

ACTION

By COMMITTEE *Denied* DATE *12/18/62*

M.A.P.C. _____

B.C.C./B. CO. C. _____

BZA 12-62 - GLENN H. COVELL REQUESTS
VARIANCE TO LOCATE MOBILE HOME IN A
ZONING AT NE CORNER OF ST. CLAIR AND
IRVING

RESOLUTION NO. 12-62

WHEREAS, GLENN H. COVELL, 1050 SOUTH ST. CLAIR, WICHITA, KANSAS, HAS FILED AN APPLICATION FOR A VARIANCE TO PERMIT THE LOCATION OF A MOBILE HOME ON THE REAR OF THE FOLLOWING DESCRIBED PROPERTY:

LOTS 46 AND 48, LINCOLN STREET, GARFIELD ADDITION, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; AND

WHEREAS, PROPER NOTICE AS REQUIRED BY ORDINANCE AND BY THE RULES OF THE BOARD OF ZONING APPEALS HAS BEEN GIVEN; AND

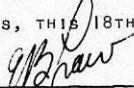
WHEREAS, THE BOARD OF ZONING APPEALS DID, IN REGULAR MEETING CONSIDER SAID APPLICATION FOR A VARIANCE ON DECEMBER 18, 1962; AND

WHEREAS, UPON ADVICE OF ITS OWN COUNSEL AND AFTER HEARING ARGUMENTS FROM THE APPLICANT, THE BOARD DETERMINED THAT IT DOES NOT HAVE JURISDICTION TO CONSIDER THIS APPLICATION FOR A VARIANCE UNDER THE PROVISIONS OF SECTION 2.12.590, CODE OF THE CITY OF WICHITA, OR UNDER THE PROVISIONS OF ITS OWN RULES AND REGULATIONS, INASMUCH AS THE USE PROPOSED IS FIRST PERMITTED AS A USE BY RIGHT IN THE "RB" FOUR FAMILY DWELLING DISTRICT AND NOT ALLOWED IN THE "A" TWO FAMILY DWELLING DISTRICT; AND

WHEREAS, SUBJECT PROPERTY IS PRESENTLY ZONED "A" TWO FAMILY DWELLING DISTRICT;

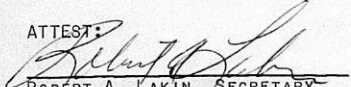
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA, KANSAS, THAT THE BOARD HAS DETERMINED THAT IT DOES NOT HAVE JURISDICTION TO CONSIDER SAID APPLICATION FOR A VARIANCE, AND SAID APPLICATION IS HEREBY DISMISSED.

ADOPTED AT WICHITA, KANSAS, THIS 18TH DAY OF DECEMBER, 1962.



E. B. LAW, CHAIRMAN

ATTEST:



ROBERT A. LAKIN, SECRETARY

Dec. 15, 1962

To whom it may concern:—

In regard to request for
permission, to locate a mobile
home on the rear of the property,
of Glen H. Covell, 1050 North
4th Ave.

There is no objection
with us.

Sincerely yours

Cecil D. Merrill
and
Dona Merrill



Wm. E. Dresher

I do not object to
having the trailer house
on this property of Glenn
Covell

William E. Dresher
2229 Irving St
Wichita, Kansas

We, the under-
signed, give our
consent for a
mobile trailer
to be placed on
the property of
Virginia and
Glenn Covell 1050
S. St. Clair.

Elizabeth J. Gilliland
Lawrence Gilliland
2225 Irving
Machita, Kans.

Dec 13, 1962

To Whom it May Concern -

We have no objections
to a trailer being set on
the property of Mr and Mrs.
Glenn Covell for the use of
Mrs. Covell's mother.

They have been our
good neighbors for eight or
nine years.

We own two pieces of
property - 2322 & 2526 Irving

Sincerely

Mrs. Glenn R. Benjan

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
Plan. _____ Plb'g. _____ Plb'g. Cert. _____
Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
Street _____ Trailers _____

DESCRIPTION	AMOUNT
B34 Application 20 00 16 71 25	

Name Allen H. Powell

Address 1050 S. St. Clair

Type _____ Due Date 11-27-66

Comments: _____

Date 11-27-66 By J. M. [Signature]

20M 5-60

IMPORTANT MESSAGE
OWNERSHIP LIST FOR THIS CASE
HAS BEEN TRANSFERRED TO
CASE No. Z-0434

DECEMBER 31, 1962

MR. EDWARD TAYLOR, ATTORNEY
3333 EAST CENTRAL
WICHITA, KANSAS

DEAR MR. TAYLOR:

RE: BZA 12-62

ON DECEMBER 21, 1962, WE ADVISED YOU THAT THE BOARD OF ZONING APPEALS HAD DECLINED TO TAKE JURISDICTION IN YOUR REQUEST FOR A VARIANCE TO PERMIT LOCATION OF A MOBILE HOME ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF ST. CLAIR AND IRVING.

