

COUNTY BOARD OF ADJUSTMENT
Meeting No. 100
Tuesday, September 20, 1988, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Looney Tyndall Walker		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, September 16, 1988 at 9:06 a.m.

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

MINUTES

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the **Minutes** of August 16, 1988 (No. 99).

UNFINISHED BUSINESS

Case No. 837

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 RS zoned district.

Variance - Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1209 - Request a variance to allow two dwellings (1 house, 1 mobile home) on one lot of record, located 36 South 65th West Avenue.

Comments and Questions:

Mr. Jones informed that Case No. 837 was approved at the last meeting, but due to a Staff error in the location of the County Board of Adjustment meeting place, the case was readvertised and new notices were sent to surrounding property owners. He stated that the case is properly before the Board at this time.

Case No. 837 (continued)

Presentation:

The applicant, John Watkins, 36 South 65th West Avenue, Tulsa, Oklahoma, was present.

Protestants: None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **REAFFIRM** the previous approval of a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a mobile home in an RS zoned district; and a **Variance** (Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1209) to allow two dwellings (1 house, 1 mobile home) on one lot of record; subject to the mobile home being located on the west portion of the lot; subject to the mobile home remaining on the property only during the life span of Mr. Watkins' mother-in-law and being occupied by her only; subject to the mobile home being tied down and skirted; and subject to Building Permit and Health Department approval; finding that there are other mobile homes in the neighborhood and the granting of the requests will not be detrimental to the area, but will be in harmony with the spirit and intent of the Code; on the following described property:

The south 54' of Lot 4, Block 1, Twin Cities Addition, Tulsa County, Oklahoma.

Case No. 839

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 RS zoned district.

Presentation:

The applicant, Myrtle Chambers, 10836 West 51st Street, Sand Springs, Oklahoma, requested permission to locate a mobile home on the property at the above stated address. She stated that the house that was previously on the lot has been removed and replaced with the mobile home.

Comments and Questions:

Mr. Looney asked if water is available, and the applicant replied that water is supplied to the area by Sapulpa.

In response to Mr. Looney's inquiry as to who will reside in the mobile home, Ms. Walker stated that she will live in the mobile.

Mr. Walker remarked that he is familiar with the area and is supportive of the application.

Case No. 839 (continued)

Protestants: None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a mobile home in an RS zoned district; finding that the mobile home will be compatible with the area, and that the granting of the special exception request will not violate the spirit and intent of the Code; on the following described property:

The E/2 of Lot 4, Block 2, Buford Colony 2nd Addition, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 842

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 RS zoned district, located 1701 East 65th Street North.

Presentation:

The applicant, Beatrice Orcutt, 1701 East 65th Street North, Tulsa, Oklahoma, stated that she has health problems and is in need of someone to assist in her care. She asked the Board to allow her daughter to install a mobile home on the property next door to her home.

Comments and Questions:

Mr. Alberty asked if there are other mobile homes in the area, and the applicant answered in the affirmative.

Protestants: None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to, to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a mobile home in an RS zoned district; finding that there are other mobile homes in the area, and that the granting of the special exception request will not be detrimental to the neighborhood; on the following described property:

The east 10' and the north 60' of the west 140' of the south 210' of the northwest 10 acres of Lot 2, Section 6, T-20-N, R-13-E, Tulsa County, Oklahoma.

Case No. 843

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of lot width from 200' to 160', located 9229 East 86th Street North.

Presentation:

The applicant, Clyde Williams, 9227 East 86th Street North, Owasso, Oklahoma, stated that he was before the Board in 1985 to request a variance of lot width in order that a lot could be split off for his daughter. He explained that the property has now been surveyed and it was discovered that the boundary line of the adjoining lot is approximately 6" from the foundation of his house. Mr. Williams requested approval of the variance to move the boundary farther from his home.

Comments and Questions:

Mr. Alberty remarked that there are lots across the street to the south which have less than the required 200' frontage.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** (Section 330 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of lot width from 200' to 160'; finding that there are other lots in the area that have less than the required 200' frontage; and finding that the granting of the request will not cause substantial detriment to the public good or impair the spirit, purposes and intent of the Code; on the following described property:

The east 200' of the south 561' of the SE/4, SW/4, Section 24, T-21-N, R-13-E, Tulsa County, Oklahoma.

Case No. 844

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 RS zoned district, located 813 Long Street.

Comments and Questions:

Mr. Jones submitted to the Board minutes from the Sand Springs Board of Adjustment meeting, and a letter recommending approval (Exhibit X-1) of the application, subject to County Health Department requirements and the installation of tie-downs and skirting.

