

COUNTY BOARD OF ADJUSTMENT
Meeting No. 104
Tuesday, January 10, 1989, 1:30 p.m.
Aaronson Auditorium, Central Library
400 Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Looney Tyndall Walker		Gardner Jones Moore	Ron Fields, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk, as well as in the Reception Area of the INCOG offices, on Friday, January 6, 1989 at 2:52 p.m.

After declaring a quorum present, Chairman Looney, called the meeting to order at 1:35 p.m.

MINUTES

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; no "abstentions"; Walker, "absent") to **APPROVE** the **Minutes** of November 15, 1989 (No. 102).

On **MOTION** of **WALKER**, the Board voted 4-0-1 (Alberty, Eller, Looney, Tyndall, "aye"; no "nays"; Walker, "abstaining"; none, "absent") to **STRIKE** the Item to consider approval of the minutes for the December 20, 1988 meeting; finding that a quorum was not present and a meeting was not held on that date.

UNFINISHED BUSINESS

Case No. 855

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in Agriculture Districts - Use Unit 1206 - Request a minor variance of lot area from 2 acres to 1.5 acres to allow for a lot split, located 9902 North 145th East Avenue.

Comments and Questions:

Mr. Jones informed that Staff has received a letter (Exhibit A-1) from the City of Owasso recommending approval of the application.

Case No. 855 (continued)

Presentation:

The applicant, Kenny Joe Smith, 4815 South Harvard, Tulsa, Oklahoma, stated that the lot split application has been approved by the Planning Commission. He informed that the property was conveyed in July of 1982 and it was discovered at a later date that lot split approval was not obtained.

Additional Comments:

Mr. Looney asked if there are other lots in the area that are similar in size to the subject property, and Mr. Smith answered in the affirmative.

Mr. Albery pointed out that there are numerous lots to the north that are smaller than the property in question.

Protestants: None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Albery, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Variance** (Section 330 - Bulk and Area Requirements In Agriculture Districts - Use Unit 1206) of lot area from 2 acres to 1.5 acres to allow for a lot split; finding that there are numerous lots in the area that are smaller than the lot in question and the granting of the variance request will not be detrimental to the area; on the following described property:

Beginning 522' north of the SE/c, N/2, SE/4, Section 16, T-21-N, R-14-E, thence west 453', north 481', east 453', south 481' to the Point of Beginning, less the north 192.5' thereof, Tulsa County, Oklahoma.

Case No. 856

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in Agriculture Districts - Use Unit 1206 - Request a minor variance of lot area from 2 acres to 1.5 acres to allow for a lot split, located 9902 North 145th East Avenue.

Presentation:

The applicant, Don Myers, 8321 South Pittsburgh, Tulsa, Oklahoma, who submitted a site plan (Exhibit B-1), stated that he is constructing a dwelling at the above stated location and that the lot split has been approved by the City of Sand Springs. He informed that there are other lots in the area to the south that are similar in size to the lot in question.

Case No. 856 (continued)

Interested Parties:

Lawrence Mills, Route 2, Box 447-1, Salina, Oklahoma, stated that he owns the property to the south, and is not opposed to the application.

Protestants: None.

Board Action:

On **MOTION** of WALKER, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Variance** (Section 330 - Bulk and Area Requirements in Agriculture Districts - Use Unit 1206) of lot area from 2 acres to 1.5 acres to allow for a lot split; finding a hardship demonstrated by the large size of the lot; and finding that there are similar sized lots to the south of the subject tract; on the following described property:

The north 170.08' of the W/2 of Lot 3, Section 30, T-19-N, R-12-E, Tulsa County, Oklahoma, less the west 24.75' thereof.

Case No. 857

Action Requested:

Use Variance - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1223 - Request a use variance to allow for warehouse/storage in an AG zoned district, located 7613 East 181st Street South.

Presentation:

The applicant, Bobby Howell, PO Box 96, Bixby, Oklahoma, submitted a plot plan (Exhibit D-2), and asked the Board to allow him to use an existing building for storage purposes.

Comments and Questions:

Mr. Fields informed that the applicant previously requested an expansion of the existing building, to be used as a horse barn. A copy of the building permit (Exhibit D-3) was submitted.

Mr. Looney asked the applicant to restate the proposed uses for the building in question, and he reiterated that it will be used for storage. Mr. Howell explained that he sells shower doors to homebuilders and does not have customers visiting the property, but delivers directly to the job site.

Mr. Fields asked if mirrors are stored on the property, and the applicant answered in the affirmative.

