require him to put down a hard, all-weather surface. Mr. Beach stated that the applicant would have to convince the Inspector that what he had was an all-weather surface. Mr. Beach suggested resolving this issue before the next hearing in January.

Case No. 1617 (continued)

growing and becoming populated more. The AGR zoning is an indication of that because it is no longer zoned AG.

**Interested Parties:**

**Cheryl Millspaugh**, 16728 N. 117<sup>th</sup> E. Ave., stated that the notice that was sent to the surrounding property owners does not correspond with the 1.1 acres that the applicant is asking for. The notice says 2 acres of lot area and 200' lot width. Ms. Millspaugh submitted a petition of objection signed by all of the neighbors (Exhibit B-2).

Mr. Beach stated that the advertisement went out showing this property to be zoned AG when in fact it is zoned AGR. The lot width and land areas were advertised as if it were an AG district. As the case was processed Staff discovered that the property is zoned AGR and decided that the notice was for more relief than is needed; no new notice was sent. Mr. Alberty asked if there was an attempt to send new notification; Mr. Beach responded negatively and mentioned that it was too late to send new notification by the time the error was found. Mr. Beach stated that the interested parties were notified of a 2 acre requirement but the requirement is actually for one acre. The size of the lots that the gentleman is proposing is the same.

**Helda Harmon**, 11604 E. 166<sup>th</sup> St. N., Collinsville, stated that she has lived in the area for about 25 years and wants to know when the area was classified AGR. Mr. Beach stated that he does not know when the property was zoned AGR. Mr. Alberty suggested that the zoning change happened in 1980 when the County entered into the zoning. Ms. Harmon stated that when she received her building permit she had to have the full 2 acres. Mr. Beach stated that the centerline of 166<sup>th</sup> St. N. is the dividing line between AG and AGR and Mrs. Harmon lives on the AG side of the road. Ms. Harmon mentioned that they do not want the Board to approve this application because everyone has large lots with animals on them. When they bought their land, they bought it with the assumption that this is a rural area and it will stay that way. Ms. Harmon pointed out that there are mobile/manufactured homes in the area but they are all on at least 2 acres of land. This request does not fit in with the rest of the area. Ms. Harmon stated that there is water on 166<sup>th</sup> St. N. and it could be run down 117<sup>th</sup> St., but she does not believe that there are any water taps available on 117<sup>th</sup> St. The soil is bad in the area and the land does not perk and will not hold water.

Mr. Looney asked Ms. Harmon what type of system she had. Ms. Harmon replied that she has a septic system.

Case No. 1617 (continued)

Mr. Alberty asked Ms. Harmon if she understands the fact that the applicant can split the lot into three separate lots legally under the AGR zoning. Ms. Harmon said she understands now. Ms. Harmon believes that approval of this application would set a precedence to where anyone could split their property.

**Leslie Gillespie**, 11710 E. 166<sup>th</sup> St. N., mentioned that she lives directly across the street. Ms. Gillespie mentioned that their ditch is full of water all the time. Tulsa County has been out to look at the area and there is nothing that they can do about it. It has been suggested that the Gillespie's let the water run through their property in a channel into a creek that is located at the back of their property. Ms. Gillespie does not want sewer running through her property.

**Karl Heller**, 11801 E. 166<sup>th</sup> St. N., stated that he lives next to the property on the east side. Mr. Heller has lived on his property for over 21 years and the area has always had three and four acre plots for one dwelling unit. To Mr. Heller's knowledge there has never been a change in the zoning. The property as it is will not perk. Mr. Heller's septic system has over 500' of laterals to dispose of the waste water. The subject property drains to the southeast which is Mr. Heller's driveway.

**Paul Millspaugh**, 16728 N. 117<sup>th</sup> St., stated that he owns the corner lot that is directly across from this property. Two years ago Mr. Millspaugh put a mobile home on his property and at that time he was informed by the Building Inspector that he needed 2.2 acres of land.

**Leah Williams**, 16717 N. 117<sup>th</sup> E. Ave., stated that she lives north of this property. Ms. Williams has lived at her current address for over 25 years. Ms. Williams has a septic system and was informed by Mr. Selmner that there is no room for any more water taps. Ms. Williams was not aware that the zoning had been changed to AGR.

**Gina Carpenter**, 11522 E. 166<sup>th</sup> St. N., stated that she was raised on the subject property. She and her family have recently moved from Tulsa back to this area and they own three acres. Ms. Carpenter pointed out that everyone in the area owns at least two acres.

**Applicant's Rebuttal:**

Mr. Reno mentioned that the Department of Environmental Quality would have to address the neighbors concerns about the sanitation. The system that they have picked out passes the DEQ's standards. The AGR zoning allows three lots as long as they are the minimum size. The question boils down to whether the fourth lot will be allowed or not. Mr. Reno asked the Board to approve the application.

