

TULSA COUNTY BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 43  
Friday, January 20, 1984, 9:00 a.m.  
Room 119, Administration Building  
500 South Denver Avenue, Plaza Level  
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chairman Tyndall (in at 9:16) Walker Wines	Martin	Gardner Jones Wiles	R. Edwards, Building Insp.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Tuesday, January 17, 1984, at 11:48 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Alberty called the meeting to order at 9:11 a.m.

MINUTES:

On MOTION of WALKER and SECOND by WINES, the Board voted 3-0-0 (Alberty, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, Tyndall, "absent") to approve the Minutes of December 22, 1983 (No. 42).

UNFINISHED BUSINESS:

Case No. 388

Action Requested:

Variance - Section 1420 (a) - Nonconforming Use of Buildings or Buildings and Land in Combination - Use Unit 1223 - Request for a variance to expand a nonconforming use in an RE District under the provisions of Section 1670, located south of the SW corner of 76th Street North and 117th East Avenue.

Presentation:

The applicant, Water Products of Oklahoma, P. O. Box 349, was not present.

Protestants: None.

Comments:

Mr. Jones informed this has been continued five times because the applicant is trying to acquire a second access point to the subject property.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to continue Case No. 388 to the February 17, 1984, meeting.

Case No. 400

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1208 - Request for an exception to permit a mobile home in an RS District under the provisions of Section 1680, located east of the NE corner of 117th East Avenue and East 136th Street North.

Presentation:

The applicant, Shirley Drywater, 11521 East 136th Street North, was not present.

Protestants: None.

Comments:

Mr. Jones informed this case has already been continued two times because the applicant has never been present. He informed the applicant has been contacted by letter stating that the Board has continued the application and she has to be present at the hearing. He has not heard from her.

Mr. Gardner informed that Jack Edwards told him that they have given her a temporary electric hookup.

Mr. Reece Edwards informed the proper way to handle it would be to let the Building Inspector give them official notice and then let it be handled through the District Attorney as a violation.

There was discussion as to what procedure should be taken.

Board Action:

On MOTION of WINES and SECOND by TYNDALL, the Board voted 3-1-0 (Alberty, Tyndall, Wines, "aye"; Walker, "nay"; no "abstentions"; Martin, "absent") to continue Case No. 400 to the February 17, 1984, meeting and to instruct the Building Inspector to issue a notice that if the applicant does not attend on February 17, her absence would result in the shutting off of their electricity.

Case No. 411

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request for an exception for church use and revival with camp grounds in an RS District under the provisions of Section 1680, located at the SE corner of North 61st Street and Delaware Avenue.

Presentation:

The applicant, Hobert Enkey, 1670 South Ash Place, Broken Arrow, was not present.

Protestants: None.

Comments:

Mr. Jones informed a call was received from the applicant asking that this case be withdrawn. The Staff never received the letter that Mr. Enkey said he would send.

Case No. 411 (continued)

Board Action:

On MOTION of WALKER and SECOND by WINES, the Board voted 3-0-0 (Alberty, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, Tyndall, "absent") to withdraw Case No. 411 pursuant to the phone statement by Mr. Enkey.

MINOR VARIANCES AND EXCEPTIONS:

Case No. 415

Action Requested:

Variance - Section 930 - Bulk and Area Requirements in the Industrial Districts - Use Unit 1218 - Request for a variance of the lot frontage requirement from 150 feet to 50 feet and 75 feet, respectively, to permit a lot split under the provisions of Section 1670, located at the SE corner of 58th Street South and 49th West Avenue.

Presentation:

Lee Counsellour, 2880 LBJ, Suite 202, Dallas, Texas, represented Waffle House, Inc. He informed they would like to divide this land into three parts. He described what the three parts would be used for. He informed the 50' portion for the motel is being required by lenders for their financing and will provide access through a driveway which has been approved by the County and the State. The 75-foot portion will have another driveway. Linking these within the property are recordable mutual nonexclusive ingress/egress easements. Each lot will have its own access. He presented a plot plan and explained it. There is cross access towards the rear of the lot with McDonald's.

