

BOARD OF ADJUSTMENT
MINUTES (No. 228)
Thursday, January 20, 1977, 1:30 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Blessing Guerrero, Chairman Purser, Mrs. (in at 1:34 p.m.) Smith	Jolly	Edwards Gardner Jones Smith, Mrs.	Jenkins, Building Inspector Pauling, Legal Department (out 3:15 p.m.) (in 3:50 p.m.) (out 5:07 p.m.)

Chairman Guerrero called the meeting to order at 1:33 p.m. and declared a quorum present.

Minutes:

On MOTION of SMITH, the Board of Adjustment voted unanimously (3-0) to approve the Minutes for January 6, 1977 (No. 227).

(Purser in at 1:34 p.m.)

UNFINISHED BUSINESS:

8984

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) from a decision of the Building Inspector's order to construct a screening wall or fence along lot lines in common with an R District; and an Exception (Section 250.3 (c) - Modification of the Screening Wall or Fence Requirements) for a special exception to the screening requirement to permit the delay of installation of the screening fence along a part of the west and north boundaries until the installation of a required storm sewer and retaining wall along the north and west boundaries is completed; and a Variance (Section 1213.3 (b) - Convenience Goods and Services - Under the Provisions of Section 1670) for a variance of the screening requirements until the completion of a storm sewer and retaining wall along the north and west boundaries located north and west of 61st Street and South Sheridan Road.

Presentation:

The Chair read a letter (Exhibit "A-1") from Charles Norman, attorney for the applicant, requesting a 60-day continuance because the weather had slowed construction.

Protests: None.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (3-0) (with Blessing out of the room) to continue Case No. 8984 to March 17, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

Action Requested:

Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1224 - Mining and Mineral Processing) for permission to conduct limestone quarrying operations in an IH District on two tracts of land, one of which is located at 145th East Avenue and Apache Street and the second is located at 46th Street North and 145th East Avenue.

Presentation:

Attorney William Scheurich, 5th Floor, Oklahoma National Building, stated he believed the City Legal Department had resolved the legality of mining within the City Limits and feels the Board of Adjustment can grant the special exception. Mr. Scheurich felt that David Pauling, City Legal Department, thought they might be violating the Penal Code but this will in no way authorize any activity which will be in violation of the Penal Code. Mr. Pauling submitted a Legal Opinion (Exhibit "B-1") and stated this is a special exception request from the Zoning Code and the Zoning Code has no inherent relationship with any other code of the City. So there is no doubt that the Board of Adjustment has the authority to approve the special exception as any other special exception. The consideration of the possible other areas of conflict as the Code is concerned really cannot be resolved by the Board of Adjustment; however, he would suggest in this instance that since the consideration of the presence of other ordinances are known and have been discussed, that if the Board should decide to approve this application, it should qualify its approval to clearly state it is not the intent of the Board of Adjustment to authorize a violation of any other City Ordinance.

Mr. Scheurich stated he had drafted some language which he felt would be suitable for use in the Board Minutes and is quoted: "The granting of the mining and mineral processing exception to applicant's present IH zoning is not to be interpreted as authorizing any activity which may be in violation of the Ordinances of the City of Tulsa." Upon questioning by the Chair, Mr. Scheurich stated there will be no interference with Bird Creek which is along the north boundary of one portion of the subject application and he believes that this operation will not affect the content of the water in the Creek. He also stated there would be no waste materials dumped into the Creek and there would be no desire to redirect the Creek. Mr. Scheurich added that since the previous hearing before the Board of Adjustment, the aerial photograph has been updated to show other quarrying operations in the area such as Anchor Stone, McMichael Concrete Company, and Chandler Materials. Upon questioning by Board Member Smith, Mr. Scheurich stated the two properties under application were indicated by the light green color on the map which is on the west side of the road.

Protests: None.

Board Action:

On MOTION of BLESSING, the Board of Adjustment voted unanimously (4-0) to grant the Exception (Section 910 - Principal Uses Permitted in Industrial District - Section 1224 - Mining and Mineral Processing) for permission to conduct limestone quarrying operations in an IH District as presented with the stipulation that this approval is not to be interpreted as authorizing any activity which may be in violation of any other Ordinances of the City of Tulsa, on the following described tract:

TRACT I: The SE/4 of the SE/4 of the SE/4 and the W/2 of the SE/4 of the SE/4 being South of the center line of Bird Creek and the South right-of-way line of the access road to the Port of Catoosa, Section 9, Township 20 North, Range 14 East, Tulsa County, Okla., being more particularly described as follows, to-wit:

