COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 146
Tuesday, July 21, 1992, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Eller	Alberty	Gardner	Fields,
Looney		Moore	Building Insp.
Tyndall		Russell	
Walker			

The notice and agenda of said meeting were posted in the Office of the County Clerk, Monday, July 20, 1992, at 9:01 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** the **Minutes** of June 16, 1992 (No. 145).

Comments and Questions:

Ms. Russell informed that Mr. Levy is not present. She stated that Mr. Levy has requested that Case No. 1091 be continued to August 18, 1992, because one Board member is absent and a second will abstain due to a conflict of interest.

Pat Kernan stated that he is representing **Jack and Patsy Gallagher**, who were issued a building permit and moved a mobile home to their property. He pointed out that there are three Board members present and they are qualified to hear the case. Mr. Kernan stated that his clients are present, and since Mr. Levy filed the appeal and is a very competent attorney, he should be prepared to present the facts without further delay.

Mr. Gardner asked when the letter requesting a continuance was filed, and Ms. Russell informed that the applicant requested a continuance by phone approximately one week ago; however, the letter from Mr. Levy was not received until this morning (July 21, 1992).

Mr. Looney noted that the letter requesting a continuance is not timely, according to Board policy.

Comments and Questions, Case No. 1091 (continued)

Board Action:

On **MOTION** of **LOONEY**, the Board voted 3-0-1 (Eller, Looney, Walker, "aye"; no "nays"; Tyndall, "abstaining"; Alberty, "absent") to **DENY** the request for a continuance, and move Case No. 1091 to the end of the agenda.

Mr. Looney requested that Staff notify the applicant of the Board's decision.

UNFINISHED BUSINESS

Case No. 1089

Action Requested:

Variance of the required street frontage from 30' to 0' to permit a lot split - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 6540 North 137th East Avenue.

Presentation:

The applicant, **Ronnie Chaloupek**, 6443 North 137th East Avenue, Owasso, Oklahoma, submitted a plat of survey (Exhibit A-1) and explained that he is attempting to split a tract of land that is abutted by AG-R property to east, west and south. He informed that the area is basically rural in character, and the interior portion of the tract cannot be accessed without a private drive.

Comments and Questions:

Mr. Looney asked if the private drive could be installed without a lot split, and he replied that he is proposing to create residential building lots similar to those in the surrounding area.

In response to Mr. Looney, the applicant stated that the private drive will be in the center of the property.

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** of the required street frontage from 30' to 0' to permit a lot split - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; per plat of survey submitted; subject to a mutual access easement being filed of record; and subject to TMAPC and Health Department approval; finding a hardship demonstrated by the size and narrowness of the tract, and limited use of the rear portion of the seven-acre tract without street access; on the following described property:

Case No. 1089 (continued)

A portion of Government Lot 4, Sec. 4, T-10-N, R-14-E, part of the Northwest Quarter Beginning 1,988.9' West of the NE/c of the NW/4; thence 5,878.8' West to the East railroad R/W, NWly along RR/RW to north line of NW/4, East 475.5' to POB, Tulsa County, Oklahoma.

Case No. 1092

Action Requested:

Special Exception to permit a children's nursery in an RS zoned district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located 4201 South 47th West Avenue.

Presentation:

The applicant, **Westside Pentecostal Church of God**, 4201 South 47th West Avenue, Tulsa, Oklahoma, was represented by **Don Baccus**, 9143 East Latimer Street, Tulsa, Oklahoma, who explained that a special exception was approved in 1979 to permit the children's nursery; however, it was not utilized during the three-year approval period. He informed that conditions have not changed, and asked the Board to approve the use a second time. Photographs (Exhibit D-1) and a letter of support (Exhibit D-2) were submitted.

Protestants: None.

Comments and Questions:

Mr. Walker inquired as to the playground location, and Mr. Baccus stated that the area has been fenced, and the closest residence is approximately 250 yards away. He informed that the day care facility will operate from 7:00 a.m. to 6:00 p.m. and will provide service to 60 children.

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 **Special Exception** to permit a children's nursery in an RS zoned district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; subject to Department of Human Services approval; subject to days and hours of operation being Monday through Friday, 7:00 a.m. to 6:00 p.m.; and subject to a maximum of 60 children; finding that the use is compatible with the surrounding neighborhood; on the following described property:

Lot 1, Block 1, Goddard Addition, Tulsa County, Oklahoma.

