

**COUNTY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 177**  
**Tuesday, February 7, 1995, 1:30 p.m.**  
**County Commission Room**  
**Room 119**  
**County Administration Building**

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

The notice and agenda of said meeting were posted in the Office of the County Clerk on Monday, February 6, 1995, at 11:43 a.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Looney, "absent") to **APPROVE** the **Minutes** of January 19, 1995 (No. 176).

**UNFINISHED BUSINESS**

**Case No. 1061**

**Action Requested:**

Clarification of Section 1680.4 - Time Limitation on Special Exception, and conditions to permit use for two years.

**Presentation:**

The applicant, **Willis Tomsen**, 4990 East 114th Place, stated that he had an opportunity to sell sand on his property and gained Board approval on January 7, 1992. The applicant informed that there was an error in the legal description in the minutes of that meeting, which was pointed out to INCOG staff. He stated that he later received corrected minutes, but questioned the correction of the legal description. Mr. Tomsen stated that the permitting process was lengthy and the company interested in removing the sand ceased operation. Mr. Tomsen advised that Board of Adjustment approval is valid for three years and, since the start date was not clear, he wrote Mr. Gardner (letter May 6, 1994) to establish the date as January 7, 1992. He noted that another letter was mailed to Mr. Gardner on

Case No. 1061 (continued)

January 5, 1995 requesting that the two-year approval for a sand operation begin forthwith. Mr. Tomsen informed that he has not removed sand from the site and does not have a contract for sand removal at this time, but has spent a lot of time and money obtaining permits for the operation. He pointed out that a sewer line has not been installed in this area and development has not occurred.

**Comments and Questions:**

Mr. Walker asked the applicant if he is requesting clarification as to the date the Board intended the two-year period to begin, and Mr. Tomsen stated that he is requesting that the two-year approval begin January 7, 1995. He added that the request was made during the three year period (January 5, 1995).

Mr. Gardner stated that the question today is whether or not it was the intent of the Board (January 7, 1992) that the approval of the sand operation begin at the time of approval, or begin any time during the three years that a special exception must be utilized (lapsed January 7, 1995). Mr. Gardner asked that the Board refer to his response to Mr. Tomsen's letter regarding the matter. He pointed out that the error referred to by Mr. Tomsen is merely a scrivener's error and the correct legal description was properly advertised for the hearing. Mr. Gardner noted that this error had no bearing on the validity of the approval of the application or the conditions imposed by the Board at that time.

**Protestants:**

**Charles Schuller**, 4838 South 70th East Avenue, stated that his property abuts the subject tract to the north and a sand operation would have a negative impact on his land. He informed that there were several surrounding landowners who protested the 1992 application for a sand removal business. Mr. Schuller stated that it was his understanding that the previous approval was for two years from the hearing date and that the time has lapsed. Mr. Schuller noted that he would not be opposed to commercial use of the property, but is opposed to a sand removal business.

**Applicant's Rebuttal:**

Mr. Tomsen stated that the use was approved per conditions, all of which have been adhered to.

**Additional Comments:**

Mr. Tyndall stated that it was his intent that the two-year approval begin on January 7, 1992 and end January 7, 1994.

Mr. Walker noted that the clerical error would not have prevented the beginning of the operation, and agreed with Mr. Tyndall that the intent of the Board was to permit the sand operation for a period of two years, beginning January 7, 1992.

Case No. 1061 (continued)

**Board Action:**

On **MOTION** of **WALKER** the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **CLARIFY** that the previous approval of Case No. 1061, January 7, 1992, was for a two-year period from that date, finding that the business did not begin operation and the approval has lapsed; and finding that the clerical error did not have a bearing on the following described property:

Government Lots 4 and 5 lying southwest of road, Section 33, T-18-N, R-13-E, Tulsa County, Oklahoma.

**Case No. 1324**

**Action Requested:**

Appeal the decision of an administrative official - **SECTION 1650. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 27, located 4105 West 41st Street.

**Presentation:**

The applicant, **Carl Hopkins**, 4105 West 41st Street, was represented by **Darrell Matlock**, who informed that the County Zoning Code prohibits inoperable vehicles in the front and side yards, but does not mention storage in the back yard. He explained that his clients cars are antiques and are being restored. Mr. Matlock submitted photographs (Exhibit A-4) and informed that 50% of the vehicles have been removed from the property, with approximately eight cars remaining.