Protestants: None.

Comments:

Mr. Jones informed the Planning Commission approved this lot split on January 18, 1984.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to approve a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - under the provisions of Use Unit 1218) of the lot frontage requirement from 150 feet to 50 feet and 75 feet, respectively, to permit a lot split (L-16058) under the provisions of Section 1670, on the following described property:

The North 145 feet of Lots 4, 5, 6, 7 and 8, Block 3, Bozarth Acres, an addition of Tulsa County, State of Oklahoma.

NEW APPLICATIONS:

Case No. 412

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an exception to permit a mobile home in an RE District under the provisions of Section 1670, located 4 1/2 miles west of Prattville, south side of Coyote Trail.

Presentation:

Lynn B. Calton, 2227 South Garnett Road, Suite 108, was present on behalf of the Blackjack Development Company. He informed this is a subdivision called C Bar C Ranch Addition. He submitted a plat (Exhibit "A-1") and showed the Board where the subject property is located. He informed that the subdivision consists of first and second additions and is about 18 acres in size. When it was zoned, the front 5 acres were zoned RMH, and the south 13 acres were zoned RE. He informed the County's concern was that there would be a high density mobile home park, and they wanted some control over the density. It has been their intention all along that this will be a mobile home subdivision. The first addition is already in use. The first addition contains three one-acre lots and the second addition consists of one-acre, two-acre, and 2 1/2 acre lots. The subject tract consists of 2 acres. There is septic tank approval on all the lots. They would like permanent use granted for the mobile home.

Protestants: None.

Comments:

Mr. Gardner informed if the area was zoned AG and they had two acres, they could put a mobile home there as a matter of right. The concern of the County was that they not have a dense mobile home park, not that they couldn't put mobile homes there.

Mr. Jones pointed out that this permission would be only for Lot 4 because of the advertising.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1209) to permit a mobile home in an RS District under the provisions of Section 1670, per building permit and Tulsa City-County Health Department approval, on the following described property:

Lot 4, Block 1, C Bar C Ranch Second Addition of the Tulsa County, State of Oklahoma.

Case No. 413

Action Requested:

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record-Use Unit 1206 - Request for a variance to permit two dwelling units per lot of record under the provisions of Section 1670, located at the SW corner of 86th Street North and Cherokee Expressway.

Presentation:

William Robert Kelley, Route 1, Box 492, Sperry, informed he owns the property which abuts the state and county highways. His residence has approximately 3,000 square feet in it. He would like to build a four-car garage with an apartment above it for his mother-in-law to live in. He informed that his mother and his brother live to the west of him and he owns the commercial property across the street. He also owns the property surrounding the subject property. The trailer on the property is for temporary use by his uncle. It will be taken off as soon as the apartment is built. He submitted a plat (Exhibit "B-1") and presented a picture of his house. He informed that the houses his mother and brother live in are in the \$200,000 range, and his is worth from \$125,000 to \$150,000. He is trying to improve the whole area.

Protestants: None.

Comments:

Mr. Wines informed that the applicant has improved the property in the area.

Mr. Gardner informed this is obviously in an area where they can support zoning that would accommodate two dwelling units without any question.

Board Action:

On MOTION of WALKER and SECOND by WINES, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to approve a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record - under the provisions of Use Unit 1206) to permit two dwelling units per lot of record under the provisions of Section 1670, on the following described property:

Lot 5, Block 1, Subdivision of Country Corner Estates, an addition to Tulsa County, State of Oklahoma.

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1224 (a) - Request for an exception to permit oil extraction in an RS District under the provisions of Section 1680, located north of the NW corner of 61st Street South and 85th West Avenue.

