

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 209
Thursday, October 30, 1997, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chair Eller Tyndall Walker	Looney	Beach Huntsinger Stump	Dent, Building Inspection Glenn, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Tuesday, October 21, 1997, at 12:54 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty, Looney "absent") to **APPROVE** the minutes of September 16, 1997, (No. 208).

UNFINISHED BUSINESS

Alberty in at 1:38 p.m.

Case No. 1496

Action Requested:

Approval of a final site plan to permit a motel in an AG district fronting 21st Street as part of the activities of Expo Square. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** – Use Unit 19, located 21st Street & Toledo Avenue.

Presentation:

The applicant, **Patrick J. Lloyd**, represented by **David Hatsfeld, American Management, Inc.**, 4815 South Harvard, Suite 600, 74135, submitted site plans (Exhibit A-1) and signage plans (Exhibit A-2). Mr. Hatsfeld stated that the signage would be posted on the curbside. The signage will be 24', which is in compliance with the County Code and the City Code.

Case No. 1496 (continued)

Comments and Questions:

Mr. Beach informed the Board that today's hearing is for approval of a detailed site plan, which was to include landscaping and lighting. The applicant has submitted a packet (Exhibit A-1), which addresses all of the issues of concern.

Presentation: continued:

Mr. Hatsfeld stated that he could not find any Code requirement for lighting. He explained that he consulted with the Manhasset Corporation, which is the national consultant for lighting for the Microtel Corporation. He stated the proposed lighting would not reflect out across the street and be a hindrance to the residents. The flexible floodlights can be tilted to any degree from 0° to 90° and can be adjusted to shine into the parking lot. All of the flood lights on the perimeter parking lot will be tilted in toward the building and the actual lights around the building will be soft glow lights in the garden area, which will shine 3' out for esthetic purposes. The landscaping meets and exceeds the City Code. There will be an extensive amount of trees and grass between the parking lot area and 21st Street.

Comments and Questions:

Mr. Beach stated that his only concern with the landscaping plan is that it may or may not have enough trees in the parking lot. The applicant will be required to submit a landscaping plan at the time he applies for his building permit and if there are any deficiencies, he will have to come back to the Board of Adjustment or correct his plans.

Interested Parties:

Joe Wannamaker, Producer of the Wannamaker's Gun and Knife Show, stated he is concerned with how the hotel building will accommodate the loss of the parking spaces currently existing. He expressed concerns with the landscaping as well.

Applicant's Rebuttal:

Pat Lloyd stated that there will be a loss of approximately 230 parking spaces when the Microtel is built. He indicated that the present inventory of parking spaces is 6,000. The Authority is currently working with Tulsa Baseball, Inc. ownership to effect a paving program for the race track infield, which would add a total of approximately 1700 new paved spaces, plus 1500 spaces available on the race track surface for a total of 3500 new spaces. The new spaces will be quite removed from the Exposition Center and the Authority is considering using shuttles to move people to and from their cars. Landscaping will not have a bearing on the parking inventory.

Additional Comments:

In response to Mr. Wannamaker, Mr. Lloyd stated that the 230 parking spaces would be inclusive of the hotel guests and employees.

Mr. Alberty informed Mr. Wannamaker that the hotel issue has already been decided at a previous meeting. Today's issue is to review and consider a detailed site plan.

Case No. 1496 (continued)

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** final site plan to permit a motel in an AG district fronting 21st Street as part of the activities of Expo Square. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** – Use Unit 19, on the following described property:

The S 290', W 422', E 1382', Sec. 9, T-19-N, R-13-E, Less the S 40' thereof, Tulsa County, Oklahoma.

Case No. 1526

Action Requested:

Variance to permit retail sales of farm equipment (horse trailers & flatbed trailers), manufacture custom saddles & tack and to allow a manufactured home for residence on property with business. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** – Use Unit 17, 15, 9, located SE/c East 191st Street South and South Memorial.

Presentation:

The applicant, **Stanley K. Allen**, submitted a letter of continuance (Exhibit B-1).

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall "aye"; no "nays", no "abstentions"; Looney, Walker "absent") to **CONTINUE** Case No. 1526 to November 18, 1997 at 1:30 p.m.

NEW APPLICATIONS

Case No. 1530

Action Requested:

Special Exception to allow mobile home in RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9 and a Variance to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**, located 1533 East 75th Street North.

Case No. 1530 (continued)

Presentation:

The applicant, **Pat Ann Supernaw**, 1533 East 75th Street North, submitted a site plan (Exhibit C-1), elevation survey (Exhibit C-2) and photos (Exhibit C-3). Ms. Supernaw stated she would like to move a trailer onto her land for her parents to live in. She explained that her parents are in bad health and she would like to care for them. The lot is large and has ample room for the trailer. Ms. Supernaw indicated that there are other trailers in the area.

Comments and Questions:

In response to Mr. Alberty, Ms. Supernaw stated that there are other lots in the immediate area that have two or more dwellings located on the lots.

Ms. Supernaw stated that the trailer will be placed behind the permanent residence on the subject property.

Mr. Alberty asked the applicant if her home is large enough to accommodate her parents? Ms. Supernaw stated that she has grandchildren who live with her and her home is too small to move her parents in.

