

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 147
Tuesday, August 18, 1992, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chairman Eller Tyndall Walker	Looney	Gardner Jones Moore	Fields, Glenn, Building Insp. Graham, Asst. District Atty.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Monday, August 17, 1992, at 8:46 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 1:00 p.m.

MINUTES:

On MOTION of TYNDALL, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the Minutes of July 21, 1992 (No. 146).

NEW APPLICATIONS

Comments and Questions:

Mr. Jones stated that it will be necessary to delay the hearing of Case No. 1070, due to the late arrival of the Jenks Planner, Bob Richards. He informed that Mr. Johnsen, counsel for Gilbert Ogles, has agreed to the delay.

Case No. 1099

Action Requested:

Variance to permit two dwelling units per one lot of record - SECTION 208. ONE DWELLING UNIT PER LOT OF RECORD - Use Unit 9.

Variance of the required 30' of frontage on a public street - SECTION 206. STREET FRONTAGE REQUIRED - Use Unit 6, located south of 41st Street and 78th West Avenue.

Comments and Questions:

Mr. Alberty informed that the City of Sand Springs has recommended approval of the application (Exhibit A-1).

Case No. 1099 (continued)

Presentation:

The applicant, **Billy Deaton**, 802 North Ross, Sapulpa, Oklahoma, stated that he was previously before the Board to request that the property be split into three separate lots; however, two dwellings are now proposed on the entire tract.

Comments and Questions:

Mr. Jones stated that the Board previously denied an application to split the property into three separate lots, finding that the lots would not be consistent with the area.

Mr. Gardner advised that the tract is large enough to comply with the two-acre minimum for two lots in the AG District.

In response to Mr. Jones, Mr. Fields stated that 78th West Avenue is a dedicated street, but is privately maintained.

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 **Variance** to permit two dwelling units per one lot of record - **SECTION 208. ONE DWELLING UNIT PER LOT OF RECORD** - Use Unit 9; and to **APPROVE** a **Variance** of the required 30' of frontage on a public street - **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6; subject to the applicant acquiring a Building Permit and Health Department approval; finding the proposal to be consistent with existing development in the area; on the following described property:

S/2, NW/4, NW/4, NW/4, Section 30, T-19-N, R-12-E,
Tulsa County, Oklahoma.

Case No. 1100 (continued)

subject to no extension of the use into the residential zoned area to the north; subject to indoor sales **only**, with no outside storage of flea market items; subject to days and hours of operation being restricted to daylight hours on Friday, Saturday and Sunday only; finding that the use, per conditions, will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

South 518.5' of Lot 5, Parks Acres Addition, Tulsa County, Oklahoma.

Case No. 1070

Action Requested:

Special Exception to permit dirt mining in an AG zoned district - SECTION 310. **PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 24, located 2601 West 101st Street South.

Presentation:

The applicant, **Gilbert Ogles**, Route 3, Box 222, Cleveland Oklahoma, was represented by **Roy Johnsen**, 201 West 5th Street, who requested that Case No. 1070 be continued, due to the fact that his client's case was moved from its regular order on the agenda. Mr. Johnsen stated that the later hearing will interfere with a previously scheduled engagement. He further noted that Mr. Looney voted in favor of his client's application, and his absence is an additional reason for the continuance request. He noted that the issue is set for trial on September 28, 1992, and the process will not be delayed if the case is heard at the September 15th Board of Adjustment meeting.

Interested Parties:

Denise Graham, Assistant District Attorney, pointed out that the minutes from the next meeting will not be processed by the trial date, and that it is not necessary that Mr. Looney be present for the Board hearing.

Mr. Johnsen stated that the District Court trial is de novo and new evidence can be presented. He stated that he will accept the Board minutes in draft form as being sufficiently accurate, and will not delay the trial for the purpose of having the minutes approved. Mr. Johnsen stated that the case was remanded back to the Board and will not go to trial if the issue is favorably resolved at the next meeting.

Case No. 1070 (continued)

Randy Ewing, Jenks City Manager, noted that it could be useful in resolving the issue if the applicant would approach the City of Jenks in an attempt to establish conditions that would be acceptable to their Board of Adjustment.

Mr. Johnsen stated that he will meet with the Jenks representatives before the next County Board of Adjustment meeting.

Board Action:

On MOTION of TYNDALL, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to CONTINUE Case No. 1070 to September 15, as requested by Mr. Johnsen, counsel for the applicant.

Case No. 1101

Action Requested:

Appeal from the County Inspector that a commercial business is being conducted in an RE zoned district - SECTION 1650. APPEALS FROM THE COUNTY INSPECTOR - Use Unit 6; and request for a special exception to permit a home occupation - SECTION 440. SPECIAL EXCEPTION USES IN THE RESIDENTIAL DISTRICTS, REQUIREMENTS - Use Unit 6, located 10111 North 124th East Avenue.