In response to Mr. Walker's question as to the method of delivery, Mr. Howell informed that he delivers the items in his pickup.

Case No. 857 (continued)

Mr. Alberty inquired if the use of the building has changed since application was made for a building permit in 1988. Mr. Howell stated that there was only a pole barn on the property in 1988 and he made application for the construction of a horse barn.

Mr. Walker asked how much space is being used for storage of the the shower doors and mirrors, and the applicant replied that he is using approximately 750 sq ft for storage.

Interested Parties:

David Gates, 8394 East 111th Street, Bixby, Oklahoma, stated that he owns property near the subject tract, and explained that he and the surrounding property owners are not concerned with the present operation, but feel the business might escalate if the owner is allowed unlimited space. Mr. Gates stated that, although Mr. Howell does not consider expanding, a subsequent owner could determine to operate the business on a larger scale. He noted that a bobtail truck was observed visiting the site on one occasion.

Protestants:

A petition of opposition (Exhibit D-1) containing signatures of nine surrounding property owners was submitted to the Board.

Comments and Questions:

Mr. Looney asked Mr. Gates if, other than this one instance, there has been other unusual traffic entering the property, and he replied that there has been nothing out of the ordinary.

Board Action:

On **MOTION** of **ALBERTY** the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Use Variance** (Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1223) to allow for warehouse/storage of shower enclosures and mirrors in an AG zoned district; subject to the storage area being limited to the existing 50' by 30' building with no expansions; subject to no signs being installed; and subject to the use variance being approved for the present owner only; finding that the warehouse/storage operation, as it presently exists, is not detrimental to the area; on the following described property:

The E/2, E/2, SW/4, SE/4, less the east 130', south 335', Section 35, T-17-N, R-13-E, Tulsa County, Oklahoma.

Case No. 858

Action Requested:

Special Exception - Section 710 - Principal Uses in Commercial Districts - Use Unit 1217 - Request a special exception to allow for an existing automotive wrecker service in a CS zoned district.

Use Variance - Section 710 - Principal Uses in Commercial Districts - Use Unit 1223 - Request a use variance (if needed) to allow for the temporary storage of vehicles hauled by wrecker service.

Variance - Section 1340 - Design Standards for Off-Street Parking - Use Unit 1217 - Request a variance to allow for gravel parking, located NE/c 71st Street North and North Peoria Avenue.

Presentation:

The applicant, W. Michael Hackett, 2642 East 21st Street, Tulsa, Oklahoma, represented Floyd and Pat Simpson, owners and operators of Discount Wrecker Service. He stated that he is asking that automotive and allied activities be allowed to continue on the property, along with temporary storage of vehicles and gravel parking. Mr. Hackett explained that the Golden Hills Baptist Church has requested that a portion of the screening fence along the east boundary be removed to allow them greater visibility from Peoria.

Mr. Looney asked Mr. Hackett to give a brief synopsis of the difference between the present application and Case No. 817 which was previously denied by the Board.

Mr. Hackett stated that Case No. 817 was a special exception request only, and is presently on appeal to District Court. He stated that a request for continuance of the trial date was granted on that case, in order that the Board could consider the present application. Mr. Hackett explained that he has met with various residents in the area and additional screening on the north boundary and along Peoria has been erected to attempt to make the business more compatible with the neighborhood. It was noted that, subsequent to the previous meeting, TMAPC and the Board of County Commissioners have approved CG zoning approximately one block north of the subject property.

Comments and Questions:

Mr. Alerty advised that the automotive uses would be allowed by right if Mr. Simpson's property was zoned CG, but storage of automobiles would not be allowed. Mr. Hackett stated that he would liken Mr. Simpson's business to auto sales, since the business has a regular turnover every 30 to 45 days. He pointed out that a garage was in operation on the subject tract in 1983, with the use being converted to a wrecker service in 1986. Mr. Hackett noted that the business is open only during daylight hours and the livelihood of his client depends on the operation of the business. He explained that the present storage area is located in the northeast

Case No. 858 (continued)

corner of the property, and will be expanded down to the driveway, with screening installed. Mr. Hackett submitted a packet (Exhibit C-1) containing photographs, a plot plan, uses along Peoria and a petition of support. He pointed out that the Peoria Special District calls for the west side of Peoria to be industrial and the frontage properties on the east side to develop commercial.

Mr. Albery asked if there are any salvage operations on the east side of Peoria, and Mr. Hackett replied that there are none.

In response to Mr. Walker's inquiry as to wrecker services on the east side of Peoria, the applicant stated that there are other automotive related businesses, but no wrecker services.

