

BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 229  
Thursday, February 3, 1977, 1:30 p.m.  
Langenheim Auditorium, City Hall  
Tulsa Civic Center

MEMBERS PRESENT

Blessing (out 4:45 p.m.)  
Guerrero, Chairman  
Jolly  
Purser, Mrs.  
Smith

STAFF PRESENT

Edwards  
Gardner  
Jones  
Smith, Mrs.

OTHERS PRESENT

Jenkins, Building  
Inspector's Office  
Pauling, Legal  
Department

Chairman Guerrero called the meeting to order at 1:30 p.m. and declared a quorum present.

UNFINISHED BUSINESS:

9335

Action Requested:

Variance (Section 630 - Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1670) for a variance of the setback requirements in an OM District located northeast of East 68th Street and South Yale Avenue.

Presentation:

Vaden Bales submitted the plot plan (Exhibit "A-1"), advising that the western 320' of the subject property is zoned OM while the remaining 170' is zoned RS-3 and was approved for off-street parking in 1972. When plans were drawn and reviewed for construction the setback at that time was measured as though the entire property were zoned OM rather than taking into consideration that a portion of the property was zoned RS-3, thereby creating an error with regard to the building setback. Mr. Bales noted that Sooner Federal had obtained the property through foreclosure and was attempting to sell the property when the error concerning the setback was discovered. He requested that a waiver be granted to permit the existing 164.2' setback, noting that the homeowners association to the north had no objection to the request.

In discussion and upon questioning, the Board was advised that the building permits for the structure and parking were issued as a unit and that the land use pattern is appropriate for the area. Mr. Gardner felt that the granting of the waiver would present no problem as the original owner would technically have appeared before the Board to seek the request made this date.

Protests: None.

9335 (continued)

Board Action:

On MOTION of SMITH, the Board (5-0) approved a Variance (Section 630-Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1670) for a variance of the setback requirements per plot plan submitted in an OM District on the following described tract:

Lot 3, Block 1, Burning Hills Addition to the City of Tulsa, Oklahoma.

9346

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to use property for church use and parking in an RS-3 District located at Highway 97 and Country Road, Sand Springs.

Presentation:

Wayne Durham, representing Phillip Saska and the Sand Springs Congregation of Jehovah's Witnesses, presented a plat (Exhibit "B-1") to the Board and pointed out that a major concern at the previous hearing of the application was with regard to the sewage system to be utilized on the property. Mr. Durham pointed out that in order to get a water tap from the City of Sand Springs, approval would have to be obtained from Tulsa County. He noted that the lots in this subdivision are between 1½ and 2½ acres in size and that the subdivision to the south had utilized a lagoon system for its sewage. Upon questioning, he advised that those lots within 300' of the subject property which contain residences had been designated on the plat.

Mr. Gardner presented an aerial photograph of the area surrounding the subject property and presented a Staff memorandum (Exhibit "B-2") which was requested by the Board at the previous hearing regarding the Federal Housing Administration's policy concerning lagoon systems. Mr. Gardner noted that it is the policy of the FHA to disapprove an FHA residential loan on properties located within 300' of a sewage lagoon. Also, FHA does not approve many subdivisions which utilize septic systems; however, if such a loan is approved it would be considered on a lot-by-lot basis as opposed to an entire subdivision. He further pointed out that there are possibly three lots within the subject subdivision that would be affected by this FHA policy and six lots located to the west of the property which are also located within 300' of the proposed lagoon.

Mr. Durham presented a location map (Exhibit "B-3") noting the manner in which the surrounding area has developed. Upon questioning, he advised that a septic tank system would not be permitted as the property would not pass the percolation tests required; however, the lagoon system proposed at the previous hearing had been designed for the property by an inspector of the City-County Health Department.

Protests:

Bill Hardage, 9331 Country Road, advised the Board that he was opposed to any development of the property other than residences, pointing out that he was advised at the time he purchased his home that there would be nothing developed in the area except residences.

