

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 30
Friday, February 18, 1983, 9:00 a.m.
Room 119, Administration Building
500 South Denver Avenue, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT

Alberty
Martin (in at 9:07 a.m.)
Tyndall
Walker
Wines

STAFF PRESENT

Gardner
Jones
Martin

OTHERS PRESENT

Carpenter, Legal
Department

The notice and agenda of said meeting were posted in the Office of the County Clerk on Wednesday, February 16, 1983, at 12:54 p.m., as well as in the Reception Area of the INCOG Offices.

After declaring a quorum present, Chairman Walker called the meeting to order at 9:05 a.m.

MINUTES:

On MOTION of TYNDALL and SECOND by ALBERTY, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to approve the Minutes of January 21, 1983 (No. 29).

MINOR VARIANCES AND EXCEPTIONS:

Case No. 326

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in the Agriculture Districts - Request a variance of the frontage requirements in an AG district from 200' to 165' in order to permit a lot split. This property is located at 16530 So. St. Louis Avenue.

Presentation:

Adolph Evans, 16530 So. St. Louis, requested that the variance be granted to permit a lot split for the two dwellings on the subject property. Mr. Evans is residing in a mobile home while constructing a house on the property.

Protestants: None.

Board Questions:

Chairman Walker asked if the property has been approved for two sewer systems on the subject tract and Mr. Evans advised that the Health Department has approved the septic system. Mr. Alberty advised that the Planning Commission has approved the lot split subject to Health Department approval and the issuance of a Building Permit.

Case No. 326 (continued)

Board Action:

On MOTION of ALBERTY and SECOND by TYNDALL, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 330 - Bulk and Area Requirements in the Agriculture Districts) of the frontage requirements in an AG district from 200' to 165' in order to permit a lot split (L15689), subject to the issuance of a Building Permit and approval by the Health Department, on the following described property:

The S/2 of the SE/4 of the SW/4 of Section 30, Township 12 North, Range 13 East, Tulsa County, State of Oklahoma.

Case No. 322

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in the Industrial District - Request to allow a McDonald's Drive-thru Restaurant in an IL district. This property is located at 5815 So. 49th W. Avenue.

Presentation:

Adrienne Erving-Meyer, 5700 So. Quebec Street, Suite 225, Englewood, CO 80111, real estate representative for McDonalds in the State of Oklahoma submitted a site plan (Exh. A-1). McDonalds is proposed at the subject location as there are approximately 300 motel rooms and a traffic count of approximately 60,000 cars in this area and very few restaurants. The tract size is approximately 6½ acres but the land used for the McDonald's Drive-thru Restaurant will only be 160' x 300' in size. The Drive-thru will be accessible to both sides of the lot. Ms. Erving-Meyer advised that the applicant has dedicated 25' to the City for widening of the street. The applicant has also talked with the County Engineer concerning the curb cuts.

Protestants: None.

Board Comments:

Mr. Alberty requested the applicant to submit the correct legal description which would only include the land for the proposed McDonald use.

Board Action:

On MOTION of ALBERTY and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 910 - Principal Uses Permitted in the Industrial District) to allow a McDonald's Drive-thru Restaurant, in an IL district, subject to amending the legal description to include only that portion required for the restaurant, per site plan submitted, on the following described property:

The South 160' of the West 45.6' of Lot 6, and the South 160' of Lot 7, and the South 160' of Lot 8, Block 3, Bozarth Acres, a subdivision of the W/2 of the SW/4, Section 33, Township 19 North, Range 12 East, Tulsa County, State of Oklahoma.

Action Requested:

Special Exception - Section 310- Principal Uses Permitted in the Agriculture Districts - Request an exception to allow a Use Unit 2 (airport for ultralight aircraft) in an AG district. This property is located at 13201 So. Lewis.

Presentation:

Gary Scott, 13201 So. Lewis, was present requesting permission to locate an ultralight aircraft airport on the subject property and presented several photographs to the Board for their review. The Federal Aviation Association has designated what constitutes an ultralight aircraft and it is basically a motorized hang glider. The aircraft cannot exceed a 5 gallon capacity and cannot exceed 55 mph. The subject property is located at the edge of the control zone of the Jones Airport. Mr. Scott advised that the Jones Airport does not have objection to the ultralight aircraft airport at this location if the aircraft flies south and east from that point but not north and west as it would interfere with the control zone.