Beginning at the Southeast corner of Section 9, Township 20 North, Range 14 East, Tulsa County, Oklahoma; thence North $89^{\circ}-59'-52''$ West a distance of 1,322.69 feet to the Southwest corner of the SE/4 of the SE/4 of Section 9; thence North $0^{\circ}-07'-52''$ West a distance of 706.50 feet to a point, said point being on the South right-of-way line of the access road to the Port of Catoosa; thence North $69^{\circ}-26'-16''$ East along said South right-of-way line a distance of 190.70 feet to a point in the center line of Bird Creek; thence South $47^{\circ}-34'-30''$ East a distance of 0.00 feet to a point; thence along a curve to the left, with a central angle of $39^{\circ}-01'-36''$ and a radius of 785.00 feet a distance of 534.70 feet to a point, said point being in the center line of Bird Creek and in the West line of the SE/4 of the SE/4 of the SE/4 of said Section 9; thence North $0^{\circ}-08'-12''$ West along said West line a distance of 90.00 feet to the Northwest corner of the SE/4 of the SE/4 of the SE/4; thence North $89^{\circ}-59'-00''$ East a distance of 661.28 feet to a point on the East line of said Section 9; thence South $0^{\circ}-08'-32''$ East a distance of 659.56 feet to the point of beginning.

TRACT II: The E/2 of the NE/4 of Section 16, Township 20 North, Range 14 East, Tulsa County, Oklahoma, being more particularly described as follows, to-wit:

Beginning at the Northeast corner of Section 16; thence South $0^{\circ}-05'-50''$ West along the East line of Section 16, a distance of 2,632.93 feet to a point; thence South $89^{\circ}-57'-32''$ West a distance of 1,323.20 feet to a point; thence North $0^{\circ}-06'-29''$ East a distance of 2633.93 feet to a point on the North line of Section 16; thence South $89^{\circ}-59'-52''$ East a distance of 1,322.69 feet to the point of beginning.

TRACT III: All that part of the NE/4 of the NE/4 of Section 28, Township 20 North, Range 14 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, lying North of the St. Louis & San Francisco Railway Company right-of-way and less a strip of land in said NE/4 of the NE/4 lying West of a spur tract, being more particularly described as follows, to-wit:

Beginning at the Northeast corner of Section 28, Township 20 North, Range 14 East; thence South $0^{\circ}-07'-23''$ West along the East line of said Section 28, a distance of 1,184.88 feet to a point on the North right-of-way line of the St. Louis and San Francisco Railway Company; thence South $84^{\circ}-40'-11''$ West along said North right-of-way line a distance of 1,205.08 feet to a point; thence North $49^{\circ}-38'-03''$ East a distance of 0.00 feet to a point; thence along a curve to the left, with a central angle of $42^{\circ}-19'-41''$ and a radius of 586.20 feet a distance of 433.06 feet to a point; thence North $7^{\circ}-18'-22''$ East a distance of 49.00 feet to a point; thence along a curve to the left with a central angle of $46^{\circ}-53'-36''$ and a radius of 659.30 feet a distance of 539.60 feet to a point of reverse curve; thence along a curve to the right with a central angle of $36^{\circ}-44'-21''$ and a radius of 634.30 feet a distance of 406.73 feet to a point on the North line of said Section 28; thence South $89^{\circ}-58'-33''$ East a distance of 1,284.95 feet to the point of beginning.

9346

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for church use and parking located at Highway 97 North and Country Road, Sand Springs.

Presentation:

Philip Saska, 1102 Willow Road, Sand Springs, the applicant, stated he is representing the building committee of the Jehovah's Witness Church and he showed a drawing and a plot plan of the proposed church building. Mr. Saska stated they would build a low-profile structure with no spires to be in harmony with existing development and noted the recommendations from the Sand Springs Board of Adjustment of January 11, 1977: (1) Request a courtesy Building Permit be issued by the City of Sand Springs; and the appropriate inspections be made by the City of Sand Springs; (2) Request applicant submit to the City of Sand Springs the appropriate building plans and specifications for approval prior to construction; (3) Recommend locating the lagoon away from the east property line closer to Highway 97; and (4) Request applicant to place a six (6) foot screening fence along the east property line.

Mr. Saska stated the percolation tests would not allow for two residences to be built on this property and the two lots have to be combined into one property. He stated a septic system cannot be used on the property and they must use a lagoon which has been recommended by the County to be 60' x 60' which would be smaller than if a residence was placed on that property. Upon questioning by Board Member Blessing, Mr.

Saska stated the church would front on the highway with access to Country Road; directly south of the property is vacant with the exception of the KOED broadcasting tower; and the property to the north, east, and west contains single-family residences. Upon questioning by Board Member Purser, Mr. Saska stated they had no objections to placing the lagoon as near to Highway 97 as possible which would be away from abutting residences. Upon questioning by Board Member Smith, Mr. Saska stated they had been advised as to the requirements of a lagoon by the Tulsa City-County Health Department but was not certain whether the Oklahoma State Department of Health must approve the operation.

Wayne Durham, Rt. 1, Box 456, Sand Springs, stated he felt they would receive approval from the State Department of Health if they followed the direction of the Tulsa City-County Health Department.

