

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 149
Thursday, October 29, 1992, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chairman Eller Tyndall Walker	Looney	Gardner Jones Wiles	Glenn, Building Insp.

The notice and agenda of said meeting were posted in the Office of the County Clerk on Tuesday, October 27, 1992, at 10:12 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Alberty called the meeting to order at 1:32 p.m.

MINUTES:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the **Minutes** of September 15, 1992 (No. 148).

UNFINISHED BUSINESS

Case No. 1103

Action Requested:

Variance to permit two dwelling units per one lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING UNIT PER LOT OF RECORD** - Use Unit 6, located 12428 South 129th East Avenue.

Comments and Questions:

Mr. Alberty stated that this case was fully discussed by both sides at the September 15, 1992 meeting. He stated that the Public Hearing has, in effect, been closed on this item unless some of the Board members wish to ask specific questions of the applicant or protestants. He informed additional information has been received from the applicant and protestants for the file (Exhibits A-1 and A-2).

Interested Parties:

The applicant's counsel protested the fact that they were not going to be able to present additional information to the Board.

Case No. 1103 (continued)

Additional Comments:

Mr. Alberty stated that this is typically considered a routine application. He informed the Board is trying to look at the case objectively and not be influenced by what other matters might have taken place.

Mr. Alberty described the surrounding property and what is being requested on the subject tract.

Mr. Walker informed when the Board reversed the decision of the building inspector, their concern was not whether a mobile home should be allowed as a second dwelling, but the way in which the permission had been granted. He does not feel that this is an unreasonable request due to the unique nature, size and shape of the land. He feels there should be some restriction or limitation on the second dwelling, and approval should be subject to Health Department approval.

Mr. Alberty informed to meet the Ordinance test in approving a variance, there needs to be something peculiar to the property. He feels the shape of the lot would qualify for a narrow lot. He also pointed out that five acres, under AG zoning, would accommodate, from a density standpoint, two dwellings. He stated that to be consistent with the Board's previous actions, this has typically been a fairly routine case despite the emotions which are involved. He informed he feels both sides have valid concerns.

Mr. Alberty stated time limits for the use have been imposed in such cases when they feel the area is developing in a manner other than the current zoning. He further stated the Board has conventionally approved similar cases specifically for the occupants, normally for a family member which is the case here. He feels a reasonable time limit might be for three years.

Board Action:

On MOTION of WALKER, the Board voted 3-0-1 (Alberty, Eller, Walker, "aye"; no "nays"; Tyndall, "abstaining"; Looney, "absent") to **APPROVE** a **Variance** to permit two dwelling units per one lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING UNIT PER LOT OF RECORD** - Use Unit 6, based upon the fact that the land size is unique in character (being narrow and extremely deep), and that the land will support two dwellings that could be granted by right were the configuration in a more rectangular fashion, subject to Health Department and Building Inspector approval, with a time limit of three years, and with the restriction that the use be granted only for the parents of Ms. Gallagher; on the following described property:

Case No. 1103 (continued)

Part of the SE/4, NE/4, beginning 660.39' south NE/c, SE/4, NE/4, thence west 1319.51', north 172', east 1319.656', south 161.39' to the POB, Section 5, T-17-N, R-14-E, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 1109

Action Requested:

Variance to permit 2 dwelling units per one lot of record - SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD - Use Unit 6.

Variance of the land area per dwelling unit from 4.4 acres to 3.01 acres - SECTION 330. BULK AND AREA REQUIREMENTS FOR THE AGRICULTURE DISTRICTS - Use Unit 6, located 13309 N. 87th E. Ave.

Comments and Questions:

Mr. Jones informed a letter had been received from the applicant's attorney, Everette T. Brown, Jr., requesting that this item be continued to the November 17, 1992 meeting, due to the illness of his client (Exhibit B-1).

Protestants:

Kenneth Miles, attorney, 1710 BOK Tower, informed he represents some of the neighbors of the subject tract who are in protest of this application.

Board Action:

On MOTION of WALKER, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **CONTINUE** Case No. 1109 to the November 17, 1992 meeting.

