

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 232
Thursday, March 17, 1977, 1:30 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Guerrero, Chairman Jolly Purser, Mrs. Smith	Blessing	Edwards Etter, Mrs. Gardner Jones	Jenkins, Building Inspector Pauling, Legal Department

Chairman Guerrero called the meeting to order at 1:35 p.m. and declared a quorum present.

MINUTES:

On MOTION of JOLLY, the Board (4-0) approved the Minutes of March 3, 1977 (No. 231).

SPECIAL DISCUSSION:

Board Member Jolly advised that the Supreme Court had failed to approve the City's Motion for rehearing concerning the District Court decision regarding principal use variances. The Court found that the City could not prohibit by local Ordinance the right for the Board to hear and decide principal use variances. The Staff has therefore provided the Board with recommended rules of procedure for granting principal use variances and also draft language for a Zoning Code Amendment relating to this matter (Exhibit "A-1").

On MOTION of JOLLY, the Board (4-0) adopted the rules of procedure, dated March 14, 1977, as guidelines only and on an interim basis until such time as the Zoning Code is amended in public hearing and until the Board has received input from the public concerning such procedures.

UNFINISHED BUSINESS:

8984

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) to construct a screening wall or fence along lot lines in common with an R District; an Exception (Section 250.3 (c) - Modification of the Screening Wall or Fence Requirements) 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 Provision 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 in a CS District located north and west of 61st Street and Sheridan Road.

8984 (continued)

Presentation:

Charles Norman, the applicant, was not present; however the Staff advised that the applicant had requested a continuance of the subject application to May 19, as the Building Inspector had ordered the retaining wall be removed and rebuilt to meet their standards.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) continued application 8984 to May 19, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

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 Street and Yale Avenue.

Presentation:

Lou Brayton, the applicant, was not present.

The Staff pointed out that the subject application had been continued to this date with the applicant being notified that the application would be decided upon this date whether or not proper legal information had been provided the Staff. The Staff noted that the applicant had not provided a new legal description.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) declared the application stricken from public hearing.

9389

Action Requested:

Exception (Section 630 - Principal Uses Permitted in the Office District - Under the Provisions of Section 1670) to erect a two-story building with 40% coverage in an OI District located southeast of 21st Street and Yale Avenue.

Presentation:

Dr. V. H. Trotter advised the Board that his application had been continued from the previous meeting in order that he might provide a plot plan which he submitted this date. He reviewed the plot plan (Exhibit "B-1") pointing out the ingress, egress, location of the structure and parking. When questioned about the fire lane shown on the plot plan, Dr. Trotter advised that the fire lane was actually a 6' strip required by the Code that could be utilized if necessary for emergency purposes.

9389 (continued)

In reviewing the plan, Mr. Gardner advised that the required setback on the south is 10' and only 6' is shown. In addition 23 parking spaces are required and only 15 shown. He advised that the plot plan as submitted was not acceptable since the application was not advertised for waivers of the setback and parking.

Upon questioning by the Board as to whether or not he had worked with the Staff in preparing his plot plan, Dr. Trotter pointed out he had not worked with the Staff as he had on the original application filed, advising he was not aware of the requirements. Upon further questioning, Dr. Trotter advised that a two-week continuance would be sufficient for him to present a plot plan meeting all requirements.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) continued application 9389 to April 7, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9394

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to use residence for an office in an RS-3 District located at 11535 East 28th Street.

Presentation:

Barry Buchanan, the applicant, was not present.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) continued application 9394 to April 7, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, directing the Staff to notify the applicant of the continuance and the fact that the Board will make a decision with regard to the application on that date.

NEW APPLICATIONS:

9410

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to locate a mobile home in an RS-1 District located at 10502 West 51st Street.

Presentation:

Margaret Hill, the applicant, was not present.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) continued application 9410 to April 7, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9412

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to conduct union meetings in present church building in an RS-2 District located at 500 Ridge Drive.

Presentation:

Jack West, representing the applicant, advised the Board that the United Steel Workers union is working with a realtor in Sand Springs to purchase the existing church structure for conducting union meetings. He advised that the union meets the second Monday of each month at 9:00 a.m. and 7:00 p.m. with each meeting being approximately two hours in length. Mr. West presented a plot plan (Exhibit "C-1") noting the relationship of the parking to the existing structure.