TMAPC Staff Member Bob Gardner stated moving the sewage facility away from the residential area toward the highway and placing a screening fence along the eastern boundary are essential if the application is to be approved. The Board should know where the access points are to the lots on the north which could be coordinated with Sand Springs Building Inspections Department. Mr. Saska stated he did not wish to have any conflicts with the residents and has no objections to the recommendations from the Sand Springs Board of Adjustment. Upon questioning by the Chair, Mr. Pauling said there is only one building permit to be issued and that would be from Sand Springs since the property is located in Osage County.

Protests:

Steve Childers, 2700 Acorn Lane, Sand Springs, opposes this application noting there are restrictive covenants in this subdivision that it be residential only. He said there are homes on large acreages and many residents do not want to change the character of the area. Mr. Childers stated the homes in this subdivision are on septic systems and he feels a lagoon type of sewerage system would be a detriment to the area. Upon questioning, Mr. Childers said the 2 lots directly north of the subject property are occupied.

Marvin E. Cole, 9324 Country Road, Sand Springs, presented a protest petition (Exhibit "C-1") containing 32 signatures to the Board of Adjustment objecting to the lagoon type sewerage system.

Discussion followed concerning this lagoon system, the appearance and odors from it; to which Mr. Gardner replied if the lagoon were maintained properly it would be no problem to the area residents but if not properly controlled, then there would be an odor. It was determined there would be an enclosing fence around the lagoon which would be built like a berm.

Mr. Cole felt that most people in the area would be opposed to this application even if a lagoon were not involved -- they wish to keep the area residential. Upon questioning by Board Member Smith, Mr. Cole stated the area is on public water supply.

Builder Wayne Durham stated if a church is not built on this site then a residence will be built with a lagoon system because the perk test

disallowed a septic system noting that a church uses a smaller sanitary system than a three bedroom home would.

Gayle Hodges, 3331 Timberlane Ridge, attends this church and is in favor of the application feeling it would not devalue property values in the area.

Allen Bordelon, 108 Acorn Lane, Sand Springs, noted the property restrictions until 1979 keep the area residential and feels the church will decrease property values. He also said the Country Road belongs to the subdivision not to Osage County.

Mr. Saska noted the lagoon is not a replacement for a septic system but only a liquid material comes into the lagoon and there at times can be an odor but the church intends to maintain the lagoon as sanitarily as possible.

Mr. Gardner stated the Staff would advise that the eastern most access point along Country Road be eliminated and they create an access point to Highway 97 and allow for a circular drive to handle the traffic flow.

Board Member Smith requested the Staff to contact Roy Gardner, Director of the Federal Housing Administration and ask what their policy is regarding the proximity of making a loan on a residence near a lagoon system.

Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to continue Case No. 9346 to February 3, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center. Board Member Purser requested Mr. Saska to return with additional drawings showing access to Highway 97 and parking facilities.

NEW APPLICATIONS:

9349

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.2 - Home Occupations) for permission to grow plants, and to sell a few of them, in an RS-1 District located at 743 South 83rd East Avenue. (This operation is more of a hobby.)

Presentation:

James Shipman, 743 South 83rd East Avenue, stated he and his wife grow and sell plants at their home and in the 12' x 24' greenhouse behind their home. He stated he has approximately 100-175 potted plants; has no signs up at the present time; will have no employees other than he and his wife; and there will be no advertising except a listing in the yellow pages. Mr. Shipman stated the Staff had explained to him what a home occupation is and the greenhouse has been in operation around two years.

Interested Party:

Joyce Hall, 739 South 83rd East Avenue, stated she did not oppose this application provided this home occupation be limited to the present owners of the property. Upon questioning by Board Member Blessing, Mrs. Hall stated she did not know if the other neighbors objected to this operation; and the Staff indicated the Building Inspector had issued an order for them to cease since there was a sign advertising the business.

Protests: None.

Board Action:

On MOTION of BLESSING, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.2 - Home Occupations) for permission to grow and sell plants, subject to the conditions of a home occupation including no signs and this permission is granted only the present owners of the property, in an RS-1 district on the following described tract:

Lot 3, Block 3, Clarland Acres Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes) for permission to locate a mobile home in an RM-2 District located at 5100 Block East 39th Street North. (Bond required.)

Presentation:

J. P. Wallace, Rt. 3, Box 29, Tulsa, stated he wished to place a mobile home on a 7½ acre vacant lot owned by his brother to live in it permanently. He stated there are other mobile homes in the area.

Protests: None.

Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes) for permission to locate a mobile home in an RM-2 District for one year only and a removal bond required on the following described tract:

The E/2 of Block 2, Kennedy Park Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for a public park and erect a pedestrian bridge over Coal Creek located at 33rd Street and Riverside Drive.

Presentation:

Jackie Bubenik, with the River Parks Authority, showed the Board three drawings of the pedestrian bridge over Coal Creek stating the beam would be 95' long and 8' wide and made of concrete. It would be above the water and would not disturb or restrict the Creek flow. He stated all of the time, material and labor is donated and no public funds are involved.