Presentation:

The applicant, Dan Mordhorst, P. O. Box 4335, was represented by John Sublett, 1776 One Williams Center. He presented a map (Exhibit "C-1") and informed he represents the Seagull Development Company which is an owner of an oil and gas lease on the property. The lease goes back to 1905 (Exhibit "C-2"). There are several oil wells in the area--one is still producing 5 barrels of oil a day. The people who have bought the tracts of land have bought only the surface, not the minerals. He informed a rig moved in on December 1, 1983, and attempted to establish a location here with the permit approved by the Corporation Commission. He stated that the gentleman that owns the property objected to the rig being brought in. They had to go to court. He informed that under Oklahoma law, when a person buys the surface, it is subject to the right of the mineral owner to develop the property for oil and gas purposes, subject only to being obligated to settle and pay whatever surface damages to the surface owner that may be encountered. He feels that the main objection to the drilling of the well was the fact that the owner of the property thought that he ought to be entitled to more damages and settlement of the surface and location damages than what the owner of the lease hole estate felt like they were obligated to pay. The legislature, last year, enacted a new set of statutes (Exhibit "C-3") which set out a specific procedure in order to settle surface damages. He described this legislation. He informed there was a dispute over the amount of damages that should be paid, and the decision on this matter is pending in District Court. The production in the area has been there since 1905, and the people knew of the existence of the oil and gas lease and the existing development on the property. He informed that the applicants did not know the County had any zoning and did not know they needed this Board's permission to drill. They had to remove the rig from the property. The ground was soft at the time and got torn up. The property looks bad right now, but it can be repaired. Moving the rig out has already cost the applicant about 8 thousand dollars. There is not a well operating on the subject property at this time. He described the other wells in the area. He feels that this appears to be covered under a grandfather clause.

Dan Mordhorst, P. O. Box 4335, informed the well would be approximately 275 feet from the structure on the property. The State law requires a distance of at least 200 feet from any structure.

Protestants:

Bill Lawson, 5687 South 89th West Avenue, wanted to know what the restrictions are in an RS area for drilling operations. Mr. Gardner explained this to him. Mr. Lawson contended that what was done in 1905 when the land was not improved may be different than what should be done now. He informed this would be a 24 hour-a-day operation in an RS area and would be a nuisance to the people around. He feels

Case No. 414 (continued)

that the owner of the property should be compensated on a monthly basis for whatever is above the ground on the property. He informed they have started drilling on the well.

Jody Sherrell, 5831 South 85th West Avenue, owns the property across the street to the east of the subject tract. He submitted some pictures (Exhibit "C-4") and informed that he has just built a new home in the area. He informed they came in without a Zoning Clearance permit. When he bought his property, he was aware that he did not own the mineral rights. He informed they moved the rig in during the day when most people were not home. He happened to be home, but the landowner was not. It took three bulldozers to pull their equipment in because it was so muddy. They had about six tractor-trailer trucks blocking driveways up and down the road. He informed they messed up the road frontages that the property owners have the responsibility of maintaining. He feels that the people in the area were shown very little respect by the applicant. He informed this could be made more compatible if there was less equipment on the site at any one time and if they didn't block the roads. He informed they had no power when this was going on--they just had to take what came. He does not know how things could be improved without great expense. They feel their property values would be decreased if this application were approved. He feels that if the operation is run at all like it has been run so far, the well will not be maintained.

Delmar Robinson, 5812 South 85th East Avenue, informed he owns the subject property. He submitted a petition signed by most of the property owners in the area which states that they do not want this operation to continue (Exhibit "C-5"). He feels that his rights were violated. He informed that in order for an oil company to come in and drill, they are supposed to notify a person with a certified letter. This was not done--he never received a letter. He feels the only thing they did that was legal was to file a petition with District Court for appraisers. He informed they moved in without even saying that they were coming. He came home from work and the rig was set up and was drilling. He informed this drilling was a 24 hour-a-day operation. The rig is a big rotary rig. They tore the property up when they came in. They feel like the applicants should have abided by the law. They offered him \$250 for surface damage compensation. He informed he knew they were coming before they appeared, but he did not know when they were coming. He did receive a card from the Corporation Commission before they came. He did understand that he only owned the surface rights on the land, but he did not know what the law said about the rights of the mineral owners to come on the surface property to get to the minerals. The rig was on the property between 2 1/2 and 3 days, and drilled for about 2 days.

