

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 204
Tuesday, May 20, 1997, 1:30 p.m.

County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Looney Tyndall Walker, Chairman		Beach Huntsinger	Glenn, Building Inspection Meeks, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, May 16, 1997, at 2:45 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **ELLER**, the Board voted 5-0-0 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** the minutes of April 15, 1997 (No. 203).

UNFINISHED BUSINESS

Case No. 1493

Action Requested:

Variance of the rear setback to permit an accessory building. **SECTION 320. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located 1730 East 151st Street South.

Presentation:

The applicant, **Paul Newsom**, submitted a letter requesting that Case No. 1493 be withdrawn (Exhibit A-1).

NEW APPLICATIONS

Case No. 1500

Action Requested:

Variance of the Lot width in an AG district from 200' to 180' to permit a lot split. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located 16121 North 137th East Avenue.

Presentation:

The applicant, **Jim & Carrie Allan**, 16121 North 137th East Avenue, Collinsville, submitted a site plan (Exhibit B-1) and stated the request is for a lot split. He explained that the subject property has 5 acres with an existing home. He indicated that his brother owned the back half of the subject property and he will own the front 2 acres. Mr. Allan stated he plans to build a home on the front 2 acres for his family.

Comments and Questions:

Mr. Alberty stated that the lot width requirement is to have continuity throughout the surrounding area. He commented that the 5 acre tract can accommodate 2 dwelling units.

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 **Variance** of the Lot width in an AG district from 200' to 180' to permit a lot split. **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6; per plan submitted; finding that the 5 acres is sufficient to accommodate 2 dwelling units; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

S/2, NW/4, NW/4, SE/4, Sec. 16, T-22-N, R-14-E, I.B.M., Tulsa County, Oklahoma.

Case No. 1501

Action Requested:

Variance to permit 9 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**; A Variance to permit multi-family dwellings in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS**; and a Variance of the all-weather surface requirement for required parking. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 8, located 3939 East 161st Street South.

Presentation:

The applicant, **David R. Owens**, 3939 East 161st, Bixby, submitted a plot plan (Exhibit C-1) and stated he purchased the subject 10 acres 6 years ago. Mr. Owens described the land as being run down. He commented that he cleaned up the subject property and starting building. Mr. Owens stated he extended out a shed 1,000', built an additional home, and a pipe fence surrounding the front 3 acres. He indicated the subject property had an existing trailer home at the time of purchase. Mr. Owens stated that he has torn down old buildings and built new buildings for occupancy. The most recent building is 28' x 74', which is built in the same location as the old barn that was torn down. Mr. Owens commented that the newest building was to be three one bedroom units with a workshop. He stated that while he was working on the newest addition, the building inspector stopped his progress and informed him he needed a building permit.

Comments and Questions:

Mr. Alberty asked the applicant if he was aware that he needed a building permit? He answered affirmatively.

Mr. Alberty asked the applicant if he was aware of the zoning requirements? He answered negatively.

Mr. Walker asked the applicant if he knew he had to state a hardship for the variance requested? Mr. Owens answered affirmatively.

Protestants:

Mr. Walker informed the applicant that the Board received a letter from Martha Roberts in protest of this application (Exhibit C-3).

Gary Sulander, 5401 South Sheridan, Suite 404, Tulsa, stated he owns 315 acres north of the subject property, which wraps around the corner to 161st, Harvard & Sheridan. He indicated he is representing White Hall Golf Course, which is located at 151st & Yale. Mr. Sulander expressed concerns that Mr. Owens development will hinder future quality development in the surrounding area. He stated that the applicant's development does not fall in line with good planning.

