

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 39
Friday, October 21, 1983, 9:00 a.m.
Room 119, Administration Building
500 South Denver Avenue, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT

Alberty, Chairman
Martin
Tyndall
Walker
Wines

STAFF PRESENT

Gardner
Kedzie
Wiles

OTHERS PRESENT

Carpenter, Legal
Department
J. Edwards,
Building Insp.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Tuesday, October 18, 1983, at 11:31 a.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 9:09 a.m.

ELECTION OF OFFICERS:

On MOTION of MARTIN and SECOND by WINES, the Board voted 4-0-1 (Martin, Tyndall, Walker, Wines, "aye"; no "nays"; Alberty "abstaining"; none, "absent") to elect Wayne Alberty to the Office of Chairman to the County Board of Adjustment. Chairman Alberty then took the Chair.

MINUTES:

On MOTION of MARTIN and SECOND by WALKER, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve the Minutes of September 16, 1983 (No. 38).

UNFINISHED BUSINESS:

Case No. 385

Action Requested:

Appeal from Building Inspector - Section 1650 - Appeals from the County Inspector - Use Unit 1208 - Request for an appeal of the Building Inspector's decision of not citing existing apartments as nonconforming in an AG zoned district; and a Variance - Section 310 - Principal Uses Permitted in the Agriculture Districts - Request for a variance to permit the continued use of existing apartments in an AG zoned district - under the provisions of Section 1670, located south of the SE corner of South 61st West Ave. and West 43rd Street South.

Presentation:

Darrell Matlock, 4410 South 33rd West Avenue, represented the owner of the subject property, Clay Bond. He informed the only records they could come up with to show that this was a pre-existing use for some 25 to 30 years were isolated receipts that the applicant had. He submitted the receipts (Exhibit "A-1") which were dated 1972 and 1971. The applicant wants to use the statements made at the last meeting by the owner of the subject property and one of the residents of the apartments as proof that this use was existing

Case No. 385 (continued)

before 1963. He informed there are four apartments that have been contained in the structure for about 30 years.

Protestants: None.

Comments:

Mr. Gardner informed the applicant has advertised for a variance, so the Board has jurisdiction even if the number of years the apartments have been in existence cannot be proven.

Mr. Edwards informed the Building Inspector would like to send the Electrical Inspector to the apartments to take a look at them. They do not want a building permit issued after-the-fact. He thinks they have all this worked out with the applicant.

Mr. Gardner informed if the Board approves the application, they can make an electrical inspection and Health Department approval conditions of approval.

Mr. Edwards informed the matter of ingress and egress would not be a requirement at this time since they will not require a building permit.

David Carpenter, Legal Counsel, informed it would be sufficient for the Board to determine that there was a nonconforming use just from the applicant's statements that there was occupancy of the apartments during the time period in question--prior to 1963. The applicant's statements and the statements of the resident of one of the apartments would be enough evidence if their statements were not controverted by anyone. He feels the Board has probably heard sufficient evidence to grant the nonconforming status and certainly would have enough to grant a variance.

Mr. Alberty informed the use was originally cited as being illegal, but it could be considered a nonconforming use.

Mr. Gardner informed that if the Board reverses the decision of the Building Inspector, they are saying that they are granting the appeal on the basis of the information that has been submitted. If this is done, they do not need the variance. If they are not satisfied with the information that has been submitted, they have the variance that they can act on.

Mr. Martin feels they need to put the Building Inspector's Office in a position to go in and inspect the adequacy of the building.

Mr. Alberty informed he feels this could be taken care of in either motion. He thinks the decision needs to be whether or not the Board feels there has been sufficient evidence to overrule the Building Inspector's decision, or whether they would feel more comfortable granting a variance based on the evidence that has been presented.

Mr. Gardner informed there is no question that the Board could make conditions on the variance.

Mr. Alberty would prefer to see a motion made that would uphold the Building Inspector, and if the Board is so inclined to allow the

Case No. 385 (continued)

continuance of this use, to grant a variance to permit it and allow the provisions for the Building Inspector to inspect it as far as electricity and also conditions not to allow it to expand beyond its existing physical appearance.

