

**COUNTY BOARD OF ADJUSTMENT**

MINUTES of Meeting No. 176

Tuesday, January 19, 1995, 1:30 p.m.

County Commission Room

Room 119

County Administration Building

**MEMBERS PRESENT      MEMBERS ABSENT      STAFF PRESENT      OTHERS PRESENT**

Alberty  
Eller  
Tyndall, Chairman  
Walker

Looney

Gardner  
Moore  
Russell

Glenn, Building  
Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Monday, January 18, 1995, at 11:28 a.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the **Minutes** of December 20, 1994 (No. 175).

**Comments and Questions:**

Mr. Glenn advised that all applications are subject to a flood hazard review; however, these reviews are not available at this time.

**NEW APPLICATIONS**

**Case No. 1319**

**Action Requested:**

Special Exception to permit automobile sales in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located 4918 West 21st Street South.

**Presentation:**

The applicant, **James Madewell**, was represented by **Kelly Knowlton**, 4818 West 30th Street, who informed that he and Mr. Madewell are proposing to operate a used car lot at the above stated location. He noted that there will be no inoperable vehicles on the lot, and probably no more than two cars will be displayed for sale.

Case No. 1319 (continued)

**Comments and Questions:**

Mr. Tyndall inquired as to the use of the lot at this time, and Mr. Knowlton stated that it is vacant.

In response to Mr. Alberty, the applicant stated that there will be a maximum of six cars on the lot at any given time.

**Interested Parties:**

**Bill Watts**, 2138 South 49th West Avenue, noted that the address on the hearing notice and the case map do not correspond. He stated that it appears that junk cars are on the subject property at this time.

Ms. Russell clarified that the wrong address was mailed out with the hearing notice; however, the correct legal description was advertised. She explained that only the narrow lot that fronts on 21st Street is under application.

The applicant stated that there are no junk cars or salvage of any type on his lot.

Mr. Alberty informed that he site checked the area and the use is predominately heavy industrial and automobile sales would not be an inappropriate use.

**Board Action:**

On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** a **Special Exception** to permit automobile sales in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17; subject to a maximum of six cars displayed on the lot; finding that there are mixed zoning classifications in the area and car sales will be compatible with the surrounding uses; on the following described property:

Beginning 165' west and 50' south of the NE/c, NE/4, south 214', west 55', north 214', east 55' to beginning, Section 17, T-19-N, R-12-E, Tulsa County, Oklahoma

**Case No. 1320**

**Action Requested:**

Variance of the maximum 750 sq ft for a detached accessory building - **SECTION 240.2.E. Permitted Yard Obstructions** - Use Unit 6, located 6110 West 41st Street South.

Case No. 1320 (continued)

**Comments and Questions:**

In reply to Mr. Alberty, Ms. Russell clarified that the case map depicts that a 10-acre tract is under application, however, the application is limited to one acre (NW/c of site).

**Presentation:**

The applicant, **Billy Richardson**, 6110 West 41st Street South, submitted a plot plan (Exhibit A-1) and requested permission to construct a garage on his property. He informed that the building will be used to park his personal vehicles.

**Comments and Questions:**

In reply to Mr. Tyndall, Mr. Richardson stated that the new garage will be 30' by 40' and there are two small portable storage buildings (8' by 10' and 8' by 12') on the property.

Mr. Tyndall asked if any type of commercial activity is proposed, and the applicant stated that the building will not have water, gas or electricity and will be used for personal storage only.

In response to Mr. Tyndall, Mr. Richardson stated that the building will be constructed of steel and will have concrete flooring.

In reply to Mr. Alberty, the applicant informed that a 20' open canopy will be attached to the building.

Mr. Gardner asked if the building will have a pitched roof, and the applicant answered in the affirmative.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **ELLER** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** a **Variance** of the maximum 750 sq ft for a detached accessory building - **SECTION 240.2.E. Permitted Yard Obstructions** - Use Unit 6; per plan submitted; subject to the applicant acquiring a building permit; and subject no commercial activity on the premises; finding that the lot is large enough to support the proposed 30' by 40' building, and approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Beginning 40' east NW/c NW/4, NE/4, NW/4, thence east 132', south 330.84' to POB less north 50' for road, Section 29, T-19-N, R-12-E, Tulsa County, Oklahoma.