Gene Edwards, Bixby City Planner, submitted a letter (Exhibit C-2) and stated that the City of Bixby will be annexing the subject site into the City in the near future. According to the Tulsa County Zoning Code, Chapter 3, Section 310, Use Units Permitted in the AG District, Use Unit 8 allows a nursing home, community group home, convent, monastery and novitiate (new or innovative) as the only uses permitted by Special Exception. Mr. Edwards stated that this application does not fall into any of the above mentioned categories and the application should be denied. The subject site is located adjacent to the City of Bixby's city limits. It is conceivable that sometime in the near future this site may seek to be annexed into the City of Bixby. The Bixby Comprehensive Plan encompasses this area and recommends low intensity use, such as, agricultural, vacant, open land and/or rural residences. The Planning staff has no objections to the applicant's use of this site, but recommends to the Board not to grant a variance, which will not comply with the minimum standards applied by the Code. Mr. Edwards informed the Board that Mr. Owens was asked several times to quit developing on the subject site, but continued to build.

The following protestants expressed the same concerns as the above speakers:

Jack Brown, representing Martha Roberts, 15 East 5th Street, Tulsa; **Mr. & Mrs. Fox**, 4204 East 161st; **Mr. & Mrs. Dew**, 161st & Yale; **Carol Dew**, no address given.

Applicant's Rebuttal:

Mr. Owens stated that his goal is to help people. He explained that he did know that he needed a building permit, but failed to apply for one. Mr. Owens reiterated that he tore down old buildings and improved the subject site. Mr. Owens stated that he is a retired Superintendent of Schools and builds houses to supplement his income. He indicated that he resides on the subject site and there are 7 adults presently on the subject property who are renters.

Comments and Questions:

Mr. Walker informed the applicant that multi-family dwelling units are not allowed in the AG district.

Mr. Alberty stated that there is no hardship for this 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 **DENY** a **Variance** to permit 9 dwelling on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**; A **Variance** to permit multi-family dwellings in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS**; and a **Variance** of the all-weather surface requirement for required parking. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 8, finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; on the following described property:

E/2, E/2, SE/4, SW/4, Sec. 21, T-17-N, R-13-E, Tulsa County, Oklahoma.

Case No. 1502

Action Requested:

Special Exception to permit a 150’ cellular telephone antenna monopole tower in an AG district.

Presentation:

The applicant, **John Brightmire**, requested a continuance due to the address being incorrect.

Protestants: None.

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 **CONTINUE** Case No. 1502 to June 17, 1997, at 1:30 p.m. in order to re-advertise with corrected address.

Case No. 1503

Action Requested:

Variance of required frontage from 30’ to 0’ to permit placement of manufactured home. **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 9, located N & E of South 260th West Avenue and South 54th Street West.

Presentation:

The applicant, **Veona Douglas-Davis**, 22622 West 51st Street, Sand Springs, submitted a plot plan (Exhibit D-1) legal description (Exhibit D-2), and an application for a building permit (Exhibit D-3). Ms. Davis stated she purchased 10 acres, which has an ingress/egress on the subject site but it does not front a maintained County road. She indicated that her neighbor does not have a problem with this application. Ms. Davis stated that her neighbors have given her permission to allow the trailer to be brought across their property in order to install the trailer on her property. She informed the Board that the utilities are already in place from two (2) previous trailers and one home that was located on the subject site. She explained that one trailer has been removed and the other trailer and home was destroyed by fire. There is a septic system, a water well and electricity in place.

Case No. 1503 (continued)

Comments and Questions:

Mr. Looney asked the applicant if there is a mutual access easement filed of record? She stated that she did not know.

Ms. Davis indicated that the Title Company stated that there is an easement in the abstract. She stated the easement is 30' on the back side of the subject property and one mile long.

Mr. Glenn stated that the road is visible.

Mr. Alberty stated that obviously Ms. Davis has purchased land that is landlocked, but there is an access available and the land has had access in the years past. The lot exists (10 acres) but needs an access easement drawn and filed at the Court House.

Ms. Davis stated she has a verbal agreement to utilize the access.

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 **Variance** of required frontage from 30' to 0' to permit placement of manufactured home. **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 9, per plan submitted, subject to a 30' minimum access easement filed of record to nearest public right-of-way; finding that the owner has no guaranteed access since her property does not abut a County maintained road; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

SE, NE, NE, Sec. 31, T-19-N, R-10-E, Tulsa County, Oklahoma.

