

**COUNTY BOARD OF ADJUSTMENT**  
Meeting No. 96  
Tuesday, May 17, 1988, 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>
Eller Looney, Chairman Tyndall Walker	Alberty	Jones Moore	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 13, 1988 at 1:11 p.m.

After declaring a quorum present, Chairman Looney, called the meeting to order at 1:42 p.m.

**MINUTES**

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Eller, Looney, Walker, Tyndall, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** the **Minutes** of April 19, 1988 (No. 95).

**UNFINISHED BUSINESS**

**Case No. 784**

**Action Requested:**

Appeal - Section 1650 - Appeals from the Decision of the Building Inspector - Use Unit 1226 - Request an appeal from the decision of the Building Inspector in denying a permit for a Use Unit 26, located SE/c 19th Street and South 81st West Avenue.

**Presentation:**

The applicant, Carol Mulcare, was represented by Darven Brown, 5561 South Lewis, Tulsa, Oklahoma, who submitted a packet (Exhibit A-1) containing a letter from the County Inspector's office, a copy of the building permit, principal activity of the business and research material describing scrap yards. Mr. Brown explained that his client is appealing the decision of the Building Inspector in determining that their business, S and S Metals, is classified under Use Unit 27, and asked the Board to find that the business is

Case No. 784 (continued)

actually in a category which would be better classified under Use Unit 26. He pointed out that the business recycles used metals, and the owner is proposing to move the operation to the above stated location. Mr. Brown informed that the application was previously heard by the Board and denied for a special exception to allow the use. He pointed out that his client appealed to District Court and was advised by the Judge to appear before the County Board of Adjustment to determine if the use could be classified as being Use Unit 26. He advised that S and S Metals does not operate a junk yard, but rather, buys some paper and non-ferrous metals, such as copper, brass and aluminum, for remarketing. Mr. Brown noted that Mr. and Mrs. Mulcare do not buy junk cars or "dirty metals", such as engines or transmissions. It was noted that, in order to accommodate a customer, the owner of the business does purchase some scrap iron along with the non-ferrous material, and approximately one rail car of ferrous material is shipped out every two weeks. Mr. Brown asked the Board to find that the business in question is more compatible with the uses found in Use Unit 26, and to overturn the decision of the Building Inspector which found the business to be similar to a junk yard, or Use Unit 27.

**Interested Parties:**

Glen Turner, Oklahoma City, Oklahoma, a former Tulsa Planning Commission director, stated that the business in question is a reclamation industry, which has evolved from this new era of recycling. He informed that the metal industry has changed over the years and is now separated into more than one category. Mr. Turner pointed out that there are old and new auto wrecking yards, accumulation yards and sorting yards. He pointed out that S and S Metals deals predominately with non-ferrous metals and differs from an auto salvage. Mr. Turner advised that there are numerous metal processing businesses in the area, and suggested that the use in question be classified with those in Use Unit 26.

**Comments and Questions:**

Mr. Looney stated that Mr. Walker was not present at the previous meeting and asked Mr. Brown to review the S and S operation.

Mr. Brown stated that the aluminum cans are crushed and blown into a semi-trailer. He informed that some metals are balled and moved about by a small crane.

Mr. Walker asked if the business will be expanded when it is moved to the new location, and Mr. Brown stated that it will be the same.

Mr. Looney asked what type of fence is proposed for the property, and Mr. Brown replied that an 8' metal fence will replace the 6' existing wood fence.

Ron Fields, Building Inspection, stated that he is concerned with the metal that is to be stored outside the building.

Case No. 784 (continued)

Mr. Walker asked if outside storage at the new location will be similar to the storage at the present yard site, and Mr. Brown pointed out that there has been a back up of materials in the past 6 weeks, due to the temporary closing of Sheffield Steel. He stated that the applicant disposes of the ferrous material at Sheffield.

Mr. Turner pointed out that the abutting property owner has a great deal of outside storage that could appear to be on the applicant's property.

Mr. Looney stated that a description of the metal recycling plant stated that ferrous metals and other materials shall be not less than 10% in value of the total. He pointed out that there could be 90% in volume and 10% in value, with the result being a large stack of ferrous metal and a small stack of non-ferrous.

