

COUNTY BOARD OF ADJUSTMENT
Meeting No. 113
Tuesday, October 17, 1989, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

| MEMBERS PRESENT | MEMBERS ABSENT | STAFF PRESENT | OTHERS PRESENT |
|---------------------------|-----------------------|---------------------------|--|
| Eller Looney Walker | Alberly Tyndall | Gardner Jones Moore | Ron Fields, Building Inspection Steve Andrew, 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, October 13, 1989 at 10:16 a.m.

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

MINUTES

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberly, Tyndall, "absent") to **APPROVE** the **Minutes** of September 19, 1989 (No. 112).

UNFINISHED BUSINESS

Case No. 905

Action Requested:

Variance - Section 206 - Number of Dwellings on a Lot - Use Unit 1206 - Request a variance to allow for two dwellings (1 house, 1 mobile home) on one lot of record, located 720 East 77th Place North.

Comments and Questions:

In a brief review of the case history, Mr. Jones stated that the application was originally heard and denied in July of this year. He pointed out that the Board's decision was apparently based on the large number of protestants which were in opposition to the application. Mr. Jones stated that during a discussion after the meeting, it was discovered that the protestants had a misconception of the intent of the applicant. He informed that, since the case had already been denied, Ms. Swanson filed an appeal in District Court and Judge Peterson referred the case back to the Board for a rehearing. He pointed out that Mr. Smith, counsel for the applicant, has obtained letters of support from the former protestants. It was noted that the lot in question is one of the larger lots in the area.

Case No. 905 (continued)

Presentation:

The applicant, **Maxine Swanson**, 707 East 77th Place North, Sperry, Oklahoma, was represented by **Robert Smith**, 1718-A South Cheyenne, Tulsa, Oklahoma. He stated that the applicant currently has a mobile home on the premises, along with a house on braces, which will be permanently installed if the application is approved. Mr. Smith informed that the mobile home is presently occupied, and his clients will live in the home after renovation. It was noted that two septic systems are located on the property, and Mr. Smith pointed out that there are numerous lots in the area that have more than one dwelling unit. A location map (Exhibit A-1) was submitted.

Additional Comments:

Mr. Walker asked Mr. Smith if the house was purchased after the previous denial, and Maxine Swanson, 707 East 77th Place North, Tulsa, Oklahoma, stated that a permit was granted for the placement of the mobile home on the property, and they then decided to purchase a house.

Mr. Eller asked if there will be immediate and permanent installation of the house if the application is approved, and Mr. Smith answered in the affirmative.

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Tyndall, "absent") to **APPROVE** a **Variance** (Section 206 - Number of Dwellings on a Lot - Use Unit 1206) to allow for two dwellings (1 house, 1 mobile home) on one lot of record; subject to Health Department approval and a Building Permit; finding that there are numerous lots in the area with more than one residence; and finding that the lot is large enough to accommodate two dwellings, and the granting of the variance request will not violate the spirit, purposes and intent of the Code; on the following described property:

Lot 2, Block 2, Cedar Hills 2nd Addition, Tulsa County, Oklahoma.

Case No. 927

Action Requested:

Special Exception - Section 410 - Permitted Uses in the Residential Districts - Use Unit 1209 - Request a special exception to allow a mobile home in an RS zoned district.

Variance - Section 430.1 - Bulk and Area Requirements in the Residential Districts - Request a variance of the required 60' of lot width to 55' and of the required 6900 sq ft of lot area to 2750 sq ft, located 7115 West 60th Street South.

Case No. 927 (continued)

Presentation:

The applicant, **Bobby Burrow**, was not present.

Comments and Questions:

Mr. Jones stated that he has spoken to the applicant by phone, and Mr. Burrow indicated that he wanted to withdraw the application. At that time, Mr. Jones stated that he informed Mr. Burrow that a letter of withdrawal would be needed for the file; however, the applicant has made no further contact with Staff.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Tyndall, "absent") to **STRIKE** Case No. 927.

NEW APPLICATIONS

Case No. 931

Action Requested:

Variance - Section 207 - Street Frontage Required - Request a variance of the required 30' of frontage for access to 0' in an AG zoned district, located west of 145th East Avenue, South of 171st Street South.

Presentation:

The applicant, **W. R. Breckenridge**, 14845 East 181st Street South, Leonard, Oklahoma, submitted a plot plan (Exhibit B-2), and explained that the property in question is an interior tract that was set up as a trust for him by his mother. A percolation report (Exhibit B-1) was submitted.