Protests: None.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property as presented for a park and erect a pedestrian bridge over Coal Creek on the following described tract:

The South 300' of the North 300' of the East 250' of Lot 1,
Section 24, Township 19 North, Range 12 East, Tulsa County, Okla.

Action Requested:

Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670 - Variances) for a variance of the set back requirements from 100' to 70' from the center line of Lewis Avenue located at the southwest corner of 51st Street and Lewis Avenue.

Presentation:

John Houck, Columbus, Ohio, representing Wendy's international hamburger chain, presented a plot plan (Exhibit "D-1") to the Board stating there is presently a DX Service Station on the site which is being torn down and will be replaced by Wendy's. Mr. Houck stated the 100' set back off 51st Street is acceptable but a variance is needed for Lewis Avenue due to the pick-up window of the facility. During discussion it was pointed out that the 2 curb cuts closest to 51st Street are to be closed and a curb cut further from the intersection is to be opened.

Board Member Purser asked if 70' set back is sufficient for the future development of Lewis Avenue; to which Mr. Gardner replied the precedent is already established since the cleaner's building to the south sets closer to the street. The additional right-of-way is used for utilities and the street is already paved 4 lanes, therefore the Staff has no objections.

Protests: None.

Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to grant a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670 - Variances) varying the set back requirements from 100' to 70' from the center line of Lewis Avenue per the plot plan submitted on the following described tract:

The East 123' of Lot 1, Block 3, Perry's Subdivision to the City of Tulsa, Tulsa County, Oklahoma, according to the duly recorded plat thereof, LESS a tract of land lying in the East 123.00' of Lot 1, Block 3, Perry's Subdivision to the City of Tulsa, Tulsa County, Oklahoma, according to the duly recorded plat thereof and being more particularly described as follows to-wit: Beginning at the NE corner of said Lot 1; thence South along the East line of said Lot 1 a distance of 145.00' to a point; thence in a Northwesterly direction along a straight line a distance of 116.10' to a point 29.00' South and 4.00' West of the NE corner of said Lot 1; thence continuing in a Northwesterly direction along a curve to the left having a radius of 35.00' to a point on the North line of said Lot 1, 21.00' West of the NE corner; thence East along said North line a distance of 21.00' to the point of beginning.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for recreational use to permit 18 outdoor tennis courts (lighted), 10 indoor tennis courts, 2 swimming pools, and accessory facilities located at 3030 East 91st St.

Presentation:

Frank Moskowitz, Box 2875, Tulsa, representing the applicant Tulsa Southern Tennis Club, stated he wished to request an additional 12 outdoor lighted courts on the original ten acres. He noted 10 indoor and 6 outdoor tennis courts have already been approved by the Board. Mr. Moskowitz submitted two site plans (Exhibits "E-1" and "E-2") showing the proposed courts which will be fenced, landscaped, and the lighting will be directed straight down onto the courts.

Protests: None.

Board Action:

On MOTION of BLESSING, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property as presented for recreational use to permit 18 outdoor tennis courts (lighted), 10 indoor tennis courts, 2 swimming pools, and accessory facilities per plot plan submitted on the following described tract:

The West 430' of the South 921' of the E/2, NW/4, NE/4 of Section 20, Township 18 North, Range 13 East, Tulsa County, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for a public park: Development to include two unlighted tennis courts, parking for 20 cars, playground, restrooms, and storage building located at East 29th Street North and Yorktown Avenue.

Presentation:

Randy Nicholson representing the City of Tulsa Park Department presented a plot plan (Exhibit "F-1") to the Board and stated north of the property is vacant and there are no water problems in the area.

Protests: None.Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for a public park: Development to include two unlighted tennis courts, parking for 20 cars, playground, restrooms, and storage building per plot plan submitted on the following described tract:

S/2, SW/4, NE/4, SE/4, Section 19, Township 20 North, Range 13 East, Tulsa County, Oklahoma.

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) for permission to amend the previous action of the Board to permit the erection of six additional greenhouses in a CS District located at 9520 East 41st St.

Presentation:

Anthony Saglime, 9520 East 41st Street, presented a plot plan (Exhibit "G-1") to the Board stating he has four acres of land and needs six more greenhouses. He noted he as 16,000 sq. ft. retail space and the rest is wholesale which is low density use of the land. Upon questioning by Board Member Smith, Mr. Saglime stated the construction would be of wood covered with fiberglass.

Protestants' Comments:

John Christensen, 3601 South 123rd East Avenue, Chairman of District 17, stated he does not oppose the nursery operation but is requesting the applicant to build a screening wall on 41st Street and Mingo Road.

