

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 165
Tuesday, February 15, 1994, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Tyndall Walker, Chairman	Looney	Gardner Moore Russell	Glenn, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Thursday, February 14, 1994, at 12:59 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Walker called the meeting to order at 1:34 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 January 4, 1994 (No. 164).

UNFINISHED BUSINESS

Case No. 1219

Action Requested:

Special Exception to permit CB sales and repair in an IL zoned district - **SECTION 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 14, located 6015 South 49th West Avenue.

Presentation:

The applicant, **Ross Burnham**, 1123 East 34th Street, was not present.

Comments and Questions:

Ms. Russell informed that the applicant has failed to pay fees and the case has been continued for two consecutive meetings.

Protestants:

None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Looney, "absent") to **STRIKE** Case No. 1219, due to nonpayment of fees.

Later in the meeting, Ms. Russell advised that Mr. Burnham, who is now present, has paid the required application fees and has requested that the previous motion to strike the case be reconsidered.

Case No. 1219 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **RECONSIDER** Case No. 1219.

Presentation:

The applicant, **Ross Burnham**, 1123 East 34th Street, requested permission to operate an electronic repair business on the property. He noted that there is a truck stop to the north and a convenience store to the west of the subject tract.

Comments and Questions:

In response to Mr. Alberty, the applicant stated that the business in question will be operated from a small portable building.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Special Exception** to permit CB sales and repair in an IL zoned district - **SECTION 910. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 14; finding the use to be compatible with the surrounding area; on the following described property:

Lots 5 and 6, Block 4, Bozarth Acres, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 1225

Action Requested:

Variance to permit two dwelling units on one lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6 and 9, located 21209 West 8th Street, Sand Springs, Oklahoma.

Comments and Questions:

Ms. Russell informed that the Sand Springs Board of Adjustment has heard the case and recommended approval (Exhibit B-3).

Presentation:

The applicant, **H. L. Applegate**, 21201 West 8th Street, Sand Springs, Oklahoma, was represented by **Ms. Hugh Applegate**, who submitted a location map (Exhibit B-2) and explained that the mobile home in question is located on an acreage with an existing residence. Photographs (Exhibit B-1) were submitted.

Comments and Questions:

In response to Mr. Alberty, Ms. Applegate informed that the mobile unit will be rented.

Mr. Walker pointed out that the tract is large enough to split into two separate lots and can easily support two dwelling units.

Protestants:

None.

Case No. 1225 (continued)

Board Action:

On **MOTION** of **ALBERTY**, 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 on one lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6 and 9; subject to a building permit and Health Department approval; finding that the tract has sufficient land area to create two legal-size lots; and finding that approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

West 330', NE/4, SE/4, less north 388.93, south 438.93', west 280' and south 50' for highway, Section 3, T-19-N, R-10-E, Tulsa County, Oklahoma.

Case No. 1226

Action Requested:

Variance to permit two dwelling units on one lot of record, and a special exception to permit a mobile home in an RS District - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9, located 13616 North 109th East Avenue.

Presentation:

The applicant, **Mitchell Boyd**, 13616 North 109th East Avenue, Collinsville, Oklahoma, informed that he has moved a mobile home on the subject property, which will be used for his family residence for approximately five years. Mr. Boyd stated that he was previously living in an existing dwelling on the property, which will remain vacant. A plot plan (Exhibit C-1) was submitted.

Comments and Questions:

Ms. Russell informed that the Collinsville Board of Adjustment has heard the case and recommended approval, finding that there are numerous lots in the area with more than one dwelling unit.

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 **APPROVE** a **Variance** to permit two dwelling units on one lot of record, and a special exception to permit a mobile home in an RS District - **Section 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9; per plan submitted; subject to a building permit and Health Department approval; on the following described property:

Block 18, Industrial Heights Addition, Tulsa County, Oklahoma.

Case No. 1227

Action Requested:

Variance of lot area to permit a lot split - **SECTION 330. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 11023 South 33rd West Avenue.