The Chair submitted a recommendation (Exhibit "C-2") from the Sand Springs Board of Adjustment which recommended the application be approved subject to three conditions: (1) improved parking lot with required parking spaces and standards, (2) adequate drainage from parking lot be provided so as not to adversely affect adjacent properties, and (3) a screening fence on the south lot line be considered if parking is anticipated in this area. Upon questioning, Mr. West advised he was aware of the conditions and had no objections to the conditions.

In Board discussion, Mr. West advised that the union had no plans to use the building other than one time per month and that they have a contract with the church at present for the union to use the building three times per week for approximately six months. The additional meetings would be for the use of the Boy Scouts, Girl Scouts, etc. Upon further questioning, Mr. West noted that there was no provision in the union constitution for drinking alcoholic beverages and the structure would not be rented for dance purposes.

Board Action:

SMITH moved to approve the application subject to the three conditions outlined by the Sand Springs Board of Adjustment, with condition #3 requiring a 6' solid screening fence as opposed to a chain link fence, after which Mr. West advised that the parking would be facing the north and the closest neighbor to be affected by headlights is located 200' from the property. He noted the union would provide screening if required but as planned there would be no problem with headlights on the area to the south. The motion was then amended,

on MOTION of SMITH, the Board (4-0) approved an Exception (Section 410-Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to conduct union meetings in present church building, subject to the parking areas being improved per standards with the required number of parking spaces, that adequate drainage from the parking lot be provided so as not to adversely affect adjacent properties, that a six-foot solid screening fence, as opposed to chain link, be provided on the south lot line only if the union utilizes the south 50 feet of the property--the screening to be required prior to the south 50 feet actually being used, in an RS-2 District on the following described tract:

Beginning at the Southeast corner of Lot 4, Block 20, Charles Page Home Acres No. 2, Addition to the City of Sand Springs, Oklahoma; thence 200' West; thence North to the West line of Lot 4; thence East to the Northeast corner of said Lot 4; thence Southerly along the property line to the point of beginning.

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities) to use for automobile sales in a CS District located at the southwest corner of 15th Street and Memorial Drive.

Presentation:

Harold Flaugh, representing P & H Auto Sales, advised that the structure existing on the subject property was once occupied by a U-Totem convenience grocery. The proposed use is an automobile sales operation with autos being on display inside the structure as well as on the property so that passersby could view the autos for sale. Because of the use, there would be less a demand on the plumbing and electrical services than with the previous use. Upon questioning, Mr. Flaugh advised the operation would have hours of 8 a.m. to 6 p.m. six days a week.

Protests:

Elmer Clark of Parrish and Clark advised the Board that he did not protest the operation, but pointed out that the operation as proposed does not comply with the Oklahoma Motor Vehicle and Chrysler Corporation regulations for a dealer agreement. With regard to the use being out of compliance with these regulations, the Board advised that that point was not a point that the Board could rule upon.

9413 (continued)

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 410-Principal Uses Permitted in Commercial Districts - Section 1217 - Automobile and Allied Activities) to use for automobile sales, as presented, in a CS District on the following described tract:

The North 1 acre of the NE/4, NE/4, NE/4, SE/4 of Section 11, Township 19 North, Range 13 East, Tulsa County, Oklahoma.

9414

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a day care center in an RS-3 District located at 5119 North Johnstown Avenue.

Presentation:

Elena Kemp, representing the applicant, advised the Board that she would be the manager of the proposed child care center which will help to provide day care for working mothers in the area at their request. She advised she had spoken with the Health Department and had been approved to care for 22 children in the existing structure. She advised that there would be no problem with loading and unloading the children as a driveway is provided on Johnstown. Upon questioning, she noted that a circle drive could be provided if required and that she had planned to operate the center from 6:30 a.m. to 12:30 a.m.

In reviewing the application, Mr. Gardner noted that possibly an access point on Johnstown and an access point on 51st Place North, each being one-way points of access.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) approved an Exception (Section 410-Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a day care center, subject to no signs being permitted in keeping with the character of the residential neighborhood and subject to a circular drive being provided for entering on one street and exiting on the other in an RS-3 District on the following described tract:

Lot 19, Block 31, Valley View Second Addition to the City of Tulsa, Oklahoma.