Case No. 844 (continued)

Presentation:

The applicant, Jimmy Lewis, 813 Long Street, Sand Springs, Oklahoma, was represented by Bruce Lewis, who explained that the applicant is requesting to move a mobile home on the property at the above stated location. He informed that there are currently several mobile homes in the neighborhood, and asked the Board to approve the request.

Comments and Questions:

Mr. Looney asked where the mobile home will be placed on the lot, and Mr. Lewis informed that it will be installed directly in front of the existing house, which will be demolished at a later date.

Mr. Alberty asked if there will be two dwelling units on the property at the same time, and Mr. Lewis replied that there will not be two dwellings on the lot, as the house will be vacated and removed when the mobile is installed.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a mobile home in an RS zoned district; subject to Health Department approval and Building Permit; and subject to the installation of tie-downs and skirting; finding that there are a number of mobile homes in the area, and that the granting of the special exception request will not be detrimental to the neighborhood; on the following described property:

The west 41' of Lot 3, all of Lot 4, Block 2, Halls Garden Addition, Tulsa County, Oklahoma.

Case No. 845

Action Requested:

Variance - Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206-1209 - Request a variance to allow four (4) dwellings on one (1) lot of record in an AG zoned district, located north and east of NE/c West 41st Street and 225th West Avenue.

Presentation:

The applicant, John D. Porter, Route 2, Box 536-B, Sand Springs, Oklahoma, submitted a plat of survey (Exhibit C-1), and stated that he is the owner of the property in question. He explained that one of his sons already lives on the tract and a second son may move there in the near future. He informed that a perk test has been made and approved by the Health Department.

Case No. 845 (continued)

Comments and Questions:

Mr. Alberty asked the applicant who will occupy the remaining lots, and the applicant replied that only his family will live on the property. He stated that one son presently lives in a trailer park, so he decided to get prior approval in order that he would be permitted to live on the property if a decision is made to relocate the mobile home.

Mr. Alberty asked if a mutual access has been dedicated, and Mr. Porter replied he does not have a dedicated access road since only the family lives on the tract.

Mr. Looney asked the applicant if he plans to dedicate an access road in the future, and he replied that he does not intend to dedicate an access unless some of the property is sold.

Mr. Fields stated that if the applicant deeds the lots to his children at some future date, it would be necessary to have a dedicated access road to serve the properties.

Mr. Jones stated that the applicant is not required to get a lot split since each tract is larger than 2 1/2 acres.

Mr. Walker pointed out to the applicant that a cul-de-sac turn around will be required at the end of the street if the properties are ever deeded to his children or sold.

Protestants: None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** (Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206-1209) to allow four (4) dwellings on one (1) lot of record in an AG zoned district; per plat submitted; finding that ownership of the property will remain with the applicant, and will be occupied by members of the applicant's family only; on the following described property:

Beginning 208' south of the NE/c, SW/4, SW/4, thence south 624', west 524', south 463.58', west 50', north 492.4', west 199.15', north 598.18', east 773.6' to the Point of Beginning, Section 22, T-19-N, R-10-E, Tulsa County, Oklahoma.

Case No. 846

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1205 - Request a special exception to allow for a day care center in an existing church in an AG zoned district, located 6035 West 40th Street.

Case No. 846 (continued)

Comments and Questions:

Mr. Jones informed that a special exception for the operation of a day care nursery in the Berryhill Baptist Church was approved by the Board in 1984, however, there was a question if proper notice was given by the applicant at that time. He explained that the interested parties in the case filed an appeal in District Court, which was heard by Judge Boudreau, who determined that sufficient notice was not given for Case No. 518 and referred it back to the Board of Adjustment. He informed that the previous action is void and a new request is now before the Board. Letters of protest (Exhibit A-2) were submitted.

Presentation:

The applicant, Bruce Mason, 8315 South 61st West Avenue, Tulsa, Oklahoma, submitted a packet (Exhibit A-1) containing a petition, letters of support and a location map, and stated that he is the pastor for the Berryhill Baptist Church. He informed that the day care has been in operation at the present location for approximately four years, and began as a ministry instead of a business. Mr. Mason stated that it is the objective of the church to provide safe and adequate day care, occasionally without charge, for mothers that work outside the home. It was noted by the applicant that the operation is licensed by the State for the care of 45 children, with a present enrollment of approximately 40. He stated that the playground noise seems to be the main objection of the residents surrounding the church, but pointed out that play periods are limited to specific hours during the day. Mr. Mason stated that it is the intent of the church to have a day care service that will grow and continue to serve working parents.

Comments and Questions:

Mr. Looney asked the applicant to state the days and hours of operation for the day care, and he replied that the center is open Monday through Friday, 6:30 a.m. to 6:00 p.m.

Mr. Looney asked if the playground is located to the east of the existing building, and Mr. Mason answered in the affirmative. He informed that interested parties to this application have asked that the playground be moved to another location, but the lateral lines for the septic system are located in the area to the front of the building.