Board Action:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker “aye”; no “nays”, no “abstentions”; Looney “absent”) to **APPROVE** a **Special Exception** to allow mobile home in RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9 and a **Variance** to allow two dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**; per plan submitted; subject to tie downs and skirting; subject to the Health Department approval and a building permit; finding that a precedent has been established for two dwellings per lot of record in the neighborhood; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

W/2, Lot 11, Block 2, Golden Hill Addition, Tulsa County, Oklahoma.

Case No. 1531

Action Requested:

Variance for storage of mobile homes on a gravel surface. **SECTION 310. PRINCIPAL USE PERMITTED IN THE AGRICULTURE DISTRICTS** – Use Unit 23 and **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located SE/c 151st South & 33rd West Avenue.

Case No. 1531 (continued)

Presentation:

The applicant, **E.P. Reddy**, 17801 East 11th Street, submitted a site plan (Exhibit D-1) and photographs (Exhibit D-2). Mr. Reddy stated that there is a mobile home sales office across the street from the subject property and the owner would like to store the mobile home overflow on the subject property. He explained that currently there are four mobile homes stored on the subject property. He described the area as being graveled and fenced. There are 80 acres, however the storage would be on the corner, which is approximately 2 ½ acres. The mobile home sales operation is in Creek County across the street from the subject property.

Comments and Questions:

Mr. Alberty asked the applicant how many mobile homes he proposes to store on the subject property? He stated there is room for six to seven mobile homes.

In response to Mr. Alberty, Mr. Reddy stated that there would not be any sales of mobile homes from the subject property. He indicated the mobile homes will strictly be the overflow of mobile homes from across the street.

In response to the Board, Mr. Reddy stated he does not operate the mobile homes sales across the street, he is only offering to rent out his property to the mobile homes sales company for their storage.

Mr. Alberty asked the applicant if he would be willing to limit the number of mobile homes that can be stored on the subject property? He stated he would limit the storage to seven mobile homes.

Mr. Alberty stated that the introduction of a mobile home would not be peculiar, but they are to be stored on the land, not lived in. He indicated it is difficult to find a hardship to allow the storage of mobile homes on the subject property.

Mr. Tyndall stated that the area is developing and will soon have a four-lane highway.

Mr. Walker stated he cannot support this application.

Mr. Glenn requested the Board that if they are inclined to approve the request, to limit the approval to the 360' x 600' area.

Mr. Walker stated that the applicant has not presented a hardship that would warrant the approval of this application.

Case No. 1531 (continued)

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker “aye”; no “nays”, no “abstentions”; Looney “absent”) to **DENY** a **Variance** for storage of mobile homes on a gravel surface. **SECTION 310. PRINCIPAL USE PERMITTED IN THE AGRICULTURE DISTRICTS** – Use Unit 23 and **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; on the following described property:

W 600', N 360', N/2, NW/4, Sec. 22, T-17-N, R-12-E, Tulsa County, Oklahoma.

Case No. 1532

Action Requested:

Special Exception to allow 3 dwelling units on an 8-acre tract zoned AG. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** – Use Unit 9, located East side North Mingo Road, South 176th Street North.

Comments and Questions:

Mr. Alberty asked the staff why the application was taken for a Special Exception when a Variance is required? Mr. Beach stated the application was taken as a Special Exception and the applicant signed the application. The Code does not allow the granting of more than one dwelling unit per lot of record without a variance and hardship finding. The application would technically need to be re-advertised.

Mr. Alberty asked the staff if the person taking the application advised the applicant properly, with regard to having to have a hardship? Mr. Beach stated that the staff took the application in error. Mr. Beach acknowledged that the Building Inspectors Office indicated that the applicant needed a variance, however, the application was written incorrectly.

Mr. Alberty stated that in view of the fact that there are interested parties in attendance today even though the case was advertised in error, it should be heard.

Mr. Stump stated that anyone receiving the notice would have come to the hearing whether it was for a variance or special exception.

Presentation:

The applicant, **Bill T. Brinkley**, 202 West 90th Place North, Sperry, submitted a site plan (Exhibit E-1); building permit (Exhibit E-2) and stated he purchased the property with the knowledge that there were trailers in the immediate area. He indicated that he and his two daughters will be moving their own personal trailers onto the subject property.

Case No. 1532 (continued)

Comments and Questions:

Mr. Alberty stated that the applicant does not have enough frontages to split the subject property three ways.

Mr. Alberty asked the applicant if he was informed he would need to state a hardship? He answered negatively.

Mr. Alberty informed the applicant that the Code requires a hardship finding and the finding cannot be economic or personal. The hardship would have to be specific to the land.

Protestants: The following represent protestants with similar concerns:

Don Crowl, 17220 North Mingo Road; **Ken Denton**, 17332 North 97th East Avenue, submitted a petition (Exhibit E-4); **Luther Teal**, ½ mile East of subject property;

The following concerns were expressed by the protestants listed above:

Concerns with multiple trailers in the immediate area; sewage lagoons for waste disposal; easements; concerned that the mobile homes will become rental property, setting a precedent in the area.

Comments and Questions:

Mr. Alberty explained to the protestants that the mobile homes are a use by right. This property exists as a one ownership and one lot. Owners, especially in a family situation, desire to keep the ownership in one name and they request a variance to allow the multiply dwelling units on one lot of record. Legally the owner could split the subject property into three lots without coming before the Board of Adjustment.