Case No. 1504

Action Requested:

Variance to allow Use Unit 15 in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15 and a Variance of the hard surface parking requirements. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located W, SW/c East 136th Street North & North Memorial.

Presentation:

The applicant, **Dennis McGehee**, 8909 East 142nd Street North, Collinsville, submitted a plot plan (Exhibit E-1), assessor information (Exhibit E-2), and letters of support (Exhibit E-3). Mr. McGehee stated he owns 10 acres and would like to hold a farm equipment auction or garage sale on the subject property. He explained that 99% of the merchandise will be his own property. The sales would be held five (5) or six (6) afternoons a year and last three (3) to four (4) hours on Saturday and Sunday. Mr. McGehee stated that there is a black top road to the subject site. The expected number of customer cars is approximately 40 to 80 and there is plenty of parking. He indicated the sales would be held only in good weather. Mr. McGehee stated that he has already held one auction and there were approximately 60 cars. The applicant lives 1 1/2 miles from the subject site. He stated that there will not be any industrial equipment for sale. He indicated that most of the sale items are already on his property and belong to him, but consignment items will not be moved on the subject property until the day of the sale. Mr. McGehee stated that he did not have a hardship, but it is really a chance to have a fellowship or gathering with the neighbors and bring the community together. He indicated that he received a phone call from Mr. Larry Glenn and was informed that he cannot have an auction without going before the Board for a Variance.

Comments and Questions:

Mr. Beach informed the protestants and the Board that the applicant has excluded the 20 acres to the south and the only property under application is the north 10 acres.

Protestants: The following represents concerns expressed:

Traffic congestion on a one-lane road; noise generated by an auction; decrease in value of homes; loudspeakers broadcasting bids; machinery and equipment being transported down the narrow roads, cars parking along the narrow roads, trash, people leaving their items at the subject property if not sold; and the land owner does not live on the subject site.

The following represent protestants who expressed the concerns listed above:

Marilyn Merchant, 13118 North 77th East Avenue; submitted a letter (Exhibit E-5) and photographs (Exhibit E-6); **Bernard Champern** 12910 North Memorial; Owasso, **Don Siemens**, 12407 North 73rd East Avenue; **Jack Linzy**, 7825 East 131st Street North; **Charles Eddy**, 13325 North 77th East Avenue; **David Whitaker**, 13215 North 77th East Avenue; and **Joe Welch**, 7315 East 126th Street North. The protestants submitted a petition (Exhibit E-5).

Interested Parties:

Sharon, 4703 East 11th, stated that she owns the 20 acres directly behind the subject property. She explained that she is the applicant's ex-wife and that she helps with the auctions. There will not be any items left after the auction is over. The owners will be called to pick up their items that are not sold at the auction. She indicated that she intends to build a house on the 20 acres adjacent to the subject site and will help keep the area looking nice. She commented that the County needs to widen and improve the road. She requested the Board to approve the application.

Larry Glenn, County Inspector, representing Tulsa County, Board of County Commissioners, submitted a floodway map (Exhibit E-7). Mr. Glenn stated that the County does not have any intentions at this time or in the future to widen 131st Street North and 77th East Avenue. The road is a 25' easement dedicated to the County. The Board of County Commissioners feels the auction will severely impact the area based on the number of people attending. The road was not built to handle this type of traffic. Mr. Glenn stated that he did not tell Mr. McGehee to break the law or have the auction. He indicated that as a Zoning Officer he tried to help the applicant come up with a solution to his problem. He advised the applicant to come before the Board of Adjustment. Mr. Glenn stated that the north 10 acres is all floodplain area. The concerns of the County is that auctions tend to grow larger as they are conducted and the area cannot handle the traffic. The parking area the applicant has indicated violates the floodplain. When you have a garage sale the owner actually resides on the subject property and this applicant does not live on the subject property.

