

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 205
Tuesday, June 17, 1997, 1:30 p.m.

County Commission Room
Room 119
County Administration Building

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

The notice and agenda of said meeting were posted in the Office of the County Clerk on Friday, June 13, 1997, at 1:31 pm, as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair Walker called the meeting to order at 1:36 p.m.

MINUTES:

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty "absent") to **APPROVE** the minutes of May 20, 1997, (No. 204).

UNFINISHED BUSINESS

Case No. 1502

Action Requested:

Special Exception to permit a 150' cellular telephone antenna monopole tower in an AG district. **SECTION 220. HEIGHT EXCEPTIONS** - Use Unit 4, located South of the SW/c 76th Street North and North Yale Avenue.

Presentation:

The applicant, **Jon Brightmire/U.S. Cellular**, represented by Kevin Coutant, 320 South Boston, submitted a site plan (Exhibit A-1), plat of survey (Exhibit A-2) and photographs (Exhibit A-3). Mr. Coutant stated the submitted photographs show the subject site looking north, south, east and west. He explained that the application is for a special exception to allow construction of a 150' monopole telecommunications tower. This location is due west of the Whirlpool location, which is south and west of the intersection of 76th Street North and Whirlpool Parkway (Yale Avenue). There is IM zoning across Yale to the east where Whirlpool is located and it is now IM all the way down to 66th Street. The subject site is zoned AG and all of the property around the subject site (west side, between Yale and Cherokee Expressway) is zoned AG. He described the subject property and the surrounding property as undeveloped with the closest residence being to the south several 100'. There are residences along 76th Street North, but in the area of development and the subject site, which is at least 1,000', there is no residential development. He explained that the subject site is rough and is undeveloped with excessive debris, which has been dumped over the years. Mr. Coutant described the 150' monopole as being a galvanized tower and will have the slim line antennas at the top of the tower. He stated the tower will be suitable for collocation and the 150' height makes collocation even more of a probability,

Case No. 1502 (continued)

however at this time US Cellular does not have another company to collocate on the subject tower. The tower will have security fencing with a pre-fabricated building. The base will be concrete with a pebble finish that is 12' x 20' in size and it will be nestled in with all of the brush, which will hide the a good portion of the tower. The access will be along an access road that will be built along the northerly property line of the subject property, which is off of Whirlpool Parkway (Yale Ave.). He indicated that there is another cellular tower more than a mile south and east of the subject location owned by AT&T. He explained that the closest cellular tower that US Cellular could find is at 66th Street North and Sheridan, which was considered for collocation but it was not acceptable for engineering reasons (height and location). This application satisfies the guidelines that the Board looks to except for one exception, which is a setback. The setback from Yale, westerly and southerly are more than 110% from the boundaries of the parcel. The actual tower will be located approximately 37'-1/2" south of the north property line and so it does not satisfy the 110% setbacks as to that location. He commented that the location is a good location for the subject site and it is well setback from the traffic way of Yale. This is an area that will become industrial and there are no protestants present to object to this proposal. Mr. Coutant stated that the proposal is consistent with the spirit and intent of the Code and is not injurious to the neighborhood.

Comments and Questions:

Mr. Looney stated that the landowner to the north obviously is not present to object and the landowner was given notice.

In response to Mr. Looney, Mr. Coutant stated he has not heard any objections and the landowner was notified.

Protestants: None.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty "absent") to **APPROVE** a **Special Exception** to permit a 150' cellular telephone antenna monopole tower in an AG district. **SECTION 220. HEIGHT EXCEPTIONS** - Use Unit 4; per plan submitted; finding that the proposal falls within the cellular tower guidelines with the exception of the distance on the north property line (37 ½'); on the following described property:

A tract of land in the S 200.00' of the E 654.00', N/2, SE/4, NE/4, Sec. 33, T-21-N, R-13-E, I.B.M., 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**, was not present.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 5-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays" no "abstentions"; none "absent") to **DENY** a **Special Exception** to the 60' height limit for a proposed 300' PCS guyed antenna. **SECTION 220.C. HEIGHT EXCEPTIONS** - Use Unit 4, without prejudice; finding that the applicant failed to re-appear from the May 20, 1997 continuance.