In response to Mr. Teal, Mr. Alberty stated he could not answer his questions regarding the open lagoon. He explained that with regards to zoning there is a 2-acre minimum lot size in an AG district. The applicant cannot create a lot less than 2 acres and have a dwelling located on it.

Applicant's Rebuttal:

Mr. Brinkley stated he would like to keep the land under one ownership. He explained that he will have three driveways for the three trailers. He stated that the EPA Inspector made a layout where two trailers will be on a single lagoon on the northwest of the property and the other lagoon will be 100' from the property line of the lower south side of the subject property. The lagoons will not be more than 400' from any housing. Mr. Brinkley concluded that this is a family project and the land will remain in one ownership.

Case No. 1532 (continued)

Protestants:

Sam Bowman, Route 1, Box 577, stated he owns 90 acres across the road from the subject property and he does not want trailers in the immediate area. He explained that the adjoining property to the south has a restriction against mobile homes and they are developing new homes on 5 to 10 acre tracts. He commented that the request will damage his property.

Comments and Questions:

Mr. Alberty reminded Mr. Bowman that the zoning map indicates the subject property to be zoned AG and mobile homes are a use by right. The issue today is not whether the applicant can have a mobile home, but how they are placed on the subject property.

Board Action:

On **MOTION of WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Variance** to allow 3 dwelling units on an 8 acre tract zoned AG. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** – Use Unit 9, per plan submitted; subject to tie downs and skirting; subject to the Health Department approval and a building permit; finding that the applicant would like to keep the property under one ownership; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

S 535', E 660', N 1195', NE/4, Sec. 12, T-22-N, R-13-E, IBM, Tulsa County, Oklahoma.

Case No. 1533

Action Requested:

Special Exception to allow a manufactured home in an RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9, located 500 North Industrial.

Presentation:

The applicant, **Jerry Solomon**, 114 South 71st West Avenue, submitted a site plan (Exhibit F-1) and stated he owns a large lot, approximately ½ acre. He explained that the house on the lot was destroyed by fire and he would like to replace the home with a trailer. The land is currently vacant and has been vacant for two years.

Case No. 1533 (continued)

Comments and Questions:

Mr. Alberty asked the applicant to characterize the immediate neighborhood. He stated that the neighborhood is in poor shape and there are trailers scattered throughout the neighborhood. He indicated that there is a trailer on the property adjacent to the subject property.

Mr. Tyndall asked the applicant if he will be living in the trailer home? He stated he will be renting the land to friends who want to install a trailer.

In response to Mr. Alberty, Mr. Solomon stated that the water hookup is already available and the trailer will be on a septic tank that is already in place.

In response to Mr. Tyndall, Mr. Solomon stated that he is letting some friends use the vacant property for their trailer. The friends are not paying rent, but will pay the property taxes and keep the property in shape for three years.

Interested Parties:

Leslie Nichols, 511 North Elm, Lot 21, Jenks, stated that she is the friend who will be living on the subject property. She explained that she recently purchased a 1997 mobile home, which has three bedrooms and two baths. She stated that currently she is living in a run-down neighborhood and would like to move back to the Sand Springs area where her family lives.

Comments and Questions:

Mr. Walker stated he is from Sand Springs and is generally familiar with the subject area. He indicated the area is in transition and he would not like to see a mobile home in the area.

Mr. Alberty stated that the applicant mentioned he was giving the Nichols three years rent free to occupy the subject property.

In response to Mr. Alberty, Mr. Walker stated he would agree with a three-year limitation subject to cleaning up the subject property prior to moving the mobile home in.

Case No. 1533 (continued)

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker “aye”; no “nays”, no “abstentions”; Looney “absent”) to **APPROVE** Special Exception to allow a manufactured home in a RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9, per plan submitted; subject to a three year time limitation; subject to tie downs and skirting; subject to the Health Department approval and a building permit; subject to the lot being cleaned before installing the mobile home; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lot 5, Block 18, Charles Page Home Acres #2, Tulsa County, Oklahoma.

Case No. 1534

Action Requested:

Variance to permit detached accessory buildings to exceed the maximum 750 SF to 1776 SF. **SECTION 240.2.E. YARDS** – Use Unit 6, located 14411 East 56th Street North.

Presentation:

The applicant, **C. Robert Reed**, represented by Debra Wilson, 14411 East 56th Street North, Owasso, submitted a survey (Exhibit G-1), site plan (Exhibit G-2) and an application for a building permit (Exhibit G-3). Ms. Wilson stated she would like to have a detached building on the subject property. The building will be new and have 1200 SF. She explained that currently there is a 500 SF barn that is useless. Ms. Reed indicated that she owns approximately 6 acres and is large enough to support the proposed building. Ms. Reed submitted a petition of support (Exhibit G-4) from the neighborhood.

Comments and Questions:

Mr. Alberty asked the applicant what she planned to store in the proposed building? She stated that her house has no garage and she plans to keep her cars, horse tack, and lawn equipment. There are problems with theft and there is no place for her to secure her belongings at this time.

Mr. Alberty asked the applicant if she operated a business? She stated that she does not operate a business and the use will be strictly personal.