Applicant's Rebuttal:

Mr. McGehee stated he does own the 10 acres and it is separated from the 20 acres owned by his ex-wife. He commented that to his knowledge no one parked on the road at any of the auctions he has already conducted. A good number of the people who have protested do not live within 300' of the subject site and do not use the road to the subject property. He indicated that the school buses utilize the road and he does not see why a trailer could not travel the same road. He stated he did not know of a hardship and was not aware he needed to state a hardship. Mr. McGehee commented he did not set out to break any laws.

Case No. 1504 (continued)

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, “aye”; no “nays”, no “abstentions”; none “absent”) to **DENY** Variance to allow Use Unit 15 in an AG zoned district. **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 15 and a Variance of the hard surface parking requirements. **SECTION 1340.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; on the following described property:

W/2, NE, SE, and SE, NW, SE, Sec. 35, T-22-N, R-13-E, Tulsa County, Oklahoma.

Case No. 1505

Action Requested:

Special Exception to allow a children’s nursery in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 5, located 6330 North 129th East Avenue.

Presentation:

The applicant, **Patricia J. Bowline**, represented by Kevin Bowline, P.O. Box 68, Collinsville, submitted a plot plan (Exhibit F-1) and photographs (Exhibit F-2). Mr. Bowline stated that he and his wife will be opening the nursery together. The subject home is 1600 SF on a septic system.

Comments and Questions:

In response to Mr. Walker, Mr. Bowline stated he expected to have 30 to 35 children enrolled in the daycare facility. Mr. Walker asked the applicant what ages the children will be? He stated the ages will range from infants to 12 years old. The days and hours of operation will be five (5) days a week, Monday through Friday, from 6:00 a.m. to 6:00 p.m. He indicated the subject property is on a dead-end road and the play area is fenced with chain link. Mr. Alberty asked the applicant if he will be living in the subject home? He answered negatively. In response to Mr. Alberty, Mr. Bowline stated that the out building will someday be used to expand the nursery, but currently it is vacant. Mr. Walker asked the applicant if there was a swimming pool? He stated the swimming pool has been removed.

Protestants:

The following names represent protestants who expressed the same concerns:

Dick Goodwin, 6322 North 129th East Avenue; **Fred & Iva Kampen**, 6427 North 129th East Avenue; and **Geneva Blan**, 6451 North 129th East Avenue. The protestants submitted a petition (Exhibit F-3) and stated that the subject area is made up with several families that are senior citizens.

The following concerns were expressed by the above protestants:

Traffic; noise; septic tank not able to meet the demands; adequate water volume (pressure) is not available.

Case No. 1505 (continued)

Applicant's Rebuttal:

Mr. Bowline stated that he would like to **withdraw** his application. He commented he would not want to do anything to upset the neighbors. Mr. Bowline stated that he was lead to believe that the neighbors had no problems with this proposal from his real estate agent.

Case No. 1506

Action Requested:

Variance to permit 2 dwelling units per lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, located 14123 East 93rd Place North.

Presentation:

The applicant, **Jesse Jara**, 14123 East 93rd Place North, submitted a site plan (Exhibit G-1). Mr. Jara stated he has a trailer on his property that he uses for a storage building. The trailer has electricity, however it does not have any plumbing or gas hookups.

Comments and Questions:

Mr. Glenn stated he does not know if the appliances have been removed from the trailer. He commented he did not know the applicant's intentions with the trailer from driving by the subject land and seeing a trailer parked on the lot. The applicant can have the trailer for storage only, but he will have to remove the kitchen facilities and the furnace. Mr. Glenn stated he would need to have an inside inspection of the trailer.

It was determined that the applicant can use the trailer strictly for storage, but he will have to remove the kitchen facilities and the furnace. The applicant was given the option to withdraw his application since it is not necessary to have a variance for a storage building in the AG district.

Jesse Jara withdrew his application.

Case No. 1507

Action Requested:

Special Exception to permit mobile home sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 20612 South Highway 75.