Allen Bordelon, 108 Acorn Lane, submitted a copy (Exhibit "B-4") of the restrictive covenants, at which time he was advised that the Board was not bound to these covenants as they are agreements between private parties. Mr. Bordelon referred to the protest petition submitted at the previous hearing of the application, advising that all property owners in the area were opposed to the construction of a church on the property.

Don Stout, 114 Country Road, questioned whether or not the property would be within the jurisdiction of Pawhuska and was advised that Pawhuska has no jurisdiction in the matter and that restrictive covenants are a contract between private parties not to be considered or enforced by a public board. Mr. Stout was also advised that the Board has the authority to approve a use subject to conditions. In his final statements Mr. Stout advised that all area residents are opposed to development other than residential in this area.

Marvin Cole, 9324 Country Road, questioned the proposed location of the lagoon system since FHA does not permit a residential loan on properties within 300' of a lagoon system. Mr. Durham advised, upon questioning by the Board, that the lagoon would be located as close to Highway 97 as was feasible, pointing out that it would be located nearer to the western property line than the center of the property.

Board Member Smith felt that approval of the application would require prospective residents to obtain conventional loans rather than FHA and would prejudice those persons presently residing in the area.

Board Action:

On MOTION of BLESSING, the Board (5-0) denied application 9346 in an RS-3 District on the following described tract:

Lots 1 and 2, Country Club Acres No. 1 Subdivision, Block 5 amended, Osage County, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1680 (g) - Exceptions) to establish off-street parking adjacent to commercial property; an Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) to remove the screening where the purpose of the screening cannot be achieved; a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the 150' frontage requirements in a CS District; a

9357 (continued)

Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from 100' to 60'; and a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the floor area ratio from 50% to 68% coverage in a CS and RD District located west of North Columbia between 26th Place North and Apache Street.

Presentation:

Vincent Brown submitted the plot plan (Exhibit "C-1"), advising that he had withdrawn Lot 4 from the application and amended his application from that which was presented at the previous hearing. He noted that the amended plan had eliminated the east access to the northern lot, had provided for construction from the southern to the northern lot line, had provided for a 90' x 50' structure as opposed to the original plan for a 100' x 50' structure, had provided for a 5' setback from the northern lot line as the utility easement is not used for such, had provided for a reduction in office space to 4,500 square feet with a lot coverage of 68% rather than the 50% coverage permitted by the Code, and provided for 11 parking spaces in front of the proposed structure in addition to a request for a waiver of the front setback from 100' to 77.5'.

Mr. Gardner reviewed the amended application for the benefit of the Board for clarification purposes, noting that screening would be required on the northern property line, that a waiver of the 150' frontage requirement would be required and that the lot coverage would be 68.68% as proposed rather than the 50% permitted by the Code for a one-story building. At this point, Mr. Brown requested a waiver of the screening requirement between Lot 21 and Lot 4 as the wall of structure would serve as a screen.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (5-0) approved an Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) to remove the screening on the northern property line where the purpose of screening cannot be achieved; a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the frontage requirements from 150' to 50' to permit an office; a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from 100' to 77.5' from the center line of Apache and a variance of the setback requirements from 10' to 5' from the northern property line; and a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the floor area ratio from .50% to .68% coverage, per amended and initialed plot plan submitted, in a CS District on the following described tract:

Lot 21, Block 14, Ben C. Franklin Addition to the City of Tulsa, Oklahoma.

NEW APPLICATIONS:

9366

Action Requested:

Exception (Section 610 - Principal Uses Permitted in the Office Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to use property for church use and parking in an OL District located at 218 South Memorial Avenue.

Presentation:

John Harrington, representing St. Anthony's Christian Orthodox Church, requested permission to use the subject property and existing structure for church and related parking purposes, advising that the church is not financially able to establish itself on property located in another area. Upon questioning as to what would become of the church should the congregation outgrow the structure size, Mr. Harrington advised that the church would be forced to move to a larger property.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (5-0) approved an Exception (Section 610 - Principal Uses Permitted in the Office Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to use the existing structure for church purposes, as presented, in an OL District on the following described tract:

Beginning 995' North of the Southeast corner of the NE/4; thence West 232'; thence North 100'; thence East 232'; thence South 100' to the point of beginning in Section 2, Township 19 North, Range 13 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof.