Mr. Hopkins stated that his hobby is restoring cars and it is not his intent to operate a salvage or sell parts at this location. He informed that cars are stored to the rear of his dwelling and have been there for many years.

Mr. Tyndall asked the applicant how he disposed of the vehicles that were removed from the property, and he replied that five automobiles were sold for scrap. Mr. Hopkins informed that he inherited three cars and they have accumulated over the years.

In response to Mr. Looney, the applicant stated that he disposed of the five vehicles during the month of January, after he received the citation from the Building Inspector.

Mr. Eller inquired as to the number of cars sold at this location during the last year, and the applicant stated that he sold three cars.

In reply to Mr. Eller, the applicant stated that he does not have a used motor vehicle license.

Case No. 1324 (continued)

**Protestants:**

Ms. Russell informed that one letter of protest (Exhibit A-2) was received.

**Charles Infohe**, 4112 South 40th West Avenue, stated that he is not opposed to the applicant having a hobby of restoring automobiles, but is opposed to a salvage operation. A petition (Exhibit A-1) signed by concerned property owners was submitted.

Mr. Walker advised that the expansion of a hobby could become a problem.

**Interested Parties:**

**Linda Biaselli**, 4723 South Tacoma Avenue, informed that she is half-owner of the tract in question, but has not lived at this location for many years. She noted that her brother lives on the property and the cars have always been there. Ms. Biaselli stated that she is concerned with the violation; however, does not have a solution to the cleanup, because her brother resides on the land. She added that the cars are not a problem for her, and that she is at a loss to determine how she can remedy the situation, since all of the property is not in her possession. Ms. Biaselli informed that she and her brother are estranged and she has gained information concerning the violation through the building inspector's office.

Mr. Glenn informed that he mailed a letter (Exhibit A-3) to Mr. Hopkins on December 2, 1994, advising him to remove from the property all inoperable and/or salvage automobiles and other forms of junk. Mr. Glenn pointed out that the applicant was given 10 days to respond to the citation, and a reasonable time frame will be implemented for removal of the items.

Mr. Matlock reiterated that his client is not violating the Zoning Code, according to Section 240.3.

Mr. Gardner advised that certain accessory uses are permitted in residential areas and the storage of numerous inoperable vehicles is not one of those permitted uses. He pointed out that industrial zoning is required for the type of use conducted on the subject property.

Mr. Walker stated that it is his opinion that the building inspector made the correct decision in determining that the use violates the Code.

Case No. 1324 (continued)

**Board Action:**

On **MOTION** of **WALKER** the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **DENY** the appeal and **UPHOLD** the decision of the administrative official - **SECTION 1650. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 27; finding that the storage of numerous inoperable and/or salvage automobiles is not permitted in RS zoned areas; and finding that the current use is in violation of the Tulsa County Zoning Code; on the following described property:

Beginning 35' north and 25' west SE/c SW/4 thence north 400', west 167.6', south 400', east 167.6' to POB, Section 21, T-19-N, R-12-E, Tulsa County, Oklahoma.

**NEW APPLICATIONS**

**Case No. 1326**

**Action Requested:**

Variance to permit an existing sexually oriented business within 450' of an R District - **SECTION 2119a. Use Conditions** - Use Unit 19a, located 1505 New Sapulpa Road.

**Presentation:**

The applicant, **Sharon Phillips**, 1424 Terrace Drive, submitted photographs (Exhibit B-1) and informed that she is representing the property owner. She noted that the staff comments state that the use will be an adult motel, which is inaccurate. She pointed out that, although there is a motel nearby, the property in question is the building containing the club (adult entertainment.). Ms. Phillips informed that a club has been operating at this location for approximately nine years; however, it was discovered during a recent renovation project that the use has never been approved. She noted that the Comprehensive Plan designation is for industrial uses and there are very few residential dwellings in the surrounding area. Ms. Phillips stated that a security guard will be on the premises at all times to ensure proper conduct on the parking lot. She emphasized that the new operator of the club has been operating similar establishments in the City for approximately 25 years and he, as well as his employees, always conform to all City, County and State requirements. The applicant informed that the club will be in operation Monday through Saturday and closed on Sunday. Ms. Phillips stated that the hours of operation are uncertain at this time, because the operator has not determined if lunch will be served, or if the business will open at 4 p.m. She noted that sufficient parking is available for the use.