Comments and Questions:

Mr. Looney asked how long the lot has been in existence, and the applicant replied that it has been in existence approximately one year, with the road being finished in late summer. Mr. Looney asked if the road easement is on the west side of the tract, and Mr. Breckenridge replied that the road access is to the east on 145th East Avenue.

Mr. Jones pointed out that a lot split was not required, because the tract is larger than 2 1/2 acres, but a Building Permit will not be issued because the lot does not meet the Zoning Code Requirement regarding required street frontage.

Mr. Gardner advised that the purpose of the ordinance is to assure that a property owner will always have access to their property. He further noted that the purpose of filing an easement is not only for the benefit of the present owner, but it will provide legal access to the property for any future owners.

Case No. 931 (continued)

Mr. Walker pointed out that the easement does not extend to the subject property, but is only along the east west boundary, and does not turn south to Mr. Breckenridge's tract.

There was Board discussion concerning the easement, and Mr. Gardner advised that, if inclined to approve the application, the Board could make the approval subject to the filing of an access easement providing access from 145th East Avenue to the property in question.

Mr. Looney asked the applicant if there is an existing house on the property, and he replied that the property is vacant at this time, but a dwelling is proposed.

Protestants: None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Tyndall, "absent") to **APPROVE** a **Variance** (Section 207 - Street Frontage Required) of the required 30' of frontage for access to 0' in an AG zoned district; subject to the filing of a private access easement from 145th East Avenue to the subject property; finding that the property is landlocked and an easement is required for street access; on the following described property:

The SW/4, NW/4, NE/4, SE/4 and SW/4, NE/4, SE/4, Section 33, T-17-N, R-14-E, Tulsa County, Oklahoma.

Case No. 932

Action Requested:

Variance - Section 240.2(d) - Permitted Yard Obstruction - Use Unit 1206 - Request a variance of the 750 sq ft maximum for a detached accessory building to permit 1200 sq ft, located north of the NE/c of Town and Country Drive and the Burlington-Northern Railroad.

Comments and Questions:

Mr. Jones informed that Staff has received a letter (Exhibit C-2) from the Sand Springs Board of Adjustment, which recommended approval of the application.

Presentation:

The applicant, **Ester Harger**, 21211 West 8th Street, Sand Springs, Oklahoma, who submitted a plot plan (Exhibit C-3) and plat of survey (Exhibit C-1), stated that her company will construct the accessory building for the owner, Mr. Cannon.

Owen Cannon, 1819 Town and Country Drive, Sand Springs, Oklahoma, stated that he has combined two lots and is having a house constructed on the property. He informed that a 30' by 40' building, 14' in height, is also proposed for storage of a motor home and garden tractor. He explained that the accessory building will be located 30' from the south property line and 10' from the east boundary.

Case No. 932 (continued)

Additional Comments:

In response to Mr. Looney's inquiry as to the location of the storage facility, the applicant stated that it will be located on the southeast corner of the property.

Mr. Looney asked if a smaller facility would provide sufficient space for storage of the motor home and tractor, and the applicant stated that he also stores two other motor homes belonging to family members across the street.

In response to Mr. Eller, the applicant stated that the storage building will have water, electricity and one rest room.

Mr. Looney inquired if any type of commercial activity will be conducted in the building, and the applicant replied that the building will only be used for storage.

Protestants: None.

Board Action:

On **MOTION** of WALKER, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Tyndall, "absent") to **APPROVE** a **Variance** (Section 240.2(d) - Permitted Yard Obstruction - Use Unit 1206) of the 750 sq ft maximum for a detached accessory building to permit 1200 sq ft; per plot plan submitted; subject to no commercial activity being conducted in the building; and subject to the building being located 30' from the south property line and 10' from the east property line; finding that the large lot has sufficient space to accommodate the 1200 sq ft accessory building; and that the granting of the request will not be detrimental to the area, or violate the spirit, purposes or intent of the Code; on the following described property:

Tract A

A tract of land described as follows: Beginning at a point being 753.19' S 0°03' E of the NE/c of the SE/4 of the SW/4 of Section 8, T-19-N, R-11-E, Tulsa County, State of Oklahoma, thence N 89°46' W, a distance of 200'; thence S 0°03' E, a distance of 123'; thence S 89°46' E, a distance of 200'; thence N 0°03' W, a distance of 123' to the Point of Beginning, containing .56 acres more or less.

Tract B

A tract of land described as follows: Beginning at a point being 876.19' S 0°03' E of the NE/c of the SE/4 of the SW/4 of Section 8, T-19-N, R-11-E, Tulsa County, State of Oklahoma; thence N 89°46' W, a distance of 200'; thence S 0°03' E, a distance of 123'; thence S 89°46' E, a distance of 200'; thence N 0°03' W, a distance of 123' to the Point of Beginning, containing .56 acres more or less, Tulsa County, Oklahoma.