Mr. Gardner informed there has not been any evidence saying the apartments have not been existing since 1963, but they do have evidence saying that they have been there since 1971. Under these circumstances, a variance could be granted with conditions. He is not sure there could be any conditions imposed if the Board reverses the decision of the Building Inspector. If the building is found to be nonconforming, he is not sure that the Building Inspector would have any right to do anything about it. His recommendation would be that the Board uphold the Building Inspector based on the information they have and grant the variance with these conditions: (1) the Building Inspector has the right to go in and make an electrical inspection, and (2) this be per Health Department approval.

Legal Counsel suggested to Mr. Matlock that he could withdraw the Appeal from the Building Inspector, but he did not choose to do so.

Board Action:

On MOTION of MARTIN and SECOND by WALKER, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to uphold the Building Inspector and to DENY the Appeal (Section 1650 - Appeals from the County Inspector - under the provisions of Use Unit 1208) decision to not cite existing apartments as nonconforming in an AG zoned district, and to approve a Variance (Section 310 - Principal Uses Permitted in the Agriculture Districts) to permit the continued use of existing apartments in an AG zoned district - under the provisions of Section 1670, limited to the existing four units, with the condition that the plumbing and electrical inspections being approved by the appropriate authorities, on the following described property:

The SE/4 of the NW/4, LESS the North 400 feet and the South 66 feet in Section 29, Township 19 North, Range 12 East, Tulsa County, Oklahoma.

Case No. 388

Action Requested:

Variance - Section 1420 (a) - Nonconforming Use of Buildings or Buildings and Land in Combination - Use Unit 1223 - Request for a variance to expand a nonconforming use in an RE zoned district - under the provisions of Section 1670, located south of the SW corner of 76th Street North and 117th East Avenue.

Presentation:

Water Products of Oklahoma was represented by Roy Fickle, 105 West 9th, Owasso, Oklahoma. He is the president of Water Products of Owasso. He submitted 2 plot plans (Exhibit "B-1 and B-2") and informed they have owned the building for approximately one year, but they have been in it for six years. They would like to add an office onto the south end of the building--approximately 14' x 60'. They would also like to add additional storage space across the west side

Case No. 388 (continued)

of the building--approximately 20' x 60'. All of his property is zoned RE, and his access is onto 117th Street. Their operation requires a considerable amount of outside storage. He has not ever attempted to obtain the zoning necessary to permit this use because they just bought the property last December. Mr. Fickle informed that all the surrounding areas on the west and the north are zoned industrial, and the subject property has been used for industrial uses for about 12 years. He does not feel that they have ever been a nuisance to anyone in the area. He informed that, although the entrance to the subject property is through a residential area, the actual operation is set back away from the residential area. They have about 20 vehicles a day coming in to pick up materials and 2 or 3 freight trucks a day coming in to deliver goods. They also have pipe trucks coming in once every one or two weeks to bring in a load of pipe. They have regular pickup trucks that they use to haul out supplies. There is no loud noise. He informed on an average day there would be approximately 25 trips to and from the subject property. The industrial area next to the subject property has access off of the service road on the south side which is adjacent to Highway #169. The subject property is closed in completely on the south and the north. They have not approached the owner of the industrial tract to see if they could get an access easement from the access road. They have fixed the road into the subject property so that it is not dusty.

Mr. Fickle informed they were told by one of the real estate agents in Owasso that they could not get an easement across the industrial property because the owner of the property would not sell them the land. He informed the industrial area had been vacant about 1 year. They need the expansion because they need an office to house a computer which they have just bought. They also need additional storage space. They would be capable of expanding, but he does not see any immediate expansion coming from this addition. They have not yet started the expansion on the building.

