

COUNTY BOARD OF ADJUSTMENT
Meeting No. 84
Tuesday, May 19, 1987, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chairman Eller Looney Walker	Tyndall	Gardner Jones Moore	Jack Edwards, Building Inspector Ron Fields, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk, as well as in the Reception Area of the INCOG offices, on Friday, May 14, 1987 at 3:46 p.m.

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

MINUTES:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to **APPROVE** the Minutes of April 21, 1987 (No. 83).

NEW APPLICATIONS

Case No. 736

Action Requested:

Appeal - Section 1650 - Appeals from the County Inspector - Use Unit 1227 - Request an appeal from the decision of the Building Inspector for not allowing an auto salvage to utilize the entire 12 1/2 acre tract.

Use Variance - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1227 - Request a use variance to allow for an existing auto salvage in an AG zoned district, located 1609-11 East 111th Street South.

Comments and Questions:

Jack Edwards, Building Inspector, explained that in 1985 he received a call from a resident of the area who was concerned about junk cars being stored on the east 5 acres of the applicants property. Mr. Edwards stated that he cited the owner and then received a complaint from a resident to the north who informed that the salvage operation was expanding. Mr. Edwards stated that the owner then came to his office asking for a Zoning Clearance Permit on the 10 acre tract and the cars were then removed from the adjoining 5 acres. He noted that it is not possible to determine how many cars were on the tract

Case No. 736 (continued)

when the County Code was adopted in 1980. Mr. Edwards informed that he cited the applicant for the expansion of a nonconforming use. He stated that Mr. Warren has applied for a 1987 salvage license which required the issuance of another Zoning Clearance Permit. He pointed out that he cannot be issued a license without the approval of this Board for the auto salvage business. Mr. Edwards stated that there are two buildings located on the property (one building 39' by 26' and one building 58' by 36') which are storage places for automobile parts.

Mr. Alberty inquired if there was an attempt to estimate the number of cars on the property between the dates of January 1, 1980 and January 1, 1981, and Mr. Edwards replied that the 5 acre portion had 110 cars in 1980, but the total number on the entire tract is undetermined. Mr. Edwards submitted a packet (Exhibit A-3) containing protests to the application.

Mr. Alberty informed that Staff has received a letter (Exhibit A-2) from the City of Broken Arrow, requesting denial of the variance, finding no hardship demonstrated by the applicant.

Mr. Gardner advised that the Board should determine if the auto salvage is a legal nonconforming operation, and if so, what portion of the tract is nonconforming.

Mr. Edwards noted that the request for a use variance involves the 5 acres to the east.

Presentation:

The applicant, Perry Warren, Route 6, Box 369, Broken Arrow, Oklahoma, stated that he has operated a salvage business at the present location for over 20 years. He pointed out that the residents in the neighborhood who are protesting his business moved to the area after his salvage business was in operation. Mr. Warren stated that it is not his intent to offend his neighbors. He informed that 327 cars were crushed in January of 1981 and 305 cars were crushed in February of 1981, which reduced his inventory to approximately 200 cars. He asked that he be permitted to use 7 1/2 acres of his property, which is located east of the tree line, for auto salvage.

Additional Comments:

Mr. Alberty asked the applicant to give a detailed explanation of his business operation, and he replied that he removes the usable parts from the automobiles and crushes them when space for storage is no longer available.

Mr. Alberty asked Mr. Warren to state the minimum amount of cars he can store on the property and continue to feasibly operate his salvage operation. The applicant stated that he needs approximately 550 cars to supply parts for his business.

Case No. 736 (continued)

Mr. Looney inquired as to the condition of the 2 buildings on the property, and Mr. Edwards informed that they are both in good repair.

Protestants:

Sandi Nicholas, 216 East Austin, Broken Arrow, Oklahoma, informed that the salvage operation is creeping toward the housing addition and asked that the request either be denied, or the salvage operation be contained in an area south of the tree line. She pointed out that the trees are a good buffer, but is opposed to storage of salvage cars on the property to the north of the tree line. She noted that property values are adversely affected by the unsightly storage area on Mr. Warren's property. Photographs (Exhibit A-1) were submitted.

Additional Comments:

Mr. Alberty asked Mr. Warren how much time would be required to move the cars south of the tree line if the application is approved, and he replied that he would make every effort to move all of the cars within a 120 day period or sooner.

There was discussion as to whether or not the 2 1/2 acres to the east will be included in the 7 1/2 acres that is needed for storage, and Mr. Gardner pointed out that the 2 1/2 acre portion, if found to be nonconforming, will be required to make up the requested 7 1/2 acres south of the tree line.