Presentation:

The applicant, **Richard Cleverdon**, 111 West 5th Street, Suite 400, submitted a plat of survey (Exhibit D-1) and stated that his client is proposing to split an irregular shaped tract, with one lot being 1.74 acres. He noted that a creek divides the property, and asked that the lot size of the eastern lot be reduced and that the creek become the western boundary of that lot. Mr. Cleverdon pointed out that there is sufficient land to comply with the Code requirement regarding size; however, the natural boundary would be more acceptable, because a small isolated portion of the land across the creek would be difficult to maintain. Photographs (Exhibit D-2) were submitted.

Comments and Questions:

In response to Mr. Alberty, Mr. Glenn informed that the land is in Flood Zone C, and is not in a flood prone area.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** of lot area to permit a lot split - **SECTION 330. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plat submitted; finding a hardship demonstrated by the fact that the tract is irregular in shape and divided by a creek finding that the lot in question is comparable in size to the RE zoned property across the street; and finding that approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

A tract of land in Section 27, T-18-N, R-12-E of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof, being more particularly described as follows:

Commencing at the SW/c of said Section 27; thence S 89°52'00" E along the south line of said Section 27, a distance of 604.08' to the point of beginning; thence N 6°10'20" E a distance of 155.36'; thence N 14°01'22" W a distance of 68.75'; thence N 42°38'18" W a distance of 136.64'; thence N17°01'12" E a distance of 82.20'; thence S 85°46'00" E a distance of 239.74'; thence S 0°16'00" E a distance of 383.00' to a point on the south line of said Section 27; thence N 89°52'00" W a distance of 172.42' to the Point of Beginning. Said tract contains 75,689 sq ft, or 1.74 acres, more or less, Tulsa County, Oklahoma.

Case No. 1228

Action Requested:

Variance to permit two dwelling units per lot of record, and a variance of lot area and land area to permit a lot split - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and **SECTION 330. BULK AND AREA REQUIREMENTS IN AGRICULTURE DISTRICTS** - Use Unit 6, located 4929 South 218th West Avenue.

Presentation:

The applicant, **Jerry Horton**, 4929 South 218th West Avenue, Sand Springs, Oklahoma, submitted a plot plan (Exhibit E-1) and requested permission to place a second dwelling on the rear portion of his three-acre tract.

Comments and Questions:

In response to Mr. Walker, the applicant stated that he is not sure who will reside in the home, but numerous relatives have installed a mobile unit at this location in the past. Mr. Horton explained that he has an opportunity to acquire a dwelling, and asked that he be permitted to move it on the property.

Mr. Alberty stated that the previous actions reflect that two dwelling units on one lot of record have been approved in the area.

In response to Mr. Alberty, the applicant stated that he is requesting that two dwelling units be permitted on the lot, but does not want a lot split.

Protestants:

None.

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 **Variance** to permit two dwelling units per lot of record, and a **variance** of lot area and land area - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and **SECTION 330. BULK AND AREA REQUIREMENTS IN AGRICULTURE DISTRICTS** - Use Unit 6; per plan submitted; subject to a building permit and Health Department approval; finding that there are similar lots in the area with two dwelling units, and that approval of the request will not be detrimental to the neighborhood, or violate the spirit and intent of the Code; on the following described property:

Lot 7, Block 3, Herrington Acres, Tulsa County, Oklahoma.

Case No. 1229

Action Requested:

Variance of required frontage on a public street from 30' to 0' - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 18624 South Mingo Road.

Presentation:

The applicant, **Brent Weaver**, HC 67, Box 720, Skiatook, Oklahoma, was represented by **Angela Weaver**, 18624 South Mingo, who submitted a site plan (Exhibit F-1) and requested permission to access an interior tract by a private road. She explained that the property in question is surrounded by a larger family tract, which has been deeded to children of the owner. Ms. Weaver informed that the access road will be privately maintained. An aerial photograph (Exhibit F-2) was submitted.

Comments and Questions:

Mr. Alberty advised that the County could require the execution of a document stating that the County will not be responsible for road maintenance.