9367

Action Requested:

Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1212 - Eating Places Other Than Drive-Ins) to operate a restaurant in an IL District located at 8125 East 49th Street.

Presentation:

Clark Gray, owner of Juanito's Restaurant, advised the Board that he had purchased the subject property which contains a vacant restaurant in November, 1976 and reopened the restaurant in December, 1976. He noted he had constructed an annex, per plot plan (Exhibit "D-1"), and requested permission to operate a restaurant in the IL District on the subject property in order that he might connect the annex to the restaurant structure.

Protests: None.

9371 (continued)

Board Action:

On MOTION of SMITH, the Board (5-0) approved an Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Homes) to locate a mobile home as presented for a period of five years in an AG District on the following described tract:

A tract of land lying in the SW/4, SW/4, of Section 35, Township 18 North, Range 13 East, Tulsa County, Oklahoma, more particularly described as follows: Beginning 470' North of the Southwest corner of Section 35; thence North 425'; thence East 825'; thence South 425'; thence West 825' to the point of beginning; containing 8 acres more or less.

9372

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Homes) to locate two mobile homes in an AG District located at 110th and Yale Avenue.

Presentation:

Lou Brayton, the applicant, requested a continuance of the subject application due to an incorrect legal description.

Protests: None.

Board Action:

On MOTION of BLESSING, the Board (5-0) continued application 9372 to March 3, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa, Civic Center.

9373

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes - Section 1205 - Community Services, Cultural and Recreational Facilities) to locate three mobile homes on church property to be used as temporary classrooms in an RS-2 District located at 5511 South Harvard.

Presentation:

Vic Thompson, representing Woodland Acres Baptist Church, submitted the site plan (Exhibit "F-1") and requested permission for the Church to locate three mobile homes behind the existing structure. Upon questioning, Mr. Thompson advised that there is an existing six-foot screening fence on the eastern property line between the Church property and the residences to the east, noting that the mobile homes would also be screened from Harvard by the church structure. He further noted that the northernmost portion of the property may be located in the moratorium; however, the proposed location of the mobile homes was chosen with the floodplain in mind.

Protests:

Armen Mirzaian, 3405 East 56th Place, advised the Board that his property adjoins the church property, that he was opposed to the subject application because of the noise level that would be increased by children playing in the area, that he was concerned with his view being obstructed, and that he felt the location of the mobile homes on the property would devalue his property. Further, he was concerned with previous promises made by the Church not being fulfilled, in addition to feeling that the church property was definitely located within the flood zone. Upon questioning, Mr. Mirzaian was advised that a similar application could not be filed on the subject property for a period of six months if the subject application were denied.

Thomas Monahan, 3608 East 56th Street, advised that the chain link screening fence in place is located on his property and that he felt the location of the mobile homes on the subject property would devalue his own property.

Mary Norberg, 3403 East 56th Place, advised the Board that the neighborhood is of good quality and felt that the mobile homes would devalue the neighborhood properties. She pointed out that the church can be clearly seen and that there is no existing screening fence that actually screens the structure, that the level of the parking lot has been raised, and that flooding problems have been experienced in this area.

Emil Norberg, 3403 East 56th Place, advised the Board that he, too, was opposed to the mobile homes being located on the property feeling that blight of residential neighborhoods is wrong.

Mr. Thompson did not feel that the noise level would be raised as the mobile homes would be used for classrooms on Sundays only and not in conjunction with the day care center operated from the Church on weekdays. He further did not feel that the temporary use of the mobile homes for classroom purposes would devalue the properties in the area, pointing out that the Church will construct permanent structures as soon as possible as there is a need for additional classroom space at this time.