Presentation:

The applicant, **Johnny H. Rutledge**, 2006 South Highway 75, Mounds, submitted a plot plan (Exhibit H-1) and stated he re-drew his plot plan to scale. He explained that he needs 20 mobile homes on the subject property rather than the eight previously approved. He stated the property is zoned commercial and would like an additional 90' to the south. The trailers do not block his brother-in-laws view. There is 560' between his lot and his brother-in-laws lot. Mr. Rutledge commented that he does not want the subject property to look bad because he lives there as well. There is a 2 year lease with a an option for a 5 year lease. He indicated that the mobile home company is a quality company.

Protestants:

Rex Bowers, 2006 South Highway 75, Mounds, submitted letters of protest (Exhibit H-2) and stated he lives on the adjoining property to the subject site. Mr. Bowers informed the Board that he was at the April 15th hearing regarding this subject site. He stated the ruling, on the April 15th, was that there were to be only eight (8) mobile homes on the subject site at one time, however, Show Mart has moved in eight (8) mobile homes and four (4) are double-wide homes. Mr. Bowers further stated that he strongly opposes more mobile homes being moved in. The business is an eye sore for the rural home owners and the more units moved in the more potential for bigger eye sores. Mr. Bowers expressed concerns with safety due to the heavy traffic on Highway 75. The entrance to the subject site is at the top of a hill and makes entry and exit a dangerous situation. Mr. Bowers stated that he was approved several years ago for a small used pickup lot with several conditions. He indicated that he has respectfully complied with all of the conditions and the size of the vehicles do not block the open rural look of the surrounding area. Mr. Bowers asked the Board if there was a list he could be on to receive notification of any further requests that Mr. Rutledge may file for? How many times can the applicant have these types of hearings? Mr. Bowers asked if the applicant is allowed to have double wide trailers and count the double wide trailers as one unit? He commented that a large operation such as this should be in an Industrial area and not in a rural home setting.

Comments and Questions:

Mr. Walker explained that the law is very specific on who is to be notified regarding applications and it is followed.

Mr. Beach stated that there is not a special list for the protestant to be included on. The State Law requires that all owners of property within 300' of the subject tract be notified. The tract of land is defined by the legal description the applicant supplies. The names are obtained through the County Assessor's Office from their billing records.

Protestants:

Leroy White, Route 1, Box 409, Mounds, stated that he lives across the road from the subject site and he uses the same access as the applicant. He commented that every time he walks out his front door or look out his window all he can see is trailer homes. Mr. White indicated that originally there were to be only six (6) or eight (8) trailers and they were suppose to look nice. The first application he did not have a problem with the proposal. Mr. White expressed concerns that his property will be de-valued as well as the property that he is in the process of buying.

Interested Parties:

Jimbo Elrod, 1230 West C Street, Jenks, stated that he has an interest in the subject application. He indicated that the reason the subject site was chosen is because 35% of the homes in the United States are manufactured homes. The subject site lends itself to the rural people who want to get out into the country. Highway 75 runs from Bartlesville to Henryetta and it is a main thoroughfare. Mr. Elrod stated that the subject site has good visibility and the lot has already had several customers. The specs on the manufactured homes are the same as any other home that is built. He indicated that the company plans to remain on the subject site for a long time.

Protestants:

Dave Reiber, 1531 West 206th Street South, stated he lives in the northeast corner from the subject site. He explained that the B-Line separates his property from the applicant's property. Mr. Reiber stated that the mobile home company is already in violation of the first approval and he has concerns as to what type of tenant the mobile home company will be. There is no similar business of this type along the highway and the applicant is setting up a business that does not fit the subject area. Mr. Reiber stated he has major concerns that this site will become a trailer junk yard and will decrease the value of his home.

Case No. 1507 (continued)

Eric Sontag, 20510 South US 75, stated that he is the applicant's neighbor and uses the same access. The subject property has been a nuisance due to car alarms going off and running all weekend. He indicated that there was racing and loud motors disrupting the neighborhood. Mr. Sontag stated that a school bus stops at the subject site access and he has real concerns with safety and traffic. The company is already out of compliance and he fears that any further conditions will be viewed the same. He requested the Board to deny this application.