Mr. Brown stated that there are metal businesses in the area and that his client is willing to submit to reasonable regulations which will allow him to operate his metal business.

Mr. Fields and Ms. Mulcare reviewed photographs of the area where the existing business is in operation, and she informed that the old cars in the photos are parked on the abutting property.

Mr. Jones informed that the issue before the Board is an interpretation of Use Unit 26 and Use Unit 27, and which of these categories the use in question is under.

Mr. Tyndall stated that the business does handle some ferrous metal, some non-ferrous metal and some paper.

Ms. Mulcare stated that the buying of paper may be discontinued when the business moves to the new location.

**Protestants:** None.

**Board Action:**

On **MOTION** of ELLER, the Board voted 3-1-0 (Eller, Looney, Tyndall, "aye"; Walker, "nay"; no "abstentions"; Alberty, "absent") to **OVERTURN** the decision of the Building Inspector; and to **APPROVE** an Appeal (Section 1650 - Appeals from the Decision of the Building Inspector - Use Unit 1226) an appeal from the decision of the Building Inspector in denying a permit for a Use Unit 26; subject to the installation of an 8' screening fence around the entire yard and processing area; finding that the metal processing business is a use similar to those in Use Unit 26 and is to be classified under that Use Unit; on the following described property:

Lots 10 through 13, Block 4; Lots 1 through 10, Block 7; Lots 18 through 31, Block 6, in Lake Subdivision, an addition in the W/2, NW/4, Section 7, T-19-N, R-12-E, Tulsa County, Oklahoma, containing approximately 5.6 acres.

Case No. 802

**Action Requested:**

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request a special exception to allow for a mobile home in an RE zoned district, located SE/c 101st Street and South 137th East Avenue.

**Comments and Questions:**

Mr. Jones informed that the City of Broken Arrow has reheard this case and recommended approval of the application for a period of one year (Exhibit D-1).

**Presentation:**

The applicant, Rex Anglin, 714 North 4th Street, Broken Arrow, Oklahoma, stated that he had previously requested to locate a mobile home on 101st Street, but has now made application to move the mobile home location across the street and 90' to the south.

**Additional Comments:**

Mr. Looney asked if a plot plan is available, and he replied that he does not know how the mobile will be placed on the lot. He stated that landscaping is planned before the installation of the mobile home.

Mr. Looney asked the applicant if the property has access to water and sewer services, and he answered in the affirmative.

**Protestants:**

Tom Bostelmann, Route 1, Broken Arrow, Oklahoma, stated that he lives across the street from the applicant's property and pointed out that the residents of the area are attempting to make improvements to their homes, and are opposed to the location of a mobile home in the neighborhood. It was pointed out by Mr. Bostelmann that an old house was removed from the property, but there are approximately 17 vehicles remaining on the lot. He stated that there is a percolation problem in the area and there are no sewer hookups. Mr. Bostelmann asked the Board to deny the application.

**Additional Comments:**

Mr. Looney asked the applicant if he will have a sanitary sewer serving the property in question, and he replied that there is a septic tank on the property. Mr. Anglin stated that he was referring to a septic system when he previously stated that the property was served by a sewer. He informed that the system was installed in 1977, but has never been in use.

Mr. Walker asked if the mobile is to be used for a temporary home until a new house is constructed on the property, and Mr. Anglin replied that he plans to start construction and return to the Board if he needs additional time for completion of the project.

Case No. 802 (continued)

Mr. Tyndall inquired as to the number of automobiles on the subject tract at this time, and Mr. Anglin replied that he is not sure of the exact number, but that Mr. Bostelmann was probably correct in his estimation that there are approximately 17 vehicles. He assured the Board that he is attempting to clean up the property and remove the cars.

Ron Fields asked the applicant if the cars parked on the subject tract are operable or have been dismantled. Mr. Anglin informed that he is rebuilding two Volkswagens and is dismantling some old cars to supply spare parts for the reconstruction process. He stated that all of the old cars will be removed as soon as the Volkswagens are rebuilt.