Case No. 1326 (continued)

Ms. Russell clarified that the INCOG planner that took the application understood that the case involved the motel and not just the club, therefore, the Staff comments were inaccurate.

**Protestants:**

**Michael McCamey**, 4116 West 53rd Street, stated that he owns rental property across the open field from the proposed use and was not notified when the club was initially opened. He informed that his major concerns with the club are the fights, shootings and noise on the parking lot, along with the club patrons dealing drugs on the street in front of his property. Mr. McCamey noted that the police have made numerous trips to this area because of the drug problems.

In response to Mr. Tyndall, Mr. McCamey stated that they have been annoyed by the noise and drug trafficking for nine years.

Mr. Gardner asked if a screening fence along the south boundary would block the view of the club from the residential area, and Mr. McCamey stated that a privacy fence on the south and a chain link fence on the west side could be a solution to the problem.

Mr. Walker informed that he visits the cabinet shop next door to the property and has been told about the problems caused by the club.

**Edith Cowles**, 4146 West 54th Street, stated that she lives to the south of the proposed use and is concerned with her safety and the safety of her grandchildren as they walk in the area. She informed that there are numerous disturbances at all hours of the night.

**Applicant's Rebuttal:**

Ms. Phillips informed that her firm has represented the proposed operator of the club for approximately 25 years and he is against drugs and has never allowed drugs in his establishments. She noted that he immediately terminates employees that are suspected of drug use and ejects any customers using drugs. Ms. Phillips requested a continuance to research the police records regarding the alleged happenings, but later withdrew the request after one Board member stated that these records would not influence his decision.

In reply to Mr. Tyndall, Ms. Phillips stated that the motel is being renovated; however, this application only involves the club.

Ms. Russell informed that the legal description provided by the applicant includes the motel.

Case No. 1326 (continued)

In reply to Mr. Walker, the applicant stated that the club that was previously in operation has closed.

Mr. Walker stated that the previous club has caused numerous problems in the area, and he would be hesitant to support the application.

Mr. Looney stated that he would consider a temporary approval, with the installation of the fences.

Mr. Tyndall remarked that the club may not be a problem with correct management.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 3-1-0 (Eller, Looney, Tyndall, "aye"; Walker, "nay"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Variance** to permit an existing sexually oriented business within 450' of an R District - **SECTION 2119a. Use Conditions** - Use Unit 19a; subject to a security guard being on duty during operating hours, and management closely monitoring their clientele; subject to days and hours of operation being Monday through Saturday, 11 a.m. to 2 a.m., with no Sunday operation; subject to the approval being limited to the club (west 35.4' of existing building) only, with the motel being excluded from this application; subject to a 8' privacy fence being erected on the south property line from the west end of the motel west to 43rd West Avenue, and chain link fencing being installed along 43rd West Avenue; subject to the approval being limited to one year only, beginning at this date (February 7, 1995); finding that the one-year approval will allow the use to prove compatibility with the area; finding that the subject property is separated from the R District by 250' of CH zoned property and that the temporary approval, per imposed conditions, will not be detrimental to the area or violate the spirit and intent of the Code; on the following described property:

Lot 4, Block 6, Suburban Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 1327**

**Action Requested:**

Special exception to permit a single-wide mobile home in an RS zoned district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9, located 5624 West 3rd Street.

**Presentation:**

The applicant, **Paul Lawson**, 5624 West 3rd Street, was represented by his grandmother, **Lawanna Smith**, who requested that a mobile home be permitted on her property. Ms. Smith informed that her grandson will live in the mobile unit and that she is in need of his assistance. A letter of support (Exhibit C-1) was submitted.

Case No. 1327 (continued)

**Comments and Questions:**

Mr. Tyndall asked if there are other mobile homes in the residential neighborhood, and Ms. Smith answered in the affirmative. She noted that a mobile home was previously at this location, but has been removed.