Protestants:

Jeff Kirkham, 1727 East 73rd Street North, Tulsa, Oklahoma, stated that a mobile home has been installed on the subject property for rental purposes and feels that this use is in conflict with the current application. He pointed out that a hardship has not been demonstrated by the applicant. A packet (Exhibit C-2) was submitted which contained a filed motion to dismiss the appeal from District Court, a copy of the order from the County to cease business operations on the property and a letter to the County Board of Adjustment.

Comments and Questions:

Mr. Albery stated that he has heard no new information concerning this case.

Denise Graham, Assistant District Attorney, stated that she is processing the appeal on Case No. 817. She informed that Mr. Hackett called her when the appeal was set for hearing, indicating that the Board might approve a use variance, and asked that the hearing be continued. She stated that it was not an unusual request and agreed to pass the case until the application for additional relief was heard by the Board.

Mr. Albery stated that new information has not been presented and there has been no change in the use. Mr. Walker agreed with Mr. Albery, and added that Peoria Avenue separates the zoning classifications in that area.

Mr. Looney asked Mr. Kirkham to continue his protest presentation, and he noted that the whole purpose of zoning is to establish some conformity within the district. He pointed out that the wrecker service is directly in opposition to the zoning ordinance, and that the impounding of disabled vehicles often evolves into a salvage business. Mr. Kirkham stated that the RS zoned property was purchased in 1981, a request for a 1200 sq ft accessory building for the storage of two automobiles and a motorcycles was made in 1982 and by September of that year a business was being operated on the property. He informed that the building inspector ordered the business to cease in September of 1982, and application was made for

Case No. 858 (continued)

CG zoning in 1983. It was noted that CG zoning was denied and CS was approved, with the chairman of that commission pointing out that the proposed auto repair would require a special exception approval from the Board of Adjustment; however, Mr. Simpson did not apply to the Board for that relief and continued to operate the business illegally, with the wrecker service being added in 1986. He pointed out that the applicant was again cited and an order to cease operation was issued in 1988, at which time Mr. Simpson made application to the Board for the operation of a wrecker service on the subject tract. Mr. Kirkham noted that the application was denied and asked the Board to deny this application, which is essentially the same as the one previously heard.

Maxine Capps, 1822 North Xenophon, Tulsa, Oklahoma, stated that she owns property across the street from the Simpson's property, and is not against the applicant making a living, but is supporting Mr. Kirkham, who seems to be the only one interested in keeping junk yards from developing on the north side of Tulsa. She remarked that the elected officials are not interested in protecting the area.

Applicant's Rebuttal:

Mr. Hackett stated that it appears the general consensus of the Board is that no new information has been presented and requested withdrawal of the application.

Board Action:

On **MOTION** of ALBERTY, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **WITHDRAW** Case No. 858, as requested by the applicant.

Case No. 859

Action Requested:

Use Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1217 - Request a use variance to allow for an automobile repair shop in an RS zoned district.

Variance - Section 1217.3 - Use Conditions - Use Unit 1217 - Request a variance of the screening requirements.

Variance - Section 240.2 - Permitted Yard Obstructions - Use Unit 1206 - Request a variance to allow a detached accessory building to be greater than 750 sq ft, located 4910 West Edison Street.

Presentation:

The applicant, Larry Crain, 119 North 48th West Avenue, Tulsa, Oklahoma, submitted a plot plan (Exhibit E-1) for an addition to an existing building. He informed that the concrete slab is in place and the additional space is needed for the continued operation of his automobile repair shop.

Case No. 859 (continued)

Comments and Questions:

Mr. Albery asked if the addition will be on the north end of the existing building, and Mr. Crain answered in the affirmative.

Mr. Jones explained that the use is probably nonconforming, as a salvage business was previously operated on the tract, and that the applicant has removed the salvage cars and intends to continue the auto repair business. He pointed out that the applicant is bound by the 750 sq ft restriction for an accessory building because of the RS zoning classification on the property.

Mr. Looney asked the applicant to explain the type of business that will be operating on the lot, and Mr. Crain stated that he will operate an auto repair business, as he has been doing for approximately 12 years. The applicant stated that an auto related business has been operated at this location by members of his family for many years.

Mr. Looney inquired as to the days and hours of operation for the business, and Mr. Crain replied that he is open Monday through Friday from 9:00 a.m. until dark, and from 9:00 a.m. to 3:00 p.m. on Saturday. He informed that there are no salvage vehicles on the lot and there are approximately 12 cars awaiting repair at this time.