WE ALSO ADVISED THAT THE BOARD'S DECISION MIGHT BE APPEALED TO THE CITY COMMISSION PROVIDED THAT SUCH APPEAL WAS FILED ON OR BEFORE DECEMBER 28, 1962.

THE CITY CLERK HAS ADVISED THAT NO APPEAL WAS FILED ON OR BEFORE THE DATE INDICATED, AND THE DECISION OF THE BOARD OF ZONING APPEALS IS, THEREFORE, FINAL.

A COPY OF THE RESOLUTION SETTING FORTH THE ACTION OF THE BOARD IS ATTACHED FOR YOUR INFORMATION AND FILES.

VERY TRULY YOURS,

ROBERT A. LAKIN
SECRETARY

RAL:BER

ATTACHMENT

cc: GLEN LYTLIC, SUPERINTENDENT
CENTRAL INSPECTION

BOARD OF ZONING APPEALS

DECEMBER 26, 1962

C. H. FUNK CITY CLERK

ROBERT A. LAKIN, SECRETARY

BZA 12-62

ATTACHED IS A COPY OF BZA RESOLUTION 12-62 COVERING
A TION TAKEN BY THE BOARD OF ZONING APPEALS ON THE
ABOVE CASE

THIS CASE WAS HEARD ON DECEMBER 18, 1962, AND AN
APPEAL MAY BE FILED IN YOUR OFFICE ON OR BEFORE
DECEMBER 28, 1962.

IF AN APPEAL IS FILED, PLEASE ADVISE.

ROBERT A. LAKIN
SECRETARY

RAL:BER

ATTACHMENT

DECEMBER 21, 1962

MR. EDWARD TAYLOR, ATTORNEY
3333 EAST CENTRAL
WICHITA, KANSAS

DEAR MR. TAYLOR:

RE: BZA 12-62

THIS IS TO ADVISE YOU THAT AT ITS REGULAR MEETING OF DECEMBER 18, 1962, THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA CONSIDERED YOUR REQUEST FOR A VARIANCE TO PERMIT LOCATION OF A MOBILE HOME ON THE REAR OF PROPERTY LEGALLY DESCRIBED AS LOTS 46 AND 48, LINCOLN STREET (NOW IRVING), GARFIELD ADDITION, GENERALLY LOCATED AT THE NORTHEAST CORNER OF ST. CLAIR AND IRVING. AFTER DISCUSSION, THE BOARD OF ZONING APPEALS DECLINED TO TAKE JURISDICTION IN THIS CASE.

SECTION 2.12.610 OF THE CODE OF THE CITY OF WICHITA PROVIDES THAT THE DECISION OF THE BOARD OF ZONING APPEALS SHALL BE FINAL UNLESS IT IS APPEALED TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN DAYS OF THAT DATE OF THE BOARD'S ACTION. ACCORDINGLY, AN APPEAL COULD BE FILED IN THIS CASE ON OR BEFORE DECEMBER 28, 1962.

SUBSEQUENT TO THE EXPIRATION OF THE APPEAL PERIOD, YOU WILL BE ADVISED WHETHER OR NOT AN APPEAL HAS BEEN FILED. IF NO APPEAL HAS BEEN FILED ON OR BEFORE DECEMBER 28, 1962, THE DECISION OF THE BOARD WILL BE FINAL.

AT THE REQUEST OF THE BOARD, THE STAFF HAS INITIATED A ZONING CASE (Z-0434) FOR A CHANGE FROM "A" TO "RB" (WHICH ZONE PERMITS MOBILE HOMES) AT NO ADDITIONAL EXPENSE TO YOUR CLIENTS. THIS WILL BE HEARD BY THE PLANNING COMMISSION AT THEIR MEETING OF FEBRUARY 7, 1962. NEW NOTICES AS TO THIS HEARING WILL BE SENT TO YOU AND ADJOINING PROPERTY OWNERS. IT SHOULD BE NOTED, HOWEVER, THAT THIS ACTION DOES NOT BIND EITHER THE PLANNING COMMISSION OR CITY COMMISSION AS TO THE APPROVAL OF THE CASE.