NEW APPLICATIONS

Case No. 1510

Action Requested:

Special Exception to permit a single-wide mobile home in an RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, and a Variance to permit 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, located 4828 West 27th Place South.

Presentation:

The applicant, **Orville L. Lugo, Jr.**, submitted an application for a building permit (Exhibit B-1) and a site plan (Exhibit B-2). Mr. Lugo stated he is the subject property owner and would like to place a mobile home on the back of the subject property. He explained that the reason for the mobile home is for health reasons for his daughter and her family. He detailed that his daughter and her family have had several illnesses and believe it is due to the house they are currently living in. He commented the current home his daughter is living in has sewer problems, no heat or air conditioning. The mobile home is currently in place and when he applied for his building permit, he discovered he was not supposed to already have the mobile home in place. He explained that Mr. Glenn was extremely helpful and allowed him a temporary permit. Mr. Lugo concluded that he recently retired with health problems and his daughter will be able to help him out. Mr. Lugo submitted photographs of the mobile home (Exhibit B-3).

Comments and Questions:

Mr. Walker asked the staff to explain to the applicant the criteria for stating a hardship.

Mr. Beach explained that a hardship is defined in the Code as something peculiar or unique about the property, which if the literal terms of the Code were applied would cause a hardship. He stated that it is the applicant's burden to demonstrate to the Board that there is something along these lines that causes him not to be able to have just one dwelling unit on the property.

Mr. Walker asked the applicant if he was informed that he would have to demonstrate a hardship? He stated he was aware that he did have to state a hardship and was lead to believe that the medical situation he described would be sufficient.

Mr. Walker explained to the applicant that a medical reason would be a personal hardship.

In response to Mr. Lugo, Mr. Beach stated that a hardship has to be related to the land itself, something unique about the property, the structures on the property, something unusual with the property, which does not permit you to comply with the Code. He explained that a hardship cannot be related to a personal hardship, such as medical bills or reasons.

Mr. Glenn stated the lot could be split into two lots in an RS district. However, the owner would like to keep the ownership under one name and does not want to split the lot.

Mr. Lugo informed the Board that all of the utilities are in place.

In response to Mr. Walker, Mr. Lugo stated that the subject property could be split into two lots, however he would like to keep the land in his ownership.

Protestants: None:

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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 **Special Exception** to permit a single-wide mobile home in an RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, and a **Variance** to permit 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9; per plan submitted; subject to the mobile home being tied down and skirted; subject to Health Department approval and a building permit; finding that the subject lot could be split into two (2) lots in an RS district, however the owner wants to keep the subject property under one ownership; finding that there are several mobile homes in the immediate vicinity; 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:

W 25, W 132, E/2, S/2, S/2, S/2, N/W, S/W, AND LESS N, 15, for, ST, Sec. 16, T-19-N, R-12-E, AND E 132 or W/2, S/2, S/2, S/2, N/W, S/W, Sec. 16, T-19-N, R-12-E, Tulsa County, Oklahoma.

Case No. 1511

Action Requested:

Use Variance to permit sign fabrication and auto repair as a home occupation in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 15 & 17, located 7300 West 51st Street.

Presentation:

The applicant, **Billy Frazier**, represented by Lance Hopkins, submitted a site plan (Exhibit C-1) and stated his client has recently purchased the subject property, which is in a rural area. Mr. Hopkins explained that his client plans to build a residence and also to perform out of his home and garage auto repair work. His client has recently sold his current home and has purchased the subject property in order to prepare the property for the proposed building. Mr. Hopkins submitted photographs of the subject property (Exhibit C-2). He stated that from the building site there is only one home in the subject area, which is a Mr. John Roller who has no objection to the proposed application. Mr. Hopkins commented that the photographs of Mr. Frazier’s former home indicate that his client had kept the home clean and neat, which are the same plans he has for the subject site. He indicated that his client performed auto repair at his former home and there are no commercial signs to indicate that there is an auto repair business. Mr. Hopkins commented that his client performs auto repair for friends and family only. He indicated that there are numerous home businesses in the subject area and listed the following businesses: tractor repair, Nancy Jane’s Custom Draperies, flatbed trailer and utility trailer sales (Mr. Canady), used car lot, Indian Smoke Shop, and one of the resident’s home is the headquarters for the Tulsa County Rural Water District #2 (Fred Bryant). Mr. Hopkins informed the Board that the City of Sand Springs Board of Adjustment sent a letter indicating that the City does not have any problems with this application (Exhibit C-3). He stated that Mr. John Hail owns land that borders the back of the subject property. Mr. Hail does not live on the property, but utilizes the land for pasture and oil/gas production. Mr. Hopkins suggested that Mr. Hail is using the property for commercial purposes (oil & gas production) and there is an open gas pipeline that is open and visible. He indicated that the gas pipeline is rusty and there is an aged stripper well in the pasture. Mr. Hopkins suggested that there is natural gas leaking from the oil well, which the leaking oil well drains into a nearby branch or spring. He stated that Mr. Hail is the primary opponent to Mr. Frazier using the subject property for a home occupation and he is clearly utilizing pasture land for a commercial business.

Comments and Questions:

Mr. Walker asked the applicant if Mr. Frazier will be making a living doing auto repair for family and friends? Mr. Hopkins stated he does make a living from doing auto repair for family and friends. He explained that Mr. Frazier is an auto racer and races at the Tulsa Speedway. Mr. Hopkins suggested that there isn't many auto racers in the Tulsa area that does not do auto repair out of their home. He stated the auto repair is a business, but it is not a typical garage shop in terms of an auto repair business.

Mr. Looney asked the applicant how many cars his client plans to have at the subject property? Mr. Billy Frazier stated he rarely has more than three (3) to four (4) vehicles at any one time. He indicated that the cars are kept inside and out of public view. There is no outside storage and he doesn't plan to have a lot of visibility. He proposes to build a 6,000 SF shop to perform the auto repair and store parts.

Mr. Looney asked the applicant if he operates a sign business as well as the automotive repair? He stated the sign business is a computer graphics machine that makes vinyl decals and lettering for race cars. The largest sign is 4' x 8' and the it is all done inside.

Mr. Looney asked the applicant if he planned to hardsurface the area under the carport and the drive? Mr. Frazier stated he plans to concrete a 20' pad off of the front of the building and gravel the rest of the drive. He explained that his family is in the concrete business and he plans to concrete the balance of the driveway at a later date.

Mr. Looney informed the applicant that if the Board approved the application one of the conditions would be that the driveway and carport would be hard surfaced.

Mr. Frazier informed the Board that he has had a home business for ten (10) years and he realizes that his neighbors can complain if at anytime he stores vehicles and car parts outside.

Mr. Tyndall asked the applicant if he planned to hire someone to work at the shop? He stated that he has hired people in the past to help out. He indicated that if he had enough work and needed help he would hire someone on a contract basis. Mr. Frazier explained that he would sub-contract the work to the people he hires to help him.

Mr. Frazier informed the Board that he knows the requirements for the environment and he will adhere to all of the Codes.

Mr. Beach reminded the Board and the applicant that the Home Occupation Rules specifically state that there can be no employees outside of the people who live in the home.

Protestants:

Robert Nichols, 111 West 5th Street, representing the Hail family, stated that the Hail family owns and operates the property that is immediately south of the applicant. He explained that the property is operated as a pasture and for oil & gas operation. Mr. Nichols indicated that Mr. Hail is a bonded operator with the Oklahoma Corporation Commission. He stated the oil wells in place have been there since the 50's and are non-conforming uses and there has never been a complaint filed against the Hail family or their operation. Mr. Nichols commented that he was shown photographs before the hearing today and he is not sure they represent the operation on the Hail property. He stated he is not sure of the date they were taken or who gave the photographer permission to enter on the Hail's property to take the pictures. Mr. Nichols informed the Board that he has represented approximately 20 applications for home occupations and the first issue is the employees outside of the home and any other considerations listed in the Zoning Code. Mr. Nichols stated he has never seen a home occupation application applied for before the home is built. He commented that this is a unique application from the standpoint that there is no home on the subject property. He stated that Mr. Frazier needs to build his home first and then apply for the home occupation so that the Board can see what he has built and what he is asking for. Perhaps a sign fabrication business that can be run out of a kitchen may be an appropriate application. The second issue is the automotive repair operation, which is being requested on the subject property as a use variance. Mr. Nichols stated he is in agreement with use variances when they are appropriate. Most of the time the use variance is involved with a legal use that was adjacent to the property where the use variance is being requested. It appears that this is a request for a use variance where there is no legal use in place seems to be