Mr. Saglime responded that this is a retail establishment and the residences across 41st Street do not face onto 41st Street but onto 39th Street with a wall behind them in their subdivision. Upon questioning by the Chair, Mr. Saglime stated there was shrubbery planted along the north side of his property. Mr. Christensen stated the District Planning Team voted to have this property contain some type of screening since it is a retail and wholesale operation. Mr.

9356 (continued)

Gardner said the Board was concerned about outside storage in their original approval and the Staff feels that all garden supplies should be enclosed within the buildings and no outside storage of merchandise except the plants.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) for permission to expand the previous action of the Board to permit the erection of six additional greenhouses in a CS District on the conditions that only plants and shrubbery be outside; all garden supplies be enclosed in a building; and per plot plan submitted on the following described tract:

The North 326.95' of Lot 2, Block 1, Dolman Addition to the City of Tulsa, Oklahoma.

9357

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1680 (g) - Exceptions) for permission to establish off-street parking adjacent to commercial property; Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) for permission to remove the screening where the purpose of the screening cannot be achieved; Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670 - Variances) for a variance of the 150' frontage requirements in a CS District; and a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670 - Variances) for a variance of the set back requirements from 100' to 60' located at Apache Street and 26th Place North, and Birmingham and Columbia Avenues.

Presentation:

Vincent Brown, 2205 East 33rd Street North, submitted two plot plans (Exhibits "H-1" and "H-2") to the Board and stated he wishes to build a professional building on Lot 21 off of Apache Street, and have the parking on the rear adjoining lot which fronts onto 26th Place North. Mr. Brown stated there are three homes in that block on Apache but the block is zoned CS. It was determined during discussion that the first variance request is not necessary for this application since this is a legal nonconforming lot because it was platted before July 1970. The Chair requested the Staff to clarify this situation and Mr. Gardner said the property was zoned under the New Zoning Code which required a replat of the property prior to the issuance of a building permit. Any replatting of lots would require 150' of frontage on Apache so a waiver is required. The CS portion was zoned for commercial and the RD portion was zoned for a buffer between commercial and the residential lots to the north. Mr. Gardner said the applicant is wishing to have the two lots treated as one since the parking is going on the residential lot behind the commercial building. Mr. Brown stated there would be no access onto 26th Place North as it would have a screening fence across the property line. Upon questioning by the Chair, Mr. Brown stated there are no structures on Lots 3 and 5 off 26th Place North.

9357 (continued)

During discussion it was noted that there is a problem with a parking lot facing into residential areas and Board Member Purser asked Mr. Pauling if the Board could consider a financial hardship of an owner. Mr. Pauling replied that a financial hardship is not one of the reasons listed to grant a variance.

Protests: None.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (4-0) to deny Case No. 9357 on the basis that the Board does not have the jurisdiction to grant financial hardships. After the following discussion, this motion and vote were withdrawn and a second motion and vote were taken.

Mr. Pauling stated it might be appropriate if the Board of Adjustment looked at each request presented by the applicant to determine individual merit and only deny altogether an application if all relief requested is inappropriate.

Mr. Gardner stated if the frontage were the only factor then the fact that he is building an office in a commercial district could be considered. This case could be continued to give the applicant an opportunity to see if he can rearrange his building and parking on Lot 21.

Board Action:

On MOTION of BLESSING, the Board of Adjustment voted unanimously (4-0) to continue Case No. 9357 to February 3, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9358

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1207 - Duplexes) for permission to erect 12 duplexes in an RS-3 District located at the northwest corner of 75th Street and Birmingham Avenue.

Presentation:

Frank Brusso, consulting engineer, 6311 East Tecumseh, presented a preliminary plat (Exhibit "I-1") to the Board stating there will be ample on-site parking and there will be limited access to the two cul-de-sacs. He said there will be one duplex on each lot and the lots will be from 12,000 sq. ft. to 16,000 sq. ft. in size. The buildings will face the interior streets. Upon questioning by Board Member Smith, Mr. Gardner stated that duplexes were the appropriate use but the Planning Commission and City Commission wanted the Board to review this application and apply adequate controls under RS-3 zoning rather than zoning the property RD. Mr. Brusso stated this property will be platted like this is a preliminary plat being presented today.

Protests: None.

Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (3-0) (with Blessing out of the room) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1207 -

9358 (continued)

Duplexes) for permission to erect 12 duplexes in an RS-3 District subject to the following conditions: (1) per plot plan submitted; (2) all duplex driveways and access must come off dedicated cul-de-sac streets; (3) no duplexes will face Birmingham Avenue; and (4) there will be limits of no access along lot lines paralleling Birmingham Avenue on the following described tract:

Lots 5 and 6, Block 1, Southern Hills Estates to the City of Tulsa, Oklahoma.

9359

Action Requested:

Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) for an exception of the screening requirements on the east, west and south where the purpose of the screening requirement cannot be achieved; and a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Under the Provisions of Section 1670 - Variances) for a variance of the set back requirements from 75' to 54' located at 5th Street and Owasso Avenue.