Case No. 1110

Action Requested:

Variance to permit two dwelling units on one lot of record - SECTION 208. ONE SINGLE-FAMILY DWELLING UNIT PER LOT OF RECORD - Use Unit 6, located 3117 East 161st St. S., Bixby.

Presentation:

The applicant, John Cochran, 3117 E. 161st St., informed he would like to move a house from 151st to 161st. He submitted a plot plan which shows his existing house and where he wants to put the second dwelling.

Case No. 1110

Comments and Questions:

Mr. Alberty asked the applicant if the second property will have a separate deed, and Mr. Cochran informed it will all be under the same ownership. There is enough land to split into two parcels, but the applicant wishes to keep it under one ownership.

Mr. Alberty asked if the second dwelling will be for a family member, and Mr. Cochran informed it will be.

Mr. Alberty asked how sanitation will be handled, and Mr. Cochran informed it will be handled via a lagoon system. The existing dwelling has its own sanitation system.

Mr. Alberty asked what the applicant's reason for the variance request is, and Mr. Cochran informed it is because the tract is narrow and long.

Protestants: None.

Board Action:

On MOTION of ELLER, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** to permit two dwelling units on one lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING UNIT PER LOT OF RECORD** - Use Unit 6; subject to Health Department approval; finding the shape of the tract to be the hardship, and that the land is large enough to accommodate two dwelling units; on the following described property:

E/2 W/2 W/2 SE/4 SE/4, Section 20-17-13.

On MOTION of ELLER, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **AMEND** the above motion to include the restriction that the second dwelling be used for family members only.

Case No. 1111

Action Requested:

Variance of the required 30' of street frontage on a public street or dedicated right-of-way to 0' to permit a lot split - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located N and E of NE/c of S. Mingo & E. 209th St.

Presentation:

The applicant, **Michelle Moore**, 16903 S. 88th E. Ave., Bixby, Oklahoma, informed she owns six platted lots and 4.16 acres of unplatted land. She would like to put a mobile home on her lot, but was informed she needed a lot split. She informed they maintain 209th St. S., not the County. She informed there is an existing easement owned by Phillips Petroleum which they would like to continue back to the subject tract. They do have permission to use the easement. They will be going across their own land to get back to the subject tract.

Comments and Questions:

Mr. Jones informed that until recently, if a tract was larger than 2.5 acres, a lot split was not needed. That has now been changed to 5 acres. He informed from Staff's standpoint, since the applicant owns the property to the south, there would be no problem for her to file a Mutual Access Easement with herself giving access to the back property. If she ever sells the property, the Board and the County would want to guarantee that the new property owner had access to the tract.

Mr. Alberty informed there needs to be some caveat with this easement that the County has no responsibility to maintain the road--it will be a privately maintained road.

Mr. Walker suggested that the subject tract could be attached to one of the lots which has the road frontage. Mr. Jones informed the disadvantage to that solution would be that the mobile home would be the one dwelling unit per lot of record. She could not put a dwelling on the front lot unless she came back to the Board.

Mr. Alberty informed he is concerned about what could potentially happen on the tract in the future.

The applicant was asked if there are any dwellings on their other lots, and she informed there are not.

There was discussion about where the easement would be located.

Case No. 1111 (continued)
Protestants: None.

Board Action:

On MOTION of WALKER, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** of the required 30' of street frontage on a public street or dedicated right-of-way to 0' to permit a lot split - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, subject to the filing of a Mutual Access Agreement that would provide private access to 209th Street; finding that the properties along 209th Street were sold off without providing access to the interior land except by easement; on the following described property:

A tract of land located in the SW/4 of Section 18, T-16-N, R-14-E, Tulsa County, Oklahoma, more particularly described as follows: Beginning at a point 1318.33' North and 707.25' East of the SW corner of Section 18, T-16-N, R-14-E, thence S89 degrees 48' 30" East a distance of 586.05', thence North a distance of 309.00', thence West a distance of 586.65', thence South a distance of 309.00' to the Point of Beginning.

Case No. 1112

Action Requested:

Variance to permit a double-wide and three single-wide mobile homes on one lot of record - **SECTION 208. ONE SINGLE-FAMILY RESIDENCE PER LOT OF RECORD** - Use Unit 9, located 18414 Hwy 75.