Protestant:

Bob Kirkwood, 7323 North 117th East Avenue, lives right across from the subject property. He informed that 117th E. Ave., was not built for heavy truck traffic--he would like the applicant to get another way onto the subject property. The road is breaking up in front of his house where the big trucks have swung off the road. The trucks have come up into the ditch and broke his gas line to his yard light and they have also knocked his mailbox down. The access is the only problem he has with the business. Mr. Kirkwood informed that every so often an eighteen-wheeler comes in--this causes some problems for him. He suggested that the applicant check into getting an easement to 116th East Avenue. He informed that the business has operated on the subject property since about 1971 or 1972. There were no big trucks coming in when the business first started.

Applicant's Rebuttal:

Mr. Fickle informed that the existing driveway is just a temporary driveway because they have bought a 40-foot strip of property to the far side of the front 2½ acres, and that is where they plan to put their driveway. He explained how the driveway would be.

Mr. Kirkwood indicated that if the applicant built the new driveway, that would reduce his concerns. He would still be concerned about

Case No. 388 (continued)

the narrowness of 117th East Avenue. His major inconvenience would be dealt with under those circumstances.

Comments:

Mr. Gardner informed that the City of Tulsa extended the City Limits in 1966. The building was built on the subject property in 1971, and the County Building Inspections Department did not start until 1976. The building was built without proper zoning. It was possible to build a building in the County without a permit because the County did not issue building permits at that time. The applicant has advertised for a variance so he is not here trying to prove he is non-conforming. He informed that the Staff's primary concern is the access.

Mr. Martin informed it seems to him that the applicant has two choices: (1) to come to this Board and ask for a variance, or (2) to request a change in zoning.

Mr. Gardner informed the key issue in a zoning case would be the access. If they had access to the west or to the north then it would be a logical extension. There would be a problem with zoning unless he had access from somewhere else.

The Staff informed that in order to have a nonconforming use, the applicant would have had to have been on the subject property prior to 1966. He came in 1971, so, based on the information which has been presented, the use on the subject property now is illegal. In order for the applicant to be a legal nonconforming use, he would have had to have been on the subject property prior to 1966. Mr. Gardner informed the applicant may have assumed that it was a non-conforming use just because they have had that use on the property for so long. The Board has several factors it can take into consideration in granting a variance. The use is abutted by industrial on two sides. The fact that he has been on the property for as long as he has and no one has done anything about it, is another factor.

Mr. Alberty informed that if the Board was so disposed as to not approve the variance, then the applicant's operation technically could be shut down.

Mr. Gardner informed the Board that another option would be to grant a variance to allow the existing facility, but not the expansion.

Mr. Walker wondered if, when the properties were split up on 116th East Avenue, there was a possibility that allowance was made for an easement.

Mr. Alberty informed that the Board has an intensity problem, because as the business expands, he will probably have increased traffic. The character of the neighborhood along 117th East Avenue is definitely residential. He does not have a problem with the use, but he is concerned about the access. He cannot support a variance in this situation. He described the Board's alternatives in this case.

Mr. Walker does not feel that it would be appropriate to shut the applicant's business down and he would like to grant the applicant

Case No. 388 (continued)

the opportunity to explore access from what should be 116th East Ave. He would like for the case to be continued.

Mr. Wines would like to act upon this application today.

Board Action:

On MOTION of WALKER and SECOND by MARTIN, the Board voted 3-2-0 (Alberty, Martin, Walker, "aye"; Tyndall, Wines, "nay"; no "abstentions"; none, "absent") to continue Case No. 388 to the November 18, 1983, meeting to allow the applicant time to check into other possibilities for access to the subject property.

NEW APPLICATIONS:

Case No. 390

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an exception to permit a mobile home in an RS zoned district - under the provisions of Section 1680; and a Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Request for a variance to permit two dwelling units per lot of record (one existing residence plus one proposed mobile home) in an RS zoned district - under the provisions of Section 1670, located north of the NE corner of 10th Street and Valley Drive.

Presentation:

Shelby Frapp, 1021 Valley Drive, Sand Springs, Oklahoma, informed they would like to move a mobile home on the subject property for her mother-in-law. There are other mobile homes in the area, and the neighbors have no objection to the application. She plans on skirting the mobile home and tying it down. She is also aware that they would need Health Department approval for a septic tank system. Mrs. Frapp would like the special exception and variance granted for an indefinite period of time.