Interested Parties:

Dessie Buckner, 4915 West Easton, Tulsa, Oklahoma, stated that she lives in the area and is not opposed to the building, but is concerned with salvage and storage of automobiles on the lot.

Mr. Albery asked if there are disabled automobiles on the property at this time, and Ms. Buckner replied that there are several automobiles, a camper and a mobile home on the lot. She informed that the mobile is used for an office.

James Rumsey, 4908 West Edison, Tulsa, Oklahoma, stated that he lives adjacent to the subject property and that there are no automobile parts stored on the lot and asked the Board to approve the application. Photographs (Exhibit E-2) were submitted.

W. D. Colley, 524 North 49th Street, Tulsa, Oklahoma, informed that he lives approximately two blocks east of the subject property and that the applicant keeps the property in very good repair.

Jim Sparker, contractor for the proposed building, stated that the entire building will be refaced after the construction is completed, and the structure will enhance the appearance of the neighborhood.

Case No. 859 (continued)

Additional Comments:

Mr. Alberty asked Mr. Sparker to state the size of the building, and he replied that the new addition will be 750 sq ft and will double the size of the structure.

Mr. Gardner advised that the application could be considered to be more like a home occupation if the applicant lives on the premises and has no employees or signs. He pointed out that the size of the tract can easily accommodate a 1500 sq ft accessory building.

Mr. Crain informed that he does not propose to have employees or a sign, but does live at another location.

There was discussion concerning screening requirements for the business, and Ms. Buckner, who lives to the south, stated that she is not opposed to waiving of the screening requirements if the property is kept in good repair.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a Use Variance (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1217) to allow for an automobile repair shop in an RS zoned district; to **APPROVE** a Variance (Section 1217.3 - Use Conditions - Use Unit 1217) a variance of the screening requirements; and to **APPROVE** a Variance (Section 240.2 - Permitted Yard Obstructions - Use Unit 1206) to allow a detached accessory building to be 1500 sq ft; per plot plan (gable roof and new face); subject to a maximum of six automobiles being stored outside the building at any given time; subject to no signs being installed; and subject to the business being a one-man operation, with no outside employees; finding an auto repair business has been in operation on the subject tract for many years and is a nonconforming use; on the following described property:

Tract 9, beginning 24.75' south and 800' east of the NW/c, NE/4, NE/4, thence south 330', east 100', north 330', west 100' to the Point of Beginning, Section 5, T-19-N, R-12-E, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 860

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1203 - Request a special exception to allow for wild and exotic animals (ostrich) in an AG zoned district, located north and east of NE/c 151st Street South and 161st East Avenue.

Presentation:

The applicant, Marvin D. Young, Sr., Route 1, Bixby, Oklahoma, who submitted a plot plan (Exhibit F-3) and photographs (Exhibit F-1), stated that he has constructed three ostrich pens 65' by 250'. He informed that he has two 10' by 12' sick pens inside the building to the south. Mr. Young stated that he has applied for a commercial breeding license and was informed (Exhibit F-2) that ostrich raising does not require such a permit, but an import/export license is required for moving birds across state lines. He remarked that he purchased the birds in August of 1988, with the intent of producing young ostrich for sale.

Comments and Questions:

Mr. Looney asked the applicant how many ostrich he is keeping on his property at this time, and he replied that he has one pair of birds and his relatives have five pair on his property.

Mr. Looney inquired as to the total number of ostrich that will ultimately be kept on the property, and Mr. Young replied that his goal is to have 12 producing birds. He informed that he will probably care for a maximum of 20 pair, including those belonging to his relatives.

Mr. Alberty asked the applicant what type of precautions have been taken to prevent persons in the area from being harmed by the birds. Mr. Young replied that he will install warning signs on the fences, but does not have them in place at this time.

Mr. Alberty asked how many young ostrich might be on the property in addition to the older birds, and the applicant informed that the total number might be as many as 400.

In response to Mr. Walker's question, Mr. Young informed that he owns a total of five acres of land.

Interested Parties:

Brooks Brewer, Route 1, Bixby, Oklahoma, stated that his property abutts Mr. Young's tract, and that he is familiar with the raising of ostrich. He noted that he owns birds that are being kept on the Young property, and that he became familiar with the birds through his parents who are ostrich growers in Sayre, Oklahoma. He stated that the ostrich is not a pet, but is not a harmful bird if kept in a chain link fence to keep children from entering the pen. He remarked that the birds nest out in the open field, but the hatchery will be located inside the barn.