IF YOU HAVE ANY QUESTIONS, PLEASE CALL.

VERY TRULY YOURS,

ROBERT A. LAKIN
SECRETARY

RAL:MM

CC: C. H. FUNK, CITY CLERK
GLEN LYTLE, SUPERINTENT OF CENTRAL INSPECTION

Edwin H. Covell
1840 S. St. Clair

CASE BZA 12-62

Dev 3

NOTICES MAILED ~~NOVEMBER 30~~, 1962 TO THE FOLLOWING:

HELEN LOHKAMP
2316 IRVING

RAYMOND A. AND HAZEL I. MASTERSON
137 NORTH CHARLES

LEON S. EITEL
7814 SOUTHWEST BOULEVARD

IRWIN C. AND LOUISE M. OHMIE
1028 SOUTH ST. CLAIR

CECIL D. AND DOMA MERRILL
1039 SOUTH ST. CLAIR

WILLIAM R. III, AND LOIS ANN ATKISON
500 SOUTH TOPEKA

FRANK C. AND ARNEEDA LUX SCHRADER
1101 EVERETT AVENUE

O. C. FREY
1738 LEXINGTON ROAD

KEITH D. AND MILDRED U. BELL
131 SOUTH MERIDIAN

LAWRENCE & ELIZABETH V. GILLILAND
2225 IRVING

WILLIAM E. DREASHER
2229 IRVING

E. LUCILLE HODSON
945 BUFFUM AVENUE

FRED H. AND CAROLEE M. MARSH
2307 IRVING

WILLIAM ALEX SCOTT
2315 IRVING

FRED P. AND IONE M. CHRISTIANSEN
1055 EVERETT AVENUE

JAMES E. AND CHRISTIAN HART
2212 IRVING

ROY H. AND KATHLEEN E. McMILLAN
2218 IRVING

JESS H. AND-BLANCHE H. BRADSHAW
306 NORTH MADISON

GLENN HARVEY COVELL
VIRGINIA LEE COVELL
1050 SOUTH ST. CLAIR

LEO F. AND CHARLOTTE H. KERSTINE
2308 IRVING STREET

GLENN H. COVELL
1050 SOUTH ST. CLAIR

ROBERT T. LOHKAMP
2316 IRVING STREET

Ed Taylor
3333 E. Central

BOARD OF ZONING APPEALS
ROOM 402 CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

NOTICE TO ADJOINING PROPERTY OWNERS

NOVEMBER 30, 1962

AN APPLICATION FOR A VARIANCE HAS BEEN FILED BY GLEN H. COVELL, 1050 SOUTH ST. CLAIR, WICHITA, KANSAS, WHEREIN HE REQUESTS PERMISSION TO LOCATE A MOBILE HOME ON THE REAR OF PROPERTY LEGALLY DESCRIBED AS:

LOTS 46 AND 48 ON LINCOLN STREET (NOW IRVING STREET) IN GARFIELD ADDITION, CITY OF WICHITA, KANSAS,

WHICH IS GENERALLY LOCATED AT THE NORTHEAST CORNER OF ST. CLAIR AND IRVING.

THIS APPLICATION HAS BEEN ASSIGNED CASE No. BZA 12-62. A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, DECEMBER 18, 1962, AT 2 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE IN PERSON OR BY AGENT OR ATTORNEY.

ROBERT A. LAKIN, SECRETARY
BOARD OF ZONING APPEALS

Wichita, Kansas

Nov. 20, 1962.

To whom it may Concern:

Dear Sirs:

I am writing this in regard to the Trailer that Mr. Covell would like to put in his back yard.

We have a small Grocery Store in the neighborhood.

I have heard Mr. Covell ask several of his neighbors, if they would object to it, and they all agreed that they would not.

There are several trailers in the Payne & Meridian

districts, and they do not detract from the neighborhood.

I think what the women at the Payne school, were objecting to, were some old trailers that were put in after some of the houses were wrecked.

We certainly do not object and am sure the people in this neighborhood do not.

Respectfully yours
Mrs. David Andrews
2201 W. Cornicks.
D E Andrews

2224 Irving
Wichita 13. Kans.
November 29, 1962

TO WHOM IT MAY CONCERN:

Dear Sir:

It is my understanding that my neighbor is having some difficulty in obtaining a permit for parking a mobile home on his property.