**Case No. 1321**

**Action Requested:**

Special Exception to permit a mini-storage in a CS zoned district - **SECTION 710. PRINCIPAL USES IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located northwest corner 86th Street North and North Yale Avenue.

**Presentation:**

The applicant, Kathryn Tumleson, Route 1, Box 512, Sperry, Oklahoma, submitted a plot plan (Exhibit B-1, and requested permission to construct a mini-storage facility on the subject tract. She informed that the first phase is proposed at this time, and future expansion could take place if the business is successful.

**Comments and Questions:**

In reply to Mr. Tyndall, the applicant stated that the buildings will be of metal construction.

In reply to Mr. Gardner, the applicant informed that a field is directly north, with a house farther north, and a chain link fence with slats is proposed for that property line.

**Protestants:**

Gene Palmer stated that he lives to the west of the subject tract and is opposed to the mini-storage, because the use will generate a lot of traffic in the neighborhood.

Mr. Alberty advised that CS zoning has been approved for the property, and a retail business would be permitted by right.

Mr. Palmer stated that he was not aware of the pending zoning change.

Mr. Alberty advised that platting will be required if the application is approved.

**Board Action:**

On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** a **Special Exception** to permit a mini-storage in a CS zoned district - **SECTION 710. PRINCIPAL USES IN THE COMMERCIAL DISTRICTS** - Use Unit 17; per plan submitted; subject to platting and a building permit; and subject to the installation of a 6' screening fence; finding the use to be compatible with the area, and in harmony with the spirit and intent of the Code; on the following described property:

**A tract of land beginning at the southeast corner of Section 21, T-21-N, R-13-E. thence South 88°37'41" West along the section line a distance of 333.56' to a point thence North 1°22'19" West a distance of 33' to a point; thence North 79°52'00" West a distance of 285.70' to a point; thence South 88°37'41" West a distance of 23.1' to :**

**Case No. 1321 (continued)**

point; thence North 2°00'33" West a distance of 259.10' to a point; thence due East a distance of 640.87' to a point on the East line of said Section 21; thence South 1°17'45" East a distance of 333.73' to the point of beginning, less and except approximately 1/2 acre highway right-of-way heretofore conveyed, and located on the northwest corner of E. 86th Street and North Yale Avenue, Tulsa, Oklahoma.

**Case No. 1322**

**Action Requested:**

Use Variance to permit auto storage in an AG zoned district - SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS - Use Unit 27, located 1004 East 76th Street North.

**Presentation:**

The applicant, Robert Utley, 1004 East 76th Street North, Sperry, Oklahoma, requested that a four-acre portion of his property be used for automobile storage. He explained that the area is surrounded by trees and is barely visible from the street.

Pam Utley, 1004 East 76th Street North, Sperry, Oklahoma, stated that their home is on the property and they do not have a salvage operation on their land, nor do they want one near their home.

**Comments and Questions:**

Mr. Tyndall asked if parts are removed from the vehicles, and the applicant replied that the entire car is removed if a part is needed.

Mr. Tyndall inquired as to the maximum number of stored vehicles, and Mr. Utley stated that approximately 100 cars will be stored at this location. He informed that there are 40 to 50 on the lot at this time.

In reply to Mr. Tyndall, Mr. Utley informed that the vehicles have been on the property since the time of purchase, which was approximately seven months ago. He added that the cars are lined up in an orderly fashion and there are no salvage parts on the property. Mr. Utley stated that he owns a salvage operation at another location. Photographs (Exhibit C-1) were submitted.

**Protestants:**

Glenna Long, 7128 North Peoria, noted that the neighborhood is saturated with salvage businesses, and asked that the Board deny the request for another salvage operation in this area. She pointed out that the street is narrow and cannot accommodate the heavy traffic generated by Mr. Utley's business. Ms. Long noted that the land west of the railroad track is not proposed for this type of use.

Case No. 1322 (continued)

**Maxine Capps**, 7140 North Peoria, submitted letters of opposition (Exhibit C-2) and asked the Board to protect the area and deny the request.