Tommy Tabor, 5864 South 85th West Avenue, informed that the oil company may own the minerals, but the surface they own is important to them. He informed that after the drilling is done, the well will have to be maintained. The road that all the heavy equipment is going up is a light-weight surface road--it has thin blacktop. The road will be torn up. He informed that they have already cracked the road. He was concerned about the amount of surface damages the applicant offered to the landowner. He was concerned with the noise that the well will generate. They do not want the well on the property.

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Dorothy Tabor, 5864 South 85th West Avenue, informed that the well that is in operation in the area was in operation when her parents bought their land. It was her understanding that all the oil in the area, except for where they are presently pumping, had already been pumped out. She feels that most of the other people in the area had this same idea. They felt that the oil companies would not be back in there. She informed a person cannot stop a pump after it is already pumping.

Gene Reynolds, 5605 South 81st West Avenue, informed he would not want anybody coming in on his property to do anything. The surface owner has to pay the taxes on the property. He does not think a person should have to allow anyone on their property. He was concerned because of the traffic problems that the applicant has caused in the area and about the road that has been damaged by the heavy trucks and machinery that were brought in.

Applicant's Rebuttal:

Mr. Sublett informed that the people were contacted and an attempt was made to settle the damages. He feels the dispute is over the amount of damages. He reminded the Board that the landowners bought the land without the mineral rights. He informed that the mineral owners have some rights, too, to develop the property. He does not know of any problem that the well that is in the area now has caused. He informed that when the applicants put up the bond with the Court, they had the right to move in--they did not move in secretly. He informed that the landowner was notified by certified mail that they were coming in and was also told the exact location of the well and when they were to move in.

Dan Mordhorst, 1711 East 13th Street, informed the statute requires that they contact the party. It says that a letter should be sent beforehand by certified mail. They made an attempt by telephone and by having their field man go out to try to negotiate the damages. They have had little response from the landowner. The landowner told them that he did not want them to enter the property, so they filed a petition with District Court (Exhibit "C-6") to appoint appraisers and a restraining order so that they could start their drilling operation. This was all done prior to them moving onto the property. They feel that the petition suffices for the certified mail requirement. Certified mail is used if a person is beginning their contact with a party. They contacted him by telephone. He pointed out that in the mineral conveyance where they acquired their property, the surface owner at the time reserved the minerals and the right of ingress and egress. He pointed out that the Sand Springs Home owns half interest in the mineral rights. He feels the mineral owner has a right for production of the minerals. He informed the contacts they made and the steps they took were taken when the weather was dry. They were prepared to start their drilling operations when it was dry. The delay caused by having to file the petition postponed their drilling operations which brought them in when it was muddy. This was the reason for the heavy equipment. The project was postponed by the landowners. He informed that if they had come in when it was dry, they would have had to have one bulldozer and one tractor-trailer--this would have minimized the damages that were done. He informed their contract people have come in and washed down the road and have



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cleaned up the mud. When the weather is dry enough, they will go in and level the land that they have had to excavate to get their equipment in.

Steve Yates, P. O. Box 4335, informed that the mast will probably be 60 to 90 feet. They will have to drill 24 hours-a-day, but it will only take about 5 days to drill the well. He informed that Seagull will try to do their part--they will give the pumper's name and telephone number in case something should go wrong. He submitted pictures showing how the road looked after Seagull washed it down (Exhibit "C-7"). He informed if this is a dry hole, everything will be smoothed out. They will try to work with the people in the area.

Mr. Sublett informed the coexistence of single-family homes and oil and gas development is not unprecedented. He described a situation where the coexistence worked out very well.

Comments:

Mr. Alberty informed the County Zoning Code requires a well to be a distance of 200 feet from any structure.

Mr. Gardner informed an RS area is a residential, single-family area. He thinks this area was zoned before there was an AG classification. The zoning in the County is essentially the same as it is in the City. He informed that oil and gas extraction is by right in an AG District, and it requires an exception in all other districts, including an RS District. The only standards that are now required of the County Code is that oil and gas wells and related storage tanks shall be located 200 feet or more from a residence.