I question, gentlemen; the reason for this delay.

Being the closest neighbor to Mr. Covell and his family and directly being therefore, the one most effected by your issuing the permit;

I would like to state a few facts for the record.

Mr. Covell is obtaining this home for the use of his mother-in-law, Mrs. Baxter, who we know well. It would be for her use only and he wouldn't consider any other person living in that space.

I know that the trailer home parked on their property would not harm the neighborhood in any way as the Covell's have always maintained their property in the highest standard possible. In fact, their home and land is the finest located in several blocks in both appearance and property value.

Mrs. Covell has been ill for some years and in this way her mother could give her the much needed care she requires.

They have always worked for a better neighborhood since they have lived here some 15 years. I am sure they would not do anything that might harm the conditions that they have helped to improve.

Respectfully,

A. D. Glazier
Arthur D. Glazier

Mrs. A. D. Glazier
Mrs. A. D. Glazier

November 29, 1962

To whom it may concern:

I understand a neighbor of ours is wanting to locate a trailer house on the property of her daughter + son-in laws, the Covells.

The Covell property is next door to us and I can think of no one I would rather have living their than Mrs. Baster.

She has been so much help to her daughter in the past year as she has been ill.

Knowing Mrs. Baster she would not have a trailer that would be disgrace to the neighborhood.

Both of us are one hundred percent behind this move and hope she can locate on the Covell property real soon.

Sincerely
Mrs. Carl Moore
Mr. Carl Moore

1042 S. St. Clair
Wichita 13, Kansas

Dec. 1, 1962

To Whom This May Concern
We understand Mr. Cavell has been
denied permission to place a
trailer home on the back of his lot
We think he should be granted
permission to do so. As there
is several trailers homes in the
neighborhood. Mr. Cavell keeps up
his property in good condition
This trailer home is for his
mother in law to live in
and she is a school teacher
and we think he should be
granted permission to set the
trailer on his lot

James E. Hart
Christina Hart
2212 Irving

We the undersigned consent to
putting trailer on the property
of Glenn H Covell 1050 S St Clair

Fred O Christensen
Mrs Fred Christensen
1055 Everett

The statement I am submitting is as follows:

As a property owner and resident of 1050 South St. Clair I wish to appeal for a variance in the zoning code regarding to placing of a mobile home on this property. As there are a number of mobile homes in this vicinity at the present time, is one of my reasons for my appeal, along with other reasons. Also, I have contacted and got the full consent of my neighbors and property owners for asking for this variance. As this property is so situated to accommodate a mobile home but does not warrant another permanent dwelling.

Due to approaching retirement on a small pension, I would like approval of the city planning board to permit a 36 ft. 1958 model mobile home to be located on my lots according to sketch. I will sign an agreement not to use these facilities for any other purpose than for the relative in this case. When at which time it is no longer occupied by this relative I will willfully dispose of these facilities. The relative in question is my wife's mother. Also my wife is the victim of arthritis and some help from her mother is needed. And I might add that this relative is well loved throughout this neighborhood for her help with children and people needing her help or assistance. I have complied with all city code and building requirements on every building improvement that I have made, on my home or in my line of work. And I will continue to do so. But would appreciate and be grateful for this consideration in regard to placing this mobile home for my mother-in-law, who has been twice widowed by cancer, and needs us, as much as we need her.

Glenn H. Covell
1050 S. St. Clair

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

I. NAME OF APPLICANT Glenn H. Cowell
MAILING ADDRESS 1050 N. St. Clair PHONE 741-3434
NAME OF AUTHORIZED AGENT Ed Taylor
MAILING ADDRESS 3333 E. Central PHONE MU 2-3193
(RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF Owner
(OWNER, TENANT, LESSEE, OTHER))

II. THE VARIANCE REQUESTED IS located a mobil
home on the rear of this lot 46448
Lindler St. Sheffield Ave.
FOR PROPERTY LOCATED AT _____
AND LEGALLY DESCRIBED AS Lot(3) _____
Block(s) _____
ADDITION TO THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED
"A"
(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