Presentation:

The applicant, **Percy Kennedy**, was represented by Darlene Kennedy, 18340 S. US 75, who informed they are in the process of selling the subject tract. She informed they also own 18414 S. US 75 which consists of 32.96 acres. They would like to put a double-wide mobile home on the property for themselves, two single-wide mobile homes for two of their daughters, and one single-wide mobile home for their grandson. They would have a total of four dwelling units on the 32.96 acres. She submitted a site plan (Exhibit D-1).

Comments and Questions:

Mr. Alberty informed the area of the tract would accommodate the density they are wanting on the property. He asked if the reason for the variance was so they could maintain the property under one ownership, and Ms. Kennedy informed that is so.

Case No. 1112 (continued)

Mr. Alberty asked if each of the units will have a septic tank, and Ms. Kennedy informed there is one septic tank existing, and the Health Department has approved a lagoon system which would take care of the other units. Two of the small mobile homes will use the existing septic tank, and a lagoon would be built for the other two units.

Mr. Gardner asked if the units are campers, and Ms. Kennedy informed they are all manufactured homes.

Mr. Alberty asked if any of the units will face Highway 75, and Ms. Kennedy informed they would.

Mr. Walker asked if there is a frame dwelling on the property, and Ms. Kennedy informed there is a small building on the property which was used as an office by the former owner. The building has electricity, but no water.

Mr. Alberty asked if the applicant would be willing to condition the occupancy of the dwellings to family members, and Ms. Kennedy informed they would.

Protestants:

Grant Silvadon, P.O. Box 701, Sapulpa, informed he owns the next 3/4 mile south of the subject tract. He informed the mobiles are already on the lot. When they moved them in, they parked one east and west. When a 100 mile an hour wind came, the home disintegrated and went south. Fiberglass and aluminum was spread over his property which has caused him trouble with his hay and cattle. He informed he is not in favor of this application.

Additional Comments:

Mr. Alberty described what the applicant could do by right on the property were she to split it into four separate tracts (each a separate deed).

Applicant's Rebuttal:

Ms. Kennedy stated she did not know the mobile home materials blew on property other than their own.

Additional Comments:

Mr. Alberty asked Ms. Kennedy if she plans to tie down and skirt the mobile homes, and she informed she does plan to do so.

Mr. Walker asked what the hardship is, and Mr. Alberty informed the hardship is that the applicant wishes to keep the property under one ownership. Ms. Kennedy informed they do not wish to split the property as they would have to build three separate lagoons.

Case No. 1112 (continued)

Mr. Gardner asked if the mobile homes are fairly new, and Ms. Kennedy informed the small ones are old and are being remodeled. The double wide is a 1989 model. The fourth unit is not yet on the property. Ms. Kennedy informed the size of the two small mobile homes are 12 x 60 and 14 x 70.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** to permit a double-wide and three single-wide mobile homes on one lot of record - **SECTION 208. ONE SINGLE-FAMILY RESIDENCE PER LOT OF RECORD** - Use Unit 9, with the restriction that the units be used only for family members, subject to Health Department approval, per plans submitted; finding a hardship demonstrated by the size of the tract and the desire to maintain the land under one ownership; and subject to the mobile homes being tied down and skirted; on the following described property:

S 1232.5' SE/4 NE/4 less road on East, Section 3-16-12.

Case No. 1113

Action Requested:

Special exception to permit a mobile home in an RS district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9, located E. 64th St. between Johnstown & Lansing.

Presentation:

The applicant, **Linda Scott**, 6250 N. Xanthus Place, informed the subject tract is vacant and undeveloped. She submitted a map showing the locations of seven other mobile homes in the area (Exhibit E-1). She informed they will put in a septic tank.

Protestants: None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Special exception** to permit a mobile home in an RS district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9; subject to Health Department approval; and subject to the mobile home being tied down and skirted; finding that there are several other mobile homes in the area; on the following described property:

Lots 4 and 5, Block 8, North Turley Addition

Case No. 1114

Action Requested:

Variance to permit two dwelling units per one lot of record - SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD - Use Unit 6, and a variance of the required 2.2 acres of land area to 2.0 acres per dwelling unit - SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT - Use Unit 6, located W. of 151st St. S. and S. 145th E. Ave.