Case No. 1615 (continued)

Mr. Beach stated that the City of Owasso responded to the request for this application and they have a concern that along 76<sup>th</sup> Street North there are some grade changes that could cause some site distance problems entering and leaving the property. They request that there be no driveway access permitted on 76<sup>th</sup> Street and that it be limited to 117<sup>th</sup> E. Ave. Mr. Tyndall asked where the applicant's current driveway is and Mr. Thompson responded that it is off of 76<sup>th</sup> Street but he has two other exits on his property on the south and on the west. Mr. Tyndall asked if Mr. Thompson is proposing any additional access on 76<sup>th</sup> Street and Mr. Thompson responded negatively.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; Dillard "absent") to **APPROVE** Special Exception to permit auto sales in a CS District not to exceed six vehicles at any one time. **SECTION 710. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17** and a Variance to permit display of merchandise offered for sale within 300' of an R District based on the fact that the property is surrounded on three sides by nonresidential uses and that the display of the six vehicles be located on the western one-half of the property. **SECTION 1217.3.A.-B. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions;** subject to no new access points off of 76<sup>th</sup> Street North, on the following described property:

N/2 W 333.74' NW, NE, NW Less W 40' and N 16.5' thereof for Section 32, T-21-N, R-14-E.

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**Case No. 1616**

**Action Requested:**

Variance of lot width from 200' to 68.5' and 96.5'. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6;** a Variance of lot area from 2 acres to .519 acres and .731 acres and a Variance of land area from 2.2 acres to .59 acres and .79 acres to permit a lot split.

**Comments and Questions:**

Mr. Beach stated that the application has been withdrawn by the applicant.

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## Case No. 1617

### Action Requested:

Variance of minimum 1.1 acres land area per dwelling unit and minimum 1 acre of lot area and minimum 100' lot width to permit a lot split. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, located NE/c of 166<sup>th</sup> St. N. & 117<sup>th</sup> E. Ave.

### Presentation:

The applicant, **Brian E. Duke**, was represented by Richard H. Reno, 1404 W. Woodrow Place, Tulsa, OK 74127 . Mr. Reno submitted a site plan and stated that the application involves a piece of land that is under four acres. The property is located in an AGR District and it could be split into three pieces under the AGR zoning but the application is to split the property into four pieces which would involve three lots that would be one acre and one lot that would  $\frac{3}{4}$  of an acre. The land is located north of Collinsville about two miles north of Highway 20. Mr. Reno stated that the need for the variance is to allow the property to be sold in four separate pieces. There is a great need for homes in the area. Mr. Reno mentioned that there is water available to the property and there is the ability to put in a sanitary sprinkler system and there have been applications made for that. Mr. Reno pointed out that there are manufactured homes in the area and some of them are older homes. Mr. Reno stated that the application boils down to whether or not the Board would allow the property to be split into four pieces instead of three. Mr. Reno asked the Board to approve the application.

### Comments and Questions:

Mr. Beach stated that the request for the variance of the lot width is not needed for all the lots. Minimum lot width in an AGR is 150'. Two of the lots are over the 150' requirement being 165'. The southernmost lot would be required to dedicate additional right-of-way before the lot split could be approved and it would result in it being 140' wide and the northernmost lot is also below the 150' requirement.

Mr. Reno stated that they received a letter from the Washington County Rural Water indicating that there is water service available.

Mr. Alberty asked the applicant what kind of septic system will be used. Mr. Reno replied that it will be a sprinkler system that is used for property that will not perk. The Department of Environmental Quality is familiar with it and they approve of it.

Mr. Looney asked if there were any particular circumstances that would cause the site to be divided into four lots. Mr. Reno answered that there are people who are interested in purchasing different pieces of the land. The area is

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**Comments and Questions**

Mr. Looney pointed out that there has been no explanation of extraordinary or exceptional circumstances he believes that the Board should deny the application.

Mr. Alberty agreed with Mr. Looney and he feels that the land is inappropriately zoned AGR.

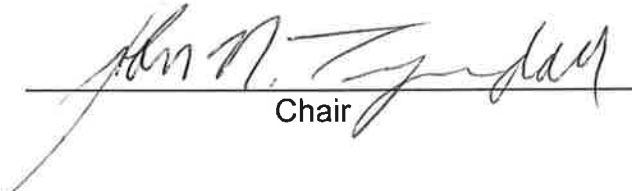
**Board Action:**

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; Dillard "absent") to **DENY** Variance of minimum 1.1 acres land area per dwelling unit and minimum 1 acre of lot area and minimum 150' lot width to permit a lot split. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** due to the applicant's lack of a hardship, on the following described property:

W 264' SW, SE, SW less S 25' for RD, Section 8, T-22-N, R-14-E,  
3.85 acres, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 2:37 p.m.

Date approved: 1-21-99

  
Chair