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generating the problem that the Legislature addressed when it took this power away from the Municipal Board's of Adjustment, which is that this is a request, in essence, to re-zone the subject property to a Commercial zoning classification. The problem with doing the re-zoning in this case is that this would be granting a Commercial Zoning and use 800' from the nearest intersection (Skyline Drive and 51st Street). Mr. Nichols concluded that the Hail's and several of the neighbors who are here to protest will tell the Board that they do not want this use in their neighborhood. This variance would not be in spirit and harmony with the intent of the Code, which is a jurisdictional issue as it is addressed in a use variance at this level.

Chuck Sitler, 7272 West 51st Street, stated he feels very strongly that this proposal does not need to be placed in his neighborhood. He confirmed that he does operate the water district out of his home, however the customers do not come to his home to pay their bills. Mr. Sitler commented that Mr. Frazier brought the plans by his home and the plans indicated that the shop will have two (2) bedroom living quarters with five (5) or six (6) 14' doors. The applicant has stated he is building a shop to work on his race car and then he added the sign business. Mr. Sitler stated that the applicant is in the automotive body business in which he takes totaled out cars and restores the cars. The applicant throws the scraps outside and the tires outside. The neighbors do not want this in their neighborhood. There are areas zoned exactly for that purpose in the City of Tulsa and he should locate his business in the appropriate zoned area. Mr. Sitler indicated that the applicant wants to bring semi-trailers into the shop to work on and the road is extremely hazardous for such large vehicles to be traveling in and out. It is very important to stop this application before it gets started. There will be parking problems, employees, UPS trucks coming and going and this sounds like a 100% commercial operation not a home base business. Mr. Sitler concluded that the subject property is not in a commercially zoned district and the applicant should locate this proposal in a commercially zoned district.

Mr. Walker asked Mr. Sitler if he has seen the applicant's current facility? He stated he was called over to Mr. Frazier's current facility to haul some of the outside storage off and he could not do the job. He explained that Mr. Frazier had a large truck body in the yard that he couldn't haul off. If this variance is granted there will be more auto body parts to accumulate and how will the neighbors get rid of the problem once it is in place?

Susan Winningham, 7917 West Skyline Drive, stated she lives north of the subject location. Ms. Winningham commented that she moved to her current location to be in the country and not to be in a commercial/industrial area. She stated she does not want the subject property zoned as commercial or industrial. Ms. Winningham explained that the road is hazardous and the increase of traffic for this type of facility will be detrimental to the area. She stated that her family owns a salvage yard and it is in a commercially zoned area. Ms. Winningham explained that the parts do have leaks and oil is spilled on the land. In order to contain the leaks of motor oil and transmission fluids you have to be very careful. This type of facility should not be in an agricultural area. In a salvage yard the fluids are contained and is disposed where it is supposed to be disposed. Ms. Winningham stated that she did not see how a building the size of the proposed building could be considered accessory to a residence. She concluded that the proposed use will not be a benefit to any of the land owners in the surrounding area.

Janet Strieval, stated she owns property adjacent to the subject property. She explained that she does not live on the property, but she does own the property. Ms. Strieval stated that this is not the first time someone has tried to change the zoning and move a commercial business in the area. She commented that if the applicant wanted to do auto repair then he should locate where the zoning allows auto repair. Ms. Strieval stated that auto repair lots are junky and they keep piling up. She requested the Board to deny this request. Ms. Strieval stated that if the Board approves this application then there will not be any land or country in the surrounding area left to enjoy.