Interested Parties:

Mike Koch, 1347 So. Urbana, was present and stated that ultralight aircrafts should be located separate from conventional aircraft because the sport is new and many people are not trained properly as of yet.

Terry Boehler, 538 So. 101st E. Avenue, stated that the ultralight aircraft and conventional aircraft should not be mixed and requested that the subject tract be approved for the ultralight aircraft use as it would not set a precedent and would be a suitable location. He stated that the proximity of the proposed use would cause no problems to existing air traffic. A permanent flying site would directly contribute to the safety of the ultralight flying.

John Moore, 345 S. 185th E. Avenue, president of Sooner Ultralights, addressed the question of altitude and advised that altitude is not a factor up to 18,000' if it is not located in a control area. Most ultralight aircraft will fly at approximately 500' above ground. Mr. Moore advised that ultralight aircraft would assist in the economic growth for Tulsa as it would create many new jobs. Mr. Moore also advised that the aircraft is very safe and would not require as much field space as conventional aircraft.

Steve Mock, Route 2, Mounds, OK, was present and stated that he is a private certified pilot and urged that the proposed use be approved. Pilots of ultralight aircraft are very conscious of the safety factors and do not come near obstructions such as houses, buildings and power lines. The noise level of the aircraft is being improved as many pilots are placing mufflers on their aircraft. Mr. Mock felt that if the application is denied it would set a precedent for other possible ultralight airports in the Tulsa area.

Red Stephenson who owns an aircraft operation at Riverside Airport also stated that the FAA should determine if commercial aircraft and ultralight aircraft should be located at the same site. Mr. Stephenson suggested that if the application is approved that the Board restrict the flying height of the aircraft to 500'. He stated that the proposed aircraft would not be an obstruction to Jones Airport as it is located 5 miles from the airport and the aircraft would fly 500' high at the maximum. He advised that the

Case No. 324 (continued)

hospital at Oral Roberts University is approximately 600' high and is located within one mile from Jones Airport.

Bill Hamm, Route 2, Haskell, OK, stated that he and his brother own and operate the Haskell Airport and advised that the two types of aircrafts have been intermixed at the Haskell Airport and feel that there would be no problems concerning intermixing the two at Riverside Airport. Mr. Hamm advised that ultralight sport is increasing in popularity and the safety of the aircraft is also increasing.

Hurley Boehler, 538 So. 101st E. Avenue, president of Golden Age Aviation, stated that ultralight is an increasingly popular sport and requested that the use on the subject property be granted for many to enjoy this recreation. He advised that ultralight aircrafts has all the controls as a conventional airplane but with a better effect.

Davis Clements, 2303 E. 131st Street South, was present and stated that he lives across from the proposed site and has no objection to the noise involved in the ultralight operations.

Protestants:

Carl Cannizzaro, Airport Engineer for Tulsa Airport Authority, advised that there is no question that the two types of aircraft need separate locations in which to properly operate. Mr. Cannizzaro advised that every individual who flies an ultralight aircraft is not a certified pilot. This could become a real safety hazard as the proposed location is just south and within 5 miles of the 33rd busiest airport in the United States. Mr. Cannizzaro also advised that approximately 60% of the operations are training operations at the Richard Lloyd Jones Jr. Airport which would be located next to the ultralight location. Safety should be the primary concern as the application is being considered at this time. It was suggested that a more appropriate location for the ultralight airport could be found so as not to interfere with a conventional airport.

Board Comments:

Mr. Martin suggested that the application might be continued so that more detailed and factual information could be submitted by individuals in authority concerning the ultralight aircraft.

Discussion ensued concerning the safety, noise level and aviation level of the ultralight aircraft at this particular site. Chairman Walker read two letters from the Tulsa Airport Authority requesting that the application be denied as the location would pose a very grave and serious safety impediment to aircraft operations at Richard Lloyd Jones Jr. Airport (Exh. B-2). One of the letters states that the applicant has failed to communicate with the Federal Aviation Administration concerning the location which would be in violation of the Federal Aviation Regulations Part 103 governing utilization of ultralight vehicles.