Case No. 1093

Action Requested:

Special Exception to permit Use Unit 20 (powwow) in an AG zoned district for 3 days annually in August (2nd weekend - Fri., Sat. and Sun.) - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 20, located NW/c of East 146th Street North and North Lewis Avenue.

Comments and Questions:

Ms. Russell stated that Staff has received four letters of support (Exhibit C-2) for the request.

Presentation:

The applicant, **James Reed,** was represented by **Newt Scott,** Route 2, Box 35, Skiatook, Oklahoma, who explained that the proposed powwow will be conducted in a safe manner, with all applicable requirements being met. Environmental Health Guidelines (Exhibit C-3) and a copy of the building permit (Exhibit C-1) were submitted.

Comments and Questions:

Mr. Looney asked if a site plan has been prepared to depict the location of various activities, and Mr. Scott replied that he does not have a plan; however, the dance arena and other functions will not be placed near the highway. He informed that the dance area is usually circled by portable concession stands, and there is one existing building on the property. He pointed out that there have never been complaints at the previous location.

There was Board discussion concerning the use at this location and a one year time limitation, and Mr. Scott stated that his organization is not well funded, but would be agreeable to a one year approval.

Protestants:

Steve Gallamore, PO Box 812, Skiatook, Oklahoma, stated that he is representing the surrounding property owners, and although they are not opposed to the Powwow Club, they are concerned with the impact the large attendance will have on their property. He pointed out that the area is comprised of rolling grasslands and voiced a concern that the powwow could create a potential fire hazard for the area. Mr. Gallamore stated that grass fires are a great concern in the month of August. He further noted that the roads are narrow at this location, and litter is also a potential problem. Mr. Gallamore stated that all residents within one mile of the proposed site have signed a petition of opposition to the powwow.

Case No. 1093 (continued)

Additional Comments:

Mr. Looney asked Mr. Gallamore if he would be opposed to the application if all concerns were addressed, and he replied that the proposed location is not appropriate for an event of this type.

Mr. Walker asked Mr. Gallamore where his property is located, and he replied that his property line is 330' south of the subject property.

The resident at 14824 North Lewis informed that his property is 600' north of the proposed event, and the combination of heavy traffic and narrow roads result in numerous wrecks in the area. He stated that he is opposed to the powwow at this location.

Applicant's Rebuttal:

Mr. Scott stated that the tradition of camping on the powwow site is no longer very prevalent; however, there could be a limited number camping on the grounds during the three days period.

In response to Mr. Walker's inquiry as to the number in attendance and the noise level, Mr. Scott stated that there will be several thousand people visit the site during the three-day period; however, the tones are low and the noise will not be extremely loud. He pointed out that the stomp dances do not begin until all other activities have concluded (approximately 10:00 p.m.).

In reply to Mr. Gardner's question concerning fire protection, Mr. Scott pointed out that the area has been mowed, and the chance of cars igniting the grass is minimal. He stated that there has never been a grass fire at the previous site.

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 Use Unit 20 (powwow) in an AG zoned district for 3 days in August 1992 (2nd weekend - Fri., Sat. and Sun.) - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 20; subject to a powwow representative meeting with County officials for review of the entire activity; subject to Health Department approval; finding the temporary use, as presented, to be compatible with the area, and in harmony with the spirit and intent of the Code; on the following described property:

S/2, SE/4, SE/4, Section 19, T-22-N, R-13-E, less north 209.71', south 241.71', west 208.71', east 225.21', Tulsa County, Oklahoma.

Case No. 1094

Action Requested:

Variance of the Tulsa County Floodplain Regulations No. 101972 to permit construction in a regulatory floodway, located 3031 West 101st Street South.

Presentation:

The applicant, **Mark Nelson**, 3031 West 101st Street, Tulsa, Oklahoma, stated that the subject property is located in a FEMA designated floodway. He explained that he recently purchased the property and was not aware it was in a floodway, which would prohibit construction on the tract. Mr. Nelson submitted a plot plan (Exhibit E-2) and requested permission to construct a 12' by 20' carport, a patio deck and a rail fence. The applicant stated that he has acquired a hydrologists report (Exhibit E-1), which states that the improvements would not result in a measurable increase to a potential flood level. Mr. Nelson stated that the report states that clogging of the fence would be the only improvement that could impede the flow of water in the event of a flood, and the fence will be constructed at an angle to prevent restriction of the water or retention of debris.