9415

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the frontage requirements from 71' to 50' to permit a lot-split (L-13930) in an RM-2 District located from 1216 to 1218 West 7th St.

9415 (continued)

Presentation: T. L. Martin, the applicant, was not present.

The Staff advised the Planning Commission had approved the lot-split, subject to the approval of the Board.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (4-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the frontage requirements from 71' to 50' to permit a lot-split (L-13930) in an RM-2 District on the following described tract:

The East 52 feet of Lots 22 and 23, Block 1, Mitchell-Crosby Addition to the City of Tulsa, Oklahoma.

9416

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's day nursery in an RS-2 District located at 1415 East 67th Street North.

Presentation:

Sharon Short, the applicant, advised the Board that she resides at 1515 East 67th Street North and plans to operate the nursery at 1415 East 67th Street North. She advised she had spoken with representatives from Cherokee School and there is a need for a child care in the area as there are no centers in Turley--the closest center being two or three miles to the south. Also, the Education Service Center said that they would not prevent children attending the nursery from riding the school buses. Mrs. Short noted that she is qualified to care for 18 children in the structure and if there is a need, an additional room with bath facilities could be added later. Mrs. Short advised that the property has 100' of street frontage on 67th Street North and a circle drive could be provided if required. The hours of operation would be 7 a.m. to 6 p.m. five days per week with a possible Friday and Saturday night operation if the need arises. Also, the property will be fenced as required and there will not be a possibility of the children leaving the fenced area and nearing the creek. She advised that neither the property nor 67th Street North has flooded.

Protests:

The Staff submitted a letter (Exhibit "D-1") of protest from Aaron Morgan, II who expressed concern with regard to the flooding in the area that might pose a safety problem for the children.

Mr. Gardner advised that he had reviewed the County flood map and found some flooding potential, however, the map is very general with regard to boundaries. He suggested, should the Board desire to approve the application, that the operation be approved for only the existing structure until such time as flood questions have been answered. Or, if an addition is to be made, the Board could approve the application subject to the approval of the County Engineer regarding drainage so that no adverse problems are created.

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During the making of the motion, Mrs. Short questioned why a sign was not permitted as Peoria is a commercial street, there is commercial development to the north of the subject tract, and the fact that she had planned to erect a sign on Peoria and one on the structure. The Staff stated a sign could be placed on Peoria, but felt that no signs should be permitted on the subject property in keeping with the residential character of the neighborhood.

Board Action:

On MOTION of SMITH, the Board (4-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's day nursery, subject to a circular drive being provided, the hours of operation being 7 a.m. to 6 p.m., no signs being permitted on the subject property, that approval be granted for the existing structure only, and that the applicant consult with the County Engineer as to the flood potential on the property in an RS-2 District on the following described tract:

E/2 of Lot 9, Block 11, Golden Hills Addition to the City of Tulsa, Oklahoma.

9417

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of rear setback requirements from 35' to 25' in an RS-1 District located north and west of 66th Place and Jamestown Avenue.

Presentation:

Everett Williams submitted the plot plan (Exhibit "E-1") requesting a waiver of the setback requirements in order that a number of existing trees on the property might be preserved. It was noted that the Board approved a similar request for the structure to the east in 1973. Also, upon questioning, Mr. Williams advised that the structure would align with the residence to the east.

Protests:

The Staff submitted a letter (Exhibit "E-2") of protest from Lloyd Lundahl, Jr., of 3415 East 67th Street, protesting the application on the basis that it would result in a loss of privacy and property value. In review of the communication, the Staff advised that the protestant resides approximately one block from the subject tract and would therefore not be immediately affected.

Mr. Gardner pointed out that the property has two street frontages which requires greater setbacks and in addition the property is located on a curve.

Board Member Smith requested that the Staff contact Mr. Lundahl and advise him that the subject property does not abut his property, but is located in another block.

Board Action:

On MOTION of JOLLY, the Board (4-0) granted a Variance (Section 430-Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the rear setback

9417 (continued)

requirements from 35' to 25', per plot plan and per representation by the applicant that the proposed structure does align with the residence to the east, in an RS-1 District on the following described tract:

Lot 2, Block 2, Cedar Creek Addition to the City of Tulsa, Okla.