Applicant's Rebuttal:

Mr. Hopkins stated that Ms. Winningham's property is a significant distance away from the subject property. He commented that it is hard to ascertain how an in home business, that is not visible from the roadside, will impact Ms. Winningham's property. He stated that Mr. Sitler owns a wrecker service and when you drive by his home his wreckers are visible from the roadway. Mr. Sitler parks the wreckers and his trucks in the front yard. He commented that the vehicles are visible from the roadway and there are a significant number of commercial vehicles parked around his home. Mr. Sitler is using his home for a commercial purpose and a significant amount of his wrecker business is conducted out of his home. Mr. Hopkins commented that the same people who are here to protest are using their

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homes or adjoining properties for commercial use. The use Mr. Frazier would like to have at his home is no different, and far less intrusive to the neighbors, than the same people who are protesting this application.

Billy Frazier stated that Mr. Sitler was called to his shop to move a storage building that was a bed off of a Ryder Truck, which was located next to the shop for storing supplies and parts. He explained that he purchased the storage building to keep parts out of the yard. He stated that there was a privacy fence installed to keep the visibility from his neighbors. Mr. Frazier commented that he has never had any complaints from his neighbors and before he purchased the subject property he spoke with Mr. Sitler and Mr. Roller, which at that time had no problems with the proposed shop. Mr. Sitler had been to his home and knew what type of business he intended to move into the proposed shop. Mr. Frazier stated that the only reason he filed for the variance is because he was advised to do so by his banker.

Comments and Questions:

Mr. Looney asked the applicant to state his hardship for granting a variance, Mr. Frazier stated that the main reason he requested the variance is because he wants to work out of his home with his family. There are home businesses in the area and that is why he purchased the subject property. He explained that he has worked out of his home for the last 10 years and would like to continue. Mr. Frazier stated he checked into industrially zoned land in the area and he was told he could not live on the property if it was zoned industrial. Mr. Frazier concluded that he feels that by building a \$175,000 facility with landscaping is improving the community.

Mr. Looney asked the applicant if he realized that if the Board were to grant the variance that he could not have any outside storage, the applicant stated he was aware of the restriction on outside storage and that is why he wants to build a larger building. He explained that he owns a race car, boat and antique cars, which he will store in the proposed building. Mr. Frazier stated that if he is not allowed the variance he still would like to build the proposed building to put his home and personal possessions in.

Mr. Looney informed the applicant that there is no more than three (3) vehicles allowed to be worked on at any one time under home occupation guidelines.

Mr. Frazier explained that 99% of his customers never come to his shop. He stated that his main business is for car dealerships such as Fred Jones Ford, Dean Bailey Oldsmobile. He commented that he picks up the cars that need repair and then deliver the car to the dealer after the work is finished.

Mr. Looney asked the applicant what the height of the proposed building will be, Mr. Frazier stated that the height of the side walls is 14' and it sets on 18" concrete stem wall, which will be bricked. The overall height will be 15'-8". The highest point of the roof will be 17', but the proposed building is setting 15' to 20' below the road surface.

Mr. Looney asked the applicant if he had any objections to limiting the height of the proposed shop to 13' maximum? He stated that the 13' height maximum would be a hardship due to the fact that he has already ordered the steel structure. He explained that he has a diesel truck and trailer that he pulls his race car in. He commented he would like to have the diesel truck and trailer inside the proposed shop in order to work on the vehicles.

Mr. Eller asked the applicant how many employees he planned to employ? He stated he would not have any employees.

Carrie Treadwell stated she has lived next door to Mr. Frazier for approximately 13 years and he has had his shop for 10 years. She commented that she has no complaints with regard to Mr. Frazier's shop and she has not had any problems with noise or parts being in the yard. She indicated that Mr. Frazier keeps his shop neat and rarely has cars parked outside. She concluded that Mr. Frazier does not store parts outside and he doesn't work late at night. Ms. Treadwell stated she does not have any complaints with Mr. Frazier's home business.