Case No. 933

Action Requested:

Variance - Section 207 - Street Frontage Required - Request a variance of the required 30' of frontage on a public or dedicated street, located east and south of the southeast corner of Highway 97 and West 41st Street.

Comments and Questions:

Mr. Jones submitted a letter (Exhibit D-3) from the Sand Springs Board of Adjustment, recommending approval of the application.

Presentation:

The applicant, **Steve Clement**, 1217 South Braden, Tulsa, Oklahoma, stated that his property is landlocked, being separated from 41st Street on the north by property owned by a development corporation. He explained that the corporation has filed plans with the City of Sand Springs, which depict proposed roadways (Exhibit D-2) on the property. It was noted by the applicant that the development corporation and the City of Sand Springs have granted easements (Exhibit D-1) across their property to allow him access to 41st Street. Mr. Clement explained that the easement was only secured along the east boundary of the abutting property to the north, since he owns the remaining property on the south, east and west of the subject tract.

Additional Comments:

Mr. Looney asked the applicant if he objects to filing an additional easement to allow access from the east property line to the subject tract, and he replied that he does not object to filing the additional easement.

Mr. Eller asked if a septic system will be installed for sewage disposal, and Mr. Clement answered in the affirmative.

Protestants: None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Tyndall, "absent") to **APPROVE** a **Variance** (Section 207 - Street Frontage Required) of the required 30' of frontage on a public or dedicated street; subject to the filing of an access easement from 41st Street to the subject property; subject to a Building Permit and Health Department approval; finding that the subject property is landlocked, with no frontage on a public street; on the following described property:

A tract of land in the SE/4, NW/4, of Section 25, T-19-N, R-11-E, Tulsa County, Oklahoma, being more particularly described as follows:

Case No. 933 (continued)

Commencing at the NE/c of said SE/4, NW/4; thence N 89°04'56" W along the north line of said SE/4, NW/4 a distance of 409.77' to the Point of Beginning; thence continuing N 89°04'56" W a distance of 775.21'; thence S 23°16'17" E a distance of 539.60'; thence N 64°15'11" E a distance of 626.48'; thence N 0°38'30" W a distance of 211.15' to the Point of Beginning, containing 5.7547 acres, more or less. Subject to easements and rights-of-way of record, Tulsa County, Oklahoma.

Case No. 934

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in the Residential Districts - Use Unit 1209 - Request a special exception to allow a mobile home in an RS zoned district, located 1005 West 8th Street.

Presentation:

The applicant, **Mike Porter**, 705 East 7th Court, Sand Springs, Oklahoma, stated that he purchased the subject property and planned to construct a house; however, was not able to build, due to economical reasons. He stated that the bank has approved a loan for the purchase of a mobile home, and asked the Board to allow temporary installation of the unit on the property. A letter (Exhibit E-1) from the City of Sand Springs recommended approval of the application.

Comments and Questions:

Mr. Looney asked if there are other mobile homes in the area, and he replied that there are approximately five mobile homes in the general vicinity.

Mr. Looney asked how long the mobile home will be located on the property, and the applicant replied that the mobile will be removed when the house is constructed, which will be approximately four or five years. He noted that there was an existing house on the property at the time of purchase, which has been removed.

Protestants: None.

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Tyndall, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in the Residential Districts - Use Unit 1209) to allow a mobile home in an RS zoned district for a period of 5 years **only**; subject to Health Department approval and Building Permit; finding that there are other mobile homes in the area and finding the temporary use will not be detrimental to the neighborhood; on the following described property:

Lot 6-B, Block 11, Charles Page Acres No. 2, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 914

Action Requested:

Detail site plan review.

Comments and Questions:

In review of the case, Mr. Jones pointed out that the Board has previously approved a theme park with a variety of uses, and the applicant was to return with a detail site plan before beginning any new construction. He noted that all interested parties that were in attendance at the previous meeting have been notified of this hearing.