Board Action:

On MOTION of MARTIN and SECOND by WINES, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to deny a Special Exception (Section 310 - Principal Uses Permitted in the Agriculture Districts) to allow a Use Unit 2 (airport for ultralight aircraft) in an AG district, on the following described property;

Case No. 324 (continued)

The West five (5) acres of the E/2, E/2, NW/4, NW/4 and the W/2, NW/4, NW/4 and the W/2, E/2, NW/4, NW/4; all in Section 8, Township 17 North, Range 13 East, Tulsa County, State of Oklahoma, containing thirty-five (35) acres.

Case No. 325

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in Agriculture Districts - Request to allow a Use Unit 5 (group home) in an AG zoned district located at the NE/corner of 21st and Mingo.

Presentation:

Kenny Joe Smith, 502 W. 6th Street, attorney representing Tulsa Child and Family Center Inc, stated that the subject property contains an existing residence which is being proposed for a group home use.

Conley Tunnell, 4422 E. 68th Street, board member and president of Tulsa Child and Family Center Inc, stated that the center has a contract with the Department of Human Services with the State of Oklahoma to provide pre-institutional group home services to adolescent boys from ages 12 to 18. The group home has been licensed to facilitate 12 boys at this location. There will be 8 capable and professional staff members working with the boys on the site. The home has also been approved by the Health Department and Fire Marshall to permit the use.

Protestants: None.

Interested Parties:

Nelson Pendergrass, 224 So. Water, Sapulpa, OK, was present and stated that he and his wife acted as house parents at this location in the past. He stated that he was very supportive of the application.

Thomas Stoner, P.O. Box 365, Bixby, OK, stated that he did not object to the boys home but was concerned that the zoning might change if the application is approved. He asked that if problems arose because of the operation if he would have the right to retract his consent. The Staff advised that if a time limit were placed on the approval, the Board could review the use at the end of the approved time and would notify nearby property owners again. The Board advised Mr. Stoner that there are other laws i.e. nuisance laws, etc, which would apply if problems arose.

Board Comments:

The Board asked if there are other boys homes within the City of Tulsa and Mr. Tunnell advised that there are at least 5 other boys homes in the City but none other are operated by Tulsa Child and Family Center Inc. Mr. Alberty inquired as to the importance of locating the boys home at this particular location and Mr. Tunnell stated that the boys are from Oklahoma and a home needs to be provided at this location so they will be near their families. At times the families are requested to come to the group home for family and group therapy.

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 4-1-0 (Alberty, Martin, Tyndall, Wines, "aye"; Walker, "nay"; no "abstentions"; none, "absent") to approve a Special Exception (Section 310 - Principal Uses Permitted in Agriculture Districts) to allow Use Unit 5 (group home) in an AG zoned district, subject to limiting the use to facilitate 12 boys

Case No. 325 (continued)

from the ages of 12 to 17, to permit eight (8) staff members to work with the home, limiting the use to the existing structure, on the following described property;

The S/2 of the SW/4 of the SW/4 of the SW/4, Section 18, Township 16 North, Range 14 East, Tulsa County, State of Oklahoma.

Case No. 327

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in the Industrial Districts- Request to allow a Use Unit 14 (sales of furniture, appliances, clothing etc., and service and repair of such items) in an IM zoning. This property is located at 7650 Charles Page Boulevard.

Presentation:

Michael Reames, P.O. Box 3224, represented the applicant and presented photographs of the subject property and adjoining properties and requested that the use be approved.

Chairman Walker read a letter from the Sand Springs Board of Adjustment which states that they voted to recommend approval of the request (Exh. C-1).

Protestants: None.

Comments and Questions:

The Staff advised that a field check was made on the subject property and a building is in existence on the property. The Board was concerned that the use would be for a flea market. Mr. Reames advised that the applicant intends to operate a quality furniture store at this location which will be a retail outlet. The store will maintain reasonable retail hours. The Board inquired as to any outside storage and Mr. Reames stated that there would be no outside storage on the property. Mr. Martin asked if adequate parking would be provided on the tract and Mr. Reames answered in the affirmative.

Board Action:

On MOTION of TYNDALL and SECOND by MARTIN, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 910 - Principal Uses Permitted in the Industrial Districts) to allow a Use Unit 14 (Sales of furniture, appliances, clothing, etc, and service and repair of such items) in an IM zoning, subject to no outside storage or sales be permitted, on the following described property;

Beginning 661.52' North and 142.02' East of the Southwest corner of the Southeast Quarter (SE/4) of the Northwest Quarter (NW/4) of Section 7, Township 19 North, Range 12 East, Tulsa County, Oklahoma; thence Northerly and parallel to the West line of said Southeast Quarter (SE/4) of the Northwest Quarter (NW/4) a distance of 293.95' to a point on the South right-of-way line of U. S. Highway 64; thence Northeasterly along said right-of-way line a distance of 300' to a point, thence Southerly and parallel to the West line of said Southeast Quarter Northwest Quarter (SE/4 NW/4) a distance of 399.41' to a point, thence Westerly 280.85' to the point of beginning.