Presentation:

Attorney William Scheurich, Oklahoma Natural Building, representing M.K. & O. Coach Lines, stated the Coach Lines wants to build a bus washing facility as shown on the site plan (Exhibit "J-1"). The property is presently zoned IL and a screening fence would be built along the south and east property lines. Mr. Scheurich presented a picture (Exhibit "J-2") of what the six-foot screening fence will look like which conforms with the fence already existing. The architect, Ivan Griffith, 201 West 5th Street, stated the building must be where the architectural renderings show it because the large buses need to come into the property and be able to turn around. The access points will be just from the east and the west and none to the south.

Protests: None.

Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) for a modification of the screening requirements on the east, west, and south to permit a construction of the present type of screening fence (Chain link-red wood slats); and a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Under the Provisions of Section 1670 - Variances) varying the set back requirements from 75' to 54' subject to the plot plan submitted and as presented on the following described tract:

Lots 1, 2, 3, 4, 5, and 6, Block 2, Central Park Place Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes) for permission to maintain a mobile home in an RS-3 District located at 307 East 31st Street North.

Presentation:

Charles Carpenter, 307 East 31st Street North, is requesting to allow his mobile home on his property for an additional year. This is the second year he has appeared asking for this exception.

Protests: None.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes) for permission to maintain a mobile home in an RS-3 District for one year only and removal bond required on the following described tract:

Lot 9, Block 3, Chevy Chase Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1212 - Eating Places Other Than Drive-Ins; Section 1213 - Convenience Goods and Services; Section 1214 - Shopping Goods and Services) for permission to operate eating places other than drive-ins; convenience goods and services; and shopping goods and services in an IL District located northeast of 46th Street and Sheridan Road.

Presentation:

Boyce Bishop, Box 45182, representing VSI Realtors and Ed Cohen, stated this property is the old Dale Carter Lumber Company which has been vacant for over two years. Mr. Bishop stated their plans are to develop a Tulsa Open Market which will contain a mini-mall in the former retail building, a flea market concept in the former warehouse area, and a restaurant on the property also. All of this development, he said, will be included in the present structures and no additional building will be done, and there will be some renovation to the existing structures to make them more attractive and usable for their purposes. He presented the Board a plot plan (Exhibit "K-1") which he said is his only copy and would the Board have any objections to him keeping that copy and returning with another copy for the Board files. The Board agreed he could do this. Mr. Bishop stated their present plans include upgrading the present structure and give the side of the building facing Sheridan Road a face lift and there will be no banners waving from the buildings. He stated there will be additional parking inside the complex where the lumber yard was located. Upon questioning by the Chair, Mr. Bishop said there will be no outside storage on the premises.

Protests:

Kenneth Feirer, 6636 East 46th Place, noted the heavy traffic on 46th Street coming in and out from South Sheridan Road and the large number of accidents at that intersection during the past few years. Mr. Feirer would like no more access points out onto Sheridan Road, he objects to the illuminated rotating Aaron's Rental Service sign, and said there are residences along 46th Street across from the subject tract. He would like some protection on sign height and dimensions and on lighting during evening hours. Another problem he feels is the storm drain which runs through the development which used to be a creek. After discussion, he agreed to this application if no more parking is permitted except what is currently in place.

R. L. Gabbard, 6515 East 46th Street, the owner of the adjacent property which houses Aaron's Rental Service, stated the rotating sign should run from 7 a.m. to 10 p.m., and he said he would check the timer on that sign so as not to be an irritant to the neighborhood. Mr. Gabbard also stated he objects to the legal description because he owns the east 117' and the north 350' of Lots 7, 8, and 9 which run east to west off of Sheridan Road. He also noted the heavy traffic pattern at this intersection and there is no access onto 46th Street except that one which

is owned and deeded to Aaron's Rental Service so he feels all the access will have to be onto South Sheridan Road.

Applicants' Comments:

Mr. Bishop stated the area of the driveway which Mr. Gabbard noted is a common access area which is in the deed and that can be used by the applicant. There is a 45' gate on the north end of the property which can be used to enter the property; there will be no increase in the drainage problems since all the concrete is in place and no more will be added; any signs for the new development will front onto Sheridan Road; and he noted the applicant is trying to take an eyesore and make it into something attractive and useful for the City of Tulsa. Upon questioning by Board Member Purser, Mr. Gardner said there are very few restrictions on signs in an IL District but the Board can put in sign restrictions if they so desire. He also noted the legal description needs to be corrected if the Board is considering approval of this application -- the correct legal description can be found in the deed and Mr. Bishop agreed to return to the Board with that document.