Presentation:

Ted Allen, 19600 South Memorial, Bixby, Oklahoma, submitted a detail site plan (Exhibit F-2) depicting the location of various buildings and activities for the theme park. He stated that the property has been under his ownership since 1946, and assured the Board that he will only construct buildings on property that he owns, none of which will be closer to the surrounding properties than those presently existing. Mr. Allen pointed out that the parking spaces for the theme park will be located on both sides of the driveway, and six or seven new wood-frame buildings will be constructed on the property. He stated that a chuck wagon dinner and music show will be available to ranch guests. It was noted that approximately 80% of the business activity is made up of church or youth groups, with a few company parties being conducted. Mr. Allen pointed out that alcoholic beverages will not be sold at the ranch, and mechanical equipment will not be used. It was noted that the animal park is in a floodplain and construction will not be permitted in this area. He pointed out that he will be operating the same type of business that that has been in operation at this location for the past 10 years, except the park will be open all year, instead of the previous nine-month period. A plan schedule (Exhibit F-1) was submitted.

Comments and Questions:

Mr. Looney asked the applicant if he has reviewed the proposal with the surrounding property owners, and he stated that there has been no opposition to the proposal, other than the Mundings.

Mr. Walker inquired as to the motocross track, and Mr. Allen stated that it has been at the present location for approximately 10 years, and will not be expanded.

In response to Mr. Looney's inquiry concerning a construction date, Mr. Allen replied that he is proposing to enclose and enlarge the Desparado Den immediately, and construct the other buildings as funds become available. The applicant stated that he has rented the adjoining Cooper land in the past, but if it is no longer available, all activities can be conducted on his own property.

Case No. 914 (continued)

Mr. Jones pointed out to the Board that the theme park and uses have already been approved, and the issue at hand is the layout for the use.

Protestants:

Ruth Munding, 3703 South Victor, Tulsa, Oklahoma, stated that she owns land that adjoins the Allen property, and pointed out that Mr. Allen only owns 117 acres that are available for use as a theme park. She pointed out that she has spoken with the neighbors in the area, and found that they are not supportive of the the park, but felt that protesting the application would not halt the construction. Ms. Munding noted that the parking lot is not large enough to accommodate two or three thousand patrons, which was the attendance at a rock concert (Exhibit F-3) held on the property in 1986. She further pointed out that Mr. Allen was issued a beer license in 1984, and questioned the statement made by the applicant concerning the sale of alcohol on the premises. Ms. Munding stated that the existing lagoon system will be inadequate to serve the park's need for sewage disposal.

Mr. Looney pointed out that the Board can only consider the detail site plan depicting the location of the various buildings. Ms. Munding stated that it is her determination that all of the facts were not presented to the Board at the previous meetings concerning the case.

Mr. Jones pointed out that the City/County Health Department regulates the approval of the sewage disposal system.

Mr. Looney asked Ms. Munding if she has any objection to the location of the buildings on the property, and she replied that she does not have an objection to the buildings.

Linus Munding, 3703 South Victor, Tulsa, Oklahoma, stated that he has spoken with a representative of the Health Department and was informed that the existing lagoon is barely adequate for the park as it now stands.

Mr. Looney stated that the lagoon system is not an issue that is before the Board at this time, but is under the jurisdiction of the Health Department.

Mr. Munding pointed out that Mr. Allen has not received a building permit for any construction on the subject property. Mr. Munding asked if the special exception will run with the land, and Mr. Jones replied that the approval will run with the land, and any subsequent owner could operate a theme park on the property. He further noted that many of the existing uses on the subject property are non-conforming; however, since a non-conforming use cannot be expanded, the applicant had to seek relief from the Board before constructing addition buildings on the property.

Case No. 914 (continued)

Robin Shelton, 251 East 54th Place North, Tulsa, Oklahoma, stated that she is concerned with the Cooper property, and asked where the hayrides will be conducted and if there will be a curfew placed on the activities. Mr. Looney stated that the hours of the operation were not mentioned in the previous approval, and asked Ms. Shelton if she objects to the location of the buildings on the site plan. She replied that she does not object to the buildings if the entire operation is contained on the Allen land, but feels that 2000 cars cannot be parked on the subject property without overflowing onto the roadway. Ms. Shelton asked if the parking area will be paved, and Mr. Jones pointed out that the Board granted a variance at a previous meeting to allow the applicant to have an unpaved parking area.

There was discussion concerning wild animals that might be kept in the park, and Mr. Jones pointed out that there is a portion of the Zoning Code that specifically deals with the requirements for animals that are considered to be wild and exotic.

Mr. Looney summarized by pointing out to the protestants that Mr. Allen can continue to operate the Allen Ranch, without Board approval, as he has in the past; however, he is required to have Board approval if the operation expands or new buildings are constructed.

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Tyndall, "absent") to **APPROVE** the detail plot plan, as submitted.

There being no further business, the meeting was adjourned at 2:55 p.m.

Date Approved

Nov. 21, 1989

Wayne Alberty
Chairman