Comments and Questions:

Mr. Jones advised that Gray Strickland, counsel for the applicant, George Ross, 10111 North 124th East Avenue, Owasso, Oklahoma, has requested by letter (Exhibit E-1) that Case No. 1101 be withdrawn.

Board Action:

On MOTION of WALKER, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to WITHDRAW Case No. 1101, as requested.

Case No. 1100

Action Requested:

Special exception to permit Use Unit 15 (Flea Market) in a CS zoned district - SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 15, and a variance of the all-weather surface parking - SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS - Use Unit 15, located 4915 West 41st Street South.

Presentation:

The applicant, Ted Cole, 2828 South 49th West Avenue, Tulsa, Oklahoma, stated that he is operating a flea market and a video arcade on the subject property. He informed that the video arcade is permitted by right; however, a special exception is required for the operation of the flea market.

Comments and Questions:

In response to Mr. Jones, the applicant stated that his entire operation is to be located in the CS District. He informed that the buildings on the property have been there approximately 30 years.

Mr. Alberty asked the applicant when he began operation of the business, and he replied that the property was leased on May 1, 1992, and the business was opened May 16th. He pointed out that the landowner still occupies the portion of the property that is zoned residential. Mr. Cole stated that he has removed the junk from the property and mows regularly.

Mr. Alberty inquired as to the days of operation, and the applicant stated that the business is open Friday, Saturday and Sunday, and various individuals pay for an area to display their merchandise.

Mr. Gardner asked if merchandise is left outside, and Mr. Cole stated that some articles are covered and left outside. Mr. Cole stated that he owns various pieces of large equipment that remain outside the building.

Charley Golden, 7717 South 49th West Avenue, Tulsa, Oklahoma, informed that he is the owner of the property in question, and during the past five years it has been used for a pipe yard and construction yard. He stated that several old trucks were previously stored on the property, but most of them have been removed.

Case No. 1100 (continued)

Protestants:

Mildred Weaver, 3907 South 49th West Avenue, Tulsa, Oklahoma, stated that the property has had numerous uses over the last 55 years, one of which was a flea market. She stated that the property has not been cleared, or the grass mowed, on 49th Street. Ms. Weaver requested that the Board deny a flea market in front of the existing residences.

Carol Martin, 3906 South 49th West Avenue, Tulsa, Oklahoma, stated that she owns property abutting the subject tract to the north. She stated that the flea market would have a negative impact on property values and the quality of life in the neighborhood.

Audrey Pierce, 4001 South 49th West Avenue, Tulsa, Oklahoma, stated that she lives across the street from the building that is to house the flea market. She requested that the use be restricted to the CS portion of the tract. Ms. Pierce noted that the flea market and the pipe supply that previously operated at this location were noisy and disruptive to the residential neighborhood.

Applicant's Rebuttal:

Mr. Cole stated that he has cleaned up the property and it is not his intent to cause a problem for the neighborhood. He reiterated that the business will be restricted to the CS portion of the tract, or the south 260'. Mr. Cole noted that 90% of the flea market is currently located inside the building.

Additional Comments:

Mr. Alberty and Mr. Walker stated that they are not supportive of any type of commercial activity north of the CS boundary, or any type of outside display of merchandise.

Mr. Tyndall informed that he could support the application with no outside storage, and limited hours of operation.

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** to permit flea market in a CS zoned district - **SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15, and to **APPROVE** a **Variance** of the all-weather surface parking - **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 15;

Case No. 1102

Action Requested:

Special exception to permit a single-wide mobile home in an IH zoned district - **SECTION 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 9 and for a variance to permit two dwelling units per one lot of record - **SECTION 208. ONE SINGLE-FAMILY RESIDENCE PER LOT OF RECORD** - Use Unit 9, located 3433 West 21st Street South.

Presentation:

The applicant, **Gary Clapp**, 3433½ West 21st Street, Tulsa, Oklahoma, requested permission to install a mobile home on the subject property.

Comments and Questions:

In response to Mr. Alberty, the applicant stated that his grandfather owns the property and there is an existing residence on the front portion of the tract. He informed that his parents installed a mobile home on the property in 1967, which remained for approximately 10 years. Mr. Clapp stated that the mobile was then removed and another unit was installed approximately five years later. He informed that there are two existing septic systems on the tract.

Mr. Alberty pointed out that, although the property is zoned for heavy industry, it is used for residential purposes.

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 **Special Exception** to permit a single-wide mobile home in an IH zoned district - **SECTION 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 9; and to **APPROVE** a **Variance** to permit two dwelling units per one lot of record - **SECTION 208. ONE SINGLE-FAMILY RESIDENCE PER LOT OF RECORD** - Use Unit 9; subject to a Building Permit and Health Department approval; finding that the property has had two dwelling units in the past, and approval of the requests will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

West 104.33', east 437.86', SE/4, SE/4, SE/4, lying south of the SLSF Railroad less 5.50' for street, Section 9, T-19-N, R-12-E, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at
2:27 p.m..

Date Approved

9/15/92

Hayne Albeety