Upon questioning by the Board, David Pauling, Assistant City Attorney, advised that the Health Code had been revised in 1975 and now provides that a mobile home is not necessarily a residential use but that it could be considered for a specific use. In this particular instance the property has been approved for church use and the Building Inspector has been authorized by the adoption of the 1975 Health Code to issue a nine-month temporary permit for the mobile homes if the Building Inspector determines that the use of the mobile homes is related to the Church use. At the end of the nine months the permit can be reviewed for a possible three-month extension with no further renewal being permitted. In summary and upon further questioning, Mr. Pauling noted that the Church does not need approval of this Board to locate the mobile homes on the property unless a period of time greater than one year will be required to meet their needs, pointing out that the Church can obtain a temporary permit from the

Building Inspector if the application were denied. Board Member Jolly noted that if the Board granted the exception, conditions could be placed on the proposed use whereas there would be no specific conditions placed on the use by the Building Inspector if the temporary permit were issued.

Mr. Gardner noted that the extreme northern 50' is within the flood moratorium and that the southern half of the property is within a designated Flood Hazard Area; therefore, there are conditions which must be met when placing the mobile homes on the property.

Board Action and Discussion:

BLESSING moved to deny application 9373. This motion failing (1-4), Mr. Pauling again reviewed his statements with regard to the Building Inspector's authority to issue a temporary permit for the use. In Board discussion, it was pointed out that the applicant had felt that one year's time would be sufficient and Board Member Smith noted that the one-year time period could be covered with a temporary permit. However, the Chair supported approval of the exception for a period of one year with conditions rather than the issuance of a temporary permit to locate the mobile homes on the property without conditions.

JOLLY moved to approve the Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes - Section 1205 - Community Services, Cultural and Recreational Facilities) to locate three mobile homes on church property to be used as temporary classrooms subject to the three mobile homes being located on the property per plot plan submitted, subject to the property being screened on the eastern boundary by a six-foot screening fence to screen the three structures, subject to the development requirements of a Flood Hazard Area being met, with the understanding that the approval will not be renewed at the end of the one-year time period permitted. The motion was amended by PURSER with regard to the screening to require that the screening fence be also located to the south of the structures extending from the eastern property line to a point six feet within the asphalted parking area in addition to the eastern property line being screened to a point that would cover the three structures.

On MOTION of JOLLY, the Board (4-1) approved the Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes - Section 1205 - Community Services, Cultural and Recreational Facilities) subject to the conditions and as amended by PURSER in an RS-2 District on the following described tract:

All that part of the SW/4 of the NW/4 of Section 33, Township 19 North, Range 13 East of the IBM, Tulsa County, Oklahoma, described as follows:

Beginning at a point in the West boundary of said SW/4 of the NW/4, 230' from the Southwest corner thereof; thence North 0°-02'-00" East along the West boundary of said SW/4 of the NW/4, a distance of 506.00'; thence South 89°-58'-00" East along the South right-of-way line of 55th Street a distance of 80.00'; thence to the left on a curve of radius 1,697.39' along the South right-of-way line



9373 (continued)

of 55th Street a distance of 252.03'; thence South 11<sup>0</sup>-30'-03" East a distance of 504.36'; thence South 64<sup>0</sup>-54'-53" West a distance of 71.74'; thence North 89<sup>0</sup>-58'-25" West, parallel to and 230' from the South boundary of the SW/4 of the NW/4, a distance of 367.00' to the point of beginning, containing 4.501 acres.

9374

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from 55' to 40' from the center line of Detroit and a request for a variance of the lot area requirements from 6,900 square feet to 6,750 square feet in an RM-1 District located at the northwest corner of 21st Street and Detroit Avenue.