Mr. Jones advised that the applicant commented in the previous Board of Adjustment Meeting that the City of Broken Arrow has agreed to pay for a sewer line to the subject property if the applicant supplies the labor. Mr. Anglin clarified that he has made another visit to the Broken Arrow City Hall and found that a sewer line will be installed to the property if the property is annexed by the City.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Special Exception** - Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1209 - Request a special exception to allow for a mobile home in an RE zoned district; for a period of one year only; subject to the removal of all inoperable automobiles from the subject tract; subject to Building Permit and Health Department approval; and subject to approval by the City of Broken Arrow; on the following described property:

The south 180' of the north 230' of the west 150' of the NE/4, Section 28, T-18-N, R-14-E; and the east 150' of the west 360' of the south 180' of the north 590' of the NE/4, Section 28, T-18-N, R-14-E; and the east 150' of the west 360' of the south 90' of the north 410' of the NW/4, NE/4, Section 28, T-18-N, R-14-E, Tulsa County, Oklahoma.

**Case No. 812**

**Action Requested:**

Special Exception - Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1213 - Request a special exception to allow for a home occupation for a beauty shop in an AG-R zoned district, located 9208 South 193rd East Avenue.

**Presentation:**

The applicant, Jerry Smith, was not present.

Case No. 812 (continued)

**Comments and Questions:**

Mr. Jones stated that the beauty shop has been operating at the present location for some time and Broken Arrow has recommended the approval of the application for a period of 2 years.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Special Exception** (Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1213) to allow for a home occupation for a beauty shop in an AG-R zoned district; subject to a time limitation of 2 years; and subject to Broken Arrow Board of Adjustment approval; finding that the beauty shop has been operating on the subject property for a long period of time and has proved to be compatible with the area; on the following described property:

NE/4, NE/4 of Section 24, T-18-N, R-14-E, Tulsa County, Oklahoma containing 0.76 acres further described as follows: Commencing at the NE/c of Section 24, thence south along the east section line of Section 24, a distance of 500.75' to the Point of Beginning, thence west a distance of 317.50' thence south a distance of 103.84', thence east a distance of 317.50', thence north along the east line of Section 24, a distance of 103.84' to Point of Beginning, subject to easements of record, Tulsa County, Oklahoma.

**NEW APPLICATIONS**

**Case No. 810**

**Action Requested:**

Special Exception - Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1209 - Request a special exception to allow for a mobile home in an AG-R District.

Variance - Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1209 - Request a variance to allow for two units on one lot of record, located 13204 North 95th East Avenue.

**Presentation:**

The applicant, Irene Hally, was not present.

**Board Action:**

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **CONTINUE** Case No. 810 to June 21, 1988.

**Case No. 813**

**Action Requested:**

Special Exception - Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1214 - Request a special exception to allow for a Use Unit 14 (Shopping Goods and Services) in an IL zoned district, located 5508 Southwest Boulevard.

**Presentation:**

The applicant, Roy Page, 5916 South 63rd West Avenue, Oakhurst, Oklahoma, stated that he has been operating a parts business for approximately 20 years, and asked the Board to allow him to move the stock to an IL zoned lot. He informed that a new building is proposed. Mr. Page stated that a wood fence is in place on the back property line and the building will be 50' from that boundary line. It was noted that the store front will be 81' from the centerline of Southwest Boulevard. He explained that only new parts will be sold and there will be no display of merchandise outside the building.

**Comments and Questions:**

Mr. Looney asked how many parking spaces will be available in front of the building, and the applicant replied that there will be space for approximately 5 customers.

In response to Mr. Looney's request, the applicant informed that the business will be open from 8:00 a.m. to 6:00 p.m., Monday through Friday, and from 8:00 a.m. to 2:00 p.m. on Saturday.

Mr. Jones pointed out to the Board that there are numerous uses in Use Unit 14, and that the use could be limited to an automobile parts store.

Mr. Fields stated that the building may not meet the required setback on Southwest Boulevard, and the applicant informed that other buildings are closer to the street than the proposed structure.

Mr. Jones explained that the applicant is not advertised for setback relief, and may need to readvertise if the proposed building is closer to the street than the Code allows.

Mr. Page pointed out that he had planned to align with the service station building to the east, which is approximately 15' from the proposed building site.

**Protestants:** None.

**Board Action:**

On **MOTION** of ELLER, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a Special Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1214) to allow for an auto parts store only; finding that there are mixed zoning classification in the area; and that the use requested will not be detrimental to the area; on the following described property:

Case No. 813 (continued)

Lot 1, Block 2, Oakhurst Estates Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 814**

**Action Requested:**

Variance - Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1209 - Requests a variance to allow three dwelling units on one lot of record.