In response to Mr. Walker, the applicant informed the Board that within one mile the land is zoned AG, however her property is zoned RS.

Ms. Wilson stated that there are numerous large buildings in the immediate area.

Case No. 1534 (continued)

Interested Parties:

James Morrison, 14343 East 56th Street North, stated that he was interested in the size of the garage and whether the garage would be used for commercial uses. He commented that the applicant has answered all of his concerns and he has no objections.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** Variance to permit detached accessory buildings to exceed the maximum 750 SF to 1776 SF. **SECTION 240.2.E. YARDS** – Use Unit 6; subject to no commercial activities permitted; finding that the lot is large enough to accommodate the proposed building and is next to an AG district; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Beg. SE/c, SE, thence N 326', W 335', S 326', E 335', POB, Sec. 4, T-20-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1535

Action Requested:

Variance to enlarge a non-conforming use of buildings and land. **SECTION 14420.A. NON-CONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION** –Use Unit 25, located 18812 Wekiwa Road.

Presentation:

The applicant, **Scott A. Waller**, 3906 South 74th West Avenue, representing Mohawk Materials, submitted a site plan (Exhibit H-1) and an application for a building permit (Exhibit H-2). Mr. Waller stated that the subject property is currently used as a concrete and sand bagging operation. The proposal is to build an additional warehouse building on the subject property.

Comments and Questions:

Mr. Alberty asked the applicant if he has a non-conforming use? He answered affirmatively.

Mr. Waller informed the Board that the subject property was rezoned after Mohawk Materials started operations.

Mr. Waller stated that there is a house on the subject property that one of his employees lives in and the house has been there for several years. He explained that there is a trailer on the subject property that is used for a break room, offices, etc.

Case No. 1535 (continued)

In response to Mr. Alberty, Mr. Waller stated that there are two lots and the production facility is on one lot and the proposed warehouse building will be on the other lot.

Mr. Tyndall asked the applicant how large the proposed building will be? He stated the proposed building will be 6,000 SF.

Mr. Waller indicated that the principal use will be for truck parking and warehouse space for the products.

Board Action:

On **MOTION of WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker “aye”; no “nays”, no “abstentions”; Looney “absent”) to **APPROVE** a **Variance** to enlarge a non-conforming use of buildings and land. **SECTION 14420.A. NON-CONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION** –Use Unit 25; per plan submitted; subject to a building permit; finding that the use is an established non-conforming use; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Part of Government Lot 1, Sec. 12, T-19-N, R-10-E, IBM, Tulsa County, Oklahoma, according to the recorded U.S. Government survey thereof: more particularly described as follows: Beg. at NW/c said Government Lot 1; thence E 225’; thence S 500’, thence W 225’; thence N 500’ to Beg.

Case No. 1536

Action Requested:

Special Exception to permit 3 mobile homes permanently in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9 and a Variance to permit 2 dwelling units per lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**, located NE/c West 61st Street & South 105th West Avenue.

Presentation:

The applicant, **Geneva J. Richardson**, 301 South 193rd East Avenue, #13, submitted a site plan (Exhibit I-1) and stated she would like to locate three trailers on the subject property. She explained that currently the subject property is vacant. The perc tests have been conducted and the trailer homes will be on septic systems. She indicated that there are trailer homes in the immediate area. Ms. Richardson commented that she has 8 acres and the trailers will not be visible from the street. She stated that the trailers will be for her, her daughter and a friend, which will be on 4 ½ acres. She indicated that she wants to keep the land under one ownership although there is ample land to divide into lots.

Case No. 1536 (continued)

Comments and Questions:

In response to Mr. Alberty, Ms. Richardson stated that there are singlewide trailers in the area that have been in the area for several years.

Ms. Richardson informed the Board that the three-perc tests have passed.

Mr. Glenn asked the applicant if the variance for the two dwelling units is on the north end of the subject property? Ms. Richardson answered affirmatively.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Special Exception** to permit 3 mobile homes permanently in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9 and a **Variance** to permit 2 dwelling units per lot of record on the north 331' of the subject tract. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**; per plan submitted; subject to tie downs and skirting; subject to the Health Department approval and a building permit; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

W 566.25', S 660', SW, SE, Sec. 35, T-19-N, R-11-E, Tulsa County, Oklahoma.

Case No. 1537

Action Requested:

Variance of the maximum allowable floor area for detached accessory buildings from 750 SF to 1600 SF. **SECTION 240.2.E.YARDS** and a Variance to permit a garage as a principal use in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 23 (Storage, NEC), located 5780 South 85th West Avenue.

Presentation:

The applicant, **Timothy D. Spiker**, 1104 West Oakridge, Broken Arrow, submitted a site plan (Exhibit J-1), architectural drawing (Exhibit J-2) and photographs (Exhibit J-3). Mr. Spiker stated he purchased the subject five acres and would like to build the proposed facility to store maintenance equipment for the subject property. He explained that the five acres has a pond and requires additional upkeep. He indicated that he plans to build a home on the acreage in the near future. The building will not be used for a commercial use, but will be used for storage. The proposed building will be a double car garage and once the house is built it will be the main garage. Mr. Spiker stated that the proposed building is not different than the out buildings in the immediate area.