Mr. Looney asked if the Board needs to address the life of the structures on the property in determining when the nonconforming use will expire, and Mr. Edwards informed that he has already calculated the \$200.00 depreciation per year and found that the building will be depreciated out in approximately 80 years.

Mr. Edwards pointed out that the applicant is before the Board today to determine the status of the subject property, and what portion of the tract is actually considered to be legal nonconforming.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to **UPHOLD** the **Decision** of the Building Inspector for refusing to issue a Zoning Clearance Permit on the entire 12 1/2 acre tract, and to **APPROVE** an **Appeal** (Section 1650 - Appeals from the County Inspector - Use Unit 1227) from the decision of the Building Inspector to allow an auto salvage to utilize the south 7 1/2 acres of the 12 1/2 acre tract; subject to automobile storage being limited to only the south 7 1/2 acres, south and east of the tree line (according to attached legal); subject to all cars being removed north of the tree line and from adjoining property, 120 days from the date of this hearing; subject to a maximum of 550 cars on the

Case No. 736 (continued)

7 1/2 acres; finding the salvage business has been in operation at the present location for more than 20 years; finding the auto salvage on the 7 1/2 acre tract to be a legal nonconforming use; and to **DENY** a **Use Variance** (Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1227) to allow for an existing auto salvage in an AG zoned district; finding a hardship was not demonstrated; on the following described property:

Beginning at a point 495' east of the SW/c, of the SW/4, of the SE/4, of Section 26, T-18-N, R-14-E; thence 520' north, thence 705' northeasterly to a point on a line which is perpendicular to the section line beginning 825' east of the SW/c of the SW/4, of the SE/4, of Section 26, T-18-N, R-14-E, thence south 1070' to the section line; thence west 412.5' to the point of beginning, all in Tulsa County, Oklahoma.

Case No. 737

Action Requested:

Use Variance - Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1223 - Request a use variance to allow for an oil field equipment and supply business in an AG zoned district, located north of 116th Street North and west of Highway 11.

Presentation:

The applicant, Jenny Enloe, was represented by Warren Morris, 3312 South 115th East Avenue, Tulsa, Oklahoma, who submitted a location map (Exhibit B-2) and letters of support (Exhibit B-1), informed that the subject property was purchased by the applicant in 1979 and is located in a rural area near Highway 11. He stated that Mr. Enloe was previously employed by a major oil company and has been operating a drilling rig and pulling unit for a number of years. Mr. Morris pointed out that the barn on the property is used as a warehouse for supplies and a repair facility for the family business. He noted that an existing building is in the process of being renovated and will be converted to an office for Ms. Enloe. A son, who will also assist in the business, lives in a mobile home to the rear of the main residence. Mr. Morris informed that there are 10 oil wells on Mr. Enloe's property and he owns additional land in the area. Photographs (Exhibit B-4) were submitted.

Comments and Questions:

Mr. Alberty asked if the supplies and parts will be small enough to store inside the building, and Mr. Warren answered that the parts will all be kept inside and there will be no outside storage around the building.

Case No. 737 (continued)

Mr. Walker inquired if the office is a new building, and the applicant replied that a shed is being enclosed and remodeled.

Mr. Jones informed that a portion of the property is in the floodway and supplied the Board with a copy of the Flood Hazard Review (Exhibit B-3).

Protestants:

Linda Walker, Route 2, Box 81-W, Skiatook, Oklahoma, informed that her property is located between the Enloe property and Highway 11 and that she is opposed to the equipment supply business. Ms. Walker pointed out that the land floods and is concerned that the business would detract from the appearance of the area. She noted that she and her husband operate a home improvement business, but would not want to move the business to their residential location.

Ted Eddingfield, Route 4, Box 235, Sapulpa, Oklahoma, stated that he owns 15 acres of undeveloped land in the area. He informed that his future plans are to build a home on the land and feels that the oil field equipment business will depreciate the value of his property.

Veda Morrison, Route 1, Box 81-A, Skiatook, Oklahoma, informed that her property abutts the Enloe farm on the east, west and north. She stated that she feels the oil field equipment business is inappropriate for the neighborhood and asked the Board to deny the request.

Applicant's Rebuttal:

Mr. Morris stated that he does not believe the flooding is an issue in this case. He informed that the business will be a small operation and that the Enloe property has always been kept in good condition. Mr. Morris asked the Board to approve the use variance request for an oil field equipment business.

Comments and Questions:

Mr. Looney asked how long his client plans to operate the equipment business, and Mr. Morris replied that Mr. Enloe is not a young man, but he is not sure how long the business will be in operation.

Mr. Gardner pointed out that the Board could determine that the business is similar to a home occupation, since it will be operated by family members only and all sales can be conducted inside the building, with no outside storage.