Protestants:

None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** of required frontage on a public street from 30' to 0' - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; per plan submitted; subject to the applicant filing of record a document stating that the private road will not be a dedicated or accepted road for maintenance by the County; finding that the large tract is family owned, and approval of the request will not be detrimental to the area; on the following described property:

S/2, NE/4, NW/4, SE/4 and N/2, SE/4, NW/4, SE/4, Section 1, T-16-N, R-13-E, Tulsa County, Oklahoma.

Case No. 1230

Action Requested:

Variance of the permitted 750 sq ft for a detached accessory building - **SECTION 240.2E**, located 6145 West 42nd Street South.

Presentation:

The applicant, **Odean Garrison**, 6145 West 42nd Street South, requested permission to construct a 17' by 30' carport to protect his camper and motor boat.

Comments and Questions:

Mr. Walker asked if there are other accessory buildings on the property, and the applicant replied that there is a large garage on the property that is used for car storage. He stated that he is not able to store the camper inside the garage, because it is taller than the 7' garage door (Exhibit G-2). He informed that the 1200 sq ft accessory building was previously approved by the Board.

Mr. Walker asked if the carport will have a roof only, and Mr. Garrison answered in the affirmative. He added that the 17' by 30' cement slab is existing.

Case No. 1230 (continued)

Protestants:

Two letters of protest (Exhibit G-1) were submitted to the Board.

Charley Stepp, 6149 West 42nd Street, stated that the commercial use has a negative impact on property values in the residential neighborhood.

Mr. Walker asked if there is a commercial use on the property, and Mr. Stepp stated that there is an existing 1200 sq ft building on the property and the applicant is requesting an additional structure.

Mr. Alberty asked Mr. Stepp if he was living in the neighborhood when the existing building was approved, and he replied that he was living there, but did not receive notice of the previous request. He stated that it was very difficult for him to leave work at that time. Photographs of the applicant's property (Exhibit G-3) were submitted.

Tom Welch, 6150 West 42nd Street, stated that he has lived in the area for 24 years. Mr. Welch informed that he did not object to the previous application because he was not aware of the size of the building. He stated that the existing structure is unsightly (commercial in nature), and suggested that the applicant remove the cars from the garage and use it to store his equipment.

Applicant's Rebuttal:

Mr. Garrison stated that the sides of the carport will be open.

In response to Mr. Alberty, the applicant stated that he is currently storing a motorcycle and three older vehicles in the existing accessory building.

Mr. Walker noted that conditions imposed at the previous hearing stated that all equipment must be stored inside the building. Mr. Garrison informed that one refuse truck and containers were removed from the lot and will be stored at another location.

Mr. Alberty asked the applicant if he was aware of conditions imposed at the previous hearing in 1981, and he answered in the affirmative.

Mr. Alberty asked Mr. Garrison if he is complying with the conditions, and the applicant stated that numerous items have been removed from the property and he is now in compliance with the conditions.

Mr. Alberty noted that he has viewed the property today and found one garbage truck, one camper, one security car, two pickups, two cars, a boat and numerous other items stored outside. He stated that the minutes from the 1981 variance request state that the previously approved building was to be used to store vehicles and equipment used in the applicant's trash hauling business. He added that the minutes also stated that all vehicles, material and equipment must be stored inside the structure. He advised Mr. Garrison that he is in violation of those conditions imposed at the 1981 Board of Adjustment meeting.

Mr. Walker advised Mr. Garrison that he was a Board member in 1981 and that the conditions imposed at that meeting have not been kept.

Case No. 1230 (continued)

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Looney, "absent") to **DENY** a **Variance** of the permitted 750 sq ft for a detached accessory building - **SECTION 240.2E**; finding that the applicant failed to demonstrate a hardship for the variance request; and finding that conditions are being violated that were imposed at a previous hearing (8/18/81); on the following described property:

Lot 7, Block 2, Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:

Mr. Alberty suggested that the building inspector require that all items being stored outside the existing 1200 sq ft building be removed from the lot within 30 days. He stated that the applicant is in violation of previously imposed conditions.