**Interested Parties:**

**Harry Porter**, property owner to the east, stated that he is supportive of the request.

Mr. Glenn stated that there are numerous mobile homes in the older area, and verified Ms. Smith's statement that a mobile unit was previously on the lot.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Special Exception** to permit a single-wide mobile home in an RS zoned district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9; subject to a building permit and Health Department approval; and subject to the mobile unit being skirted and tied down; finding that there are numerous mobile homes in the older area and approval of the use will not be detrimental to the neighborhood; on the following described property:

Beginning SW/c Lot 8, Block 2, Mayfair 4th Addition then south 252.35' northeasterly 65.67', north 227.18', west 60' to POB, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 1328**

**Action Requested:**

Variance to permit two dwelling units on one lot of record - **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6/9, located 8708 East 98th Street North.

**Presentation:**

The applicant, **Bryon Fry**, 8708 East 98th Street North, submitted a plot plan (Exhibit D-1) and requested permission to install a second dwelling unit (mobile home) on a three-acre tract of land. He informed that his mother owns the property and her home is located on one acre.



Case No. 1328 (continued)

**Comments and Questions:**

Mr. Walkér asked if there are two dwelling units on other tracts in the area, and Mr. Fry stated that the 10-acre tract to the south has three dwelling units.

Ms. Russell advised that AG zoning requires 2.2 acres per dwelling unit, and the applicant apparently needs that relief.

Mr. Gardner advised that the Board could consider the variance to permit two dwelling units at this time and continue the balance of the application to the next meeting.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Variance** to permit two dwelling units on one lot of record - **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6/9, and to **CONTINUE** the remainder of the application to March 21, 1995 to allow sufficient time to advertise for additional relief; per plan submitted; subject to a building permit and Health Department approval; finding that there are other tracts in the area with more than one dwelling unit, and that approval of the request will not be detrimental to the area; on the following described property:

Beginning 2164.47' east NW/c, S/2, SW/4 then south 659.20', east 197.04', north 659.13', west 197.13' to POB, Section 13, T-21-N, R-13-E, Tulsa County, Oklahoma.

**Case No. 1329**

**Action Requested:**

Special Exception to permit a mobile home in an RS zoned district and a variance to permit two dwelling units on one lot of record - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6/9; located 5735 South 107th West Avenue.

**Presentation:**

The applicant, **Dawanna Kellum**, 5735 South 107th West Avenue, Sand Springs, Oklahoma, requested permission to install a mobile home on her aunt's property.

Case No. 1329 (continued)

**Comments and Questions:**

Mr. Tyndall asked if there is an existing dwelling on the subject property, and the applicant answered in the affirmative.

Mr. Walker stated that he is familiar with the area and there are numerous lots with more than one dwelling unit.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **LOONEY** the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Special Exception** to permit a mobile home in an RS zoned district and a variance to permit two dwelling units on one lot of record - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6/9; subject to a building permit and Health Department approval; and subject to the mobile unit being skirted and tied down; finding that there are numerous tracts in the area with more than one dwelling unit, and 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:

Lot 8, Block 1, Buford Colony, less the south 25' thereof, Tulsa County, Oklahoma.

**Case No. 1330**

**Action Requested:**

Variance of the required 30' of frontage on a public street - **SECTION 208. STREET FRONTAGE REQUIRED** - Use Unit 9, located 16312 South Yale.

**Presentation:**

The applicant, **Raymond Lomax**, 16312 South Yale, was represented by his son, who requested that the variance of frontage be approved to permit a lot split. He informed that an access easement was approved in 1988, but it was not recorded and that approval has lapsed. A plat of survey (Exhibit E-1) was submitted.

**Comments and Questions:**

In reply to Mr. Walker, Mr. Lomax stated that he owns the entire tract. He explained that his residence is on the front portion of the property, and he intends to build a new home on the back lot. He added that his son will live in one home.

Case No. 1330 (continued)

**Protestants:**

None.

**Board Action:**

On **MOTION** of **WALKER** the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street - **SECTION 208. STREET FRONTAGE REQUIRED** - Use Unit 9; per plat of survey submitted; subject to a 30' mutual access easement being filed of record; finding a hardship demonstrated by the narrowness of the tract; and finding that approval of the request will not be detrimental to the neighborhood; on the following described property:

W/2 of south 200' of NE/4, NE/4, Section 28, T-17-N, R-13-E, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:13 p.m.

Date Approved \_\_\_\_\_

3/21/95

  
Chairman