- III. THE APPLICANT HEREIN, OR HIS AUTHORIZED AGENT, HEREBY ACKNOWLEDGES:
- A. THAT HE HAS RECEIVED AN INSTRUCTION SHEET CONCERNING THE FILING AND HEARING OF THIS MATTER;
 - B. THAT HE HAS BEEN ADVISED OF THE FEE REQUIREMENTS ESTABLISHED BY SECTION 2.12.580 OF THE CODE OF THE CITY OF WICHITA (ORDINANCE 24-606); AND THAT THE APPROPRIATE FEE IS HEREWITH TENDERED;
 - C. THAT HE HAS BEEN ADVISED OF HIS RIGHT OF APPEAL OF THE DECISION OF THE BOARD OF CITY COMMISSIONERS WITHIN TEN (10) DAYS OF THAT DECISION;
 - D. THAT ALL DOCUMENTS ARE ATTACHED HERETO AS NOTED IN PARAGRAPHS 3 AND 4 OF THE INSTRUCTIONS.

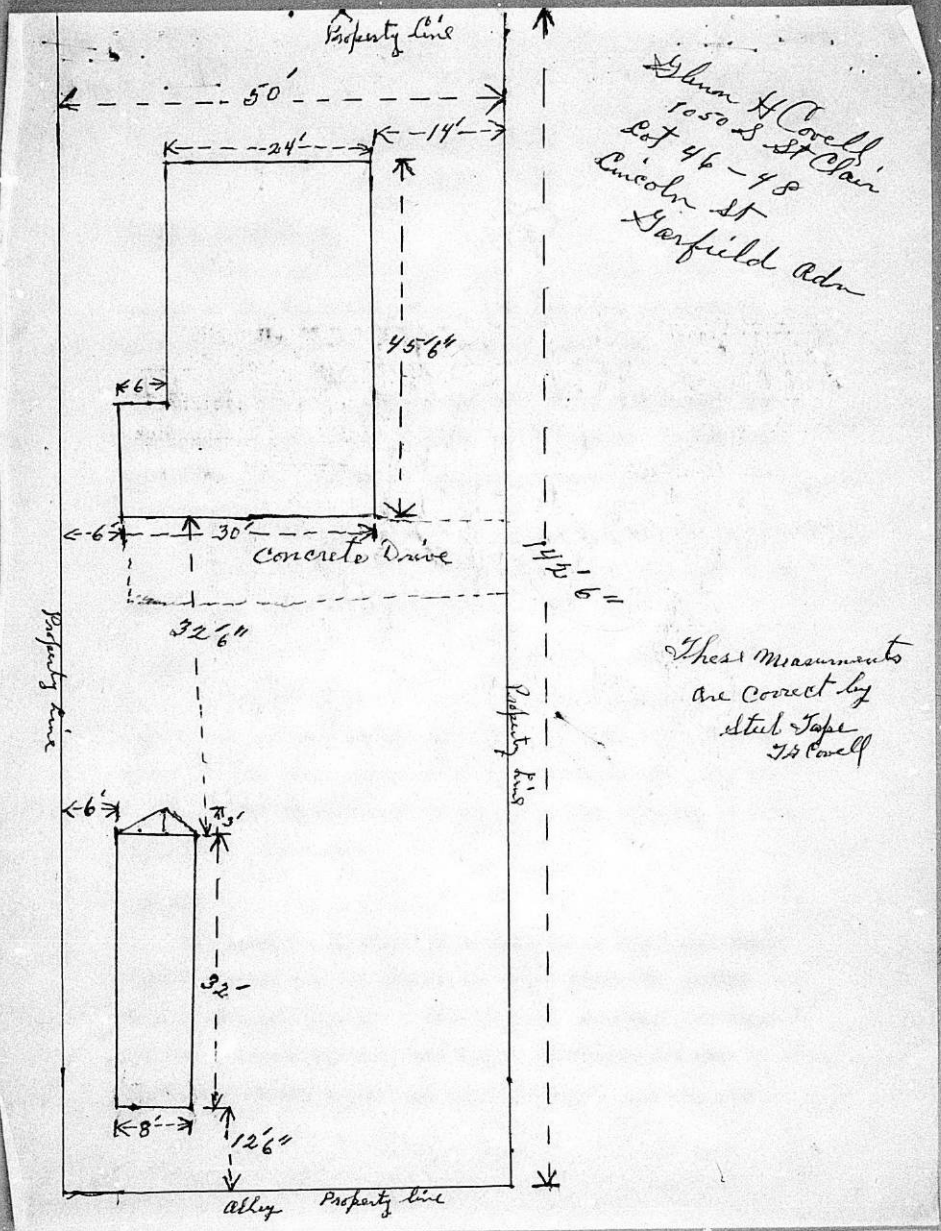
Glenn H. Cowell
APPLICANT

AUTHORIZED AGENT

OFFICE USE ONLY

RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, 4:00 P.M.
(A.M. - P.M.) 11-27, 1962, TOGETHER WITH APPROPRIATE
FEE OF \$30.00

