COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 303
Tuesday, August 16, 2005, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Hutson, Vice Chair	Walker, Chair	Alberty	Iske, D.A.
Dillard, Secretary		Butler	Painter, Co. Inspect.
Tyndall		Cuthbertson	West, Co. Inspector
Charney			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, August 10, 2005 at 2:46 p.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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

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MINUTES

On **MOTION** of **Tyndall**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** the Minutes of July 19, 2005 (No. 302).

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UNFINISHED BUSINESS

Case No. 2166

Action Requested:

A variance of the required 30 foot minimum frontage on a public street or dedicated right-of-way to 0 feet to allow access by a private easement (Section 207), located: 2012 East 207th Street South.

Presentation:

Lou Reynolds, 2727 East 21st Street, Suite 200, reminded the Board this case was continued to this meeting. He informed the Board that he and his clients worked very hard to search the property titles, hired engineers to build a roadway easement, and prepare a maintenance agreement. They discovered a new

quitclaim deed and a reluctance of the neighbors to work together to resolve the problem.

Comments and Questions:

Mr. Charney asked what Mr. Reynolds had hoped to accomplish one more time so that it is very clear to the Board. Mr. Reynolds explained their goal was to have all of the property owners that use an old easement for access to U.S. Highway 75, to formalize an agreement to cover improvement of the old easement, and specify how it would be maintained and the financial responsibilities in an enforceable document.

Mr. Hutson asked for staff comments.

Wayne Alberty, Manager of Land Development Services at INCOG, 201 West 5th Street, Suite 600 gave a little history and an opinion of current developments regarding this property. Prior to 1980, Tulsa County did not have platting and zoning controls outside of the three-mile perimeter of Tulsa City Limits. In 1980 the County realized it was important to protect the citizens and purchasers of property and evoked their legislative rights to zone and subdivide property. In September of 1980 the Board of Adjustment was created as an element of the Tulsa County Zoning Code. The big issue at that time was illegal or "wildcat subdivisions". People were buying property without legal requirements to obtain permits to build homes. Other people were expecting the County to improve the roads and the County Commission would inform them that they were not County roads. Since 1980, any land developed within Tulsa County requires the submittal and approval of a subdivision plat. This authority is derived from State Statutes Title 19, Section 863. This Board has given variances to properties that were divided prior to 1980 when it was too complicated to get all of the owners together to file a subdivision plat. In those cases the Board required easements to all of the properties with agreement from the owners to maintain the road easements and hold Tulsa County harmless from any obligation to the roads. Mr. Alberty stated that a subdivision is defined by statute. It is anything involving the splitting of two or more lots or involving right-of-ways. If the right-of-ways are not dedicated they must be created, which requires developing and constructing it according to the subdivision regulations. Then the County will take responsibility for the maintenance. He explained that in this case there is a sub-divider and two property owners. The property owners purchased properties and relied on the sub-divider to provide all of the legal access to the property.

Mr. Alberty received a call from Mr. and Mrs. Stone's banker, stating his client sold two pieces of property. The buyers could not get permits to build homes because they did not have legal access to a dedicated street or right-of-way. Mr. Alberty informed him that they needed to file a plat. Mr. Stone contacted Mr. Alberty to find out how to file a plat, which he explained to him. Later Mr. Alberty discovered that the buyers had applied for a variance. He informed the Board that the problem goes back to a family ownership, when property was divided and sold

without legal access. The existing easements are not legally enforceable. The simple solution is to file a plat and short of that, there cannot be any relief granted through a compromised situation.

Interested Parties:

There were no interested parties who wished to speak.

Applicant's Rebuttal:

Mr. Reynolds stated that in his opinion, the two lots do not create a subdivision. He added that historically wildcat subdivisions have been clusters of lots that were too small. He stated the lots all have utilities. They were lawful lots when the deeds were filed. The buyers did not know what they were getting into and did not have a plan to get around the law.

Board discussion ensued.

Amy Stone, 20322 South Union, asked to speak. She stated that she and her husband were the original sellers. She offered a guarantee that no other houses would be built. Their goal was to keep multiple mobile homes from going in next door to them when they originally purchased the land.

Mr. Charney asked if she is a grantor on the Quitclaim Deed. She replied that she is. He asked why she signed a memo that she did not want to participate in an effort to work with the neighbors to get a legal easement.

