

COUNTY BOARD OF ADJUSTMENT
Meeting No. 106
Tuesday, March 21, 1989, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Tyndall Walker	Looney	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, March 17, 1989 at 12:59 p.m.

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

MINUTES

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the **Minutes** of February 14, 1989 (No. 105).

UNFINISHED BUSINESS

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, was not present.

Comments and Questions:

Mr. Taylor noted that the applicant has failed to appear for three consecutive meetings.

Mr. Alberty asked Mr. Taylor if the applicant has contacted Staff since the initial application, and he replied that there has been no contact with Mr. Williams.

Case No. 862 (continued)

Mr. Taylor stated that Staff has received a letter of referral from Collinsville (Exhibit A-1) and a letter from the Oklahoma Department of Transportation regarding this case.

Mr. Alberty read aloud the conditions imposed by the Skiatook Board of Adjustment for the continued operation of the business, which include clearing of all articles on the east and west sides of the property, and the construction of an 8' screening fence, all within a six month period from the hearing date.

Protestants:

Beverly Taylor, PO Box 533, Skiatook, Oklahoma, stated that she is representing several residents of the surrounding area, and pointed out that the building in question was constructed in 1979 without a building permit. She remarked that the structure was used for a welding shop when the land was zoned AG, causing the welding shop to fall under the "grandfather regulations", which prohibits change of use or additions to the existing building. Ms. Taylor pointed out that the property is located in the regulatory floodway, which would prohibit outside storage of materials, but that she would not be opposed to the business moving the articles inside the building, or behind an 8' fence to the rear of the property. She informed that the Chamber of Commerce and mayor of Skiatook are not opposed to the operation of the business if all merchandise is enclosed in the existing building, with no outside storage. Photographs (Exhibit A-2) were submitted.

Additional Comments:

Mr. Alberty asked the protestant if there has been any effort on the applicant's part to comply with the Skiatook Board of Adjustment's request to clean up the site, and she replied that there have been Isles cleared, but no visible change in the appearance of the property.

Mr. Alberty referred to the photographs submitted by the protestant, and asked if they reflect the present condition of the business. Ms. Taylor stated that the photographs are current and reflect the condition of the site at this time.

Mr. Alberty remarked that he cannot support the application, due to the fact that the applicant has failed to appear at three consecutive meetings, and has not made a conscientious effort to comply with the conditions required by the Skiatook Board of Adjustment.

Case No. 862 (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 **DENY** a **Use Variance** (Section 310 - Principal Uses Permitted In Agricultural Districts - Use Unit 1215) for an existing flea market and outside storage in an AG zoned district; finding that the business site is unsightly, cluttered with debris and is not in harmony with the spirit and intent of the Code; on the following described property:

The S/2, SE/4, SW/4, less 5.67 acres for road right-of-way, Section 24, T-22-N, R-12-E, Tulsa County, Oklahoma.

Additional Comments:

Mr. Gardner stated that the application for continued operation of the existing flea market and outside storage has been denied, and asked if the intent of the Board was to allow the owner to sell the items in stock from the building.

Mr. Alberty asked if the existing use would be nonconforming if operated from the interior of the building, and Mr. Gardner replied that the previous welding business was nonconforming, but retail sales are not included in that use unit.

Mr. Walker pointed out that the business is unsightly in its present condition, but he could support sales from the building if the outside storage was removed.

Mr. Alberty stated that it was his intent to deny the application, with no further sales being permitted on the property.

Mr. Eller remarked that he would not be opposed to the applicant moving his merchandise inside to dispose of it, but pointed out that cars parked along the two-lane highway present a dangerous traffic problem, which should be eliminated.

Mr. Alberty stated that only the applicant can clarify some of the noted concerns, and that the Board has been more than lenient by giving him several opportunities to be heard. He pointed out that the applicant can file another application if he is in need of additional Board action.

Mr. Gardner stated that Staff is not advocating that the application be reconsidered, but rather that the record specifically reflect the intent of the Board regarding the disposal of merchandise on hand.

Mr. Tyndall clarified that the intent of the motion was to cease operation of the business at this location, with no further sales being conducted inside or outside the existing building.