Comments and Questions:

Mr. Looney asked the staff if the hardship is the fact that if Mr. Frazier located his proposed shop in an IL district he could not live in the facility? Mr. Gardner stated that the applicant would have to seek approval to have a residential use in a commercial/industrial property. The applicant could seek a special exception to allow the residence if he were in the Tulsa City limits.

In response to Mr. Looney, Mr. Gardner stated that there is no home on the subject property and therefore the applicant cannot ask for a home occupation without a home being present. Mr. Gardner explained that there is no limit to the size of an accessory building in an AG district, but there has to be a home located on the subject property to be considered a home occupation.

Mr. Hopkins stated that Mr. Frazier is ready to work with other property owners in the subject area to comply with all applicable rules and regulations for operating home businesses. He further stated that he will eliminate any potential inconvenience that might result if his client was granted the use variance. He explained that Mr. Frazier simply wants to continue to work out of his home as he has done in the past. Mr. Hopkins reiterated that his client's proposal is no different than what is already in place in the subject area.

Ms. Winningham informed the Board that the wrecker business is run out of her business and does not belong to Mr. Sitler nor is it operated out of his home.

Mr. Looney stated he has a problem with the fact that Mr. Frazier is applying for a use variance in reverse order since there is no home on the subject property. The applicant is creating his own hardship.

Mr. Walker agreed with Mr. Looney and stated that if Mr. Frazier wanted to locate in an IL district he would have the same recourse to ask for a special exception to allow residential living.

Mr. Walker stated he did not see any legitimate hardship with this application in which the Board can take action on.

Mr. Tyndall stated he cannot see this application as a home occupation with the proposed type of activity.

Mr. Looney stated the applicant should have gone to the permit office before purchasing the property with the proposed activity in mind to see if it is allowed.

Mr. Glenn stated that if Mr. Frazier wanted to locate the proposed shop in the IL district, he would have to apply for a variance to allow a residence in the County.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty "absent") to **DENY** a **Use Variance** to permit sign fabrication and auto repair as a home occupation in an AG district. **SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 15 & 17; 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

All that part of Lot 4, Sec. 30, T-19-N, R-12-E, I.B.M., Tulsa County, Oklahoma, lying S. of W. 51st St.

Case No. 1512

Action Requested:

Special Exception to allow a mobile home in an RE district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, a Variance to allow 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, and a Variance of minimum land area per dwelling unit from 26,250 SF to 14,550 SF. **SECTION 430.1. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS**, located 11810 East 69th Street North.

Presentation:

The applicant, **Alice Cleo Laxton**, 11810 East 69th Street North, Owasso, submitted a site plan (Exhibit D-1) and photographs (Exhibit D-2). Ms. Laxton stated that her daughter's mother-in-law was recently Widowed and she needs day to day living assistance. The Widow owns a mobile home, which Ms. Laxton would like to move on her property so that the Widow will be next door to her son. Ms. Laxton indicated that the mobile home will be used for the Widow's use only and the trailer will be removed once it is no longer utilized by the Widow. She stated the mobile home will be behind her home next to the septic system, which Mr. Kerner of the Health Department has assured her will accommodate the mobile home and the existing home. There is a privacy fence on the west side and there are trees shrubs that will screen the mobile home from the road. Ms. Laxton assured the Board that the mobile home is temporary and will not be rented out to the public. She indicated that there are several mobile homes in the surrounding area and this will not be detrimental to the neighborhood.

Comments and Questions:

Mr. Beach recited the definition of a hardship from the County Code to the applicant.

Mr. Walker asked the applicant to state a hardship for the two variances she has requested? Mr. Beach informed the Board that the subject property is unusual in the fact that it is substandard for the RE district. It cannot be split because of it being substandard.

Ms. Laxton stated she built her home in 1979 and she had one piece of property that was 213' x 300', which was divided into two (2) lots (one lot being 113' and Ms. Laxton's being 100').