In response to Mr. Looney's inquiry as to the use of the tract of land to the east, Mr. Mason informed that the church owns the 2 1/2 acres to the east, which is vacant.

Mr. Looney asked if the church proposes expansion on the east portion of the building, and Mr. Mason stated that the next phase of construction will be on the east end of the building, which will necessitate the relocation of the playground to the vacant lot.

Mr. Tyndall inquired if there is a problem with the septic system, and the applicant replied that he is not aware of a problem.

Case No. 846 (continued)

Mr. Mason remarked that the smaller children are confined to the fenced area, while those that are older are allowed to play on the adjoining vacant property.

Protestants:

Ed Poston, 7335 South Lewis, Suite 204, Tulsa, Oklahoma, submitted a drawing (Exhibit A-4) and stated that he is representing three of the five residents that own lots abutting the church property. He informed that the church was constructed in 1973 approximately 20' from the residential property line, with City Board of Adjustment approval. Mr. Poston pointed out that application was made for the existing day care in 1984 and only one of the residential property owners was notified. He stated that the day care has grown and produces a great amount of noise, trash and excess traffic. It was noted that access to the back yards of the abutting properties has been cut off and six large air conditioning units are in operation within 15' to 20' of three residences. He stated that three of the abutting landowners are present to point out some of the ways the day care center has adversely affected their property. Photographs (Exhibit A-3) were submitted.

Comments and Questions:

Mr. Alberty inquired if there is an easement along the back property line for access to the back yards, and Mr. Poston replied that there is no easement.

Mr. Alberty stated that it seems the residents were merely using the church property for access to their back yards, and Mr. Poston pointed out that they used the property for access before the church bought the land.

Protestants:

Jim Clary, 6014 West 39th Street, Tulsa, Oklahoma, stated that his property adjoins the Berryhill Baptist Church property, and the day care center is a nuisance and devaluates the area property. He pointed out that the playground is approximately 20' from his property line and the children, as well as their attendants, generate a great deal of noise. Mr. Clary explained that toys are thrown over the privacy fence which was constructed in an attempt to screen his property from the noise created by the children. It was noted by the protestant that he does shift work and daytime sleeping is not compatible with the playtime hours of the day care center. Mr. Clary stated that he has spoken with Mr. Mason concerning the location of the playground and Mr. Mason agreed that he would not want a playground behind his home.

Mr. Looney asked the protestant if the relocation of the playground on the south side of the building would improve the situation, and Mr. Clary replied that he would be pleased with that solution, but that he has already suggested that to Mr. Mason and he stated that the location of the lateral lines would not permit the move.

Case No. 846 (continued)

Mr. Alberty asked Mr. Clary if he received notice of the application when the church originally located on the property, and he replied that he does not remember, but that he was aware of the fact that a church group had purchased the property. Mr. Clary stated that he did not receive notice of the existing day care and playground.

Mr. Poston informed that the property owners did receive notice of the application for church use in 1973, but only one property owner, Mr. Downing, received notice of the 1984 application.

Elmer Downing, 6002 West 39th Street, Tulsa, Oklahoma, stated that he was notified of the 1984 hearing and was in agreement with the day care center. He informed that he is now protesting because the children crossed over into his yard before he installed a privacy fence, and further noted that Mr. Mason stated that he would not want a playground adjacent to his home. Mr. Downing stated that he also works shift work and sleeps during the day, and asked the Board to deny the application.

Mr. Alberty asked Mr. Downing if he discussed the 1984 application with his neighbors, and he replied that he just assumed that they had received notice and did not discuss the issue.

Ila Wainright, 6026 West 39th Street, Tulsa, Oklahoma, stated that her family moved to the area because of the quiet neighborhood, and the tranquil atmosphere has now been interrupted by the noise of the day care center. She pointed out that litter is always on the ground around the church trash containers that are directly behind her property. Ms. Wainright stated that the children throw rocks in the back yard, which have to be removed before the grass is mowed. She pointed out that the church driveway is very close to the property line and dust is a problem for the neighbors.

Mr. Looney asked Ms. Wainright if the relocation of the playground would be of any benefit to her, and she stated that she is opposed to the location of the playground on the west side of the property, which would be behind her home. Ms. Wainright noted that a church bus is blocking the entrance to her back yard now, and she doesn't want more problems to contend with.

Mr. Poston stated that the protestants are not opposed to a day care operation, but request that it be compatible with the neighborhood.

Applicant's Rebuttal:

Mr. Mason stated that he is a lifetime resident of Berryhill and wants to be a good neighbor to the property owners in the area. He pointed out that the air conditioning units are on church property and run only during the time the day care center is open. It was noted by Mr. Mason that Berryhill is growing and progress changes the area.