Presentation:

Charles Burris, representing the applicant and proposed builder, submitted the plot plan (Exhibit "G-1") and advised that the subject 90' x 150' tract is presently zoned RM-1 which permits the construction of seven apartment units or two triplex structures. The proposal is to construct two duplex structures, each being located on its own lot at a cost of between \$90,000 and \$100,000 to be compatible with the residential development in the neighborhood. It was felt that the highest and best use of the property was to utilize the existing zoning through the Board and construct the two duplex structures, each having two or three bedrooms, a two-car garage and off-street parking, with an entrance from 21st Street for one structure and an entrance from Detroit for the other structure and a combined exit to 21st Street to be shared by both structures. Mr. Burris advised that a waiver of the setback along Detroit from 25' to 10' would be required in order that the structures might be constructed as proposed in addition to a variance of the lot requirements from 6,900 square feet to 6,750 square feet per lot, per the plot plan submitted.

Mr. Gardner reviewed a previous application for five townhouse units on the subject property. In addition he advised that a waiver of the lot area is required since the structures are to be under separate ownership. If the applicant removes the lot line there is no variance of area required.

Protests:

James Owens, 304 East 20th Street, advised the Board of the traffic problems in the area noting that these problems were presented when the previous application was presented to the Board some two months ago. He advised that his objections were the same as previously mentioned because it was felt that the development would be overbuilding and create a hazard for school children in the area.

Eudora Benson, 221 East 21st Street, objected to the high-density and overcrowding of the lot as the neighborhood would like to maintain its high quality and well-established character. Mrs. Benson also expressed concern with regard to height restrictions and the possible devaluing of the existing residences.

Dan Staudt, 230 East 20th Street, a member of the Mapleridge Homeowners Association, submitted a protest petition (Exhibit "G-2") noting that the area residents are opposed, not to a duplex but to two duplexes, apartments or triplex units. Upon questioning by the Chair, Mr. Staudt advised of the various apartment developments in the area.

The Staff presented a letter of protest (Exhibit "G-3") to the Board from Mr. and Mrs. E. G. Simmons who oppose the application on the basis of traffic, parking and property devaluation.

Louis Levy, attorney representing John Ladner of 2116 South Detroit, submitted a communication (Exhibit "G-4") which advises that he and his client have no opposition to the subject application. He recommended that approval be subject to a plat identical to that filed as part of the application, noting that he and his client have no objections to the variances requested because they felt the proposal was compatible with the area. He further pointed out that he and his client do not favor any changes in the plot plan filed with the application; however, should there be material changes requested he requested that a public hearing and notification on the requested changes be made. Mr. Levy felt that the development would not detract from the residential neighborhood advising that the Mapleridge Homeowners Assoc. does not oppose the application, after which Mr. Owens, a member of the Association's Board of Trustees, advised that the Board does in fact oppose the application.

Barend Meiling, 2104 South Detroit, expressed his opposition to the proposed duplexes and Thomas Matson, 231 East 20th Street, advised that he would like to purchase the subject property from the owners.

Upon questioning by the Board with regard to the proposed development, Mr. Gardner advised that the existing zoning would permit what the applicant is proposing without requiring Board approval if he would reduce his west side yard from 10' to 5', remove the lot line and build with only 8' between the structures, and 47' setback from Detroit. This would force the structures to be closer to the single-family residences on the west, the structures to be closer together, and the development would be required to be maintained under one ownership like an apartment complex rather than the two ownerships proposed.

Mr. Burris advised that he did not wish to argue with the neighbors, but pointed out that the Board has the authority to restrict the development in any manner which is felt to be beneficial to the area residents. He again noted that seven apartment units could be constructed on the property without the Board's approval.

Mr. Owens also advised that he would like to purchase the property for park purposes.

LaFleura Owens, 2301 South Boston, questioned the Board and Staff with regard to whether or not a variance would be required if a seven-unit apartment structure were built and also questioned square footage.

9374 (continued)

The Board reviewed the plot plan with the applicant who advised that Building B would be the same concept as Building A shown on the plot plan. He noted that Building A would have one entrance on Detroit and one entrance on 21st Street; however, he was not sure as to where the entrances for Building B would be. When questioned as to the Board's assurance of the final plans prior to construction, Mr. Burris assured the Board that the structures would be similar architecture to the balance of the neighborhood.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from 55' to 40' from the center line of Detroit and a request for a variance of the lot area requirements from 6,900 square feet to 6,750 square feet, per plot plan, subject to the applicant's filing final construction plans with the Board for the two structures for review prior to issuance of building permits, and subject to the east side of the duplex which abuts Detroit having the same type of construction as presented for the 21st Street frontages in an RM-1 District on the following described tract:

The East 150 feet of Lot 75, Block 8, Southside Addition to the City of Tulsa, Oklahoma.