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request a special exception to allow for mobile home use in an RE zoned district, located north of 101st Street North and North 88th East Avenue.

**Presentation:**

The applicant, Orvel Hagan, Route 1, Box 1013, Owasso, Oklahoma, stated that there are two mobile homes and one dwelling on his property. He explained that two retired people are living in the mobile homes at this time, and asked the Board to allow them to remain. Mr. Hagan stated that his property is on a dead end street and no houses are nearby, except one house across the street which was built after the mobile homes were installed. He pointed out that one mobile has been at the present location for approximately 17 years and the other mobile has been in place for 6 years.

**Comments and Questions:**

Mr. Walker asked when the house was built, and Mr. Hagan stated that it was built in 1964.

Mr. Looney asked if there are other mobile homes in the area, and the applicant replied that there are several nearby.

In response to Mr. Looney's request concerning the hardship for the variance request, Mr. Hagan replied that the occupants of one mobile home are ill and are under a doctor's care.

Mr. Looney noted that an aerial photograph shows that there are presently three mobile homes on the property in question, and Mr. Hagan replied that there three on the lot, but one is not in use and will be removed.

Mr. Looney asked the applicant if he has acquired Health Department approval for the mobile homes, and Mr. Hagan informed that the house is approved, but the mobiles have not been approved. The applicant stated that the property has good drainage, with a septic system for each mobile, and there is no surface water standing on the lot.

**Protestants:**

Paul Williams, 10020 North 88th East Avenue, Owasso, Oklahoma, stated that the residents of the area are concerned that the applicant is planning to operate a mobile home park on the property.



Case No. 814 (continued)

Mr. Walker inquired if other mobile homes are located in the area, and Mr. Williams replied that there are others approximately one-fourth mile from the subject property.

It was pointed out by Mr. Williams that the applicant has been burning debris on the property, which is a safety concern, and there are numerous old cars parked on the lot.

Jack Thompson, 10133 North 88th East Avenue, Owasso, Oklahoma, informed that his property abutts the property in question. He informed that he built a new house and voiced a concern that the mobile homes will depreciate the value of his property.

Betty Thompson, 10133 North 88th East Avenue, Owasso, Oklahoma, remarked that a gentleman that lives in one of the mobile homes works every day and is not disabled.

Mr. Looney asked Mr. Thompson if the mobile homes have been moved in since the construction of his home, and he replied that the mobiles were already in place at the time of construction. He stated that the burning of old materials on the property creates a fire hazard for the remainder of the neighborhood. It was pointed out that the land does not perk well in this area.

Kenneth Stewart, 10001 East 100th Street, Owasso, Oklahoma, stated that a large amount of junk is hauled to the property and is opposed to the approval of the application.

Mr. Walker asked Mr. Stewart if there are junk cars on the property, and he answered in the affirmative.

An aerial photograph (Exhibit B-1) and other photographs (Exhibit B-2) of the area were presented to the Board.

**Interested Parties:**

Edward Roberts stated that he lives in one of the mobile homes, and explained that the old cars are being removed from the lot and the material that is being hauled to the property is used to fill in some washed out areas in the creek. He pointed out that he is in poor health and unable to pay much rent, and asked the Board to allow the mobile home to remain at its present location.

**Additional Comments:**

Mr. Walker asked Mr. Hagan to explain the burning of materials on the property, and he replied that he has burned lumber on the lot, but will discontinue the burning.

In response to Mr. Walker's inquiry as to the junk cars located on the property, the applicant replied that most of the cars have been removed.

Case No. 814 (continued)

Mr. Looney asked if the third mobile home can be removed from the property within the next six months, and he answered in the affirmative.

Mr. Eller asked when the cars will be removed, and Mr. Hagan replied that the remaining four cars will be removed within a week.