Case No. 874

Action Requested:

Use Variance - Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1209 - Request a use variance to allow a mobile home (office uses) in an IL zoned district, located 401 East 161st Street South.

Presentation:

The applicant, Ben Hoos, PO Box 511, Bixby, Oklahoma, submitted a plot plan (Exhibit B-1), and requested permission to install a three-room mobile office unit at the above stated address. He informed that a warehouse for a carpenter shop is also located on the property.

Comments and Questions:

Mr. Alberty asked if the mobile unit will be a temporary use, and the applicant stated that the unit will be permanently installed.

In response to Mr. Alberty, the applicant stated that the unit will be connected to an existing septic system.

Mr. Gardner pointed out that an office building similar to the mobile can be constructed by right on the property; however, this situation is unique because this unit is actually designed for living quarters, but will be used for office purposes.

Mr. Fields pointed out that the building inspection department has found that enforcement of the Code for mobile home uses other than a residence is difficult to determine without Board of Adjustment action.

In response to Mr. Tyndall's inquiry as to the terms of the lease, the applicant informed that he has a two-year lease on the property.

Protestants: None.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **APPROVE** a **Use Variance** (Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1209) to allow a mobile home for office use in an IL zoned district for a period of two years only; per plot plan submitted; finding that the mobile unit will not serve as a dwelling, but will be used for office purposes only; on the following described property:

Lot 2, Sharp Industrial Tracts Industrial Addition, Tulsa, County, Oklahoma.

Case No. 875

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request a special exception to allow for a mobile home in an RS zoned district, located 1031 Valley Drive.

Comments and Questions:

Mr. Alberty stated that Staff has received a letter (Exhibit C-1) from the Sand Springs Board of Adjustment recommending approval of the application, subject to the removal of the existing house and the construction of a concrete foundation for the mobile home.

Presentation:

The applicant, Thomas Wright, 1031 Valley Drive, Sand Springs, Oklahoma, requested permission to install a mobile on the property at the above stated location.

Comments and Questions:

Mr. Walker remarked that he is familiar with the area and is supportive of the application.

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 **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a mobile home in an RS zoned district; subject to removal of the existing house on the property and the installation of a permanent foundation for the mobile home; finding that there are numerous mobile homes in the area, and approval of the special exception request will not violate the spirit and intent of the Code; on the following described property:

Lot 11, Block 24, Charles Page Home Acres IV Addition, Tulsa County, Oklahoma.

Case No. 876

Action Requested:

Use Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1203 - Request a use variance to allow for livestock uses (horses) in an RE District, located 9520 South 193rd East Avenue.

Comments and Questions:

In response to Mr. Alberty's inquiry, Mr. Taylor informed that livestock uses are prohibited in a residential estate zoned district.

Case No. 876 (continued)

Mr. Alberty noted that Staff has received a letter (Exhibit D-2) from the Broken Arrow Board of Adjustment, which recommended approval of the application, subject to a maximum of six livestock animals being permitted on the property.

Presentation:

The applicant, Marlo Garcia, PO Box 609814, Tulsa, Oklahoma, stated that his four horses are kept on the five-acre tract and are owned by members of his immediate family. One letter of support (Exhibit D-1) from an area property owner was submitted.

Protestants: None.

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 **Use Variance** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1203) to allow for livestock (horses) in an RE District; subject to a maximum of six horses; finding a hardship demonstrated by the large size of the tract, and the fact that agriculture uses are located across the street to the east; on the following described property:

A tract of land in the SE/4, NE/4, Section 24, T-18-N, R-14-E, of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, to-wit: Beginning at a point 319' north of SE/c of said SE/4, NE/4, thence west on a line parallel with the south line of said NE/4 a distance of 543' to a point; thence north on a line parallel with the east line of said NE/4 a distance of 408' to a point; thence East on a line parallel with the south line of said NE/4 a distance of 543' to the east line of said NE/4; thence south 408' to the Point of Beginning, Tulsa County, Oklahoma.