9375

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the frontage requirements from 100' to permit two lots with a 50' frontage in an RS-1 District located at 115th Street and Fulton Ave.

Presentation:

Larry Campbell submitted his request (Exhibit "H-1") and a map (Exhibit "H-2") denoting the proposed split of one four-acre tract into two smaller tracts each with 50' of frontage in order that a single-family residence might be constructed on each tract. Mr. Campbell advised that the subject property cannot be split into a larger number of tracts because of the terrain.

Mr. Gardner presented the Planning Commission's Staff Recommendation (Exhibit "H-3") regarding the lot-split advising that the Planning Commission had approved the split subject to three conditions as noted within the Staff Recommendation.

Protests: None.

The Staff submitted a letter (Exhibit "H-4") from the Chairman of the District 26 Planning Team which noted that the Planning Team had reviewed the application and had no objection to the request.

Presentation:

Nineta Smith requested permission to operate a children's nursery on the subject property in the existing residential structure between the hours of 7 a.m. and 6 p.m., Monday through Friday. She described the property, noting that it is fenced as required by the Health Department.

Protests:

Leo Applegate, 1361 East 53rd Street North, submitted a protest petition (Exhibit "I-1") containing the signatures of 41 area residents opposed to the subject application and a location map (Exhibit "I-2") noting the location of the protestants in the vicinity of the subject property. Mr. Applegate advised that he was opposed to a commercial operation being located in the residential area as the operation would decrease property values, create a noise problem with the number of children that would be staying at the nursery, would create a parking problem as there is no parking available and the street is a narrow residential street.

Edith Adair, 1351 East 54th Street North, advised the Board that "No Parking" signs have been placed on the street and there are a number of elderly people residing in the area that would be affected by the operation.

Mrs. Helen Chiles, 1367 East 54th Street North, advised the Board that no parking is permitted on her side of the street, that there is inadequate traffic circulation in the area and that the patrons of the nursery would be forced to turn around in her driveway.

Ms. Smith advised the Board that she had received help in determining the availability and desirability of the nursery in this area, and pointed out upon questioning that she would not reside on the property. Upon further questioning by the Board, Ms. Smith noted that the property has a single-car driveway and that transportation would be provided by the nursery for a majority of the 22 children that are permitted to be cared for in the structure.

Board Action:

On MOTION of SMITH, the Board (5-0) denied application 9376 in an RS-3 District on the following described tract:

Lot 9, Block 2, Northridge Addition to the City of Tulsa, Okla.

9378

Action Requested:

Variance (Section 910 - Principal Uses Permitted in Industrial Districts - Under the Provisions of Section 1670 - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's nursery in an IL District located north and east of 51st Street and 76th East Avenue.

Presentation:

Phillip Ryan, representing National Child Care Centers, submitted a plot plan (Exhibit "J-1") advising that the property to the north and

9378 (continued)

east of the subject tract is vacant, that the Union Bank is located to the south and that the Villa Fontana apartments and duplexes are located to the west. He advised that the driveway would accommodate six or seven automobiles and that an intercom system would be utilized in the operation in order that the parents would not be required to leave their automobiles to pick up their children. He further pointed out that the property to the north and east will be developed commercially.

Mr. Ryan submitted a rendering (Exhibit "J-2") of the proposed sign that would be located on the property, advising that the sign was 39 square feet in size and lighted.

Mr. Gardner advised the Board that the use in the IL District requires a variance as the nursery is not permitted in the IL District by right; however, the use is permitted by right in a commercial district and by exception in an office district.