Protestants:

Don Kerr stated he owns property to the east of the subject property. Mr. Kerr stated that Ms. Laxton is a good neighbor, however several neighbors are concerned with a another mobile home moving into the area. He commented that he understands the situation and what the applicant is trying to accomplish. He requested the Board to restrict the amount of time the mobile home can be located on the subject property. Mr. Kerr expressed concerns that the trailer will become rental property in the future. He submitted photographs (Exhibit D-2) of other mobile homes in the area and the location proposed. Mr. Kerr agreed with the applicant that the trees and shrubs will screen the visibility of the mobile home.

Comments and Questions:

Mr. Looney asked the protestant if his objections would be resolved if the Board set limits on the length of time the mobile home could be located on the subject property? Mr. Kerr answered affirmatively.

Mr. Looney asked Mr. Kerr if he had any objections with the time limit being five (5) years or until the death of the occupant? He answered affirmatively.

Mr. Walker stated the Board still needs a hardship to grant the variances requested.

Mr. Gardner explained that the request is for a temporary use and the Board has the jurisdiction to set a time limit.

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Mr. Beach stated that the applicant revealed that there was a lot split granted in the past, which created a substandard lot for the RE district.

Mr. Walker stated that the Board cannot grant a hardship because it is a substandard lot because it would make the lot more substandard to have two (2) dwelling units on one lot of record.

Mr. Gardner stated that in this particular instance, where the applicant is wanting to move in a structure on a non-conforming lot, the only thing the Board can address is the temporary nature and the health factor.

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 allow a mobile home in an RE district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, a **Variance** to allow 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, and a **Variance** of minimum land area per dwelling unit from 26,250 SF to 14,550 SF. **SECTION 430.1. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS**; per plan submitted; subject to a limit of five (5) years or upon the death or total incapacitation of the occupant the mobile home must be removed from the subject property; subject to tie downs and skirting; subject to the Health Department approval and a building permit; subject to the applicant notifying the building inspector when the occupant has moved out or the death of the occupant; finding that the use is temporary and the lot is a substandard lot and finding that the incapacity of the occupant of the mobile home needs daily living assistance, on the following described property:

W 100, E 213, N 316, W 633.6, S/2, NE, SW, Less N 25, for ROW, Sec. 32, T-21-N, R-14-E, .668 ac., Tulsa County, Oklahoma.

Case No. 1513

Action Requested:

Special Exception to allow a manufactured home in an RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a **Variance** to allow 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, located 3508 West 59th Street South.

Presentation:

The applicant, **Orville Pole Gregory**, 3508 West 59th Street South, submitted a site plan (Exhibit E-1) and an application for a building permit (Exhibit E-2). Mr. Gregory stated his son helps him out with transportation needs. He explained that presently his son is the sole transportation in order to get his family back and forth to their jobs. He indicated that there are several trailers in the subject area. The applicant then detailed several instances where there are trailers and homes on the same lot of record. Mr. Gregory submitted photographs of various mobile homes in the area (Exhibit E-3).

Comments and Questions:

Mr. Looney asked the applicant if he planned to do a lot split or if he wanted to keep the property ownership under one name? Mr. Gregory stated he would prefer to keep the ownership of his property under one name and not do a lot split.

Case No. 1513 (continued)

Mr. Looney asked the applicant if the Board granted the application how long would the mobile home be on the subject property? Mr. Gregory stated he would like to keep the mobile home on the subject property approximately 10 years.

Protestants:

Larry McWilliams, 3521 West 59th Street, stated he lives in one of the mobile homes that Mr. Gregory photographed. He explained that his mobile home and the mobile home across the street from the subject property were grandfathered in prior to the sewer being installed. Mr. Gregory stated he ordered a new mobile home to replace the existing mobile home and then had to cancel his order because he was told he would have to have a double-wide modular home or a stick built home. He indicated that the applicant's mobile home is already moved in and he did not have a building permit. Mr. McWilliams stated that the applicant had septic problems before moving in the trailer home. Mr. McWilliams indicated that the subject area has sewer and the homes have to hook up to the sewer system. Mr. McWilliams stated that the lots are 150' and the neighbors prefer to have the extra space between homes. He expressed concerns that the application will set a precedence in the neighborhood. He requested that the Board deny this application.