9419

Action Requested:

Exception (Section 910 - Principal Uses Permitted in the Industrial Districts - Section 1213 - Convenience Goods and Services) to operate a dairy store in an IL District located at 3018 East Pine Street.

Presentation:

Melvin Potter, the applicant, was not present, but it was felt that the application could be reviewed this date.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 910 - Principal Uses Permitted in the Industrial Districts - Section 1213 - Convenience Goods and Services) to operate a dairy store in an IL District on the following described tract:

The West 161.24' of the North 166' of the West 331.24' of Haw Industrial Addition to the City of Tulsa, Oklahoma.

9420

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1202 - Area-Wide Special Exception Uses) to operate a demolition waste land fill in an RS-3 District located at 363 West 41st Street North.

Presentation:

Richard Keith, the applicant, was not present.

Protests:

Protestants present questioned whether or not they were permitted to present their objections to the application this date, after which the Board noted that an application is usually continued in order that both sides of the application might be presented at the same time. It was suggested that the protestants leave their names and addresses (Exhibit "F-1") for the record in order that the Board might know how many were present this day when the application is later presented to the Board.

David Pauling, Assistant City Attorney, referred to a communication (Exhibit "F-2"), dated February 23, 1977, from the applicant which advises that the entire operation would be completed within 30 to 45 days, which Mr. Pauling noted would be prior to the next meeting of the Board.

9420 (continued)

Board Action:

On MOTION of JOLLY, the Board (4-0) continued application 9420 to April 7, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, and directed the Building Inspector look into the use to see if a cease and desist order should be served.

9421

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 740 - Special Exception Uses in Commercial Districts, Requirements - Section 1208 - Multifamily Dwellings and Similar Uses) to erect apartments; an Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) to remove the screening requirement on the common zoning line 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) to build across a zoning district line between a CS and RM-3 District; and a Minor Variance (Section 206 - Number of Dwelling Units on a Lot - Under the Provisions of Section 1630) to build more than 40 dwelling units on one lot in a CS and RM-3 District located south and west of 41st Street and Garnett Road.

Presentation:

Ed Bates, representing the applicant, submitted a rendering (Exhibit "G-1") of the development concept and a copy of the preliminary plat (Exhibit "G-2") with the development superimposed on that portion of the plat under application this date. Mr. Bates reviewed the development concept, pointing out that an apartment project is proposed on the property at RM-2 standards with the exception of the density. RM-2 permits 32 units per acre, RM-3 permits 80 units per acre, and the apartment project proposed will be developed at a density of 25.6 units per acre. In studying the land, it was found that there are many advantages for the project because of the natural features of the tract in that development as proposed would permit the preservation of many of the existing trees throughout the property. Mr. Bates advised that the preliminary plat had been submitted to the Technical Advisory Committee for review, noting that an additional curb cut from Garnett was requested in addition to the basic circulation pattern proposed throughout the development.

In addition to requesting permission to erect apartments in the CS District, Mr. Bates requested permission to locate more than 40 dwelling units on the overall tract because subdividing the property into lots would have been impractical. Also, he requested permission to build across the zoning district line between the RM-3 and CS at the western end of the property in addition to requesting a waiver of the screening on that zoning line between the RM-3 and CS which would separate the apartment development and also be impractical. Building across the zoning district line would enable the apartments to be developed without removing the existing trees, thereby preserving the natural features of the tract, and also permit the detention requirements to be met.

9421 (continued)

Upon questioning, Mr. Bates advised the Board that channelization of the water runoff was proposed and in review by the City at the present time--the location being to the south of the subject property. Also, to the north and south of the subject property would be located green belts to also serve for flood purposes. In further review of the preliminary plat and rendering presented the Board and applicant discussed the proposed channel, water detention and the street which abuts the channel and traverses the subject property north through the remainder of the property owned by Frates Company.

In reviewing the applicant's proposal, Mr. Gardner pointed out that the middle portion of the property is within the flood moratorium which the City will continue an additional 90 days at their Commission meeting this week. The preliminary plat has not yet been reviewed by the Technical Advisory Committee and because of the pending drainage criteria the shape of the tract could possibly change and the proposed development might be required to be again reviewed by the applicant as to whether or not a change in the layout might also be required. The overall concept of the apartments in the CS District by Exception via the Board is a good use from a planning standpoint, but the drainage requirements have not yet been reviewed and because it is not known what the TAC might require, Mr. Gardner suggested that the application be continued.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) continued application 9421 to April 7, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, to await a review of the drainage by the Technical Advisory Committee.