**Rick Brixey**, 7216 North Peoria, emphasized that there are already too many salvage operations in the area, with limited enforcement. He asked that the Board assist Turley in attempting to clean up the area by denying this request.

**Interested Parties:**

**Gene Hastings** stated that he lives on Peoria Avenue, which is across the railroad track from the subject property, and informed that he is not opposed to the storage lot at the proposed location.

**Applicant's Rebuttal:**

Mr. Utley stated that he has made a large investment in the property and is attempting to keep the cars orderly and out of sight.

Mr. Alberty explained that approval of a variance request requires a hardship finding which is not economic or financial in nature. He pointed out that the area west of the railroad is predominately residential.

**Board Action:**

On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **DENY** a **Use Variance** to permit auto storage in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 27; finding that the applicant failed to present a hardship that would warrant the granting of a variance request; and finding that the area west of the railroad is predominately residential, and that approval of the request would be detrimental to the area and violate the spirit, purpose and intent of the Code; on the following described property:

E/2, NW/4, NE/4 and W/2, SE/4, NE/4 and that part of NW/4, NE/4, NE/4 and SW/4, NE/4, NE/4 and SE/4, NE/4, NE/4 and NE/4, SE/4, NE/4, lying west of RY, Section 36, T-21-N, R-12-E, Tulsa County, Oklahoma.

**Case No. 1323**

**Action Requested:**

Variance of the required 30' of frontage on a public street - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 11910 North Harvard Avenue.

**Presentation:**

The applicant, **Carl Osborn**, 11910 North Harvard, Skiatook, Oklahoma, submitted a plat of survey (Exhibit D-1) and stated that he purchased a house on a 5-acre tract that does not have frontage on a public street. He informed that an access easement to Harvard Avenue has been acquired and filed of record.

**Richard Osborn**, 11908 North Harvard, Skiatook, Oklahoma, stated that he is the father of the applicant and has sold his son a house and five acres, which is a portion of his 80-acre parcel.

Mr. Alberty asked Mr. Osborn if he is planning to sell off other lots, and he replied that the land will remain agriculture, with no further sale of property at this location.

In reply to Mr. Alberty, Mr. Osborn stated that a 60' easement to Harvard Avenue is dedicated for access and utilities.

**Board Action:**

On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; per survey submitted; subject to a 60' easement being filed of record; finding a hardship demonstrated by the existing dwelling and the fact that the subject property and the surrounding 75 acres is family owned; on the following described property:

S/2, NW/4, NE/4, SE/4, Section 5, T-21-N, R-13-E, Tulsa County, Oklahoma.

**Case No. 1324**

**Action Requested:**

Appeal the decision of an administrative official - **SECTION 1650. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 27, located 4105 West 41st Street.

**Presentation:**

The applicant, **Carl Hopkins**, 4105 West 41st Street, was represented by attorney **Darrell Matlock**, 4410 South 33rd West Avenue. Mr. Matlock informed that he is involved in another hearing at this time and requested that Case No. 1324 be continued to February 7, 1995.

Case No. 1324 (continued)

**Protestants:**

One protestant voiced opposition to the application, but was not opposed to the continuance.

**Board Action:**

On **MOTION** of **ALBERTY** the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **CONTINUE** Case No. 1324 to February 7, 1995, as requested by counsel for the applicant..

**Case No. 1325**

**Action Requested:**

Variance of the provisions of Section IV of Ordinance No. 5 of the Tulsa County Joint Airport Zoning Board to permit a 50' television antenna to be constructed on top of an existing building 649' high - Use Unit 4, located south of the southeast corner of East 81st Street and South Lewis Avenue.

**Comments and Questions:**

Ms. Russell advised that this Board has been designated as a Board of Adjustment for the Joint Airport Authority.

**Presentation:**

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, submitted a plan (Exhibit E-1) and advised that he is representing Golden Eagle Communications and Oral Roberts University. He recommended that the Board accept the appointment to act as a Board of Adjustment for Aviation Height Obstructions for Tulsa County.

**Board Action:**

On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **ACCEPT** the appointment as Board of Adjustment for Aviation Height Obstructions for Tulsa County.