Mr. Jones advised that, if the Board is inclined to approve the application, the approval could be made with the stipulation that only the present residents will be allowed to live in the mobile homes. Mr. Jones also pointed out that any action taken by this Board would be made subject to Health Department approval, and would be null and void if the soil fails to pass the percolation test.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Variance** (Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1209) a variance to allow two dwelling units (one house and one mobile home) on one lot of record; and to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1209) to allow for mobile home use in an RE zoned district; subject to the remaining two mobile homes being removed from the property; subject to Health Department approval; subject to the removal of the junk cars and salvage; subject to the cessation of the landfill operation, and the hauling in of lumber and trash; and subject to those people residing in the mobile being restricted to the present occupants only, with the trailer being removed from the premises when the present tenants no longer occupy the mobile home; finding that the existing mobile home has been in place for approximately 15 years, or prior to the adoption of the County Zoning Code; on the following described property:

Lot 1, Block 2, Hill-N-Dale Addition, Tulsa County, Oklahoma.

**Case No. 815**

**Action Requested:**

Variance - Section 1223.3 - Use Conditions - Use Unit 1223 - Request a variance of the screening requirements in an IL zoned district, located 6900 North Mingo Valley Expressway.

**Presentation:**

The applicant, Charles Helscel, Route 3, Box 2290, Owasso, Oklahoma, stated that he has been operating a manufacturing business on the subject tract since the 1970's. He advised that the north half of the 2-acre tract has recently been rezoned to IL and has been used for storage of materials. Mr. Helscel informed that a building is being constructed on the tract and asked the Board to allow him to install a 6' chain link fence around his property, in lieu of a wood screening fence. He pointed out that there are six or seven business in the area and they have all installed chain link fences.

Case No. 815 (continued)

Comments and Questions:

Mr. Tyndall asked the applicant to explain what the building will be used for, and he replied that the new structure will be used for a warehouse.

In response to Mr. Looney's inquiry as to the use of abutting properties, the applicant informed that there is a vacant field to the north and a residence to the east, which is approximately 200' from the building site.

Mr. Walker asked what is stored outside, and the applicant informed that heat exchangers are manufactured on the tract, and large pieces of steel, some fans and electric motors used in the manufacturing process are stored outside until needed. He pointed out that some of these items will be stored inside the warehouse when it is completed.

Mr. Looney asked if slats will be inserted in the fence, and the applicant stated that this would prove to be ineffective, due to the abutting residence being much higher than the subject tract. He informed that the abutting property owners object to any type of fence being installed that will block their view.

Protestants: None.

Board Action:

On MOTION of TYNDALL, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to APPROVE a Variance (Section 1223.3 - Use Conditions - Use Unit 1223) of the screening requirements in an IL zoned district for a 2-year period only, with a review at that time to determine if the chain link fencing is sufficient; finding that the property in question is lower than the surrounding properties and a solid screening fence will not effectively screen the warehouse; and finding that the property abuts vacant land on the north, Highway 169 to the west, and the residents to the east oppose the construction of a fence that will block their view; on the following described property:

The NW/4, NW/4, SW/4, Section 32, T-21-N, R-14-E, less 2.46 acres for highway right-of-way and less the east 155' of the north 482.55' and less the east 193' of the south 178' and less the west 140' and east 333' of the south 145' and less the south 20' for right-of-way, less the south 300' of Lot A, Tulsa County, Oklahoma.

Case No. 816

Action Requested:

Appeal - Section 1650 - Appeals from the County Inspector - Use Unit 1225 - Request an appeal from the decision of the Building Inspector in not allowing for an existing scrap metal processing business in an RS zoned district.

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Case No. 816 (continued)

Use Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1227 - Request a use variance to allow for an existing scrap metal processing business in an RS zoned district, located 5785 South 100th West Avenue.

Presentation:

The applicant, L. L. Israel, was represented by Jim Munn, 222 North Main, Sand Springs, Oklahoma, who stated that the scrap metal company was existing at this location prior to the adoption of the County Code in 1980. Mr. Munn stated that company primarily processes aluminum and asked that the Board find the use to be nonconforming. He noted that a screening fence has been installed and off-street parking provided since the complaint against the business was filed. A copy of the citation (Exhibit C-1) and an ownership record (Exhibit C-2) were submitted to the Board.

Comments and Questions:

Mr. Walker asked if the old building has been replaced with a new one, and Mr. Munn informed that the old structure was replaced with a building comparable in size.

Mr. Looney inquired as to the year the business began operation, and Mr. Mann replied that it began in the 1960's.