Case No. 1537 (continued)

Comments and Questions:

Mr. Alberty asked the applicant if he is requesting the garage before the house is built? He answered affirmatively.

Mr. Alberty asked the applicant what type of construction the building will be? He stated the garage will be metal construction.

Mr. Alberty asked the applicant if he planned to provide sleeping quarters in the proposed building or strictly a garage? Mr. Spiker stated that there will be a restroom facility for convenience. He explained that the proposed building is strictly for storage of construction materials.

Mr. Alberty asked the applicant when he plans to begin construction of the home? Mr. Spiker stated his goal is three years maximum.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Variance** of the maximum allow floor area for detached accessory buildings from 750 SF to 1600 SF. **SECTION 240.2.E.YARDS** and a **Variance** to permit a garage as a principal use in an RS district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 23 (Storage, NEC); per plan submitted; subject to a time limitation of 5 years; finding that the size of the land can handle the size of the building; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

N/2, SE/4, NW/4, SE/4, Sec. 36, T-19-N, R-11-E, IBM, Tulsa County, Oklahoma, according to the U.S. Government Survey thereof.

Case No. 1538

Action Requested:

Special Exception to allow a doublewide manufactured home in an RMH zoned district, located 1919 East 62nd Place West.

Presentation:

The applicant, **Peter J. Stahl**, withdrew his application.

Mr. Walker out at 2:55 p.m.

Case No. 1539

Action Requested:

Special Exception to permit mining & quarrying sand in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** – Use Unit 24, located 10704 East 141st Street South.

Presentation:

The applicant, **Frank Watkins**, represented by **Terry Fox**, Triad Environmental Services, P.O. Box 1507, Kansas, submitted a site plan (Exhibit K-2) and a letter of support (Exhibit J-4). Mr. Fox stated that Mr. Watkins is requesting a special exception to allow removal of sand and dirt from approximately 38 acres of agricultural land. The operation will be a continuation of the Watkins Sand Company's current operation and will not be an expansion or addition. This site was chosen following previous concerns with a site located south along the river. The concern was that the operation should not be along the river and needed to be in another location. The proposed area has the resources needed. There is no zoning to allow mining and there is not a special category for sand operations and agricultural land is where the resources are located. He stated that Frank Watkins has been operating in the area since 1964 with 31 employees. The operation will be permitted and bonded with the Oklahoma Department of Mines ("ODOM"). He explained that the operation will be covered by liability insurance requirements. The company has an excellent compliance record with County, State and Federal regulations. Watkins Sand Company has had approximately eight mining permits for the sand operation with ODOM and has not had any problems in the past with any enforcement actions. Mr. Fox described the character of the area as agricultural land with sod farm operations, some residential homes, Watkins' existing operation and a wastewater treatment plant constructed at one of the previous Watkins' sites. He stated that sand operations are normally located in floodplains because that is where the resources are located. The Corp. of Engineers approve the location of the sand operations in the floodplain. He explained that the company will be removing and not adding to the elevations in the floodplain. The infrastructure of the subject area consists of the sand being hauled in road legal trucks, utilizing 141st, Mingo and Garnett Road. He stated that large trucks associated with the sod operations and the wastewater treatment plant also use the same routes that have been used by Watkins Sand Company for many years. Mr. Fox indicated that since the operation is a continuation of the previous operation, there should not be an increase in the existing truck traffic. The equipment used by Watkins Sand Company will be portable and therefore no additional utilities will be needed. He explained that the company does not anticipate using electricity at the site, nor sanitary facilities since there are sanitary facilities at the main office, which is located on Garnett Road. He stated that the sand operation will be bonded and will be inspected monthly by ODOM. Watkins Sand Company has also requested and received a General Storm Water Discharge Permit for construction activities greater than five acres from the Oklahoma Department of Environmental Qualities. He

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indicated that a storm water pollution prevention plan has been prepared for the subject site as required under the general permit. Mr. Fox stated that the proposed operation will not have a conveyor system, processing and washing facilities normally associated with sand plants along the river. The company will use a small portable 38 B drag line to remove material from the open pit below the water table, as well as a front end loader to load the sand above the water table. The material is excavated and put in a small stockpile and loaded immediately into the trucks and the trucks haul the materials to the customers. Reclamation following the removal of the sand from the active pit consists of the high walls being sloped to a 4 horizontal 1 vertical slope to below the water level in order to insure safe access. Based on previous concerns the ODOM requires a 3 to 1 slope and Watkins Sand has increased the slope to 4 to 1 for better setbacks and to insure safety. The County Building Inspector discussed the setbacks and in many cases additional footage was added to the setbacks. He indicated that along the north boundary of the subject property, which is 141st Street, the setback for the top of the slope will not be within 85' of the road. There will be a 60' setback from all of the other borders (east, west and south border to the top of the slope). The pit will be 23' deep and with a 4 to 1 slope, plus there will be another 80' from the property lines. The digging will end approximately 100' from residential. He explained that all of the disturbed area that is not covered in water will be vegetated with a wild life habitat mixture. The permanent pond will provide recreation as well as a potential water resource. Surrounding sod farms have used the existing operation located to the east, Sec. 17, as a source of irrigation water. The Oklahoma Department of Transportation views the sand as a valuable construction material in the area and the sand plants need to be where the resources are available. Mr. Fox stated that he checked with the Department of Mines and the Oklahoma Water Resource Board with regard to the concerns of the water levels in the area. He explained that according to Technical Guide 95-1 there have been no changes to the water levels over the past year and the water level mimics the Arkansas River, which is located immediately to the south of the operation. Mr. Fox stated that when he talked with the Oklahoma Water Resource Board, they thought that if there were any changes in the water levels, it would be associated with the number of irrigation wells that are permitted and sand points in the area. He explained that an open impoundment's water level is the same as the existing water table. He concluded that Watkins Sand Company has been a good and conscientious operator.