With regard to the plat (Exhibit "J-3") of the subject property, Mr. Ryan advised that he had obtained the partial plat from Frates Properties when Frates sold him the property, after which Board Member Smith advised that his engineering firm had drawn the plat for Frates Properties and not the applicant.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (5-0) approved a Variance (Section 910-Principal Uses Permitted in Industrial Districts - Under the Provisions of Section 1670 - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's nursery, per plot plan and subject to the sign not being lighted, in an IL District on the following described tract:

Beginning at a point 285' north of the southwest corner of Lot 2, Block 1, Fontana Addition to the City of Tulsa, Oklahoma; thence north  $65^{\circ}-39'-22''$  west a distance of 209.39'; thence north  $24^{\circ}$  a distance of 183'; thence south  $66^{\circ}$  east a distance of 209.39'; thence south  $24^{\circ}$  west a distance of 184.26' to the point of beginning.

(Blessing out at 4:45 p.m.)

9383

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) to build across a lot line in an RS-3 District located at 104 South 41st West Avenue.

Presentation:

Herman Edge submitted a plot plan (Exhibit "K-1") requesting permission to build across a lot line as proposed.

Protests: None.

9383 (continued)

Board Action:

On MOTION of JOLLY, the Board (4-0) approved a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) to build across a lot line, per plot plan, in an RS-3 District on the following described tract:

Lots 1 and 2, Block 2, Hayden Lewis Second Addition to the City of Tulsa, Oklahoma.

9390

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in the Residential Districts - Under the Provisions of Section 1630) for a variance of the rear yard requirement from 20' to 17' in an RS-3 District located north and west of 24th Place South and 137th East Ave.

Presentation:

Don East submitted the plot plan (Exhibit "L-1") and plat (Exhibit "L-2") for the subject property requesting a variance of the rear yard requirement from 20' to 17'.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved a Minor Variance (Section 430 - Bulk and Area Requirements in the Residential District - Under the Provisions of Section 1630) for a variance of the rear yard requirement from 20' to 17', per plot plan, in an RS-3 District on the following described tract:

Lot 5, Block 1, Eastland Acres Addition Amended, to the City of Tulsa, Tulsa County, Oklahoma.

ADDITIONAL ITEMS

Communication

2754  
5267

This is a Communication (Exhibit "M-1") from the Zoning Inspector advising that in 1955 the Board of Adjustment permitted a television repair shop, Use Unit 14, at 1314 East 10th Street and in 1967 allowed the enlargement of the existing garage facing 10th Street to expand the building and use previously approved. During the past years the building has been used for retail sales and repair of televisions. He noted that his office had received an application requesting that the building be permitted to be used as an antique shop, after which he questioned whether or not the request would constitute a nonconforming use since the request is a change in use but within the same Use Unit.

Communication: 2754 & 5267 (continued)

Mr. Gardner explained that if the Board found the use to be nonconforming since the passage of the Ordinance in 1970, the Building Inspector could issue a permit within the same Use Unit which would permit the antique shop to be located on the subject property, otherwise the applicant would have to rezone the property in order to operate the shop on the property.

On MOTION of SMITH, the Board (4-0) found the television repair, Use Unit 14, previously granted to be nonconforming, thereby permitting an antique shop, Use Unit 14, to also be operated on the subject property.

Interpretation:

This is a request from the Staff that the Board interpret under Section 1660 (b) where a zoning district line is located. Mr. Gardner presented a map of the area of Utica Avenue and Latimer Place, advising that there is no dimension between the street and where the zoning line is to be located. He requested that the Board make a determination as to where the zoning line should be located, which the Staff had determined to be  $6\frac{1}{2}$  lots south of Latimer Place based on the official 1":100' scale atlas map prior to 1970.

On MOTION of SMITH, the Board (4-0) interpreted that the zoning line on the west side of Utica Avenue and Latimer Place was to be located  $6\frac{1}{2}$  lots south of Latimer Place as had been determined by the Staff.

There being no further business, the Chair declared the meeting adjourned at 4:56 p.m.

Date of Approval March 3, 1977

  
Chairman