Larry Glenn, Building Inspections, asked if he should send Mr. Garrison an official notice to remove all outside storage, and Mr. Alberty stated that he should be officially advised that he is in violation of previously imposed conditions.

Mr. Gardner stated that it was probably the intent of the Board in 1981 to accommodate the applicant by permitting him to keep his trash truck on the property, if it was stored inside the building. He pointed out that commercial or industrial zoning would be required in order to park a refuse truck on the premises.

Mr. Glenn stated that, in previous cases that have been appealed, the District Attorney has permitted one business vehicle to be parked on the property.

Mr. Alberty stated that the Board is not an enforcement body, but it does have the power to grant variances and special exceptions. He pointed out that any violation of the conditions imposed by the Board is to be enforced by the Building Inspection Department.

Mr. Gardner advised that the Ordinance permits uses that are accessory to the residence in a single-family residentially zoned area. He stated that vehicles such as cars, pickups and vans are customary and accessory to a single-family residential district; however, a dump truck, an 18-wheeler or similar large vehicles (used in someone's business) are not customary and accessory uses in residential areas. He pointed out that the fact that a person makes his living by driving a large truck does not give him the authority to park his truck in a residential neighborhood, and such is not permitted in the Zoning Code.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Looney, "absent") to **INSTRUCT** the Building Inspection Department to inspect the property and, if in agreement with the finding that the applicant is in violation of conditions previously imposed by the Board in 1981, issue a cease and desist order and enforce the imposed conditions.

Case No. 1232

Action Requested:

Special Exception to permit a church and related uses in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 5, located NE/c of 161st West Avenue and West 21st Street.

Presentation:

The applicant, **Ron Etheridge**, 17557 West 1st Street, Sand Springs, Oklahoma, submitted a plot plan (Exhibit H-2) and explained that the church is proposing to construct a carport on the north side of the building, as well as a foyer on the south side. He noted that there is an existing concrete slab on the south, and this area will be enclosed.

Comments and Questions:

Mr. Walker asked if a new driveway will be installed for the carport, and the applicant stated that the drive is existing from 161st West Avenue.

Ms. Russell informed that Sand Springs has heard the case and recommended approval (Exhibit H-1).

Protestants:

None.

Board Action:

On **MOTION** of **ALBERTY**, 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 church and related uses in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 5; per plan submitted; finding that the church is existing; and finding that the addition of a carport and the construction of a foyer on an existing slab will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Beginning 210' east SW/c, SW/4, thence east 105', north 210', west 105', south 210' to Beginning, and south 210', west 210', SW/4, SW/4, SW/4, Section 8, T-19-N, R-11-E, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 1221

Action Requested:

Consider waiver of fees.

Comments and Questions:

Ms. Russell explained that the applicant, **Bob Farrell**, 611 East 146th Street, Glenpool, Oklahoma, withdrew a previous application when he was not able to buy the subject property. She stated that Mr. Farrell now has the opportunity to purchase the tract, and asked that the \$200 application fee for the new application be waived.

Case No. 1221 (continued)

In response to Mr. Walker, Ms. Russell informed that the original application was fully processed, and only the \$25 public hearing portion of the fee was previously refunded to the applicant.

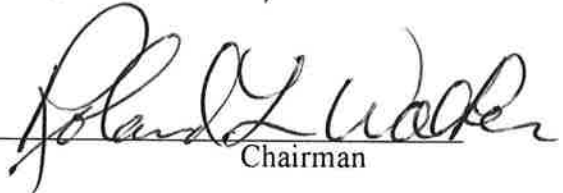
Board Action:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to waive the \$200 filing fee; subject to the applicant paying for notification of property owners within 300', newspaper publication and the \$25 public hearing portion of the application; finding that the application was fully processed before the previous withdrawal.

There being no further business, the meeting was adjourned at 2:49.

Date Approved

March 15, 1994


Chairman