Comments and Questions:

Mr. Tyndall stated that the case report states that a pole barn is proposed at this location, and the applicant informed that his initial intent was to build a barn, but those plans have been canceled.

Mr. Tyndall asked if the deck will be tied down to prevent its floating downstream during a flood, and the applicant stated that the support posts will be buried in concrete.

Mr. Gardner advised that it would be imperative that the walls of the carport remain open.

Interested Parties:

A letter (Exhibit E-3) recommending approval was received from the Jenks Board of Adjustment.

Board Action:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, "absent") to **APPROVE** a **Variance** of the Tulsa county Floodplain Regulations No. 101972 to permit construction in a regulatory floodway; per plot plan submitted; subject to the a building permit and compliance with all County requirements; and subject to the carport remaining open on three sides; finding that

Case No. 1094 (continued)

the improvements would not result in any measurable increase in flooding potential, and would not obstruct the water flow in the event of a flood; on the following described property:

Beginning 30' north SE/c, SW/4, SW/4, thence north 300', west 632.89', south 300', east 632.66' to beginning, Section 22, T-18-N, R-12-E, Tulsa County, Oklahoma.

Case No. 1095

Action Requested:

Special Exception to permit a home occupation (insurance agency) in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 11, located NE/c of West 41st Street and South 137th West Avenue.

Presentation:

The applicant, **John Firey**, PO Box 773, Sand Springs, Oklahoma, stated that he is moving into a new home and requested permission to operate his insurance business at the new location. He informed that he has operated the insurance agency for a number of years and feels the new location will be more convenient for his clients. Mr. Firey stated that ingress and egress will be on 137th West Avenue. An aerial photograph (Exhibit F-1) was submitted.

Comments and Questions:

Mr. Tyndall asked the applicant if he is familiar with the Home Occupation Guidelines (no signs, no employees, etc.), and he answered in the affirmative.

In response to Mr. Tyndall, Mr. Firey stated that there will be no exterior modification of the existing dwelling.

Mr. Walker stated that he is familiar with the property, and is supportive of the request.

Protestants:

None.

Case No. 1095 (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 **APPROVE** a **Special Exception** to permit an insurance agency as a home occupation in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 11; per Home Occupation Guidelines; and subject to ingress and egress being on 137th West Avenue; finding the use to be compatible with the area, and in harmony with the spirit and intent of the Code; on the following described property:

Part of the SE/4, SW/4 of Section 21, Township 19 North, Range 11 East, Tulsa County, Oklahoma; more particularly described as beginning at the Northeast corner of the South Half of the Southeast Quarter of the Southwest Quarter (S/2, SE/4, SW/4) of said Section 21, thence West 1,036.85', thence Southwesterly 681'; thence East 1,209.7', thence North 655.6' to the Point of Beginning, less and except a previously conveyed tract described as: A tract of land in the S/2, SE/4, SW/4 of Section 21, T-19-N, R-11-E, Tulsa County Oklahoma, described as: Commencing at the southwest corner of said S/2, SE/4, SW/4; thence N 89°24'35" E along the south line of said S/2, SE/4, SW/4 a distance of 107.68' to the centerline of 137th West Avenue; thence N 15°00'10" E along said centerline a distance of 222.95' to the point of beginning; thence due east a distance of 415.00'; thence due North a distance of 290.00'; thence due West a distance of 337.28' to the centerline of 137th West Avenue; thence S 15°00'10" W along said centerline a distance of 300.23' to the point of beginning, containing 2.51 acres, more or less subject to easements and rights-of-way of record. Said tract of land containing 14.49 acres more or less, Tulsa County, Oklahoma.

Case No. 1096

Action Requested:

Special Exception to permit Use Unit 15 (auction) in a CS zoned district - **SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 16, located 13906 Highway 51 West.

Presentation:

The applicant, **David Harper,** 3631 South Galveston, Tulsa, Oklahoma, stated that he is proposing to operate an auction in a 50' by 60' commercially zoned building that has been vacant for some time. He informed that the auctions will be held on Monday nights and the existing parking lot will provide sufficient parking for the business.

Comments and Questions:

Mr. Tyndall stated that the Sand Springs Board of Adjustment has recommended approval (Exhibit G-1) of the application, per conditions.

In response to Mr. Looney, the applicant stated that the parking lot is covered with a gravel surface.