Board Action:

On **MOTION** of LOONEY, the Board voted 3-1-0 (Alberty, Eller, Looney, "aye"; Walker, "nay"; no "abstentions"; Tyndall, "absent") to **APPROVE** a Use Variance (Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1223) to allow for a home occupation oil field equipment and supply business in an AG zoned

Case No. 737 (continued)

district; subject to the business being limited to only 5 acres of a 100-acre tract (as described in attached legal) and per home occupation guidelines (as enumerated in Section 440.2); subject to days and hours of operation being Monday through Friday, 8 a.m. to 5 p.m. and 1/2 day on Saturday, with a maximum of 10 customers per day; subject to all storage of parts and supplies being inside the warehouse facility; and subject to no expansion of the business; finding that the business is family operated and is similar to a home occupation, with all sales and repair of equipment being conducted inside the existing building; on the following described property:

Beginning at a point 1,670' north and 900' west of the SE/c of Section 2, T-21-N, R-12-E, thence west 466.9', south 466.9', east 466.9' and north 466.9' to the POB containing \pm 5 acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 738

Action Requested:

Use Variance - Section 710 - Principal Uses Permitted In Commercial Districts - Use Unit 1209 - Request a use variance to allow for a mobile home in a CS zoned district, located 24800 West 41st Street.

Presentation:

The applicant, David Veteto, Route 2, Box 384, Sand Springs, Oklahoma, stated that he currently lives with his parents, but has recently been given an adjoining lot which belonged to his grandfather. He informed that, in return for the lot, he has agreed to place a mobile home on the lot and guard against vandalism on his grandfather's property. Mr. Veteto stated that his grandfather lives on a portion of the land and raises a small number of livestock. He pointed out that other houses are located in the CS District and asked the Board to approve the proposed mobile home location. Mr. Veteto noted that a petroleum pipeline runs through the middle of the property, which would make it unsuitable for any type of housing development.

Comments and Questions:

Mr. Looney inquired if the mobile home will be hooked up to a city sewer system, and the applicant replied that a septic system will provide sewage disposal.

Protestants: None.

Board Action:

On MOTION of WALKER, the Board voted 4-0-0 (Alberty, Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to APPROVE a Use Variance (Section 710 - Principal Uses Permitted In Commercial Districts - Use Unit 1209) to allow a mobile home in a CS zoned district; subject to Building Permit and Health Department

Case No. 738 (continued)

approval; finding a hardship imposed on the applicant by commercial zoning classifications even though the area is developed residential; on the following described property:

A parcel of land described as follows: Beginning at a point 30' north and 2,821.54' east of the SW/c of Section 20, T-19-N, R-10-E, Indian Meridian and Base Line;; thence north and parallel to the west line of Section 20, a distance of 331.47' to a point; thence east and parallel to the south line of Section 20, a distance of 165.97' to a point; thence south and parallel to the west line of Section 20, a distance of 331.47' to a point; thence west and parallel to the south line of Section 20, a distance of 165.97' to the point of beginning; containing 1.25 acres, more or less, and subject to existing easements and rights of way of record, Tulsa County, Oklahoma.

Case No. 739

Action Requested:

Variance - Section 430 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of setback from the centerline of 85th West Avenue from 50' to 28' to allow for the construction of a garage, located 5116 South 85th West Avenue.

Presentation:

The applicant, Brenda English, 5116 South 85th West Avenue, Tulsa, Oklahoma, was represented by her husband, Ed English who submitted a plot plan (Exhibit C-1) and a petition of support (Exhibit C-2). He explained to the Board that he was in the process of building a garage on his property, but was ordered by the Building Inspector to cease construction. Mr. English stated that the Building Inspector informed him that a neighbor had complained that the garage is too close to the street. Since he had previously gained the approval of all the neighbors, Mr. English stated that he was surprised that a complaint had been filed. He stated that one neighbor did state that she was concerned that the garage would block the view of motorists going around the corner. A sketch (Exhibit C-4) of the surrounding area was submitted.

Comments and Questions:

Mr. Alberty asked the applicant if he intends to operate a business on his property, and Mr. English replied that he does not intend to operate a business, but only plans to use the garage for storage.

Mr. Alberty asked if there are other structures in the neighborhood as close to the street as the proposed garage, and he informed that he is not sure.

Case No. 739 (continued)

Upon Mr. Albery's inquiry as to what stage of construction the garage is in at this time, the applicant replied that that the poles are in place and three walls are up. He pointed out that the material for completion of the garage is in the yard.