In response to Mr. Looney's inquiry as to the distance from the business to the nearest residence, Mr. Mann informed that Mr. Israel lives in the residence to the north and Mr. Yancy lives to the south.

Ron Fields, County Inspection, stated an aerial photograph and ownership records are the primary resources used to determine the existence of a particular business. He stated that it could not be determined from an aerial what type of business is operating on the site. Mr. Fields pointed out that a legal nonconforming use cannot be enlarged without Board approval.

Protestants:

Joseph and Linda Parise, 5760 South 97th West Avenue, Tulsa, Oklahoma, stated that they have lived in the area for approximately 15 years, and that the large trucks turn on their property because the road is too narrow for them to negotiate the turn. They informed that there are explosions and a great deal of smoke when the materials are burned at night. It was pointed out that the business has become too large for the area and is polluting the nearby creek and littering the neighborhood with metal parts that fall from the trucks. Mr. Parise remarked that the area residents are also annoyed with the loud grinders and public address system used in the business. He further noted that the roads are deteriorating because of the heavy truck traffic in the neighborhood.

Case No. 816 (continued)

Barbara Doyle, 5739 South 100th West Avenue, Tulsa, Oklahoma, stated that she lives across the street and to the north of the processing business. She pointed out that the smoke, fumes and noise disrupt the peace and quiet that should be enjoyed in the country atmosphere of the community. Ms. Doyle informed that the business is still operating when she goes to bed at midnight and truck traffic is heavy at all hours.

In response to Mr. Looney's inquiry as to when the business began operation, Ms. Doyle stated that she moved to the area in 1975 and there was no activity at the smelter at that time.

Catherine Garland, 5805 South 97th West Avenue, Tulsa, Oklahoma, stated that she lives across the street from Mr. and Ms. Parise and the large trucks make large ruts on the easement in front of her home. She informed that they complained about the condition of the corner and it was reluctantly repaired. It was pointed out by Ms. Garland that the trucks block the roadway and the drivers have no regard for the residents of the area.

Charles Boyd, 9912 West 57th Street South, Tulsa, Oklahoma, informed that he lives to the north of the business in question and the south wind blows all of the fumes and smoke directly toward his residence. He informed that various metal parts are dropped along the roadway, which must be removed each time he mows. Mr. Boyd stated that he lives approximately one-fourth mile from the smelter, but can hear the noise until midnight each night.

Mr. Tyndall asked if the business has just recently begun the long hours of operation, and Mr. Boyd replied that the business has been operating days, nights and weekends for the past 30 days. Mr. Boyd also pointed out that the roads in the area are only 10' wide and too narrow for a car and truck to pass.

Gary Clark, 5505 South 97th West Avenue, Tulsa, Oklahoma, stated that he owns 30 acres in the area and has constructed a new house on his property. He pointed out that the business has expanded and is not compatible with the residential area. It was noted that structures have been replaced and there has been an increase in the amount of space used for outside storage of materials.

**Additional Comments:**

Mr. Looney asked Ron Fields to review the citation issued to Mr. Israel, and he replied that he investigated and cited (Exhibit C-1) the applicant on April 14, 1988. It was pointed out that a legal nonconforming use is not to be changed without Board of Adjustment approval, and if the nonconforming use is vacated for a period of 90 consecutive days the status as a nonconforming business is lost.

Case No. 816 (continued)

Applicant's Rebuttal:

Mr. Looney advised that it is a concern of the Board that the business has expanded since 1980, with a replacement and enlargement of buildings since that time.

Mr. Munn stated that the business has always had one furnace and only one furnace, with the same capacity, is in operation at this time. He informed that the building was replaced, but the size was not increased. Mr. Munn pointed out that the amount of metal on the lot will vary as the metal is collected and removed. He stated that the same 2 1/2 acres has always been used for the metal processing business and has not been increased.

L. L. Israel, 5958 South 45th West Avenue, Tulsa, Oklahoma, stated that he and his brother started the business in question and that he later bought his brother's portion. He informed that the business has never ceased operation. Mr. Israel stated that he has purchased the two houses to the north in order to combat a problem of vandalism and theft at the business location. The applicant explained that a large amount of smoke is emitted from the furnace during the first few minutes after a piece of metal is inserted, but after the grease is burned there is no more smoke. Mr. Israel stated that, due to an increase in the price of aluminum, a traffic problem did exist, but a parking lot has recently been installed for the customers.