OTHER BUSINESS:

Case No. 312

Action Requested:

Request approval of site plan and development restrictions and standards for Case No. 312.

Presentation:

Commissioner Lewis Harris was present and submitted two letters concerning the water sewer issues raised at the previous hearing (Exhibit "D-1"); an amended site plan (Exhibit "D-2"); an aerial photograph depicting additional parking areas to be provided (Exhibit "D-3") and a letter from the County Commissioners addressing, item by item, the Board's concerns at the January 21, 1983 meeting, which includes a parking and noise summary (Exhibit "D-4"). Commissioner Harris presented the County Commission letter and its content to the Board.

Ray Jordan, County Engineer, addressed the noise summary and stated that he had received the submitted information from a similar operation in Dallas. He used the Roller Coaster as an example of the maximum decibel level as it was the best comparison of noise levels.

Interested Parties and Protestants:

Eugene Colleoni, District #4 Chairman of the Greater Tulsa Council, was present and expressed his gratitude to Commissioner Harris and Mr. Jordan for an outstanding presentation. Mr. Colleoni stated that the applicants have answered the concerns expressed by the Board and protestants at the previous meeting.

Mabel Clark, 2349 South 96th East Avenue, stated that she was concerned about the use of the site when the water theme park is no longer in existence. The Board assured Ms. Clark that the approval is for a water theme park only.

Louise McKay, 1752 South Fulton Avenue, was present requesting that the existing landscaping be preserved to beautify the park. Ms. McKay requested that the closing time be 9:00 p.m., for the outside activities and 10:00 p.m., for the inside activities rather than 10:00 p.m. and 11:00 p.m., respectively. She was also concerned about security proposed for the site.

Discussion:

Discussion ensued concerning the closing hours of the park and Commissioner Harris stated that the Board of County Commissioners considered this particular matter for a long time and felt that the 10:00 p.m. closing of the outside activities was appropriate and would create less traffic hazard and congestion.

The Board inquired as to the proposed security system for the subject tract and Commissioner Harris felt that security should be required on-site, but felt that the operators of the park should be responsible and that the issue should be a part of the operation's contract.

Case No. 312 (continued)

Board Action:

On MOTION of MARTIN and SECOND by ALBERTY, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve the site plan and parking plan as presented and subject to the conditions and restrictions as presented by the Board of County Commissioners, which are:

1. A prohibition on loudspeakers in the Park. Permit a system of inter-office communication, but no outside loudspeakers:
2. the lighting be directed inward so it will not adversely affect the local streets or neighborhood;
3. permit a park name sign across the upper parts of the entrance building facing west;
4. subject to a trade-off of parking spaces available to replace those lost as calculated by County Engineer Ray Jordan (Exhibit "D-3") and made a part hereof;
5. subject to the site plan sketch (Exhibit "D-2"), which places the larger and/or possibly louder activities inward and away from near-by residential areas and provides for the appropriate building setbacks from the street.
6. a daily opening time of no earlier than 10:00 a.m., for the entire park, with a closing time of 10:00 p.m., for outside activities and an 11:00 p.m., closing time for indoor activities; and,
7. a seasonal opening and closing time as follows:
 - A. Inside activities be permitted the year around,
 - B. outside activities be permitted to open as early as May 1,
 - C. outside activities be closed not later than the day before Preview Day of the State Fair.
8. Noise levels generated by the park activities be limited to the 80 decibel level as taken by a directional reading from the curb; and,
9. off-Street parking shall be provided as follows:
 - A. At times other than during the Fair, free parking shall be provided on the grounds, west of the water theme park; and,
 - B. if the enclosed activities of the park are open for business during the Fair they would become another of the attractions and events available during the Fair. The County will have a contractual agreement to handle the parking question during the Fair, the same as with the other events of the Fair.

There being no further business, the meeting was adjourned at 11:37 a.m.

Date Approved March 18, 1983

Chairman