Protestants: None.

Comments:

Mr. Alberty read a letter from the Sand Springs Board of Adjustment (Exhibit "C-1") which recommended approval of this application with the conditions that the mobile home be skirted and tied down and be subject to Health Department approval of the septic system.

Mr. Walker informed there is a mixture of mobile homes and single-family residential houses on this street.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1209) to permit a mobile home in an RS zoned district under the provisions of Section 1680, and a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record) to permit two dwelling units per lot of record (one existing residence plus one proposed mobile home) in an RS zoned district under the provisions

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Case No. 390 (continued)

of Section 1670, with the conditions that a building permit be obtained, that the mobile home be skirted and tied down, that it meet the Health Department and electrical requirements, and that the variance for the two dwellings on the one tract of land be limited to this family so that it will not become a rental situation, on the following described property:

Lot 16, Block 24, Charles Page Home Acres IV Addition,
Tulsa County, Oklahoma.

Case No. 391

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1204 - Request for an exception to permit a microwave relay tower and communication equipment building in an RS zoned district - under the provisions of Section 1680; and a Special Exception - Section 220 (c) - Height Exceptions - Request for an exception of the maximum height limitation from 60' to 145' to permit a microwave tower in an RS zoned district - under the provisions of Section 1680; and a Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Request for a variance of the front setback requirement from the centerline of West 21st Place South from 55' to 35' in an RS zoned district - under the provisions of Section 1670; and a Special Exception - Section 220 (c) 2 - Height Exceptions - Request for an exception to permit a microwave tower to extend beyond the front yard building setback line in an RS zoned district - under the provisions of Section 1680, located west of the NW corner of 63rd West Avenue and West 21st Place South.

Presentation:

Sam Bratton, II, 1000 Atlas Building, is the attorney for the Public Service Company of Oklahoma, the applicant. They would like to construct a microwave relay tower. They submitted a street map showing the general location of the area (Exhibit "D-1"), a portion of a plat (Exhibit "D-2") showing the layout of the lots indicating the lot where the proposed site is located, and a closeup sketch of Lot 2 showing the proposed location on the lot of this facility. They also submitted a proposed site layout showing the exact configuration of the tower base, the communication equipment building, and the fence (Exhibit "D-3") and a sketch of approximately what the tower will look like (Exhibit "D-4"). The tower will be 105' tall rather than 145' as advertised. Adjacent to the tower will be a small communication equipment service building that will have the equipment necessary to run the relay and also backup systems. The entire facility will be surrounded by a chain link fence with barbed wire on top to provide security for the facility. The tower is needed to complete a major portion of the statewide network of microwave relay towers for the Public Service Company. It will link the downtown office building with the Sand Springs facility and the First and Denver Avenue facility. The towers are used to transmit data as well as voice communication, and replace existing communication lines which run over the telephone system. The completion of this system will allow the Public Service Companies' operations to be independent of the telephone system and will provide substantial savings because they will no longer have to lease lines from the telephone company. The completion of the system

will allow better customer service and will provide greater reliability. The facility will generate no noise to speak of and will require no maintenance--it is wholly self-sufficient. There will be no high voltage or high wattage or dangerous signals which will come from the station. The subject property was selected because it met the requirements for putting up one of these towers. There were no other sites they could obtain that met the prerequisites for location of the tower.

Jim Vennible, the property manager, described the other places they had looked at as possible sites for the tower. Microwave has to be line-of-sight, so they had to find a place that was high with few obstructions. This location is on the high ground. They will be about 200 feet from any residence. He informed there are several safety factors built into the tower and they do not think they will ever have any trouble with it. He informed he had talked to Commissioner Terry Young about putting the tower on County property and he had indicated that he would have been happy if they could have put a tower on County property. They probably would have put in a larger tower and let the County use it. They could not put one there because of a restriction in the deed saying there can be only one tower--there is already one there.