Mr. Looney asked Mr. Israel if the business operates all night, and he replied that a surplus of material has accumulated and must be processed, so the business has been operating longer hours than usual.

Mr. Munn stated that it was his understanding of the Code that a building could be replaced, but not enlarged, and Mr. Looney informed that the Code allows repairs and maintenance, but not replacement.

Mr. Fields pointed out that Mr. Munn may have misunderstood the Code.

Mr. Walker asked when the new building was constructed, and the applicant replied that the old building was unsafe and was replaced approximately three years ago.

Mr. Fields stated that he was unable to find a building permit for the new structure.

Mr. Walker asked the applicant to state the number of employees the business has, and he replied that he has a larger number of employees than in previous years because all copper and brass materials are shipped out by truck.

Mr. Looney asked the applicant if he plans to expand the business into the houses to the north, and he replied that he is going to live in the house and it will not be a part of the business.

Case No. 816 (continued)

Mr. Looney stated that the business seems to have grown, which has caused a substantial increase in traffic, and liberties have been taken which may be in violation of the Code.

Mr. Jones pointed out that the burden is on the applicant to prove the business has not expanded, and stated that the Board could continue the application to allow the applicant sufficient time to obtain additional information to substantiate his case.

Mr. Looney pointed out that it is not the intention of the Board to shut down businesses, but neither is it the intention of the Board to overlook the rights of the property owners in the area.

Mr. Tyndall stated that he feels the Board could act on both the appeal and the use variance at this time.

Mr. Walker stated that it is evident that the Zoning Code has been violated, but that he is willing to give the applicant additional time to supply more information concerning the case and attempt to comply with the wishes of the surrounding property owners.

**Board Action:**

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **CONTINUE** Case No. 816 to June 21, 1988 to allow the applicant to meet with Staff and the surrounding property owners and attempt to arrive at a workable solution for the applicant, as well as the residents of the area.

**Case No. 819**

**Action Requested:**

Special Exception - Section 310 - Principal uses permitted in the agricultural district - Use Unit 1220 - Request an exception to permit a new identification sign as an accessory use in an AG zoned district under the provisions of Section 1680.

Variance - Section 320.2 (b)2 - Accessory Signs in AG and AG-R Districts - Use Unit 1221 - Request a variance to permit a sign larger than 32 sq. ft. of display surface area and taller in height than 15'.

Variance - Section 1221.4 - AG District Use Conditions - Use Unit 1223 - Request a variance to permit outdoor advertising and changing message sign, located NW/c 21st Street and Yale Avenue.

**Presentation:**

The applicant, Pat Lloyd, was represented by Denny Tuttle, Assistant Manager for Tulsa County Public Facilities Authority, who submitted a sign plan (Exhibit D-1) for a sign which will be placed at 21st and Yale. He explained that the electronic message center will clean up the visual clutter on the corner and allow professional advertising.

Case No. 819 (continued)

Comments and Questions:

Mr. Looney asked the difference between Case No. 469, which was approved in 1984, and the present request, and Mr. Tuttle replied that this sign is smaller than the one previously requested. He pointed out that the time limitation has expired for the previous approval.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Special Exception** (Section 310 - Principal uses permitted in the agricultural district - Use Unit 1220) to permit a new identification sign as an accessory use in an AG zoned district under the provisions of Section 1680; to **APPROVE** a **Variance** (Section 320.2 (b)2 - Accessory Signs in AG and AG-R Districts - Use Unit 1221) to permit a sign larger than 32 sq. ft. of display surface area and taller in height than 15'; and to **APPROVE** a **Variance** (Section 1221.4 - AG District Use Conditions - Use Unit 1223) to permit outdoor advertising and changing message sign; per sign plan submitted; finding that the sign in question is smaller than the one previously approved for the location; on the following described property:

The south 110' of the east 110' of the SE/4, SE/4 of Section 9, T-19-N, R-13-E, Tulsa County, Oklahoma, less the south 60' thereof and less the east 60' thereof.

There being no further business, the meeting was adjourned at 4:45 p.m.

Date Approved

6/21/88



Chairman