9422

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit a mobile home in a CH District; and a Variance (Section 710 - Principal Uses Permitted in Commercial Districts - Under the Provisions of Section 1670) to permit placing a mobile home on the grounds of hardship in a CH District located at 331 South 85th E. Ave.

Presentation:

Fred Smith requested permission to locate a mobile home on the 2½ acre subject tract, noting that he also lives on the property. The mobile home would be used for residential purposes for his mother who is ill and is required to have family care as stated by her physician. Upon questioning, Mr. Smith advised that the mobile home would be 14' x 60' or larger and a septic tank system would be required, in addition to the mobile home being located on the property until such time as she cannot live alone.

David Pauling, Assistant City Attorney, noted in reviewing a principal use variance that the tendency in looking at a variance is often to approve a variance upon a finding that there is a hardship involved;

however, in looking at a principal use variance, the Ordinance and Statute require finding in addition to the hardship that the situation is unique to the property and the area in which located. He felt that the uniqueness in a case as this almost coincides with the hardship that the mother is ill and cannot live alone without family care nearby. Another consideration is that the pattern in this area is unique with CH zoning on the interior and CS zoning on the frontage of Admiral. The applicant could get relief by filing an application for rezoning to downzone the property to a residential classification, but in this case it would not actually be appropriate because of the development in the area. In his final statements, he suggested that the Board might treat the property as though it were zoned RS and approve the request for one year, subject to the customary removal bond and the Board's review once again at the end of that year.

Board Member Jolly questioned the applicant if he could provide a written statement from the doctor that his mother would require constant care and he advised he felt he could provide the letter.

Mr. Gardner reviewed the rules of procedure governing principal use variances noting that the statement which applies to the subject application is that which requires a written statement explaining the hardship and an explanation as to how this hardship is unique to the property. Concerning the relationship to the Comprehensive Plan, he noted that the property is interior, zoned commercial and not on a major arterial; therefore, more appropriate planning for this property would be low intensity residential. Because of this, Mr. Gardner suggested that the Board might consider the request as one located in a residential district might be considered.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) upheld the decision of the Building Inspector and granted a Variance (Section 710 - Principal Uses Permitted in Commercial Districts - Under the Provisions of Section 1670) to permit placing a mobile home on the grounds of hardship for a period of two years, subject to the customary removal bond and subject to a written statement from the doctor stating that the applicant's mother's condition requires constant care by the family, in a CH District on the following described tract:

Lot 3, Block 8, Day Suburban Acres 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) to erect a restaurant in an IL District located northeast of 51st Street and 78th East Avenue.

Presentation:

Bill Richert, presented a copy of the Fontana Plan (Exhibit "H-1") which contains the subject property, noting that permission is being requested to construct a restaurant on the subject property, zoned

IL and located to the west of the Fontana Shopping Center. The 75' x 98' structure will contain approximately 7,000 square feet of floor area and the lot is 45,000 square feet in size. Upon questioning Mr. Richert noted that the building plans are not yet finalized; therefore, no plot plan has been prepared for the Board's review. The restaurant will be operated and similar to the Heritage House restaurant on South Memorial, with no drive-in facility being operated in conjunction with the restaurant.

Protests:

Charles Floyd, 7555 East 52nd Street, submitted a protest petition (Exhibit "H-2") containing the signatures of 62 residents in the area of the property who oppose the subject use. Because of the traffic congestion in the area, it was felt that the use would only increase that congestion; the effects of the use were opposed with regard to odor, etc., from the restaurant facility; also, the property was zoned IL when the residents purchased their homes and felt that a restaurant should not be permitted on the property as it would devalue properties in the area; and finally, the protestant feared that at some time in the future alcoholic beverages could and would be sold at this location. With this regard, it was felt that living across the street from an establishment which served food and alcoholic beverages until late evening would be a nuisance.

R. H. Brown, 5206 South 76th East Avenue, questioned whether or not the Board could approve the application without a definite plan for the development of the property.