Mr. Tyndall inquired as to the days and hours of operation, and Mr. Harper stated that the business will be open Monday through Friday, 10:00 a.m. to 4:00 p.m., with the auction being conducted on Monday night, 7:00 p.m. to 12:00 p.m.

Protestants:

None.

Interested Parties:

C. H. Todd, Route 4, Box 800, Sand Springs, Oklahoma, stated that the auction will be an asset to the area.

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 an auction, Use Unit 15, in a CS zoned district - **SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 16, subject to business hours being Monday through Saturday, 10:00 a.m. to 4:00 p.m., with the auction being conducted on Monday night, 7:00 p.m. to 1:00 a.m.; subject to no outside display, sale or storage of merchandise; subject to the parking area being dust free; finding the use to be compatible with the surrounding area; on the following described property:

Case No. 1096 (continued)

Part SE/4, NW/4 Beg. 2,109' S & 1,809 E NW corner, NW; thence N 351.7' NW 112' N 100' NW 105.2' S 385' southeasterly 247.7' to Point of Beginning, less Beginning 1,715.21' SE Intr WL, NW & S Hwy Right-of-Way thence SE 105.2' S 99.66' NW 105.6' N 99.52' to Point of Beginning Section 16, T-19-N, R-11-E, containing 1.5 acres, Tulsa County, Oklahoma.

Case No. 1097

Action Requested:

Special Exception to permit Use Unit 5 (church use and children's nursery) in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 5, located NW/c of Highway 169 and East 106th Street North.

Presentation:

The applicant, **Leonard Pirtle**, 101 West 9th Street, Owasso, Oklahoma, was represented by **Jerry Kaase**, who stated that church use was previously approved at this location; however, the approval lapsed because construction did not begin within the three-year approval period. He submitted a plot plan (Exhibit H-1) for the proposed building.

Comments and Questions:

In response to Mr. Looney, Mr. Kaase stated that Health Department approval has been obtained, and application for a building permit will be made within two weeks.

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 church use and children's nursery, Use Unit 5, in an AG zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 5, per plot plan submitted; subject to TMAPC and Health Department approval; finding the use to be compatible with the surrounding area, and in harmony with the spirit and intent of the Code; on the following described property:

A tract of land in the SE/4, SW/4 of Section 9, T-21-N, R-14-E of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows: Commencing at the southwest

Case No. 1097 (continued)

corner of said SE/4, SW/4, Section 9; thence N 88°44'40" E along the south line of said SE/4, 450.00'; thence N 01°13'58" W parallel to the west line of said SE/4, 77.43' to the POB, said Point of Beginning being on the north ROW line of the west exit ramp from U. S. Highway 169; thence continuing N 01°13'58" W parallel to the west line of said SE/4, 633.00'; thence N 88°44'37" E, 453.47' to a point 100' west of and at a right angle to the west line of US Highway 169; thence S 11°12'59" W parallel to and 100' West of the West U. S. Highway 169 ROW line, 522.76'; thence S 88°44'40" W parallel to and 100' North of the North ROW line of the West Exit Ramp of US Highway 169, 120.00'; thence S 83°02'02" W parallel to and 100' North of the North Right-of-Way line of the West Exit Ramp from US Highway 169, 94.95'; thence S 01°13'58" E parallel to the West line of said SE/4, 100.50'; thence S 82°02'02" W along the North ROW line of the West Exit Ramp from U. S. Highway 169, 126.94' to the POB, Tulsa County, Oklahoma.

Case No. 1098

Action Requested:

Special Exception to permit a mobile home in an AG-R zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 9, located 13351 North 95th East Avenue.

Presentation:

The applicant, **Murray Dean Rodgers**, 13351 North 95th East Avenue, Collinsville, Oklahoma, requested permission to install a mobile home on his property. He explained that there is an existing dwelling on the 2½-acre tract, and the mobile home will be used as a residence for his son and his family.

Comments and Questions:

In response to Mr. Looney, the applicant stated that his home is located on the south portion of the tract, and the mobile home will be installed on vacant land to the north.

Mr. Looney asked if there are other mobile homes in the area, and Mr. Rodgers informed that there is one mobile behind his property, and several to the south.

Case No. 1098 (continued)

Protestants:

Larry White, 13519 North 95th East Avenue, Collinsville, Oklahoma, stated that he recently constructed a new dwelling on the abutting tract to the north, and a mobile home at this location would lower the value of his property. He stated that there are no mobile homes to the north of Mr. Rodgers' property. Mr. White pointed out that water runoff from the proposed site of the mobile home is toward his home.