Interested Parties:

Gene Abney, Manager of the mobile home lot, stated that there is no way that he could put eight (8) manufactured homes on the hard surface that is currently installed. There is only six (6) manufactured homes on the subject site at this time. Mr. Abney stated he did not want to cover the view of the existing building with manufactured homes and requested to place the mobile homes outside the fenced area. He expressed the opinion that manufactured homes are not an eye sore and are built like any other home that is built.

Terry Stoe, representing Bower & Associates, Commercial Realtors, 4821 South Sheridan, stated that several months ago Mr. Rutledge contacted the office regarding leasing his property out. He commented that he could not see that the property values in the surrounding area will decrease because of the mobile home company. He requested that the Board approve this application because he did not feel that there will be any bad views or eye sores.

Applicant's Rebuttal:

Johnny Rutledge stated he did not want to make any of his neighbors mad, but he will not withdraw his application. With regard to the traffic and safety, he indicated he has children and is also concerned with the traffic. He explained that when a trailer is brought in or out, there are flag trucks and the traffic will be blocked when they cross the highway. He informed the Board that the subject area is changing and developing everyday whether the neighbors like it or not. He indicated that he thought the trailers could be on the gravel because the hard surface was waived when the subject site was a car lot. The homes are stationary and will not be stirring up dust. The parking for customers is a hard surface area, which is concrete. Mr. Rutledge addressed the loud noise complaint by stating that the shop does have an alarm system and a couple of times it was activated when he was out of town. Mr. Rutledge indicated that there are six (6) trailers currently on the subject property, however some are double wide trailers and if the double wide trailer counts as two units then they are out of compliance. He admitted that there are two trailers setting outside of the fenced area. He stated that the neighbors from across the street will not see any more then what they are seeing today. Mr. Rutledge explained that the original building permit was for 260' for the used cars and currently he inside the 260' by 40'.

Comments and Questions:

Mr. Walker asked if he is asking for ten (10) single wide trailers and nine (9) double wide trailers? He stated he would like to have eleven (11) singles and nine (9) double wide trailers.

Mr. Rutledge stated he thought the hard surface had been waived and hopes that it can be waived because the homes are stationary.

In response to Mr. Rutledge, Mr. Beach stated that the applicant is not advertised for relief of the hard surface requirement. If the applicant wants to park more trailers then what he can get on the paved area, then he either needs to pave additional area or come back before the Board with a request for a variance to waive the all-weather surface requirement.

Mr. Walker stated he was astonished at the impact of the mobile homes parked on the subject site. The area is rural and the houses are far apart with wide green spaces. This application will increase the density in the subject area and that is inappropriate.

Case No. 1507 (continued)

Mr. Alberty stated that there are ten (10) acres of CS zoned property. This mobile homes and truck sales required a special exception. The precedence is established with the current uses. He explained that the previous approval for eight (8) mobile homes was a compromise and he has heard nothing today that would cause him to change his mind to allow additional mobile homes being displayed.

Mr. Looney asked the staff that if the Board denied today's application will the previous application prevail? Mr. Alberty stated that he would assume that it would, but that is a legal question.

Mr. Eller asked if the applicant has been approved for truck and car sales previously? Mr. Alberty answered affirmatively.

Mr. Eller stated that he did not see anything wrong with the previous approval of eight (8) or ten (10) mobile homes on the subject site. Mr. Eller stated that mobile homes are here to stay and today the mobile homes are built just like any home today.

Mr. Walker stated that the mobile homes are not the issue, but the number of mobile homes on display.

Mr. Alberty stated that the Board would not try to, in anyway, shape or form, discriminate against the in product user. He explained that the display is what the issue is today and the Board approved eight (8) previously. The applicant can display four (4) double wide trailers or eight (8) single wide trailers.

Mr. Walker stated that the original approval was for the mobile home sales and they were to be on the paved area. He further stated that the hard surface condition should remain.