Mr. Edwards informed that drilling an oil well does not require a building permit under the County Building Code and County Resolutions. He informed that they did issue an official notice for them to cease operation since they did not have Board approval.

Mr. Wines informed that the legislature provides for the settlement of damages.

Mr. Gardner asked if all the well sites in the area, except for the one on the subject property and the one that is still pumping, are plugged and if there have been any drilled in the last 50 years. Mr. Alberty informed it was his understanding that there was just one active well out there--whether the others are plugged or just inactive wells he does not know. Mr. Sublett submitted a list of several of the wells in the area, when they were drilled, and how long they produced (Exhibit "C-8").

Mr. Walker asked when the last well was drilled, other than the subject well. Mr. Yates informed that in the whole section there was one well drilled 2 years ago--it was a dry hole. He informed that in the quarter section it has been quite some time since one was drilled. Mr. Sublett informed one was drilled around 1944. Mr. Lawson informed 1944 was prior to the subdivision being developed.

Mr. Alberty informed the protestants that the mineral owners have rights as well as the surface owners do.

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Mr. Alberty asked Mr. Mordhorst if on previous cases he has had the opportunity to drill a well in a situation similar to this where there is a residential neighborhood developed and where they would be exiting and entering the property through someones home site. Mr. Mordhorst informed that he has. Mr. Alberty asked what the procedures were that they used. He informed that in the oil and gas lease they are given the right to enter the property. In this case, they did not have to cross over anyones land that was not subject to the lease.

Mr. Alberty asked Mr. Mordhorst at what point they normally construct a roadway which is capable of handling their rigs and their maintenance equipment. Mr. Mordhorst informed they will set a whistle and put chad on the road. This will allow a pumper truck to enter the property. This will be from the blacktop to the well site. The only other equipment going in to the well after the drilling operations are completed, which will only take five days, will be a pickup truck. He informed they would be willing to work with the people by installing an electric engine which would minimize the noise. They would also be willing to set the tanks at a different location if they are allowed to lay the line. They can set the tanks where the previous tanks are already located from the first well that is on the property. He informed the old well site is circled with trees and is barely visible from the road. He informed this is the only way to access the property. He informed they used a mud rotary rig and it is the smallest one they could use for the depth that they needed to go. They will be going down approximately 2,500 feet.

Mr. Alberty informed he feels uncomfortable making a decision in this area without any guidelines for operation other than the setback.

Mr. Wines informed the amount of damages cannot be actually determined until the well is finished. He described the air drilling rig. He told of several cities where there is drilling in the city. He described the wells that are located on his property. Mr. Wines told about the property where some wells were drilled that came before this Board and were denied. He informed that a lot depends on the operator of the wells. He feels that in the last case, they should have postponed their decision and gone out to view the site. He feels that perhaps they might want to consider the possibility of viewing the site in this case before they make their decision.

Mr. Alberty informed that the property owners have their rights and the mineral owners have their rights. The Board's dilemma is trying to match the two rights together in as closely a compatible way as possible where it affects no one in any way other than what he has a right to do. Everyone will be affected in some way.

Mr. Alberty told about his reasons for voting against a similar application that was heard by the Board at the November, 1983 meeting.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to continue Case No. 414 to the February 17, 1984 meeting to allow the Board members an opportunity to view the site and to allow input from the Planning Staff and advice from the District Attorney's office.

Case No. 416

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD, and RM Districts - Use Unit 1205 - Request for a variance of the required lot width of 150 feet to 125 feet in an RE (pending legal publication of the Resolution) district under the provisions of Section 1670, located north and west of 41st Street, between 161st West Avenue and 177th West Avenue.

Presentation:

Charles Golden, 4710 West 89th Street, informed this is zoned RE. He is wanting half-acre tracts which would normally be 150' by 150'. His intent is to make the lots 125' by 200'. He is planning to file a Subdivision Plat on this property. This will be for residential use. This will put the houses back a little farther from the street.