Protestants:

Regina Lawson, 5420 South 86th West Avenue, Tulsa, Oklahoma, stated that she opposes the garage because she believes it will cause a traffic hazard for the residents and asked that the applicant be required to move the garage back to comply with the setback. She pointed out that she found it difficult to proceed around the corner when meeting a school bus and submitted a letter of complaint from the school bus driver. A petition of protest (Exhibit C-3) and photographs (Exhibit C-5) of the English property were submitted.

Additional Comments:

Mr. Albery asked Mr. English if he made application for a Building Permit before construction of the garage began, and he replied that he did not.

Mr. Albery asked the applicant if he is aware that the law requires a permit for any construction, and he informed that he was not aware of the law and has helped build three other garages on the street without permits.

Mr. Looney asked if there are other pole barn type garages in the neighborhood and the applicant replied that all of them are constructed in this fashion.

Mr. Albery asked Mr. English where the entry into the garage will be located, and he informed that the door will be on the north side of the garage. He pointed out that the building will be fully enclosed and doors will be cut out later.

Mr. Looney inquired if the building will have a concrete floor, and if so, has it been poured, and Mr. English informed that the floor will be concrete, but has not been poured at this time.

Mr. Looney asked if the garage can be moved 10' to the west, and the applicant pointed out that he could move the poles at a cost of \$500.00.

Mr. Albery remarked that, although he is sympathetic to the self imposed hardship, he feels the applicant should have complied with the law and applied for a Building Permit before beginning construction of the garage.

Mr. Looney inquired if the applicant only needs relief on 85th West Avenue, and Mr. Gardner pointed out that the Board could continue this case until the June meeting, to allow Staff sufficient time to view the property and determine if additional relief is needed by the applicant.

Case No. 739 (continued)

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eiler, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to **CONTINUE** Case No. 739 until June 16, 1987 to allow Staff to view the site and obtain additional information concerning the case.

Case No. 740

Action Requested:

Variance - Section 910 - Bulk and Area Requirements in Industrial Districts - Use Unit 1223 - Request a variance of setback from the centerline of West 51st Street from 100' to 55', located 4700 Block of West 51st Street.

Comments and Questions:

Mr. Jones informed that it is the policy of the Board to refuse to hear any case that does not have all fees paid. He noted that the advertising fee at the Legal News has not been paid and the applicant, who is architect for the owner of the property, is not able to pay the fee today. He explained that the owner of the property is out of the country at this time. Mr. Jones informed that the Board could hear the case and request that the Building Permit be withheld until fees are paid.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Alberty, Eiler, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to **DETERMINE** to hear Case No. 740 prior to the payment of the Legal News fee; subject to all fees being paid before the issuance of a Building Permit; finding that the owner is out of the country and the architect does not have the authority to pay said fee.

Presentation:

The applicant, Allen Hill, 5550 South Lewis, Tulsa, Oklahoma, submitted a plot plan (Exhibit D-1) and asked the Board to allow a warehouse to be placed on the east portion of the subject property. He informed that there are residences to the west of the proposed site and the building in question will align with the existing shop to the east. Mr. Hill pointed out that there are buildings in the area that are within 10' of the street.

Comments and Questions:

Mr. Looney asked if the building in question is metal, and he informed that the building is metal and was purchased from Braden Steel. Mr. Hill stated that overhead doors will be located on the east side of the building.

Protestants: None.

Board

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eiler, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to **APPROVE** a Variance (Section 910 - Bulk and Area Requirements in

Case No. 740 (continued)

Industrial Districts - Use Unit 1223) of setback from the centerline of West 51st Street from 100' to 55'; subject to Health Department approval and Building Permit (hold until advertising fees are paid); finding a hardship imposed on the applicant by the narrow shape of the lot, with a 100' setback from the centerline of 51st Street; and finding that there are other buildings in the area that are closer to the street than the proposed building; on the following described property:

The north 140', south 300', west 198', east 792', N/2, N/2, NW/4, NW/4 and the north 140', south 300', west 99', east 891', N/2, N/2, NW/4, NW/4, Section 33, T-19-N, R-12-E, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 513

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture Districts - Use Units 1205/11 - Request a special exception to permit a church and related uses and a use variance to allow a radio station in an AG zoned district, located north of NE/c 121st Street and 129th East Avenue.

Presentation:

Nelson Pendergrass, 110 West Kenosha, Broken Arrow, Oklahoma, submitted a site plan (Exhibit E-1) and explained that the David Engle Ministry has completed a previously approved radio station and is before the Board today to seek approval of a site plan for a church building. He informed that church use was granted at the prior hearing, subject to the applicant returning to the Board for site plan approval.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to **APPROVE** a site plan as submitted; subject to Building Inspector approval.

There being no further business, the meeting was adjourned at 3:46 p.m.

Date Approved

June 16, 1987

Wayne Alberty
Chairman