Mr. Bratton informed they have the tower put over in one corner because the property owner would like for them to use just the one corner rather than move it out further in the lot. There is no dwelling on the lot. Their lease for the property is for 10 years with renewal options for a total time of 40 years. Public Service Company has talked to the residents in the area, and there are no objections to the tower going in. He submitted a picture of what the tower will look like (Exhibit "D-5"). The applicant presented a schematic of the microwave system and a close-up of the Tulsa division of the microwave. These maps show that the Chandler system, which is under this application, is a key to the Tulsa system which links all the rest of the state system together. This will be the last tower in this system that needs to go in.

The applicant informed that the piece of property slopes back considerably from the roadway. If they went to the back of the property, they would have to build a higher tower. He also informed that the north-half of the road is undeveloped and not in use. The actual setback is more than it appears to be on the map.

Comments:

Mr. Alberty is concerned with the proximity of the houses in the area.

Mr. Walker is concerned with the variance for the setback. He feels that this will put the unit too close to the street. It will be visible from people's front yards.

Mr. Martin cannot see why Public Service Company should be able to place a structure any closer to an existing street than anyone else can.

The applicant informed that this is the least offensive and intrusive way that they can build this tower. If they move it back, it will have to be built higher because there is a drop off on the property.

Mr. Alberty asked if the tower could be located on the west side of the property, and the applicant informed him that the owners would not lease that part of the property to them.

Case No. 291 (continued)

The applicant informed the Board that they will be between 50' and 60' from the road because the road is not as wide as it is supposed to be.

Mr. Edwards informed the flatest part of the land was on the west and is possibly the only building site for a house. The road that is there only serves the two existing houses, so it will probably not be expanded in the near future.

Board Action:

On MOTION of MARTIN and SECOND by TYNDALL, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1204) to permit a microwave relay tower and communication equipment building in an RS zoned district under the provisions of Section 1680, a Special Exception (Section 220 (c) - Height Exceptions) of the maximum height limitation from 60' to 105' to permit a microwave tower in an RS zoned district - under the provisions of Section 1680, a Variance (Section 430.1 - Bulk and Area Requirements in Residential Districts) of the front setback requirement from the centerline of West 21st Place South from 55' to 35' in an RS zoned district - under the provisions of Section 1670, and a Special Exception (Section 220 (c) 2 - Height Exceptions) to permit a microwave tower to extend beyond the front yard building setback line in an RS zoned district - under the provisions of Section 1680, on the following described property:

The South 25 feet of the East 45 feet of Lot 2, Block 7, West Tulsa View Acres Addition, Tulsa County, Oklahoma.

Case No. 392

Action Requested:

Special Exception - Section 410 - Use Unit 1205 - Principal Uses Permitted in Residential Districts - Request for an exception to permit a preschool in an existing school (Houston Elementary School) in an RS zoned district - under the provisions of Section 1680, located south of the SE corner of 66th Street North and Cincinnati Avenue.

Presentation:

Jamesetta Lewis, 1301 North Main Street, would like to open a preschool in an existing school for ages 3 and up, before and after school. This will be her first preschool. The existing school, Houston Elementary School, is functioning as an elementary school at this time. She will be licensed for 22 children. This is a private operation--they will be leasing the space from the Board of Education.

Protestants: None.

Comments:

Mr. Gardner informed this is like a day nursery in a school. The operators have to be licensed by the State to operate.

Board Action:

On MOTION of WALKER and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no

Case No. 392 (continued)

"abstentions"; none, "absent") to approve a Special Exception (Section 410 - under the provisions of Use Unit 1205 - Principal Uses Permitted in Residential Districts) to permit a preschool in an existing school (Houston Elementary School) in an RS zoned District - under the provisions of Section 1680, subject to required licensing, on the following described property:

Beginning at a point 900' North of the SE corner of the NE/4 of Section 11, Township 20 North, Range 12 East, Tulsa County, Oklahoma; thence due West a distance of 750' to a point; thence North a distance of 750' to a point; thence East a distance of 750' to a point; thence South 750' to the point of beginning.