Mr. Pauling of the City Legal Department suggested limiting any approval to the present owners of the property. Upon questioning by Board Member Smith, Mr. Gardner quoted the City Code regarding what is allowed for signs in an industrial district.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1212 - Eating Places Other Than Drive-Ins; Section 1213 - Convenience Goods and Services; Section 1214 - Shopping Goods and Services) for permission to operate eating places other than drive-ins; convenience goods and services; and shopping goods and services subject to the following conditions: (1) That before any signs are erected by the applicant, the Board of Adjustment must first review the sign size, type, and location; (2) that no additional paving be added; (3) that there be no outside storage or sales of merchandise permitted; (4) that this permission be granted to the present owner; and (5) that the traffic circulation pattern be approved by the Traffic Engineer on the following described tract:

Beginning at the SE corner of Lot 9, Block 1, Katy Freeway Industrial Park; thence North $0^{\circ}-2'-5''$ West along East of Lot 9 a distance of 362.30'; thence South $89^{\circ}-57'-55''$ West a distance of 117.90'; thence South $0^{\circ}-7'-30''$ East a distance of 362.30'; thence North $89^{\circ}-57'-55''$ East a distance of 117.33' to the point of beginning, City of Tulsa, Tulsa County, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for the construction of park and recreation facilities, now occupied by the County Emergency Shelter; and for the renovation of clubhouse located at 5501 South Yale Avenue.

Presentation:

Max Wiens, representing the County Park Department, stated a building permit was acquired and construction begun on the remodeling of the clubhouse. Apparently the building permit was not passed on to the contractor and when he applied for a building permit, it was denied due to a needed variance. The County Park Department continued work on the remodeling and presented a site plan (Exhibit "L-1") and showed an aerial photograph of the site and what construction is being done to the property. The County plans to use the emergency shelter for park land but has no specific plans for that structure at the present time since it will be relocated within the next two years. This portion of the property was not advertised and therefore not a part of the application.

Protests: None.

Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for the construction of park and recreation facilities and for the renovation of clubhouse as requested on the following described tract:

A part of the W/2 of Section 34, Township 19 North, Range 13 East, City of Tulsa, Tulsa County, Oklahoma, and being more completely described by metes and bounds as follows:

Beginning at a point which is 50' south and 50' east of the northwest corner of said Section 34; thence east parallel to and 50' south of the north section line a distance of 1,712.15' to a point, said point being 50' south and 875' west of the north quarter corner of said Section 34; thence south following the west line of Tulsa County Home property a distance of 1,475'; to a point; thence east following the south line of the Tulsa County Home property, a distance of 795' to a point, said point being 80' west and 1,525' south of the north quarter corner of said Section 34; thence south parallel to and 80' west of the east line of the W/2 of said Section 34, a distance of 904.55' to a point, said point being 80' west and 2,429.55' south of the north quarter corner of said Section 34; thence south 89°-52'-48" west a distance of 560' to a point; thence south 0°-07'-12" east a distance of 875' to a point; thence south 89°-52'-48" west a distance of 265' to a point; thence south 0°-07'-12" east a distance of 990' to a point; thence north 89°-52'-48" east a distance of 825' to a point, said point being 80' west and

985' north of the south quarter corner of said Section 34; thence south parallel to and 80' west of the east line of the W/2 of said Section 34 a distance of 935' to a point, said point being 50' north and 80' west of the south quarter corner of said Section 34; thence west parallel to and 50' north of the south section line a distance of 2,511.05' to a point, said point being 50' north and 50' east of the southwest corner of said Section 34; thence north parallel to and 50' east of the west section line a distance of 5,179.48' to the point of beginning. Containing in all 241.42 acres, more or less.

The SE/4 of Section 27, Township 19 North, Range 13 East of the IBM, LESS the NW/4, NW/4, SE/4 consisting of 10 acres, more or less and LESS 15 acres in the southeast corner of said SE/4 described as follows, to-wit: Beginning at the southeast corner of said SE/4; thence northerly along the easterly boundary of said SE/4 a distance of 990'; thence westerly parallel with the southerly boundary of said SE/4 a distance of 660'; thence southerly parallel with the easterly boundary of said SE/4 a distance of 990' to a point in the southerly boundary of said SE/4; thence easterly along the southerly boundary of said SE/4 a distance of 660' to the point of beginning, containing 15.00 acres, the total area.

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for park use that will include the following uses: Construction of picnic shelters, nature trails, tennis courts (lighted), softball fields (lighted), playgrounds, roads and parking lots, soccer field, rest rooms, concession facilities, with a maintenance shop located on South Garnett between 111th Street and 121st Street. (Haikey Creek Park)

Presentation:

The Chair introduced three members of the Bixby Board of Adjustment - James C. Dailey, Wallace R. Houston, and Lee Orcutt who attended this meeting since this case has overlapping jurisdictions between Tulsa and Bixby. Max Wiens, representing the County Parks Department, presented a development plan (Exhibit "M-1") and a set of specifications (Exhibit "M-2") for the Parks Department Maintenance Buildings to the Board. Mr. Wiens stated this is a total of 155 acres which has been acquired over a period of 3 years and is owned by Tulsa County through revenue sharing funds. Upon questioning by Board Member Blessing, Mr. Wiens stated the County Commission has approved this Park Plan, Tulsa County will manage the park, and the City of Bixby has not been brought in on a formal basis at this time but talks are underway with Bixby concerning the use of their water for this development. Upon questioning by Bixby Board Member Orcutt, Mr. Wiens stated this development will not affect the flow of Haikey Creek and the proposed improvements are not in the flood plain. Ray Jordan, Tulsa County Engineer, stated the proposed park would not affect Haikey Creek further downstream. During discussion it was determined there would be no channelization through this proposed park. Bixby Board Member Orcutt asked what the time frame

is for this development; to which Mr. Wiens stated they hoped to begin construction in April and finish in a nine to twelve month period since only the lighting and tennis courts would be contracted out. Upon questioning by Board Member Smith, Mr. Wiens stated the government policies concerning equal use of the facilities by anyone will be adhered to and there will be no restrictions on this development. Mr. Jordan stated the culvert size under Garnett Road where it crosses Haikey Creek will be a wooden bridge 92' long and 40' wide and it will never be a four lane road and will not accommodate any high speed traffic. Garnett Road will be extended south of the park and will traverse through the park.

Protests: None.

Board Action:

On MOTION of DAILEY, the Bixby Board of Adjustment voted unanimously (3-0) to grant approval of the requested Exception per the concept plan and as presented on that portion within Bixby City Limits.

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to grant an Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for park use as presented that will include the following uses: Construction of picnic shelters, nature trails, tennis courts (lighted), softball fields (lighted), playgrounds, roads and parking lots, soccer field, rest rooms, concession facilities, with a maintenance shop, per the concept plan (Haikey Creek Park) on the following described tract:

The East 759' of the SE/4 of the NE/4 of Section 31, Township 18 North, Range 14 East, Tulsa County, Oklahoma.

The W/2, NW/4, SW/4 of Section 32, Township 18 North, Range 14 East, Tulsa County, Oklahoma.

Beginning at a point on the East line of Section 31, 1,320.5' North of the SE corner thereof; thence South $89^{\circ}-56'-12''$ West a distance of 1,320.0' to the SW corner of the NE/4, SE/4; thence North $0^{\circ}-04'-59''$ West a distance of 1,112.15'; thence North $89^{\circ}-57'-12''$ East a distance of 521.87'; thence North $0^{\circ}-04'-59''$ West a distance of 208.75' to a point on the North line of the NE/4, SE/4; thence North $89^{\circ}-57'-12''$ East a distance of 798.13' to the NE corner of the SE/4; thence South $0^{\circ}-04'-59''$ East along the East line of Section 31, a distance of 1,320.5' to the point of beginning.

The SW/4, NW/4 and the SE/4, NW/4, NW/4 of Section 32, Township 18 North, Range 14 East, Tulsa County, Oklahoma.

The East 24 acres of the S/2, SE/4 of Section 31, Township 18 North, Range 14 East, Tulsa County, Oklahoma.

9368 (continued)

Board Action:

On MOTION of SMITH, the Board of Adjustment voted unanimously (4-0) to grant a Variance (Section 410 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) varying the frontage requirements from 60' to 52.55' in an RS-3 District to permit a lot-split on the following described tract:

Lot 13, Block 7, East Port Addition, to the City of Tulsa, Oklahoma.

9377

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) for a variance of the area requirements in an RS-2 District from 9,000 sq. ft. to 8,217 sq. ft., to permit a lot-split located at the northwest corner of 26th Street and Delaware Place.

Presentation:

Mr. Jones stated the Planning Commission has approved the lot-split subject to approval by the Board of Adjustment.

Protests: None.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (4-0) to grant a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) varying the area requirements in an RS-3 District from 9,000 sq. ft. to 8,217 sq. ft., to permit a lot-split on the following described tract:

Lot 6, Block 8, Bryn-Mawr Addition to the City of Tulsa, Okla.

7169

Presentation:

Mr. Jones explained this was the application of a church in 1971 which has been held to the original plot plan; the church is now ready to add on to a building and the Building Inspector will not issue a building permit because of the original plot plan. Mr. Jones presented a new plot plan (Exhibit "O-1") to the Board.

Board Action:

On MOTION of PURSER, the Board of Adjustment voted unanimously (4-0) to accept the new plot plan in place of the original plot plan for Case No. 7169.

Presentation:

Mr. Jones stated this application involves the west portion of the Fontana Shopping Center which is zoned IL and the Board has granted Use Units 12, 13, and 14 in an IL District. This applicant wishes to put a nursery in this IL District north of the bank on 51st Street and a nursery is not permitted in an IL District. The applicant either needs to rezone the property or make an application to the Board for a use variance. It was determined for the applicant to pay the fee and come to the Board of Adjustment.

There being no further business, the Chair adjourned the meeting at 5:30 p.m.

Date Approved

February 17 (97)



Chairman