Case No. 877

Action Requested:

Variance - Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206-09 - Request a variance to allow for two dwellings on one lot of record in an AG District, located 12730 North 139th East Avenue.

Comments and Questions:

Mr. Alberty informed that Staff has received a letter (Exhibit E-1) from Collinsville, which recommended approval of the application, subject to the requested mobile home being occupied by a family member only.

Case No. 877 (continued)

Presentation:

The applicant, Edwin Schmauss, 12730 North 139th East Avenue, Collinsville, Oklahoma, asked the Board to permit the installation of a mobile home on his property, which will be the second dwelling on the lot. He informed that the mobile will be used as a residence for his son.

Additional Comments:

Mr. Alberty asked if there are other mobile homes located in the area, and the applicant replied that approximately one-half of the residents in the area live in mobile homes.

Protestants: None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eiler, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** (Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206-09) to allow two dwellings on one lot of record in an AG District; subject to building permit and Health Department approval; and subject to the second dwelling (mobile home) being occupied by a member of the Edwin Schmauss family only; finding that there are numerous mobile homes in the area and the granting of the variance request will not be detrimental to the area; on the following described property:

The south 188.68' of the north 1698.12' of the W/2, SE/4, LESS beginning 941.68' north of the SW/c of the W/2, W/2, SE/4, thence north 188.68', east 190.34', southeasterly on a curve left 194.45', west 237.13' to the Point of Beginning and LESS the east 25' for road, Section 33, T-22-N, R-14-E, Tulsa County, Oklahoma.

Case No. 878

Action Requested:

Use Variance - Section 310 - Permitted Uses in Agriculture Districts - Use Unit 1215 - Request a use variance to allow for a kennel operation and related uses in an AG zoned district, located 7612 East 86th Street North.

Presentation:

The applicant, Virgil J. Reed, 7839 Belle Park, Houston, Texas, stated that he is proposing to operate a commercial boarding kennel on the subject tract. He explained that the indoor/outdoor facility will provide space for dogs and cats, with retail sales of pet related supplies. Mr. Reed submitted a plot plan (Exhibit F-1) for the project, and stated that the property will be landscaped and fenced, with all dogs being kept inside after 6:00 p.m.

Case No. 878 (continued)

Comments and Questions:

Mr. Alberty asked the applicant what type of construction is proposed, and Mr. Reed replied that the building, along with the fence, will be approximately 90' by 110'. He informed that all drainage from the kennel will be captured, with no water overflowing into the street.

Mr. Alberty inquired as to the location of the structure, and the applicant replied that the building will be located in front of the existing dwelling, which is 500' from the street. Mr. Alberty voiced a concern with the proposed location.

In response to Mr. Alberty's question concerning the size of the proposed structure, the applicant stated that the building will be approximately 84' by 90'.

Mr. Alberty asked Mr. Reed if he is the owner of the property in question, and he replied that he is proposing to buy the property, but the purchase is contingent upon his acquiring the use variance.

In response to Mr. Gardner's question concerning surrounding residences, Mr. Reed replied that there is a house approximately 400' to the west.

Interested Parties:

Michael Bristle, 7528 East 86th Street North, Tulsa, Oklahoma, stated that he lives near the property in question and is not sure where the kennel will be located, so is not sure if he is a protestant. After viewing an aerial photograph, Mr. Bristle stated that he is opposed to the kennel at this location. He explained that he purchased his property because of its rural character, and would not like to live next door to a retail/commercial business.

Applicant's Rebuttal:

Mr. Reed pointed out that there is a breeding kennel already in operation approximately one-half mile from the subject property.

Additional Comments:

Mr. Alberty noted that the property is far removed from the area that could be justified for commercial zoning, and that he is opposed to a commercial business at this location.

Mr. Gardner explained that commercial zoning could not be supported on the subject tract, as the commercial zoning in that area will be located at Memorial and 86th Street North. He pointed out that it appears that the area is developing as residential on large acreage lots.

Mr. Alberty remarked that he is interested in protecting the integrity of the area, which has developed residential, and that the introduction of commercial uses would be detrimental to the character of the neighborhood.