Case No. 393

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Use Unit 1206 - Request for a variance to permit two dwelling units per lot of record (1 existing mobile home plus 1 proposed mobile home) in an AG zoned district - under the provisions of Section 1670, located 1/2 mile West of the NW corner of 81st West Avenue and 51st Street.

Presentation:

Marcella Taylor, 10132 East 22nd Place and 8515 West 51st Street, informed her son would like to put a mobile home on the subject property. There is presently a mobile home on the property which is occupied by Ms. Taylor's mother. The tract of property consists of about 18 acres. The property will probably be divided for her children someday. She is aware that she would need Health Department approval and would need to obtain a building permit from the County Building Inspector.

Interested Party:

W. J. Robinson, 7008 Lee Meadow Avenue, Dallas, Texas, wanted to know what two mobile homes per lot of record means. Mr. Alberty explained what the Code says about this and what the applicant could have by right if the lot was split to separate lots of the minimum size. Mr. Robinson informed he owns the adjoining west 40 acres and he would object to the subject property becoming a mobile home park. He does not object to the mobile home, but does object to commercialization of the area. He is aware that this zoning district does permit mobile homes as a use by right on two-acre lots.

Comments:

Mr. Alberty informed that in an Agricultural District a mobile home is a use by right. He also informed a letter had been submitted from the Sand Springs Board of Adjustment (Exhibit "E-1") which recommended approval of this application and which suggested that the new mobile home be skirted and have tie-downs and be subject to the City and County Health Department approval of the septic tank.

Board Action:

On MOTION of WALKER and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record - under the provisions of Use Unit 1206) to permit two dwelling units per lot of record (1

Case No. 393 (continued)

existing mobile home plus one proposed mobile home) in an AG zoned district - under the provisions of Section 1670, with the conditions that a building permit be obtained, that the mobile home be skirted and tied down, and that it meet the Health Department and electrical requirements, on the following described property:

A tract of land in the SE/4 of Section 25, Township 19 North, Range 11 East, Tulsa County, Oklahoma and described as: Beginning at the SW corner of the SE/4 of said Section 25; thence North $0^{\circ}-30'-56''$ East 2,650.03'; thence South $89^{\circ}-10'-03''$ East 299.39'; thence South $0^{\circ}-30'-29''$ West 2,648.89'; thence North $89^{\circ}-23'-03''$ West 299.74', containing 18.22 acres.

Case No. 394

Action Requested:

Variance - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Units 1211 and 1213 - Request for a variance to permit Use Unit 11 (offices and Studios) and Use Unit 13 (Convenience Goods and Services) in an AG zoned district - under the provisions of Section 1670, located west of the NW corner of 98th Street North and Peoria Avenue.

Presentation:

Dwight L. Smith, 2727 East 21st Street, is the attorney representing the applicant, Russell Rumsey. He submitted a handout (Exhibit "F-1") and informed they had filed an application with the TMAPC seeking to change the zoning on the subject tract from AG to CG. This was amended at the oral presentation to an application for CS zoning, which the TMAPC approved. The TMAPC added a 50-foot strip of OL down the east boundary to prevent stripping of adjacent property into a similar commercial use. In September the application went to the Board of County Commissioners for approval, and after hearing the presentation and evaluating it, they asked that the application be brought before the County Board of Adjustment. They are now seeking a variance to allow the uses that the applicant would like to put this property to--uses allowed in Use Units 11 and 13. They want only the use changed. He presented some photographs of the subject property and the surrounding area and described the area. The structure on the subject property is a 704 square foot structure (44' x 16'). This application would not support much larger intensity, so there will never be much traffic going to the subject property. Their problem is that the property is in a floodway. The County Commission's main reluctance in approving the zoning was that there would be some possibility in the future that a proposed purchaser or somebody interested in the property might look at it and think that since it is zoned commercial, it must not be in a floodway or there must not be any flood problem. There is a letter in the handout from Commissioner Harris which explains why the application is before this Board. There is also a letter in the handout from the Town of Sperry to the County Board of Commissioners which states that the City of Sperry supports and would support the application for rezoning so that the property might be put to a business use. This is about the only use they can put this property to. They would like to remodel the existing residence to allow the use of a small business in it. They feel that anything in Use Units 11 or 13 would be compatible with what the facility would support.