Interested Parties: The following names represent supporters of Case No. 1539:

Ed Phillips, Executive Vice-President of the Home Builder's Association, 11545 East 43rd Street; **Howard Kelsey**, 5815 South 94th East Place; **Fred Lemons**, 10607 South Memorial; **Ralph Goodson**, 2626 South Lynn Lane Road; **Eric Cole**, 14503 South Garnett, Broken Arrow (landowner of Mr. Watkins' current project).

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The supporters of Case No. 1539 expressed the following comments:

The materials from the operation are necessary in the home building industry, as well as the commercial industry and residential construction industry; Mr. Watkins provides approximately 85% of the material needed in the construction of homes; today's decision will have an impact on the home building industry; if materials are not available locally, affordable housing cost will go up; Homebuilders in the area depend on Mr. Watkins' materials; Mr. Watkins is reliable; property values have not dropped due to the sand mining; Mr. Watkins follows all of the regulations and has never been fined; the sand mining has been in place for 30 years and the sand has to come from somewhere; sod farms use larger trucks than the sand mining company.

Protestants: The following names represent Protestants with similar concerns:

Joe McCormick, representing **Burt Bowles** and **Tom Jenoff**, 601 Park Tower, 5314 South Yale, submitted a petition with photographs (Exhibit K-1) and letters of protest (Exhibit K-3); **Mark Jenoff**, 10820 East 141st Street, Bixby; **Carol Bowles**, 10909 East 141st Street, Bixby; **Tony Jenoff**, 9706 East 141st Street, Bixby; **Wayne & Fern Winlet**, 10748 East 141st Street, Bixby; **Chuck Bowles**; **Mark Allen**, 13959 South 95th Street; **Jerri Jenoff**, 10820 East 141st Street, Bixby; **Sharon Bowles**, 13901 South Mingo Road, Bixby; **Paul McKinney**, 12618 East 136th Street, Broken Arrow.

The following concerns were expressed by the Protestants listed above:

Truck traffic on farm-to-market roads are hazardous and destroy the roads; stripping off the top soil as well as the sand extraction; 30 acres of strip pit left behind on the proposed project; Mr. Watkins stock piles other materials on site and sells the materials from the site with the approval of ODOM, which adds to the traffic; strip pit will expose water table, from which the residents get their drinking water, to evaporation and surface run off; proposed site has a natural drain running through it and will run into the pit; natural drain originates from the Jenoff Farms and will have fertilizers/chemicals in the drainage; the surface water run-off, with the chemicals, will go into the open pit, which is the well that the residents use to drink out of; Mr. Watkins will dig down below the water table (10', 15' or 20') which creates an open well where anything can run into it; the subject area is a sensitive area and is best used for farm land; concern that the sand mine will be adverse to the community and detrimental to the neighborhood; sand mining is not good planning for the community; traffic hazard for children playing in the area; dust problems; losing farm land; fear of being surrounded by water on all four sides of property; proposal affects the local properties irrigation; the height of the river pressures through the water sands and through the water sands is where the farmers get their well water; the proposed open pit allows the water to easily come up and it is no longer pressured through the water sands; trucks do not pay attention to speed limits; sod trucks usually make one trip a day down the subject road; one lane roads that were built in 1950; dangerous bridges in the immediate area; sod farm fields will be cut out in a few weeks and will not be back in the bottoms until next year; farming produces products from the land and the soil remains, but mining continues to erode the land away, which will never be replaced.

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Comments and Questions:

Mr. Alberty asked Mr. McCormick if he counted other vehicles using the road during his traffic count of Watkins' trucks? Mr. McCormick stated that the only trucks counted were the trucks going into and out of the Watkins' gates.

In response to Mr. Alberty, Mr. McCormick stated that his clients, Mr. & Mrs. Bowles, live across the street from the proposed site and the Jenoffs are located west and south of the subject property.

Mr. Alberty asked Ms. Bowles if she has a sod farm? She explained that she owns the property and rents it to a sod farm company.

Mr. Alberty asked Ms. Bowles if the company that rents her sod farm has heavy equipment and trucks that use the roads in the area? She stated that the trucks usually go out on Garnett Road and the traffic is away from her home.

Mr. Alberty stated he viewed the area before the meeting started and noticed heavy equipment, front loaders and trucks for the sod farms. He asked Ms. Bowles if that was on her property? She stated that it could have been her property or the property to the west. She explained that there are sod farms all around the surrounding area and she is not sure which property Mr. Alberty viewed.