Patsy Lowry, stated that she lives three (3) doors west of the applicant. She expressed concerns that the mobile home will be on a septic tank, which runs down hill to her property. She explained that there is a ditch that runs through her yard and the sewage from the septic tank will run into her yard in the ditch. Ms. Lowry stated that once the sewer system was installed, it was her understanding that no one was allowed to have a septic tank. She commented that mobile homes de-value the surrounding properties.

Mr. Lowry stated that his main complaint is the sewer issue. He explained that he was forced into hooking up to the sewer, which was a good deal and he has no complaints. Everyone in the subject area has the same problem with a septic tank because it has a rock base that doesn't perc or drain. The sewage lays on top of the ground and it is a problem.

Mr. Cole expressed the same concerns with the septic system and sewer issues. He indicated that the applicant is putting in a mobile home that will down grade the surrounding property. He stated that the applicant has a semi-load of trash behind the existing house and he fears that if a trailer is moved in, there will be more trash.

The following protestants voiced the same concerns as the previous speakers:

Mary Schmidt, 3501 West 61st Street, **Albert Scott**, 3518 West 59th Street.

Comments and Questions:

Mr. Looney asked the protestant if the Board were to grant this application with the condition that the applicant clean and clear the land, tie to sewer or meet the Health Departments approval, would that satisfy all of her protest? She answered negatively.

In response to Mr. Looney, Mr. Scott stated he would not be satisfied with the restrictions that the Board is considering upon approval of this application. He stated the mobile home is too close to his home. He expressed concerns with the high grass and weeds, which has not been mown in a number of years.

Mr. Looney informed the protestants that there has been numerous variances granted for mobile homes in the subject area. The granting of the variances in the past has put the Board in a peculiar position. It is hard for the Board to deny a request if all of the conditions are met if the applicant can provide a hardship. If the applicant had a double-wide he could split his lot and move the double-wide onto the land and he would still be close to the neighbors. Mr. Looney explained to the protestants that if the Board denies this application the Board will have no control with regard to making the applicant clean up his lot.

Case No. 1513 (continued)

Larry McWilliams asked the Board where the most recent approval occurred to allow a mobile home in the subject area? Mr. Looney stated that a mobile home was approved for 4500 West 59th Street, 4329 West 61st Street, 4505 West 59th Street. Mr. McWilliams stated the lots on 59th Street are particularly unique because of their size. He explained that the address cited by Mr. Looney are several blocks away from the subject site and where he lives.

Mr. Walker agreed with Mr. McWilliams and stated that the subject property is in the 3300 block and the cited cases are in the 4500 block. The cases cited would not be relevant in this case.

Mr. Walker stated he does not think that the application is an appropriate use and what trailers that are in the subject area have been grandfathered in. Mr. Walker stated he is against this use.

Applicant's Rebuttal:

Mr. Gregory stated that he has discussed the application with his son and due to the neighbor's concerns he is withdrawing his application. He requested time to remove the trailer. Mr. Gregory explained that since there are mobile homes in the surrounding area it would not be a problem with his neighbors. He stated that since his neighbors are in protest, then he will remove the trailer.

Board Action:

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty "absent") to **DENY** a **Special Exception** to allow a manufactured home in a RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a **Variance** to allow 2 dwelling units on one lot of record. **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9; subject to the applicant removing the mobile home from the subject property within 60 days; 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:

E/2, TR 27, Beg. 760 W & 370 N, SE/c, SE TH. W 150, N 335, E 150, S 335, Tulsa County, Oklahoma.

OTHER BUSINESS

ELECTION OF OFFICERS

On **MOTION** of **TYNDALL**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty "absent") to **ELECT** Wayne Alberty to the office of Chairman for the County Board of Adjustment.

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty "absent") to **ELECT** Lee Eller to the office of Vice Chairman for the County Board of Adjustment.

Election (continued)

On **MOTION** of **LOONEY**, the Board voted 4-0-0 (Eller, Looney, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty "absent") to **ELECT** John Tyndall to the office of Secretary for the County Board of Adjustment.

There being no further business, the meeting was adjourned at 3:42 p.m.

Date approved: July 15, 1997

Wayne Alberty
Chair