Jay Nelson, 5117 South 76th East Avenue, advised the Board that he was opposed to the refuse that would be created in conjunction with the facility as he has experienced refuse from other commercial establishments in the area which provides a harbor for rats. He noted the various types of debris found on his property from the surrounding commercial establishments, noting that he himself had trapped rats in the immediate area and felt that the use would increase this potential.

Paul Hammond, 7561 East 52nd Street, advised that the property owners in the area purchased their properties with the understanding that the IL zoning would not be changed. Already the area is experiencing heavy traffic and the widening of 51st Street will not solve this traffic problem but only increase traffic in the area. He opposed any commercial operating on the property under application and noted that there had been no discussion by the applicant as to the hours and type of operation. He encouraged the Board to deny the use of the property for commercial purposes, noting that there has been a high failure rate for restaurants on 51st Street between Memorial and Sheridan further noting that there is unoccupied space in the Fontana Center that could be utilized for the applicant's use.

Board Members Jolly and Purser pointed out the many uses that would be permitted in the IL District by right which might have more adverse effects on the surrounding area than the subject use.

Upon questioning, Mr. Richert advised that the restaurant would be a buffet-type operation between the hours of 11:00 a.m. and 8:30 p.m., seven days per week. A brick barrier will be constructed around the refuse containers to keep animals out, no liquor or beer will be served,

and the precedent for restaurants in the area was set when Tandy's Junction was approved to the west of the subject property.

Mr. Gardner advised that the Board, in reviewing the application for exception, could make conditions and felt that the Board should review the application with regard to what uses are permitted by right on the property pointing out additional uses that might be permitted on the property which would be more objectionable to the residential area.

Mr. Hammond advised the Board that he felt other uses such as a one-story office could be constructed on the property. With regard to the many industrial uses mentioned by the Board and Staff, Mr. Hammond did not feel that these uses would be developed because of the price of the property and its location. Mr. Brown felt that the protestants should be permitted to review what is permitted by right and what is being proposed in order that some compromise might be made.

Upon questioning, Mr. Richert advised he had not discussed the proposed use with property owners in the area other than the Frates Company.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 910-Principal Uses Permitted in Industrial Districts - Section 1212 - Eating Places Other Than Drive-Ins) to erect a restaurant as presented and subject to the applicant's submitting a plot plan and rendering of the proposed facility to the Board--the plans including the location of the sign--for review and approval prior to the building permit being issued in an IL District on the following described tract:

The East 150 feet of the South 300 feet of Lot 2, Block 1,
Fontana Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Homes) to locate a mobile home; a Variance (Section 330 - Bulk and Area Requirements in the Agriculture District - Under the Provisions of Section 1670) for a variance of the frontage requirements from 300' to 198.96'; a Variance (Section 340 - Requirements for Special Exception Uses in the Agriculture District - Under the Provisions of Section 1670) for a variance of the five-acre minimum requirement for a mobile home; and a Variance (Section 207 - Street Frontage Required - Under the Provisions of Section 1670) to accept street dedication as a public street in an AG District located at 13209 North 85th East Avenue.

Presentation:

Neil York requested permission to locate one mobile home on the subject property which does not meet the frontage and area requirements of the AG District as the properties are being sold at less than the five-acre minimum. There are a number of mobile homes in the area. The street has been accepted by resolution by the County.

Mr. Gardner noted that this area is considered a "wildcat" subdivision and does not meet the requirements of a mobile home in an AG District but can be considered per the County's resolution concerning "wildcat" subdivisions.

Because the street dedication has been accepted by the County, the Board does not need to consider the variance of Section 207 as requested since that Section would no longer apply.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 310-Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Homes) to locate a mobile home; granted a Variance (Section 330-Bulk and Area Requirements in the Agriculture District - Under the Provisions of Section 1670) for a variance of the frontage requirements from 300' to 198.96'; and granted a Variance (Section 340 - Requirements for Special Exception Uses in the Agriculture District - Under the Provisions of Section 1670) for a variance of the five-acre minimum requirement for a mobile home in an AG District on the following described tract:

A 3.01 acre tract of land situated in the NW/4 of Section 36, Township 22 North, Range 13 East, Tulsa County, State of Okla., more particularly described to-wit: Beginning at a point North 89°-58'-42" West a distance of 660' and North 00°-07'-30" East a distance of 516.83' from the Southeast corner of said NW/4, Section 36, T-22-N, R-13-E; thence due West a distance of 659.44' to a point; thence North 00°-07'-30" East a distance of 198.96' to a point; thence due East a distance of 659.44' to a point; thence South 00°-07'-30" West a distance of 198.96' to the point of beginning, according to the U. S. Government Survey thereof, subject to a 25-foot roadway easement on the East, subject to a 10-foot utility easement on the West and subject to a waterline easement on the East. Subject to 1/4 mineral reservation by prior owner.