Mr. Reynolds stated that in the beginning he was assured by the interested parties, there would not be any more lot-splits for residential purposes. He prepared a notice of platting requirement and it was good until the legal descriptions changed without his knowledge. It was an attempt to say there would be no more an innocent purchaser's of the remaining land because he prepared a document to be filed of record. He pointed out that the easement that was presented in July did not have a habendum clause and there was failure to recite marital status, which is also a fatal defect.

Mr. Charney asked if filing a plat would be a remedy. Mr. Reynolds replied that filing a plat would fix the problem and the parties could build their houses.

Board Action:

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **DENY**, a **Variance** of the required 30 foot minimum frontage on a public street or dedicated right-of-way to 0 feet to allow access by a private easement (Section 207), on the following described property:

NE SW & NW SE & NE SE LESS E886.69 THEREOF SEC 1516 12 93.130ACS, Tulsa County, State of Oklahoma

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Case No. 2167

Action Requested:

A Variance of the required 30 ft. minimum frontage on a public street or dedicated right-of-way to 0 ft. (Section 207), located: 2125 West 207th Street South.

Presentation:

Nancy Batt, 2125 West 207th Street South, Mounds, Oklahoma, stated they own seventeen acres. She asked what they could do so they can build their house. Mr. Hutson reminded her of what they just talked about, they need to file a plat. She stated she talked with Ray Jordan that morning about paving the easement road. They did not have a problem with helping maintain the road.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Tyndall**, the Board voted 4-0-0 (Hutson, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **DENY** a **Variance** of the required 30 ft. minimum frontage on a public street or dedicated right-of-way to 0 ft. (Section 207), on the following described property:

N 663.0' of E 920.0' of N 40 ac of E/2 SW/4 & tract described as NW/4 SE/4 & portion of NE/4 SE/4 W of LN described as: BEG S LN NE/4 SE/4 pt N 89° 54' 28" W 886.69' frm SE crnr NE/4 SE/4; TH N 00° 37' 19" W to pt N LN of NE/4 SE/4 Sec 15, T 16 N, R 12 E of IB&M, Tulsa County, State of Oklahoma, & ing/egr esmnt to said prop 40' ROW, cntr described as: SE/4 Sec15, T16N, R12 E; TH N 89° 54' 39" W 512.53'; TH S 0° 37' 19" E 1297.28' to pt N LN S/2 SE/4 of Sec 15 & 25' ing/egr esmnt cntr ln described as: PT 20' S of NE crnr SE/4 of Sec15; TH N 89° 54' 39" W 512.53'; TH S 0° 37' 19" E 645.88' to POB; TH N 89° 54' 28" W 413.33' to pt E LN of above described trct.,Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 2172

Action Requested:

Special Exception to permit a manufactured home in an RE zoned district Section 410 -- Use Unit 9; Variance to permit two dwelling units on one lot of record Section 208 - Use Unit 6;

Presentation:

Terry Carter, 804 West 5th, Skiatook, Oklahoma, stated there was a trailer on the property since 1968. All of the utilities were available there. He stated there was a

trailer moved from there about five years ago and he moved in the new one. When he tried to get the electric service turned on, he found the land was zoned RE and needed the relief. He submitted photographs (Exhibit B-1) and stated there are numerous trailers in the area.

Interested Parties:

Jane Lewis, 320 West 92nd Street North, stated she had no objection to the application. She asked if the Board approved the application that they place a condition to limit the approval for the applicant only and not the land.

Board Action:

On **Motion** of **Tyndall**, the Board voted 5-0-0 (Hutson, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** a **Special Exception** to permit a manufactured home in an RE-zoned district Section 410 -- Use Unit 9, with conditions for tie-downs, skirting, building permit and DEQ approval; and a **Variance** to permit two dwelling units on one lot of record Section 208 - Use Unit 6, finding the lot is large enough to accommodate two dwellings, on the following described property:

N220 LT 2 & TR BEG NWCR SW NE TH E215 S220 W215 N220 POB SEC 23 21 12, Tulsa County, State of Oklahoma

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There being no further business, the meeting was adjourned at 2:22 p.m.

Date approved: 9-20-05

Roland L Walker

Chair