William Dandridge, 13404 North 95th East Avenue, Collinsville, Oklahoma, stated that he is opposed to the application for the same reasons that Mr. White stated.

Additional Comments:

Mr. Looney asked the applicant if the mobile home will be skirted and tied down, and he answered in the affirmative.

Mr. Eller inquired as to the size of the mobile home, and Mr. Rodgers replied that he is proposing to purchase a 14' by 80' unit.

In response to Mr. Walker, the applicant stated that the mobile will be placed in the middle of the 160' parcel of land.

Mr. Looney asked if the mobile will be approximately 75' from the property line, and Mr. Rodgers stated that he will definitely place the mobile unit 75' from the north boundary.

Mr. Walker stated that technically the tract has sufficient land area for two residential lots.

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 AG-R zoned district - **SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 9; subject to the mobile unit being 75' from all property lines; subject to the mobile unit being skirted and tied down; and subject to a building permit and Health Department approval; finding that there are other mobile homes in the area, and approval of the request, per conditions, will not be detrimental to the neighborhood, or violate the spirit and intent of the Code; on the following described property:

West 359.72', east 714.44', south 331.6', north 1019.8' NE less west 30' thereof for Road, Section 36, T-22-N, R-13-E, Tulsa County, Oklahoma.

Case No. 1091

Action Requested:

Appeal the issuance of a mobile home zoning clearance permit - **SECTION 1650. APPEALS FROM THE COUNTY INSPECTOR** - Use Unit 9, located 12428 South 129th East Avenue.

Presentation:

The applicant, **Lewis Levy**, 5314 South Yale, Suite 310, Tulsa, Oklahoma, informed that he had requested a continuance because of the fact that one Board member would be absent and one member would abstain from hearing the case because of a conflict of interest. He stated that the numbers are not equal and asked that the Board continue the case until at least four members can participate in the decision. He pointed out that a reversal of the Building Inspector's decision would require three affirmative votes, or 100% of the Board members present.

Protestants:

Pat Kernan, 4500 South Garnett, Tulsa, Oklahoma, stated that neither he or his client were notified of Mr. Levy's request for a continuance. He pointed out that the law allows three members of the Board to make a decision, and stated that there is no legal merit to requesting a continuance because of the number of Board members present. Mr. Kernan advised that his client is going to be out of the state when the next Board of Adjustment meeting is conducted. He asked that the continuance request be denied.

Comments and Questions:

Mr. Looney noted that Mr. Levy's request for a continuance was not received in a timely manner.

In response to Mr. Looney, Mr. Kernan stated that his client's mother is currently living in the mobile home.

Mr. Walker stated that he is not supportive of Mr. Levy's request for a continuance. He pointed out that there is no assurance that there will be a four-member Board present at the next meeting.

It was the consensus of the Board that they would hear the case as scheduled.

Mr. Levy asked Mr. Tyndall if he sells insurance to Mr. Kernan's client, and he answered in the affirmative. Mr. Levy requested that Mr. Tyndall withdraw from participation in the hearing.

Case No. 1091 (continued)

Presentation:

Mr. Levy stated that he is appealing the Building Inspector's decision to permit a mobile home on a lot with an existing residence, without Board approval. He pointed out that the tract is large enough to begin a mobile home park, and this type of ruling could justify a mobile home park without zoning. Mr. Levy stated that he considers the mobile home to be a single-family dwelling, while Mr. Fields, the Building Inspector, does not. He informed that his clients, Mr. and Mrs. Bob Gibson, live on the property next door and operate a business at this location. He stated that it has always been the rule that Board approval was required to place two dwellings, a mobile home or otherwise, on one lot of record. Mr. Levy pointed out that, according to the original application regarding the property, which was filed in 1987, the tract does not have sufficient frontage or land area for a lot split. He stated that, if the mobile home is not a single-family dwelling, it could be classified as a temporary mobile unit, which is not permitted at this location. The applicant pointed out that, if this mobile home is permitted without Board approval, the Board will never know where future mobile homes are installed. Mr. Levy voiced a concern with the permit for the mobile home being issued without notice being given to surrounding property owners. He contended that the unit that has been placed on the property is a second single-family home, and asked the Board to reverse the decision of the Building Inspector. Mr. Levy stated that the decision sets a bad precedent and, given the opportunity, he could have had 50 protestants to the mobile home.