Presentation:

The applicant, **Kathy Davis**, 15530 S. 145th E. Ave., Bixby, Oklahoma, submitted a schematic of the subject tract which is owned by her father (Exhibit F-1). She wishes to put a mobile home on the subject tract due to her parents' failing health. The mobile will be on a concrete foundation, will be skirted and tied down, and will eventually be bricked. She does plan on this being a permanent home. She informed the subject tract is in a cul-de-sac on the river. .

Comments and Questions:

Mr. Alberty informed if the tract were half an acre larger, they would have the required land area to permit two dwelling units.

Mr. Alberty asked if any other lots in the area have two dwelling units, and Ms. Davis informed she is not sure. The surrounding property is owned by her relatives.

Mr. Alberty asked the applicant what the hardship is, and she informed it is for medical necessity.

The applicant was asked if the property is in a flood plain, and she informed it is not.

Mr. Alberty stated that perhaps the fact that this involves a family member and the surrounding property is owned by family members is a justification for the variance. There is also almost enough land to support the two dwellings by right. They could restrict this to family occupancy, and could tie it to the life of the occupants.

Protestants: None.

Case No. 1114 (continued)

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** a **Variance** to permit two dwelling units per one lot of record - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 6 and a **Variance** of the required 2.2 acres of land area to 2.0 acres per dwelling unit - **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT** - Use Unit 6; subject to Health Department approval; subject to the mobile home being tied down and skirted, restricted to use of family members, and tied to the length of time that the parents of the applicant are alive and living there; based upon the hardship that the tract size is just under that which would allow the applicant to do this by right; on the following described property:

West 4 acres of N/2 NE/4 NE/4 Section 21-17-14.

Case No. 1115

Action Requested:

Special exception to permit a church in an RE district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located S and E of 117th E. Ave. and 76th St. N.

Presentation:

United Pentecostal Church was represented by Jim Hobbs, 8341 N. 118th St., who submitted an aerial photograph of the area (Exhibit G-1). He described the area and informed the lot is visible from Highway 169. He feels the church would be an enhancement to this neighborhood. They plan to construct a building which would be very attractive and well landscaped. The church has owned the subject tract for ten years, and there has been very little change in the neighborhood during that period of time. He informed that the Owasso City Manager and City Planner could see no reason why there couldn't be a church on the subject tract. He informed a church can provide a buffer to unsuitable types of businesses. He submitted a petition with signatures of those in the area who would not be opposed to a church at this location (Exhibit G-2).

Case No. 1115 (continued)

Comments and Questions:

Mr. Eller asked the applicant if the subject tract would be fenced should approval be given, and Mr. Hobbs informed they would fence it if that were a condition of approval. He feels fences have a negative impact on a community.

Protestants:

Ronnie Young, 7272 N. 117th, informed he lives directly across the street from the subject tract. He stated that a similar request was turned down by the Board of Adjustment eight years ago, and there have been no changes since then in regards to the reasons the application was denied (street conditions, parking, septic tank, etc.). His main concern would be parking up and down the road during church functions and also the traffic the church would generate.

Jan Gaylord, 11618 E. 69th St. N., is concerned about traffic and the narrow roads in the area. They have a rural setting and would like to keep it that way. She submitted and read a letter of protest from Bruce and Joan Cox (Exhibit G-3) who live just east of the subject tract. One of their concerns is the drainage in the area. Ms. Gaylord pointed out several residents in the area who are opposed to this application. She described the development of the neighborhood and informed it is presently all residential--they do not want non-residential uses in this area. She questioned whether a percolation test could be passed because of the drainage on the subject tract.

Vic Coney, 7403 N. 119th, informed he lives next to the subject tract which sits in water all winter. He questioned whether a percolation test could be passed on the property and is also concerned about traffic in the area.

Dan Mason, 6912 N. 172nd East, informed one of the houses across the street has an open pond type septic system, and he would not like to see that on the subject tract.