Case No. 860 (continued)

Mr. Looney asked the price of a pair of ostrich, and Mr. Brewer stated that his parents have sold a pair for as high as \$36,000.

Bill Coffey, PO Box 52085, Tulsa, Oklahoma, stated that he has been observing the ostrich and feels the bird is less dangerous than raising a steer.

Bob Young, Route 1, Bixby, Oklahoma, stated that the applicant, Marvin Young, is his brother and that he is in support of the operation. He pointed out that the Sayre operation that was mentioned by Mr. Brewer is contained on five to ten acres. Mr. Young informed that he is not in the ostrich business, but that he and his brother have been farmers for many years and are familiar with raising animals. He noted that this is an alternative endeavor to farming.

Additional Comments:

Mr. Gardner informed that the ordinance regulating this use is new and was not adopted to prohibit the raising of wild and exotic animals, but to regulate the raising of these animals. He pointed out that the ostrich is one of the animals that is to be regulated.

Mr. Eller asked how high the birds jump, and Mr. Young stated that the ostrich is not a jumping bird, and although their back is four feet high, a five foot chain link fence should contain them.

Board Action:

On **MOTION** of **ALBERTY** the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Special Exception** (Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1203) to allow for raising ostrich in an AG zoned district; subject to all land containing ostrich being enclosed by a 5' chain link fence; subject to housing being provided for the birds; subject to exterior warning signs being installed around all ostrich pens; and subject to the business complying with all USDA requirements; finding that the raising of ostrich in the agriculture district, as presented, will not be detrimental to the area, and will be in harmony with the spirit and intent of the Code; on the following described property:

The north 500' of the east 440' of the west 880' of the SW/4, SE/4, Section 14, T-17-N, R-14-E, Tulsa County, Oklahoma.

Case No. 862

Action Requested:

Use Variance - Section 310 - Principal Uses Permitted in Agricultural Districts - Use Unit 1215 - Request a use variance to allow for an existing flea market and outside storage in an AG zoned district, located 1/4 mile east of North Cincinnati Avenue on State Highway 20.

Presentation:

The applicant, Ralph Williams, 3240 East 186th Street North, Skiatook, Oklahoma, stated that he operates a business east of Skiatook on Highway 20. He stated that he has had a flea market at this location for approximately two and one-half years.

Comments and Questions:

Mr. Looney pointed out to the applicant that the City of Skiatook has requested a continuance, and Mr. Williams asked why Skiatook is involved in the application, since he is located outside their city limits.

Mr. Jones advised that all applications in the county that fall inside the fence line of a particular community, are referred to them for a public hearing. He informed that, after the hearing, a recommendation will be sent to this Board.

Mr. Williams pointed out that it would have been more convenient for him if Skiatook had notified him of this action, but stated that he is not opposed to the continuance.

Larry Birmingham, Town Coordinator, Box 399, Skiatook, Oklahoma, stated that the special consideration hearing has been set for Monday, January 16, 1989, but can be revised if the date is inconvenient for the parties involved.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eiler, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **CONTINUE** Case No. 862 to February 14, 1989, to allow sufficient time for Skiatook to conduct a special consideration hearing.

Case No. 863

Action Requested:

Use Variance - Section 910 - Principal Uses Permitted In Industrial Districts - Use Unit 1209 - Requests a use variance to allow for a mobile home in an IL zoned district, located 401 West 161st Street South.

Presentation:

The applicant, Richard W. Blythe, 7702 East 133rd Street South, Bixby, Oklahoma, submitted a plot plan (Exhibit H-2) and asked the Board to allow the installation of a mobile home for security purposes, at the above stated location. He explained that a utility trailer has been removed from the property, and a security person will provide protection for his business, as well as surrounding businesses. One letter of support (Exhibit H-1) was submitted.

Comments and Questions:

Mr. Looney inquired as to the days and hours of operation, and Mr. Blythe informed that the business operates Monday through Friday, 8:00 a.m. to 5:00 p.m.

Mr. Gardner informed that the City Commission has recently amended their ordinances to allow this type of use by special exception rather than a use variance, and the County ordinance will also be amended.

Board Action:

On **MOTION** of ELLER, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a Use Variance (Section 910 - Principal Uses Permitted In Industrial Districts - Use Unit 1209) to allow for a mobile home in an IL zoned district; per plot plan submitted; finding that the use of the mobile home for security purposes will not be detrimental to the Industrial area, and will be in harmony with the spirit and intent of the Code; on the following described property:

Lot 3, Block 1, Sharp Industrial Tracts Addition, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:40 p.m.

Date Approved 2-14-89


Chairman