Case No. 394 (continued)

Protestants: None.

Comments and Questions:

Chairman Alberty is concerned with the issue of the floodplain. He was concerned that an action by this Board might jeopardize any of the federally insured flood program. He was concerned that they might be passing on a liability to the County.

Mr. Edwards informed that as long as it is an existing building and there is no expansion, there would be no problem.

Commissioner Young informed there is almost a hardship situation here due to the floodplain determination. The County Commissioners support the intended use, but they wanted to stop short of actually rezoning the property because of the future ramifications of that action.

Board Action:

On MOTION of WALKER and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 310 - Principal Uses Permitted in Agriculture Districts - under the provisions of Use Units 1211 and 1213) to permit Use Unit 11 (Offices and Studios) and Use Unit 13 (Convenience Goods and Services) in an AG zoned district under the provisions of Section 1670, on the following described property:

Beginning at a point 885' West of the SE/4 of Section 13, Township 21 North, Range 12 East; thence North 275'; thence West 275'; thence South 275'; thence East 275' to the point of origin, all in Tulsa County, Oklahoma.

Case No. 395

Action Requested:

Section 1670 - Use Unit 1220 - Request to modify a condition of approval for the existing Tulsa County Stadium to allow simultaneous use of the ball field with the race track beginning with the 1984 baseball season, located at the SW corner of 15th Street and Yale Avenue.

Presentation:

Commissioner Terry Young, 500 South Denver, informed that the intent of the application is not particularly to seek simultaneous operation with the race track, but to remove a restriction which was imposed by the City Board of Adjustment earlier with regard to the ability to play baseball on Saturday nights in the stadium. The City Board of Adjustment was taking into consideration the fact that the race track is in use on Saturday nights in making their restriction, but the Board of County Commissioners and the new Tulsa County Public Facilities Authority has concluded that there is really no basis for the restriction. There is a substantial amount of public concern about the noise level of the racetrack, and he thinks there may have been some intent on the part of the City Board of Adjustment to reduce noise levels by eliminating baseball. Those who live in the area can tell that of the two, baseball is certainly less noisy than the race track and if the two happen to be running together, people will probably not know that the baseball game is being played. Within the last month, the Tulsa

Case No. 295 (continued)

County Public Facilities Authority and the Board of County Commissioners have approved a five-year contract with the Tulsa Drillers for the use of the Tulsa County Stadium with a five-year extension option. The climate at the fairgrounds is substantially improved--this is reflected by the fact that the Texas Rangers Organization is wanting to make an additional commitment to play baseball here, and through that Drillers contract has reached terms that are very favorable to the future of baseball in Tulsa. Saturday night is probably the best night of the week for baseball, and they feel it would be harmful to the Drillers to still be unable to play on Saturday nights. The concerns expressed by the City Board of Adjustment in imposing the original restriction may be taken care of in the next year when the contract with Tulsa Speedway expires after the next race season. There is an option in the contract for an additional period of extension, but Mr. Young would be surprised if the operator or the Authority chose to exercise that option.

It is almost a certainty that the next season will be the last season of racing at the fairgrounds. This means there would be only one year of overlap of the two events. There is even a possibility that the speedway may be moving even before the next season. There has not been Saturday night baseball at the subject property for the last two seasons.

Joe Presser, General Manager of the Drillers, wanted to emphasize the fact that not playing on Saturday night takes their best night as far as attendance and promotion-wise and makes it where they have to play on Saturday afternoon which makes this one of their worst days of the week.

Protestants: None.