Mr. Tyndall asked Mr. Jenoff if he felt that the proposal had an adverse affect on his farmland? He stated his home is 200' from the subject property and he uses well water. He expressed concerns with contamination of the well water and losing the natural filtering system.

Mr. Alberty explained to the Winlet's that the Board of Adjustment has the right to limit the proposed operation to prevent their property from becoming an island.

Mr. Tyndall asked Mr. Bowles if the existing open pit lowered his water level significantly? Mr. Bowles stated he has had problems in the last five years. He explained that the screen (sand point) has gone from 5' to 3'. If the farms use a 5' screen it sucks in too much air.

Mr. Tyndall asked Ms. Bowles if the subject property is being farmed currently? She stated that the subject property was farmed in the past, but is not currently. She explained that her husband farmed the subject property for many years for the grandmother of the Winlet family. The Winlet family wants to sell the subject property to pay for the care of the grandmother. She indicated that the price for the land was too high for farmland and therefore it was not in her interest to purchase the subject property. She commented that she does not care who purchases the land, but it should not be allowed to be hauled off. It is a beautiful farm and needs to be kept as

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farmland. In conclusion Ms. Bowles stated that her family has a small sod operation, which grows mainly sod and some wheat. She indicated that there might be two trucks hauling for her farm during the day.

Protestants:

Larry Glenn, Tulsa County Inspector, representing Tulsa County Board of County Commissioners and The Tulsa County Engineering Department, stated that a mining operation is a Use Unit 24, which is not a use by right in any zoning classification. The mining operation is only permitted in four by special exception, which are AG, IL and the two higher industrial classifications. He indicated that the Board of County Commissioners has concerns that the design of 141st Street South is not adequate for the daily traffic associated with this project. He stated that Mr. Watkins now uses the road, as does the City of Tulsa, with their sludge trucks because of the bridge that is out on 131st Street. The West end of 141st & Mingo currently has a sand mining operation that has been in operation since 1960's. Mr. Glenn stated that his office was informed that empty trucks traverse 141st Street going east to Garnett. He indicated that if the trucks start going down 141st Street with a load it would cause damage to the roads. He explained that 141st Street is 18' to 20' wide and will not accommodate a school bus and car passing each other without moving onto the shoulder. The base of the road is not adequate for a 10-wheeler truck or a 18-wheeler truck. He stated that the resurfacing of 141st Street is anywhere from one to two years away. He indicated that the Engineering Department would conduct a study to determine what the base should be to accommodate traffic on 141st Street. Mr. Glenn stated that the area was zoned AG in 1980 when zoning codes went into effect. He stated that the Board of Commissioners still feels that the highest use for the subject area is agricultural. He expressed concerns with the effect of the sand mining in the subject area if a hundred-year flood occurred. He informed the Board that there are two residential homes within the boundaries of the subject property. The proposed use that was presented to the Inspection Office was that Mr. Watkins would excavate around the two homes, which would leave them on an Island. He expressed concerns with erosion and the long-term effect on the environment. He reminded the Board that if they should approve this application there is a requirement that Mr. Watkins asphalt a 100' apron from the centerline of 141st Street South into the subject property in order to keep dust down.

Comments and Questions:

Mr. Albery asked Mr. Glenn what FEMA predict with regard to the 100-year flood? Mr. Glenn stated that the subject area is in an A zone, which is minimal flooding at this point. He commented that his point is that if the subject area had a 100-year flood it would flood, but no one knows which way the River would go during that time.

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Applicant's Rebuttal:

Mr. Fox stated that there will not be a 30-acre impoundment and the plans have changed to where there is an L-shaped area that will be utilized. The operation will begin in the SE/c of the subject property away from the residential homes. He pointed out to the Board that the plans indicate an asphalt entrance road as requested by the County Inspector. The required setbacks from the County Zoning Code indicated 50' on both side and 50' from the house. He stated he increased the setbacks up to 60', but if the County Inspector would like 75' setbacks he will comply. He commented that the roads are thoroughfares of Tulsa County, which are already used by Watkins and other companies. He indicated that Watkins Sand Company runs their trucks with tarp covers and has a good compliance record. Mr. Fox stated that Watkins Sand Company does stockpile materials at the current operation, however the proposed project does not plan to stockpile materials on site. He informed the Board that Watkins Sand Company does not use chemicals in their processing operation and there will be no fuel kept on the subject site. The sod farms do use chemicals and the chemicals are already draining into the water table, therefore one impoundment will not make that much difference given the permeability of the entire area. There are numerous well points throughout the area that are pumping, which will pick up the chemicals and spraying them back into the soil. He commented that he did not see how the Watkins existing operation and proposed operation would contribute to water pollution when considering the sod farms irrigation systems. Mr. Fox stated that the proposed operation has an 8' freeboard before any water will discharge from the facility and the plans meet the approval of Oklahoma Department of Environmental Quality. Adjacent landowners discussed their concerns with Mr. Watkins and the decision was made to change the proposal to an L-shaped project rather than a U-shaped project. The draft permit for ODOM mimics the proposal presented to the Board. He commented that the 4 to 1 slope means that you would have to be 25' out into the pit before you are in 5' of water, plus a 100' buffer zone before you get to the water and a fence that is safe as possible for the type of operation proposed. He indicated that there is a new house being constructed adjacent to the existing Watkins Sand operation and therefore people feel that is attractive to live on a reservoir, which would indicate that the property values do not decrease in the surrounding area.