M. Martin
SIGNED



Glenn H. Correll
 1050 S. St. Clair
 Lot 46 - 48
 Lincoln St
 Garfield Adu

These measurements
 are correct by
 steel tape
 J. H. Correll

SECRETARY'S REPORT

BZA CASE NO. 12-62

GENERAL DESCRIPTION

THE AREA INVOLVED IN THIS CASE IS LOCATED AT THE NORTHEAST CORNER OF ST. CLAIR AND IRVING. THE PROPERTY IN QUESTION IS CURRENTLY OCCUPIED BY A SINGLE FAMILY DWELLING.

TO THE NORTH OF SUBJECT PROPERTY THERE ARE SINGLE FAMILY DWELLINGS, A TWO FAMILY DWELLING AND A CHURCH. TO THE EAST, SOUTH AND WEST THERE ARE SINGLE FAMILY DWELLINGS.

THE PROPERTY IN QUESTION IS CURRENTLY ZONED "A" TWO FAMILY. THE EXISTING ZONING TO THE NORTH, SOUTH, EAST AND WEST IS "A" TWO FAMILY. (SEE ATTACHMENT #1)

REQUEST

THE REQUEST IS FOR A VARIANCE TO ALLOW A MOBILE HOME TO BE LOCATED ON THE REAR OF LOTS 46 AND 48 IN GARFIELD ADDITION. A SKETCH OF THE CASE AREA IS SHOWN AS ATTACHMENT #2 AND A STATEMENT OF JUSTIFICATION SUBMITTED BY THE APPLICANT IS SHOWN AS ATTACHMENT #3 OF THIS REPORT.

HISTORY

THE PROPERTY IN QUESTION IS LOCATED IN THE PAYNE SCHOOLS DISTRICT WHICH WAS THE SUBJECT OF ZONE CHANGE No. Z-0338. THE ZONE CHANGE WAS ORIGINALLY INITIATED BY INTERESTED CITIZENS IN THE PAYNE SCHOOL DISTRICT WHO WISHED TO REZONE THE AREA TO A MORE RESTRICTED ZONING CLASSIFICATION WHICH WOULD RID THE AREA OF

INCOMPATIBLE LAND USES AND PROVIDE A GUIDE FOR FUTURE DEVELOPMENT.
ON JANUARY 25, 1962, THE ZONE CHANGE WENT INTO EFFECT WITH A
MAJOR PORTION OF THE AREA BEING REZONED FROM "RB" FOUR FAMILY TO
"A" TWO FAMILY ZONING.

THE AREA INVOLVED IN THIS CASE IS LOCATED AT THE NORTHEAST
CORNER OF ST. CLAIR AND IRVING. THE PROPERTY IN QUESTION IS
TRAILERSUNITS. MANY OF THE RESIDENTS HOPED THAT BY OBTAINING A
CURRENTLY OCCUPIED BY A SINGLE FAMILY DWELLING.
MORE RESTRICTIVE ZONING CLASSIFICATION SINGLE UNIT TRAILERS
WOULD GRADUALLY BE ELIMINATED IN THE AREA. THEY ALSO FELT THAT
THE BEST WAY TO PROVIDE FOR TRAILERS WOULD BE TO DEVELOP A UNIFORM
CODE THAT WOULD SET MINIMUM STANDARDS FOR TRAILERS, AND MOBILE
HOME PARKS. THIS WOULD RESULT IN TRAILERS BEING LOCATED IN MOBILE
HOME PARKS DESIGNED TO HANDLE THEM RATHER THAN BEING STRUNG OUT
THROUGH CONVENTIONAL TYPE HOUSING.
THE PROPERTY IN QUESTION IS CURRENTLY ZONED "A" TWO FAMILY.
THE EXISTING CORNER TO THE NORTH, SOUTH, EAST AND WEST IS "A"
TWO FAMILY. (See Attachment #1)