Case No. 846 (continued)

Additional Comments:

Mr. Looney remarked that the playground seems to be the main item of controversy. Mr. Mason stated that the playground could be moved to the vacant property owned by the church, but it would be quite a distance from the building.

Mr. Alberty advised that the church is required by the Code to provide a hard surface driveway, which will alleviate the dust problem in the area.

Mr. Alberty inquired as to the exact hours the playground is used and the maximum number of children, and Mr. Mason replied that the playground is in use from 8:00 a.m. to 10:00 a.m., and 3:30 p.m. to 5:30 p.m. during the warm months.

June Ivey, the director of the day care center, stated that all of the children are not on the playground at the same time, but are separated into age groups, with the smaller children in the fenced playground and the older children in the open area.

Mr. Alberty asked the age of the oldest children in the day care center, and Mr. Mason replied that children are accepted through the sixth grade.

Mr. Mason stated that they made a mistake in the notification of the surrounding property owners in 1984, but that the church wants to be a good neighbor and will be willing to work with the residents in the area.

Mr. Poston stated that the trash, noise from the air conditioning units, and noise from the playground are the three issues that should be addressed in this application.

Mr. Mason stated that he will enclose the trash containers, which will take care Ms. Walnright's problem with litter around the back of her home.

Mr. Walker asked if the bulk of the noise is coming from the four-year-olds in the enclosed area, or the twelve-year-olds playing in the open area.

Mr. Clary stated that the bulk of the noise is caused by children from four to eight years of age around the enclosed playground area.

After a lengthy discussion it was the general consensus of the Board that church and day care use is an appropriate use for the area, and a recommendation was made by Mr. Alberty that the church and the neighbors be allowed additional time to work out a solution to the playground location that will be satisfactory to everyone involved.

Mr. Walker pointed out that the Board will then review the conditions agreed upon by the applicant and the protestants.

Case No. 846 (continued)

Mr. Jones informed that Judge Boudreau has set a date for another hearing with the applicant and protestants after this meeting, but feels that he would be amenable to a continuance if those involved need additional time to work out a solution to the problem.

Mr. Tyndall pointed out that the church has enough available land to relocate the playground and solve the noise problem for the neighbors.

Mr. Eller stated that Mr. Mason has agreed to enclose the trash containers and fencing could also be considered for the air conditioning units.

Mr. Poston stated that the church and the abutting property owners are at an impasse, but after conferring with his clients, he stated that they are agreeable to further discussion with the church, and a continuance of the case until October 18, 1988.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 846 to October 18, 1988, in order that the applicant and the protestants can reach a mutual agreement on conditions for the operation of the day care center, and the relocation of the playground.

Case No. 847

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to allow a Use Unit 17 (automotive sales and restoration) in a CS zoned district, located SE/c 81st West Avenue and Charles Page Boulevard.

Presentation:

The applicant, Don Gammon, 19407 West Highland Drive, Sand Springs, Oklahoma, submitted a plat (Exhibit B-1), and asked the Board to allow automobile sales and restoration of antique cars in an existing building at the above stated location. It was noted by the applicant that approximately 12 antique will be displayed on the lot.

Interested Parties:

A letter (Exhibit B-2) recommending approval of the application was submitted by the Sand Springs Board of Adjustment.

Case No. 847 (continued)

Comments and Questions:

Mr. Alberty inquired if all automobiles on the lot will be operable, and the applicant stated that all automobiles will be completely restored inside the building, which could take six months, and will then be moved outside to the sales lot.

Mr. Alberty asked if all cars on the sales lot will be operable, and Mr. Gammon answered in the affirmative.

Mr. Looney inquired as to the days and hours of operation, and the applicant replied that the business will be open six days each week, 9:00 a.m. to 7:00 p.m.

In response to Mr. Looney's inquiry as to other similar sales operations in the area, the applicant noted that there is a similar business one door away, with several located along Charles Page Boulevard.

Mr. Walker stated that he is familiar with the proposed location of the automobile sales business, and that the use would be compatible with the other businesses in the area.

Mr. Fields asked if screening will be erected on the south property line, and Mr. Alberty replied that there has been no request to waive the screening, so the applicant will be required to screen according to Code requirements.

Protestants: None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** (Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217) to allow a Use Unit 17, automotive sales and restoration, in a CS zoned district; subject to no outside storage of inoperable vehicles; and subject to all work being completed inside the building; finding that there are similar businesses operating in the area, and the granting of the special exception request will not be detrimental to the area; on the following described property:

Lots 5, 6, 7 and 8, Block 2, Second Lake Subdivision, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:35 p.m.

Date Approved

10/18/88


Chairman

09.20.88:100(12)