Mr. Watkins, 6240 East 165th Street South, Bixby, stated that he started the current business in 1964 and he has been on the end of Garnett Road since 1965. He commented that he tries to be a good neighbor and the protestants who spoke today have been, at one time, a Watkins' customers. They have bought Watkins sand and dirt for their farms, which was hauled up the road and across 141st Street. Mr. Watkins indicated that he talked with his County Commissioner approximately 8 weeks ago and he was informed that as soon as the bridge on 131st Street was repaired, 141st Street would have asphalt from Garnett to Mingo. Mr. Watkins stated that when he comes out of the pit and installs 100' of asphalt, all of his trucks will go back to Garnett loaded. Mr. Watkins wanted his statement on the record that he would pay for the materials to repair the road. He stated that the roads have been in the current shape

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for approximately 30 years. There is no base under 141st Street and the County has been waiting for the bridge to be built on 131st Street. All of the sewer traffic, trucks and trailers, farm people, buses, etc. have to use 141st Street until the 131st Street bridge is built. He explained that he has used 141st Street for years because he houses his equipment on the end of Mingo Road, but the main traffic from his operation is on Garnett Road. Mr. Watkins stated that to his knowledge there have not been any major repairs in the past 18 years to Garnett Road. He informed the Board that Watkins Sand Company owns 10 red dump trucks and the rest are leased. He stated he currently has five leased trucks and four of his own trucks operating out of South Garnett. He explained that Watkins Sand is sold by the pickup load for residents who want sand for their yards. The proposed property has sod on all three sides and the maps indicate that the water drains to the west and then back to the east. Mr. Watkins concluded that all of his trucks are tarp, tagged and insured. He commented that his drivers know the rules and if they do not follow the rules, the police or highway patrol can take care of the violators.

Comments and Questions:

Mr. Alberty stated he drove the subject area before the meeting and his impression is that there are a number of residences within the one-mile area from Garnett to Mingo. He further stated that the predominant industry in the immediate area appears to be sod farming. He commented that he was impressed with the fact that everything seems to be in very good state of repair and the homes are very nice homes. He stated that the area could not be characterized as a residential area because it is definitely an agricultural area. This is a very difficult case to consider because there are a number of issues on both sides, which all have merit. There is a resource that is available on the subject property and whether it is a mine resource or top soil used for growing vegetables, etc. it is the owner's prerogative on how the property is utilized. The public roads, regardless of their state, are public roads and are not built strictly for the residential properties. He commented that if you look at who pays the taxes, you would find that most of the commercial and industrial operations probably pay the lion's share of the taxes in the area.

Mr. Tyndall commented that the traffic will stay much the same as it is currently. The roads are the concerns of everyone and not solely Mr. Watkins' responsibility. He stated that the proposal does not seem to be an inappropriate use of the land.

Case No. 1539 (continued)

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays", no "abstentions"; Walker, Looney "absent") to **APPROVE** a **Special Exception** to permit mining & quarrying sand in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** – Use Unit 24; per plan submitted; subject to Watkins Sand Company repairing 141st Street; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

NW/4, NE/4, Sec. 18, T-17-N, R-14-E, IBM, Tulsa County, Oklahoma, except for the following described tracts: Beg. at a pt. 344.71' S, 1,741.97' W, NE/c of said Sec; thence S 8°03'00"W for 228.56'; thence S 81°57'00"E for 190.59'; thence N 8°03'00"E for 228.56'; thence N 81°57'00"W for 190.59' to the POB, containing one acre, more or less, AND Beg. at a pt. 344.71' S, 1,741.97' W, NE/c of said Sec, thence N 81°57'00"W for 190.59'; thence S 8°03'00"W for 228.56'; thence S 81°57'00"E for 190.59'; thence N 8°03'00"E for 228.56' to the POB, containing one acre, more or less AND together with a non-exclusive road and utility easement 20.0' wide lying in the NW/4, Sec. 18, T-17-N, R-14-E, the centerline of which is more particularly described as; Beg. at a point 50' S and 1,741.4' W, NE/c of said Sec., thence, S 00°05'44"W for 294.71'.

Case No. 1540

Action Requested:

Variance of average lot width from 200' to 136.71' on Tract 3 & 200' to 137.27' on Tract 2. **SECTION 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS**, located West, SW/c 111 Street South & 129th East Avenue.

Presentation:

The applicant, **Whit Y. Mauzy, Jr.**, was not present.

Comments and Questions:

Mr. Beach informed the Board that the application was made in order to allow the applicant to split the lot. The lot split has been denied and therefore his Board application is moot. He stated he did not know if the applicant has any other alternatives and has not been able to contact him. Mr. Beach informed the Board that the applicant has not officially withdrawn his application and suggested the case be continued to November 18, 1997 in order to give the applicant an opportunity to take whatever action he feels is appropriate.

Case No. 1540 (continued)

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays", no "abstentions"; Walker, Looney "absent") to **CONTINUE** Case No. 1540 to November 18, 1997 at 1:30 p.m.

There being no further business, the meeting was adjourned at 4:20 p.m.

Date approved: 11/18/97
Wayne Alberty
Chair