JURISDICTION

THE ORDINANCE CREATING A BOARD OF ZONING APPEALS GRANTED
THE BOARD JURISDICTION TO HEAR THREE TYPES OF CASES - APPEALS,
VARIANCES AND EXCEPTIONS. THE SECRETARY FEELS THAT THE INTENT
OF THE ORDINANCE INsofar AS IT RELATES TO VARIANCES WAS TO ALLOW
THE BOARD TO MODIFY SUCH REQUIREMENTS AS HEIGHT, SETBACK AND LOT
WIDTH AND SIMILAR REQUIREMENTS TO THE ZONING ORDINANCE
AND NOT TO ALLOW THE GRANTING OF PERMISSION TO USE PROPERTY IN
A DIFFERENT MANNER OR A DIFFERENT USE THAN THAT PERMITTED BY
THE ZONING ORDINANCE. TO ALLOW A DIFFERENT USE THAN THAT SPECIFIED
IN THE ZONING ORDINANCE WOULD BE IN EFFECT, THE AMENDMENTS OF
THE ZONING ORDINANCE BY A BOARD NOT HAVING LEGISLATIVE POWER OR
AUTHORITY. SINCE USES TO BE PERMITTED IN ANY SPECIFIC ZONE ARE

INCOMPATIBLE LAND USES AND PROVIDE A GUIDE FOR FUTURE DEVELOPMENT. ESTABLISHED BY THE CITY COMMISSION BY ADOPTION OF ANY ORDINANCE

ON JANUARY 25, 1962, THE BOARD CHANGED INTO EFFECT WITH A AS AN LEGISLATIVE ACT, IT IS THE FEELING OF THE SECRETARY THAT THE MAJOR PORTION OF THE ACTS BEING PASSED FROM FROM YOUR FAMILY TO GRANTING OF THIS APPLICATION WOULD BE A LEGISLATIVE ACT CAPABLE OF BEING EXERCISED ONLY BY THE CITY COMMISSION, AND NOT WITHIN

THE JURISDICTION OF THE BOARD OF ZONING APPEALS. STRICT ALLOWS SINGLE

IT IS THE OPINION OF THE SECRETARY THAT THE ZONING ORDINANCE CANNOT AND SHOULD NOT BE AMENDED THROUGH THE GRANTING OF USE VARIANCES. IT IS THE SECRETARY'S OPINION AND RECOMMENDATION THAT THE BOARD OF ZONING APPEALS SHOULD NOT TAKE JURISDICTION IN THIS CASE.

ADDITIONAL COMMENTS BY THE SECRETARY

IN EVENT THE BOARD DOES TAKE JURISDICTION IN THIS CASE, THE BOARD MUST FIND THAT ALL FOUR OF THE FOLLOWING CONDITIONS ARE PRESENT BEFORE GRANTING THE REQUEST OF THE APPLICANT:

- A. THAT THE VARIANCE DESIRED ARISES FROM SUCH CON-
DITION WHICH IS UNIQUE AND WHICH IS NOT ORDINARILY
FOUND IN THE SAME ZONING DISTRICT.
- B. THAT THE GRANTING OF THE PERMIT FOR THE VARIANCE
WILL NOT ADVERSELY AFFECT THE RIGHTS OF ADJACENT
PROPERTY OWNERS OR RESIDENTS.
- C. THAT THE STRICT APPLICATION OF ENFORCEMENT PRO-
VISIONS OF THE ZONING ORDINANCE WILL CONSTITUTE
UNNECESSARY HARSHNESS ON THE PROPERTY OWNER RE-
PRESENTED IN THE APPEAL.

ESTATED THAT THE VARIANCE DESIRED WILL NOT ADVERSELY AFFECT AS A LEGITIMATE PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, OR GRANTING PROSPERITY OR GENERAL WELFARE. LEGISLATIVE NOT CAPABLE OF BEING EXERCISED ONLY BY THE CITY COMMISSION, AND NOT WITHIN COMMENTS BY THE SECRETARY.

IT IS THE OPINION OF THE SECRETARY THAT THE VARIANCE DID NOT ARISE FROM CONDITIONS WHICH ARE UNIQUE. THERE ARE NO ORDINANCE EXCEPTIONAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY OR USE IN QUESTION WHICH DO NOT APPLY GENERALLY TO OTHER PROPERTY IN THE SAME ZONE OR NEIGHBORHOOD. APPEALS SHOULD NOT TAKE JURISDICTION IN THIS CASE.