Mr. Norman advised that this application is for the construction of a 50' antenna on top of the 649' Metroplex Building, formerly the City of Faith Towers. He pointed out that the building is more than one and one-half miles to the east of the nearest airport runway. Mr. Norman stated that the Federal Aviation Administration (FAA) determined when the building was constructed that its height (649') would not constitute a hazard to air navigation or to operations at the Riverside Airport. He pointed out that the FAA requires a 300' clearance above the top of the obstruction to the traffic pattern altitude, and there will be 375' of clearance above the proposed antenna. Mr. Norman stated that the FAA made the determination July 13, 1994 that the addition of the antenna would not obstruct safe air navigation, and there was not an appeal of that decision during the 40-day appeal period, although there were



Case No. 1325 (continued)

protestants to the application. He noted that the concerned individuals did not voice specific protest at the previous hearing and are not present today. The applicant explained that it was then necessary to gain approval from the Joint Airport Zoning Board, which seldom has a need to meet, and it was determined that the County Board of Adjustment would be an appropriate Board to hear this type of application.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** a **Variance** of the provisions of Section IV of Ordinance No. 5 of the Tulsa County Joint Airport Zoning Board to permit a 50' television antenna to be constructed on top of an existing building 649' high - Use Unit 4; per plan submitted; finding that the antenna complies with FAA guidelines and would not obstruct safe air navigation; and finding that approval of the variance request would not cause substantial detriment to the public good, or violate the spirit, purpose and intent of the Code; on the following described property:

Legal description being: The South 574 feet of the West 2,066 feet of a tract of land that is part of Block One (1), "Oral Roberts University Heights 2nd Addition", an Addition of part of the Northwest Quarter (NW/4) of Section 17, Township 18 North, Range 13 East, Tulsa County, Oklahoma, said tract of land being described as follows, to-wit: BEGINNING AT A POINT on the Easterly line of said Block One (1), said point being 986.05 feet Northerly of the Southeast corner thereof; thence North 0°24'38" East along said Easterly line for 1606.51 feet to the Northeast corner of Block One (1); thence North 89°48'06" West along said Northerly line for 2549.93 feet to the Northwest corner of Block One (1); thence South 0°00'34" East along the Westerly line of Block One (1) for 1610.61 feet to a point of curve; thence Southeasterly along a curve to the left, with a central angle of 0°00'59" and a radius of 350.00 feet, for 0.10 feet to the Northwest corner of "University Village", a resubdivision of part of said Block One (1); thence South 89°53'47" East along the Northerly line of "University Village", and along an Easterly extension thereof, for 2538.15 feet to the POINT OF BEGINNING of said tract of land and being located in an *OMH* zoned district.

## OTHER BUSINESS

### Case No. 1316

#### Action Requested:

Amendment to a condition of a previous special exception approval - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located northeast corner East 61st Street North and North Cincinnati Avenue.

#### Comments and Questions:

Mr. Alberty advised that he will abstain from hearing Case No. 1316 and left the meeting room.

Ms. Russell informed that the applicant received a two-year approval for the use at the previous Board of Adjustment hearing; and has returned to request that the approval be extended for one additional year.

#### Presentation:

The applicant, **Kay Bridger-Riley**, 8908 South Yale Avenue, Suite 230, stated that their contract with the Department of Corrections is for a three-year period, which will begin July 1, 1995. She pointed out that approximately \$200,000 will be spent on the subject property and it has been determined that it will not be economically feasible to set up operation for two years. The applicant requested that the approval period be extended to three years, beginning July 1st.

#### Comments and Questions:

Mr. Tyndall asked if the number of residents will be changed, and the applicant stated that the conditions of approval will not be changed, except for the time limitation.

#### Protestants:

**Ray Bates**, 6330 North Utica, informed that he is the planning district chairman in the Turley area, and many residents are opposed to the extension of the approval period.

There was discussion concerning a required hardship for a variance request, and Mr. Gardner advised that the request is for a modification of a condition of the previously approved special exception and a hardship finding is not required.

**Jerry Quinton**, 7575 North Oakcliff Drive, noted that many residents of the area voiced opposition to the original proposal and the only positive consideration that these individuals received was the two-year limitation. He asked the Board to deny the amendment to the previous condition of approval.

Case No. 1316 (continued)

**Linda Pauley**, 320 East 61st Street North, stated that she is in agreement with the two previous speakers and asked the Board to promote harmony in the neighborhood and deny the extension.