Mr. Tyndall stated he has not changed his mind from the previous approval.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 4-0-1 (Alberty, Looney, Tyndall, Walker, "aye"; no "nays", Eller "abstentions"; none "absent") to **DENY** a **Special Exception** to permit mobile home sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17; finding that the previous application set a limit on the number of homes for sale and that the approval of this new application for more units will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

N 350', E 300', NE, NE, SE, Sec. 15, T-16-N, R-12-E, Tulsa County, Oklahoma.

Case No. 1508

Action Requested:

Special Exception to the 60' height limit for a proposed 300' PCS guyed antenna. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4, located 22222 West 22nd Street.

Presentation:

The applicant, **Kris Doyle/Western Wireless**, 7043 East 15th Street, stated that his company is still running tests on the subject site and would like to continue this application to June 17, 1997, at 1:30 p.m.

Comments and Questions:

Mr. Glenn stated that the applicant needs to bring his plans by our office because there is a possibility the proposal is in a flood zone.

Case No. 1508 (continued)

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 **CONTINUE** Case No. 1509 to June 17, 1997, at 1:30 p.m.

Case No. 1509

Action Requested:

Special Exception to the 60’ height limit for a proposed 150’ PCS monopole antenna. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4, located 1500 East 131st Street South.

Presentation:

The applicant, **Kris Doyle/Western Wireless**, 7043 East 15th Street, submitted a site plan (Exhibit I-1) and plot plan (Exhibit I-2). Mr. Doyle indicated that the staff had no concerns with the subject site. He explained that the proposal meets all of the requirements and it is a good site. The front setbacks from the 30 acre parcel is 544’, west is 218’, east is 722’, rear setback is 726’. He stated the subject site is AG zoned and will blend in well with the area. Mr. Doyle submitted photographs (Exhibit I-3).

Comments and Questions:

In response to Mr. Walker, Mr. Doyle stated that the location was chosen to meet the 110% setback and to keep the tower away from all of the property lines. He indicated that the property owner would like to have the monopole away from the adjacent residential area. Mr. Doyle reiterated that the site is a good site and his company is willing to accommodate the neighbors if possible.

Protestants:

Ed Schimmerhorn, representing Hampton Hills, 2217 East Skelly Drive, stated he was before the Board a year ago to propose Hampton Hills, which is a 160 acre development with 13 lots. He indicated that seven (7) of the lots have been sold and the lots are in acreages including five (5), ten (10) and twenty (20) acre tracts. The lots start at \$135,000 and there are three (3) or four (4) homes completed, which exceed a half million dollars. This is a rapidly developing area because of the Creek Expressway and Highway 75. He stated he is very interested in keeping the integrity of the area and the property values. He indicated that the 150’ cellular tower will obstruct the view of downtown Tulsa if it is approved. Mr. Schimmerhorn suggested that the 150’ tower should be in an industrial area or near a department store like many of the cellular poles are located. He stated that there is a smaller tower in the subject area currently, that has driven potential people away and this tower will do the same. Mr. Schimmerhorn expressed concerns that he would not be able to sell the remaining lots at Hampton Hills if this tower is allowed to be installed.

Comments and Questions:

Mr. Tyndall asked Mr. Schimmerhorn if he thought the cellular tower will block the view of downtown Tulsa? He stated that it would hurt the view and he doesn’t know if the tower will have a light on it. He commented that the tower will not totally block the view, but it will certainly be an eye sore.

Protestants: The following concerns were expressed by the protestants:

Decrease in the value of property; moved to the country to get away from the City and towers; the tower will be in the view of downtown Tulsa; development will cease in the area; the tower may fall and be a hazard; the tower will clutter their views from their windows and yards; setting a precedence and more towers will move in the area.

The following protestants expressed the same concerns:

Sue Phillips, 7707 South Oswego Place; (owns a lot in Hampton Hills); **Ferris Seifer**, 6510 South Jamestown Avenue (owns property to the south and west of subject site); **John Roberts**, 13116 South Yorktown Avenue; **Mike & Jerri Sumner**, 1922 East 131st St. South; **Bill Sparkman**, 5118 East 92nd Street, (owns 10 acres in Hampton Hills); **Nancy England**, Lot 1.