Protestants: None.

Comments:

Mr. Jones submitted a letter of recommendation from Sand Springs (Exhibit "D-1").

Mr. Gardner feels this is the proper channel--to look at the entire subdivision and do it when the plans for the subdivision are being made.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to approve a Variance (Section 430.1 - Bulk and Area Requirements in the RS, RD, and RM Districts - Under the provisions of Use Unit 1205) of the required lot width of 150' to 125' in an RS (pending legal publication of the Resolution) district under the provisions of Section 1670, subject to the applicant bringing back a Subdivision Plat approved by the TMAPC for the Board's review and filing, on the following described property:

The W/2, SW/4, SE/4, LESS 1.4 acres, more particularly described as follows, to wit: Beginning at a point 2,030.00' West of and 60.00' North of the Southeast corner of Said SE/4; thence North 89°-19'-00" West parallel to and 60.00' from the Southerly boundary of Said SE/4 a distance of 210.0'; thence North 00°-41'-00" East a distance of 290.40'; thence South 89°-19'-00" East a distance of 210.00'; thence South 00°-41'-00" West a distance of 290.40' to the Point of Beginning, containing 60,984 square feet, or 1.4000 acres; and the W/2, E/2, SW/4, SE/4; and the E/2, SE/4, SW/4; and the E/2, W/2, SE/4, SW/4; and the NW/4, SW/4, SW/4, of Section 19, Township 19 North, Range 11 East, Tulsa County, Okla.

Action Requested:

Variance - Section 220 - Height Exceptions - Use Unit 1204 - Request for a variance from the 60' height limitation to 180' to permit a radio broadcast antenna in an AG District under the provisions of Section 1670, located at the NE corner of 181st Street and South Memorial Drive.

Presentation:

Charles W. Shipley, Suite 1770, One Williams Center, represented Bixby Properties who is the owner of the subject property and the 320 acres surrounding the property in question. Bixby Properties is owned by the same people that own Bixby Telephone Company, and they are going to lease this tower to the telephone company for its use. The telephone company began the process for this in September of 1982, when they submitted an application to the Federal Communications Commission for the approval of this tower. The tower was approved last fall by the FCC. He submitted and described a packet of materials telling the specifications of the tower which has been reviewed by the FCC. The structure will be 180 feet tall. There are no houses on the entire tract, so if the tower fell over lengthwise in any direction, it would not get off the property. He submitted a handout showing the location of the tower on the property (Exhibit "E-1"). He informed that Motorola is the contractor on this and they have built about 60 other towers similar to this in the State of Oklahoma. They do have their own registered engineer. There will also be a small equipment building that will go along with this that will have to be permitted at a later date. The structure has guy wires. He submitted a drawing indicating the guy wire structure (Exhibit "E-2"). The guy wires will extend from 3 different sides. He submitted a drawing which shows an aerial view of the tripod system of guy wires (Exhibit "E-3"). The wires extend roughly 142.5 feet on either side of the tower. The tower will be located 194 feet east of the west property line and will be 276 feet north of the south property line. Bixby Telephone Company is leasing the property from Bixby Properties. The time for the lease has not yet been determined. This has not yet been reviewed by the County Engineer. He was informed that the FAA did not need to be notified because this was not higher than 200 feet. He informed they could only move the tower about 15 feet further to the east. Their problem is that this location is on the crest of a hill and drops off rapidly. They have already purchased the 180-foot tower. He does not think the location can be changed to be across the floodplain.

Mr. Irving Coates, 400 West Tucson Avenue, the chief operating officer of the Bixby Telephone Company, informed April 14 is their deadline to construct the tower. He informed that if they did move they would have to stay with a tower less than 200 feet high. They will either have trouble with the water level or they will have to go through the FAA to get a higher tower.