**T. E. Jones**, 440 East 61st Street North, remarked that he is supportive of the plan, but not the location. Mr. Jones stated that he is concerned with the safety of the children in the area.

**Brad Baker** suggested that, if the approval is extended, the agency should provide armed security guards for each of the schools in the area.

**Helen Jackson**, 316 East 61st Street North, informed that she lives to the south of the proposed use and requested that the one-year extension be denied.

**Applicant's Rebuttal:**

The applicant stated that the imposed conditions were restrictive and it will not be economically feasible to renovate the facility for two years. She noted that it is also difficult to secure contracts on such a short-term basis.

**Comments and Questions:**

After discussion, It was concluded by the Board that their primary concern was compatibility with the neighborhood and that two years would be sufficient time to prove compatibility.

**Board Action:**

On **MOTION** of **WALKER** the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Looney, "absent") to **DENY** an **Amendment** to a condition of a previous special exception approval from 2 years to 3 years - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2; finding that the previously approved two-year approval will allow the use sufficient time to prove compatibility with the neighborhood; on the following described property:

SW/4, NW/4, Section 1, T-20-N, R-12-E, Tulsa County, Oklahoma.

## **Case No. 1061**

### **Action Requested:**

Clarification of Section 1680.4 - Time Limitation on Special Exception and condition to permit use for two years.

### **Comments and Questions:**

Ms. Russell informed that Mr. Tomsen requested by letter (Exhibit F-2) that Case No. 1061 be continued to the February meeting.

### **Protestants:**

Mr. Schuller informed that he is not opposed to a continuance, but the use was never started and the three years are up.. He submitted a letter (Exhibit F-1) for Board review.

### **Additional Comments:**

Mr. Alberty stated that he is not opposed to granting a continuance, but it is evident that the three-year approval has expired.

### **Board Action:**

On **MOTION** of **ALBERTY** the Board voted 4-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller, "absent") to **CONTINUE** Case No. 1061 to February 7, 1995, as requested by Mr. Tomsen.

## **Case No. 1313**

### **Action Requested:**

Board review and approval of detail site plan.

### **Comments and Questions:**

Ms. Russell informed that the Board previously approved a day care center and instructed the applicant to return with a detail site plan for final approval. She noted that this item is not listed on the agenda.

Mr. Gardner advised that this item does not require notice to the public because the Board required that the applicant return to the board with final building plans. We only learned of this item and had no way to post it on the agenda.

### **Presentation:**

The applicant, **Henry Penix**, Box 8010, Tulsa, Oklahoma, submitted a detail site plan (Exhibit G-1) for the proposed facility which was consistent with the concept plan previously approved by the Board.

Case No. 1313 (continued)

**Comments and Questions:**

In reply to Mr. Alberty, Mr. Glenn informed that the plan is in compliance with the required side yard setbacks (5' and 10').

**Board Action:**

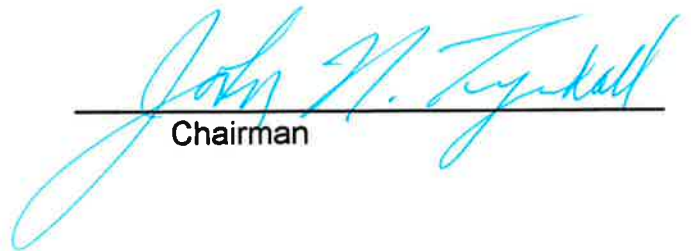
On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** the detail site plan as submitted.

**Case No. 1230 - Odean Garrison**

Report by Larry Glenn, County Inspections, on County Board of Adjustment's request to follow up on compliance with conditions of approval.

Mr. Glenn reported that the Board approved a 1200 sq ft accessory building on August 8, 1981, with the condition that all storage be inside the building. Mr. Garrison was later denied additional square footage, and the Board advised him that he was in violation of the previous approval. Mr. Glenn advised that a prosecution report was filed on May 11, 1994 and Mr. Garrison pleaded guilty to zoning violations. Mr. Glenn advised that the applicant is now in compliance with the initial conditions imposed by the Board.

Date Approved 2/7/95

  
Chairman