Case No. 878 (continued)

Dorothy Lewis, Route 1, Box 481-K, Sperry, Oklahoma, stated that she is listing agent for the subject property, and asked if the business would be more acceptable if the building could be located to the rear of the property.

Mr. Alberty pointed out that the applicant is proposing to operate a commercial business, which would have no exposure to the public if located on the back portion of the 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 **DENY** a **Use Variance** (Section 310 - Permitted Uses In Agriculture Districts - Use Unit 1215) to allow for a kennel operation, with retail sales, in an AG zoned district; finding that business is not compatible with the area, which has developed residential, and that approval of the variance request would violate the spirit and intent of the Code; on the following described property:

Beginning at the NE/c, NW/4, NE/4, thence west 335', south 755', west 290', south 565', east 625', north 1320' to the Point of Beginning, Section 26, T-21-N, R-13-E, Tulsa County, Oklahoma.

Case No. 879

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1202 - Request a special exception to allow for a fruit stand in an AG zoned district, located 1/2 mile south of SW/c 129th East Avenue and 121st Street South.

Comments and Questions:

It was noted by Mr. Taylor that Staff has received a referral letter (Exhibit G-2) from the Broken Arrow Board of Adjustment.

Mr. Alberty read the letter aloud, which stated that the Broken Arrow Board of Adjustment recommended approval of the application, per site plan (Exhibit G-1) submitted by the applicant.

Presentation:

The applicant, Patricia L. Winn, 12223 South 129th East Avenue, Broken Arrow, Oklahoma, asked the Board to allow the construction of a building and the sale of fruit produced on her 20-acre tract. She explained that the fruit from the 2000 peach trees and the 3500 strawberry plants will be the only produce sold on the property.

Comments and Questions:

Mr. Alberty asked the applicant if she is currently operating a business on the property, and she replied that this will be the first year that fruit is produced.

Case No. 879 (continued)

Mr. Gardner asked how far the fruit stand will be from the nearest residence, and the applicant replied that her home is the nearest residence.

In response to Mr. Alberty's inquiry concerning hours of operation, Ms. Winn stated that the stand will be open from 7:00 a.m. to 7:00 p.m., Monday through Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday, during the months of May through September.

Mr. Alberty asked if she plans to sell produce other than that raised on the property, and the applicant replied that she only plans to sell her own produce at this time.

Ms. Winn noted that the front of the building will be cedar, with a design similar to that of her nearby residence.

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 **Special Exception** (Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1202) to allow for a fruit stand in an AG zoned district; per plot plan submitted; subject to the business being operated from 7:00 a.m. to 7:00 p.m., Monday through Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday, during the months of May through September; subject to all sales being limited to that fruit which is produced on the property; and subject to building permit and Health Department approval; on the following described property:

A tract of land in the SE/4, NE/4 of Section 5, T-17-N, R-14-E, Tulsa County, Oklahoma, being more particularly described as follows: Commencing at the SE/c of the SE/4 of the NE/4 of said Section 5, thence N 0°00'44" E 145.2' along the east line of said Section 5, to the Point of Beginning, thence N 89°29'29" W 300.00' to a point, thence S 0°00'44" W 145.2' to a point on the south line of said SE/4, NE/4, Section 5, thence N 89°29'29" W 1019.49' along the south line of said SE/4, NE/4, Section 5, to a point, thence N 0°00'37" E 661.33' along the west line of said SE/4, NE/4, to a point, thence S 89°27'01" E 1319.51' to a point on the east line of said Section 5, thence S 0°00'44" W 515.19' along the east line of said Section 5, to the point and place of beginning, said tract of land containing 19.0188 acres, more or less, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 861

Action Requested:

The applicant, Werner Knigee, requested by letter (Exhibit H-1) that filing fees for Case No. 861 be refunded.

Comments and Questions:

Mr. Taylor informed that the applicant requested a refund of fees prior to processing, and suggested a full refund, in the amount of \$100.00.

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 **REFUND** of filing fees, in the amount of \$100.00, for Case No. 861; finding that the application was withdrawn prior to processing.

Date Approved

4/18/89



Chairman