Protestant:

Jim Ketchum, 8300 East 181st Street South, Bixby, informed he has known the owner of the subject property all his life. He is not present to oppose the idea of the tower, but the planned location of it. He drew a diagram on the blackboard and explained the area. He informed that if the tower is placed in the proposed location and if fell to the west,

Case No. 417 (continued)

about 14 feet of it would fall on the highway right-of-way. He informed the reason they selected the proposed location is because of its elevation--it is higher than other parts of the property. He would like the tower moved to the northeast. Mr. Ketchum stated that if the Board can only consider the 10 acres that they have applied for, he would request that the application be denied. He would like the tower to be located 300 feet east and 600 feet north of the proposed location. He is concerned about the tower falling. He is also concerned about the airport restrictions in the area. He feels that this will affect the property values in the area. He described the subject property and discussed where he would like the tower to be set. He informed the City of Bixby allows building in the floodplain. The only requirement is that the floor be one foot above the 100-year floodplain.

Applicant's Rebuttal:

Mr. Shipley informed a continuation would throw their whole system off. They have to have the tower in operation by April 18, 1984. It takes about 60 days to construct the structure and have it on-line. If they do not have it up by then, they have to begin the two-year process all over again. He does not think the houses 300 feet away will be in the zone of influence of the tower. He is concerned that unfounded fears may be brought out to offset a serious business need that has been well thought out and designed.

Comments:

Mr. Jones informed this is within the Bixby fenceline. He has contacted Bixby, and their planner, Jim Dunlap, has no recommendation on this.

Mr. Edwards informed if they write a permit on the tower, it will have to be engineered by a registered professional engineer who is registered in the State of Oklahoma.

Mr. Edwards informed the County Engineer would not review this as far as the structure is concerned. The Building Inspector would do that. When the applicant comes in to make his application for a Building Permit, he will bring the engineering plans into their office which have been stamped and certified by the structural engineer. The Building Inspector would then review his plans according to their Codes.

Mr. Alberty informed Mr. Ketchum that the applicants have a 10-acre application, so the Board can only consider something within the 10 acres.

There was discussion about what the airport restrictions on this would be.

Mr. Edwards informed that nothing could be built in the floodplain that will impede the flow of water.

There was discussion about where the tower could possibly be moved to within the 10 acres.

Mr. Wines informed he would like the tower to be moved a minimum of 15 feet to the east and, if possible, further to the north.

Case No. 417 (continued)

Mr. Alberty informed that the protestant stated that a small movement would be inconsequential.

Mr. Edwards informed the County may have different regulations for constructing in a floodplain than Bixby.

There was discussion about what the regulations are for constructing in a floodplain.

Board Action:

On MOTION of TYNDALL and SECOND by WINES, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to approve a Variance (Section 220 - Height Exceptions - under the provisions of Use Unit 1204) from the 60' height limitation to 180' to permit a radio broadcast antenna in an AG District under the provisions of Section 1670, to be located a minimum of 194 feet east of the west property line and a minimum of 276 feet north of the south property line, on the following described property:

The SW/4 of the SW/4 of the SW/4 of Section 36, Township 17 North, Range 13 East, Tulsa County, State of Oklahoma.

OTHER BUSINESS:

Case No. 418

Action Requested:

INCOG requests refund of fees to the applicant.

Presentation:

The applicant, Sharecia Wilson, 1043 Valley Drive, Sand Springs, was not present.

Protestants: None.

Comments:

Mr. Jones informed that the applicant filed a variance for a lot-split that is located inside the Sand Springs Regional Planning Commission area. It was brought to the attention of Staff by the Sand Springs Planner, Pat Treadway, that the lot-split and variance had already been approved under a prior application, so they do not need to go through this process. The applicant is requesting a refund of fees. Mr. Jones feels the whole amount (\$75.00) could be refunded.

Mr. Gardner informed the amount would depend on whether or not this would be considered a Staff error. If it was a Staff error, it should all be refunded.

Board Action:

On MOTION of WALKER and SECOND by TYNDALL, the Board voted 4-0-0 (Alberty, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; Martin, "absent") to refund \$75.00 to the applicant.

There being no further business, the Chair adjourned the meeting at 11:25 p.m.

Date Approved February 17, 1984

Wayne Albeck  
Chairman