Comments:

Mr. Alberty informed the City Board of Adjustment had a valid concern with the traffic and congestion that might be created by simultaneous events; however, he feels that there have been ample revisions to the access (ingress and egress) into the fairgrounds and there are now multiple points of entry. There has been a change in conditions.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a modification of a condition of approval for Case No. 10883 for the existing Tulsa County Stadium to allow simultaneous use of the ball field with the race track beginning with the 1984 baseball season, on the following described property:

The North 510' of the East 635' of the SE/4 of Section 9, Township 19 North, Range 13 East, Tulsa County, Oklahoma, LESS existing and proposed right-of-way along the North and East lines.

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request for an exception to permit a church in an RE zoned district - under the provisions of Section 1680, located 1/4 mile south of the SE corner of 76th Street North and 117th East Avenue.

Presentation:

Robert Hobbs, 6535 East 76th Street North, Owasso, Oklahoma, represented the United Pentecostal Church. He informed that the Church does presently own the vacant subject property. He presented some pictures of the subject property and some plans that he had sketched of what the building will be like. They have been meeting in the Odd Fellows Hall for the past three years. Their current membership is about 30. There are no plans for a school being at the location of the subject property. They may rock or brick the building at a later date. He informed he went to the City of Owasso, and they informed him they would have nothing to do with this case--it would be in the County.

Protestant:

Paul Young, 7110 North 117th East Avenue, informed they would like to keep the area residential. He feels that if the Church is permitted, it could set a precedent for other nonresidential uses coming in later on. He submitted a petition of about 25 names of the homeowners on 117th East Avenue, who are opposed to this application (Exhibit "G-1"). All the homeowners but 2 on 117th East Avenue signed the petition. He was present at the meeting of the Owasso Board of Adjustment. He received notice of that meeting through the mail. He informed this is a nice, quiet neighborhood with not much traffic.

Applicant's Rebuttal:

Mr. Hobbs does not think they would generate very much noise--the residents would probably not know they were there. They had no idea that there would be people protesting the application.

Comments:

Chairman Alberty informed the Board has a letter from the City of Owasso's Board of Adjustment (Exhibit "G-2") which recommends denial of this application due to the fact that there was no site plan to review and the problems of increasing the traffic within the residential neighborhood. There were six homeowners from the area of the subject property who were present at the Owasso meeting to protest this application. Mr. Hobbs informed he knew nothing about the meeting of the Owasso Board of Adjustment and that is why he was not present with his plans. He had his plans sketched when he made application for the Special Exception at INCOG.

Chairman Alberty informed there are locations considered appropriate for community serving uses, of which the church is considered one of those.

Mr. Martin informed he feels the applicant should be entitled to present his application to the Owasso Board of Adjustment in connection with their denial of the use of the property by the Church.

Mr. Wines does not feel the cities have any jurisdiction in matters that are before the County Board of Adjustment.

Case No. 396 (continued)

Mr. Martin does not feel that an adequate hearing has been held on this matter at the local level since the applicant was not notified and therefore, was not present.

Mr. Gardner explained the process through which the cases go. He informed the City of Owasso does not have any legal jurisdiction, therefore, they cannot decide the matter this Board has to. As a matter of courtesy, all applications in the unincorporated portion of Tulsa County which are within a city's fenceline are heard by that city's Board of Adjustment who then makes a recommendation to this Board--that is all this is, a recommendation.

Mr. Martin would like to recommend that this matter be referred back to the City of Owasso, and that the applicant be given proper notice of the hearing so that he can appear before that Board. He would not feel comfortable making a decision at this point.

Board Action:

On MOTION of WALKER and SECOND by MARTIN, the Board voted 4-0-1 (Alberty, Martin, Tyndall, Walker, "aye"; no "nays"; Wines, "abstaining"; none, "absent") to instruct the Staff to refer this case back to the City of Owasso Board of Adjustment to allow the applicant to have due process, and to continue Case No. 396 to the November 18, 1983, meeting.

There being no further business, the Chair adjourned the meeting at 11:36 a.m.

Date Approved November 18, 1983

B. Wayne Alberty
Chairman