Protestants:

Mr. Kernan stated that Mr. Levy filed the protest approximately two months ago and has had ample opportunity to bring the 50 protestants to the meeting. He submitted a location map (Exhibit B-1) and a real estate display (Exhibit B-3) which verified that the tract contains 5.05 acres. He informed that Mr. Hatter and Mr. and Mrs. Hendrickson are in attendance to speak in behalf of his client. Mr. Kernan stated that Mr. Levy has made the determination that a mobile home is a single-family home; however, a mobile home is not included in the Code definition of a single-family home.

Comments and Questions:

Ron Fields, County Inspector, stated that he made his determination based on the Code requirements. He pointed out that Mr. Levy based his remarks on Section 208 of the Zoning Code, which states that not more than one single-family dwelling may be constructed on a lot. He stated that the Code definition of a single-family dwelling unit

Case No. 1091 (continued)

is a building, other than a mobile home, containing one dwelling unit designed for occupancy by not more than one family (Exhibit B-2). Mr. Fields pointed out that the tract could be divided into two legal lots, because the minimum land area requirement for a lot in an AG District is 2.2 acres, and not 2.5 acres, as stated by Mr. Levy. He further noted that a mobile home is permitted by right in an AG District, either permanent or temporary.

In response to Mr. Walker, Mr. Fields stated that **Jay Stump**, INCOG, brought to his attention that the Code definition of a single-family dwelling excludes a mobile home. He stated that he has since been relying strictly on the Code definition when making determinations regarding this issue.

Applicant's Rebuttal:

Mr. Levy noted that Section 208 of the Zoning Code states that not more than one single-family dwelling may be constructed on a lot. He stated that it is his opinion that both the mobile home and the existing dwelling are occupied as single-family homes. The applicant stated that a new policy has been established by the Building Inspector, and it will continue if the Board upholds his determination. Mr. Levy stated that the definition of a mobile home in the Code is a dwelling unit designed for transportation to the site and to be occupied as a dwelling.

Mr. Kernan asked the Board to make their determination based on the Code.

Mr. Gardner stated that he is of the opinion that the Code should be amended, because if a mobile home contains one family and a detached single-family dwelling contains one family, with no distinction between the two, a mobile home could be placed on any lot in Tulsa County, regardless of the zoning. He pointed out that the Code states that a mobile home is not permitted in a single-family zoned district, even though it is one dwelling unit, because of the type of construction. Mr. Gardner stated that the Board must decide if the intent of the Code is to prohibit only two stick built dwellings on one lot of record, or if any combination of two stick built dwellings or manufactured homes is prohibited on one lot of record.

Case No. 1091 (continued)

Mr. Walker stated that it is his understanding that the intent of the Code is that more than one dwelling unit of any type, on one lot of record, should have Board approval; however, it seems that Mr. Fields is following the letter of the law in making his determination. He clarified that he is not necessarily opposed to the mobile home at this location, but is opposed to the method by which it came to be at this location.

Mr. Looney stated that the process for regulating the number of dwelling units on one lot of record would be hindered if the letter of the Code is adhered to concerning this issue. The Board favored amending the Code.

Mr. Gardner advised that Mr. Kernan can appeal to the Court any Board decision, or he can file a Board application to permit two dwellings on the lot.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-1 (Eller, Looney, Walker, "aye"; no "nays"; Tyndall, "abstaining"; Alberty, "absent") to **OVERTURN** the **Decision** of the Building Inspector, and **APPROVE** the **Appeal** of the issuance of a mobile home zoning clearance permit - **SECTION 1650. APPEALS FROM THE COUNTY INSPECTOR** - Use Unit 9; finding that it is not the intent of the Code to permit two dwelling units, either mobile homes or stick built dwellings, one lot of record without Board of Adjustment approval; on the following described property:

A tract 150' wide by 1,319.51' long, described as follows: Commencing at the NE corner of the SE/4 of the NE/4 of Section 5, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma, thence S 0°00'44" W 660.39' to the point and place of beginning, thence N 89°27'01" W 1,319.51', thence N 0°00'37" E 150.0', thence S 89°27'01" E 1,319.51', thence S 0°00'44" W 150.0' to the point and place of beginning, consisting of 4.54 acres more or less; Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 4:06 p.m.

Date approved August 18, 1992

Wayne Alberty
Chairman

7.21.92:146(16)