Debbie Krupinski, 7414 N. 119th E. Ave., informed she lives northeast of the subject tract. She is opposed to the application for several reasons: traffic, drainage, and fear a church would decrease property values in the area. She submitted a petition in opposition to this application (Exhibit G-4) signed by approximately 96% of the residents in the area.

Don Mcaninch, 7323 N. 117th E. Ave., informed he lives just south of the subject tract. He is concerned about the drainage in the area.

Case No. 1115 (continued)

Paul Young, 7110 N. 117 E. Ave., informed he is concerned about the traffic which a church would generate in the area.

Applicant's Rebuttal:

Mr. Hobbs showed the Board the percolation test results from a certified engineer. He stated the percolation test was administered by the Health Department. He described development in the area. He does not feel that the traffic from the church would impact the neighborhood as they are a small congregation. They would have adequate off-street parking.

Additional Comments:

Mr. Alberty commented that based on the evidence presented, there has been no change in the situation. It is still an interior location, and he does not believe this is the proper location for a church. He feels the area is residential in character and that it should be maintained.

Board Action:

On MOTION of TYNDALL, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **DENY** a **Special exception** to permit a church in an RE district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; finding the use is on the interior of the residential area, and would be an incompatible use; following described property:

W300.5' of the N329.93' of NW/4 SE/4 NW/4 of Section 32-21-14.

Case No. 1116

Action Requested:

Variance of the required lot width from 200' to 135' and of the required land area from 2.2 acres to 2 acres to permit a lot split - **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located 11812 E. 121st St. N., Collinsville.

Comments and Questions:

Mr. Alberty informed that the Board has lost its quorum and must continue items 10 through 14 on the agenda to the November 17, 1992, meeting. The applicant, John Wineland, informed he will be out of town on that date and would like his case to be continued to the December 15, 1992 meeting.

Case No. 1116 (continued)

Board Action:

On MOTION of ELLER, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **CONTINUE** Case No. 1116 to the December 14, 1992, meeting, due to the lack of a quorum.

Case No. 1117

Action Requested:

Special exception to permit a mobile home in an RS district - **SECTION 410. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 9, located West of SW/c of W. 50th St. & 49th W. Ave.

Comments and Questions:

Mr. Alberty informed that the Board has lost its quorum and must continue items 11 through 14 on the agenda to the November 17, 1992 meeting.

Board Action:

On MOTION of ELLER, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **CONTINUE** Case No. 1117 to the November 17, 1992 meeting, due to the lack of a quorum.

Case No. 1118

Action Requested:

Variance of the required 30' of frontage on a public street or dedicated right-of-way to permit a lot split - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located NW/c 41st St. and 257th W. Ave.

Comments and Questions:

Mr. Alberty informed that the Board has lost its quorum and must continue items 11 through 14 on the agenda to the November 17, 1992 meeting.

Board Action:

On MOTION of ELLER, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **CONTINUE** Case No. 1118 to the November 17, 1992 meeting, due to the lack of a quorum.

Case No. 1119

Action Requested:

Variance of the required lot area from 2 acres to 1.25 acres and for a variance of the land area from 2.2 acres to 1.25 acres - **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT** - Use Unit 6, located S. side of 96th St. N. and W. of Sheridan.

Comments and Questions:

Mr. Alberty informed that the Board has lost its quorum and must continue items 11 through 14 on the agenda to the November 17, 1992 meeting.

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **CONTINUE** Case No. 1119 to the November 17, 1992 meeting, due to the lack of a quorum.

Case No. 1120

Action Requested:

Variance of the required lot width from 200' to 150' - **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6.

Variance of the required street frontage from 30' to 20' - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located E of the SE/c of 177 W. Ave. and Wekiwa.

Comments and Questions:

Mr. Alberty informed that the Board has lost its quorum and must continue items 11 through 14 on the agenda to the November 17, 1992 meeting.

Board Action:

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **CONTINUE** Case No. 1120 to the November 17, 1992 meeting, due to the lack of a quorum.

There being no further business, the meeting was adjourned at 3:06 p.m.

Date Approved

December 15, 1992

Wayne Alberty
Chairman