IT IS SUGGESTED THAT THE TERM "HARDSHIP" BE CONSTRUED TO MEAN THAT THE PROPERTY CANNOT BE USED FOR THE PURPOSE FOR WHICH ZONED AND WITH THE RIGHT OF USE NOT ACCESSIBLE TO HIM WHICH IS NOW ENJOYED BY THE REST OF THE PROPERTY OWNERS IN THE SAME DISTRICT FOR REASONS UNDER SIMILAR CIRCUMSTANCES. IT IS THE BELIEF OF THE SECRETARY THAT THE PROPERTY CAN BE USED FOR THE PURPOSE FOR WHICH IT IS ZONED. THIS PROPERTY CONSISTS OF TWO LOTS WHICH ARE 25 X 140 FEET WITH BOTH LOTS HAVING A TOTAL AREA OF 7,000 SQUARE FEET. IN AN "A-1" TWO-FAMILY ZONING DISTRICT, A MINIMUM OF 3,500 SQUARE FEET IS REQUIRED FOR A ONE-FAMILY DWELLING. THE LOTS ARE OF 7,125 SQUARE FEET WHICH WOULD ALLOW APPLICANT ADEQUATE ROOM TO BUILD AN ADDITIONAL SINGLE-FAMILY STRUCTURE ON THIS PROPERTY. OF THE ZONING ORDINANCE WILL CONSTITUTE

UNNECESSARY HARDSHIP ON THE PROPERTY OWNER ET AL.
IT IS THE OPINION OF THE SECRETARY THAT ALL FOUR OF THE CONDITIONS ARE NOT PRESENT AND AS SUCH IT IS THE RECOMMENDATION OF THE SECRETARY THAT THIS APPLICATION BE DENIED.

HOWEVER, IN THE EVENT THE BOARD FINDS ALL FOUR CONDITIONS TO EXIST, AND WISHES TO APPROVE THE APPLICATION, THE SECRETARY RECOMMENDS THAT THE FOLLOWING CONDITIONS BE ATTACHED:

- A. THE MOBILE HOME MAY REMAIN ON SUBJECT PROPERTY ONLY AS LONG AS THE APPLICANT'S MOTHER-IN-LAW OCCUPIES THE TRAILER. IT IS THE OPINION OF THE SECRETARY THAT THE VARIANCE DID NOT ARISE FROM CONDITIONS WHICH ARE UNIQUE. THERE ARE NO EXCEPTIONAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY OR USE IN QUESTION WHICH DO NOT APPLY GENERALLY TO OTHER PROPERTY IN THE SAME ZONE OR NEIGHBORHOOD.
- B. WHEN THE MOTHER-IN-LAW NO LONGER OCCUPIES THE TRAILER, IT SHALL BE REMOVED FROM THE LOT.
- C. THAT THE SETBACKS FOR THE TRAILER SHALL BE THE SAME AS THOSE SET OUT IN THE "A" TWO

IT IS THE OPINION OF THE SECRETARY THAT THE TERM "FAMILY DISTRICT" (SECTION 28.04.050) BE CONSTRUED TO MEAN THAT THE PROPERTY CANNOT BE USED FOR THE PURPOSE FOR WHICH ZONED AND WITH THE RIGHT OF USE NOT ACCESSIBLE TO HIM WHICH IS NOW ENJOYED BY THE REST OF THE PROPERTY OWNERS IN THE SAME DISTRICT FOR AREAS UNDER SIMILAR CIRCUMSTANCES. IT IS THE BELIEF OF THE SECRETARY THAT THE PROPERTY CAN BE USED FOR THE PURPOSE FOR WHICH IT IS ZONED. THIS PROPERTY CONSISTS OF TWO LOTS WHICH ARE 25 X 140 FEET WITH BOTH LOTS HAVING A TOTAL AREA OF 7,000 SQUARE FEET. IN AN "A" TWO FAMILY ZONING DISTRICT, A MINIMUM OF 2,500 SQUARE FEET IS REQUIRED FOR A ONE FAMILY DWELLING. THE LOTS ARE OF 7,125 SQUARE FEET WHICH WOULD ALLOW APPLICANT ADEQUATE ROOM TO BUILD AN ADDITIONAL SINGLE FAMILY STRUCTURE ON THIS PROPERTY.

IT IS THE OPINION OF THE SECRETARY THAT ALL FOUR OF THE CONDITIONS ARE NOT PRESENT AND AS SUCH IT IS THE RECOMMENDATION OF THE SECRETARY THAT THIS APPLICATION BE DENIED.