Comments and Questions:

Mr. Schimmerhorn stated that the Hampton Hills is 13 miles south of Downtown Tulsa with a skyline view, which is unobstructed. The view and area is why the residence have moved to Hampton Hills and he would like to keep the integrity of the subject area. He explained that the 150' cellular tower will be in the view.

Mr. Tyndall stated that he did not have an argument on whether the subject area has a skyline view. He commented that the map he is looking at appears to have the tower to the west of the development.

Mr. Schimmerhorn stated that the tower is to the west of the development, but it is in line with the view of Downtown Tulsa. He explained that there is already one pole in the view and now they are wanting to put another tower up. He expressed concerns that several more towers will move into the subject area. He indicated that Mr. Seifer owns 500 acres in the subject area that has been projected to be developed into a residential area now that it is accessible by the expressway.

Interested Parties:

Patsy Allen, Route 6, Box 126, Bixby, stated that when Western Wireless first approached her she declined for the same reason that the protestants have expressed. She commented that the protestants stated they had moved out to be in the country, but in her opinion it ceased being country living when the development moved in. Ms. Allen informed the Board that she will sell her property in the near future and she did not feel that the tower will be a detriment to selling the property. She stated that she will be retiring in 3 ½ years and she will sell all of her property except the 10 acres with the tower is to be located. Ms. Allen commented that she has discussed the proposal with people who have poles on their property and received favorable reports. She stated that she insisted that the tower be on the west side of the property as far away from the residence as possible. The communication company is held to a 5 acre tract for location sites.

Applicant's Rebuttal:

Mr. Doyle stated that he sent letters to adjacent property owners (300' within the site) to discuss the proposal. There is no evidence that a cellular tower will decrease property value and with this site being setback away from the residential properties, it will not have an impact. He indicated that there is a 150' monopole due west of the subject site, approximately one mile, owned by Southwestern Bell and AT&T collocated on the tower. Mr. Doyle informed the Board that he called Bob Richards, Planner for Jenks, and he did not have a problem with this application. In regard with the 30 year lease, Mr. Doyle explained that the lease is for 30 years, but it is in 5 year increments that is renewable. He stated that the tower will be removed if the time comes that it is no longer needed or utilized. Mr. Doyle informed the Board that there is a microwave tower (45') directly across the street from the subject site and all of the property owners bought their properties with the microwave tower in place. Mr. Doyle offered to work with the residents with regard to painting the pole to blend in with the skyline view.

Comments and Questions:

Mr. Walker asked the applicant if the tower will have lights on top or a rotating beam? He answered negatively.

Mr. Alberty stated that if the application had been requested before the development of Hampton Hills, it probably would have been approved without any opposition. However, the neighborhood has changed and once development starts with property that has value, then you have to maintain harmony with the neighborhood. In his view the applicant has the right to install a 60' tower. The Board has to decide if the special exception meets with the harmony of the neighborhood. Mr. Alberty stated that the test of a special exception has not been met with this application.

Mr. Walker stated that one of the criteria is the view and anytime you infringe upon the view or skyline it is a factor that needs to be considered. He commented that he does not believe that the tower will obstruct anyone's view from the adjacent properties, but it does impact the area. The owner who owns the 500 acres would be impacted greatly by this application.

Mr. Looney stated he did not think the proposal is harmonious to the neighborhood.


Mr. Tyndall commented that the Hampton Hills is a nice area and it would be bothersome to have the tower located on the subject site. He stated that the tower would hinder future development in the subject area.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; none "absent") to **DENY** Special Exception to the 60' height limit for a proposed 150' PCS monopole antenna. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4, finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

NE, NW, LESS E 10 ac thereof, Sec. 7, T-17-N, R-13-E, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 4:30 p.m.

Date approved: 6/17/97

Chair