Action Requested:

Exception (Section 310 - Community Services, Cultural and Recreational Facilities) to construct a park and park-related facilities within the area, in phases as funding becomes available, to include three river overlooks; two ferry boat landings; paved pedestrian/bicycle paths; landscaping; path lighting; underground irrigation systems; exercise trail; interpretive nature trails; park furniture such as benches, picnic tables, trash containers; and river bank stabilization where required in an AG & FD District located between 11th Street and 31st Street along Riverside Drive.

Presentation:

Jackie Bubenik, representing the River Parks Authority, submitted a site plan (Exhibit "I-1") indicating the various uses planned for the area along Riverside Drive as proposed. In reviewing the plans for

the area, Mr. Bubenik advised that a bridge restaurant had been proposed; however, a study has indicated that it cannot be located in this area.

Mr. Gardner suggested that any uses requiring building permits should be reviewed by the City Engineer with regard to drainage, after which Mr. Bubenik advised that the Authority is required to obtain permits from the Corps of Engineers prior to development.

Protests:

Mrs. C. E. Ice, 3705 East 51st Place, advised the Board that she owns property on South Lawton between the expressway and Riverside Drive. She questioned what would be developed in this area and whether or not her property would be taken for the development.

Mrs. Bethel Lay, 1912 South Cheyenne, advised the Board that she did not oppose the Great Raft Race until last year when the area residents had experienced the parking, debris and traffic in their residential neighborhoods created by those participating in and watching the races. She opposed any further development that also might create these same problems for the area residents.

V. C. Bash, 1826 South Cheyenne, representing other area residents, advised the Board that he did not receive notice of the hearing and that he was opposed to the application as are other residents because of the experiences they have had with the Raft Races held each year. These protestants felt that similar disturbances would be created by the development of the park proposed. Mr. Bash advised he knew of no one in the area that would be benefitted by the development.

Interested Party:

Cathy Kelly, 1501 Elwood, advised the Board that she felt the plans proposed were good for the area as her property overlooks the River and any beautification of the River would be welcomed.

W. I. Nichols, a founder of the Spotlight Theater, enthusiastically supported the beautification program proposed, noting that without public support the River project would fail. He pointed out that many eyesores along the River had been cleaned up and also pointed out that debris would not be a problem if controlled properly by containers.

Mr. Bubenik advised that the Authority was not in a position to control that area to the east of Riverside Drive as that area is out of their jurisdiction. He felt that the Raft Races had created an imposition upon the neighborhood and this is the reason that development is taking place on the west side. The Raft Races began before the Authority began their park projects and felt that the activity was good for family recreation, noting that the undesirable experiences are being handled at present. The litter along Riverside Drive will be picked up daily by a park crew and an attempt is being made to move the Raft Races to the west side of the River.

Board Action:

with Smith abstaining)

On MOTION of JOLLY, the Board (3-0-1/ approved an Exception (Section 310-Community Services, Cultural and Recreational Facilities) to construct a park and park-related facilities within the area, in phases as funding

becomes available, to include three river overlooks; two ferry boat landings; paved pedestrian/bicycle paths; landscaping; path lighting; underground irrigation systems; exercise trail; interpretive nature trails; park furniture such as benches, picnic tables, trash containers; and river bank stabilization where required, subject to the applicant's returning to the Board for any other structure requiring a building permit that might be proposed for construction in the future, in an AG & FD District on the following described tract:

Commencing at a point called the "beginning point" located at the intersection of the Westerly right-of-way line of Riverside Drive and the Southerly right-of-way line of Midland Valley Railroad; thence Northwesterly along the Westerly right-of-way line of Riverside Drive and continuing to the intersection with the Easterly right-of-way line of the 11th Street bridge; thence North-easterly along the Easterly right-of-way line of the 11th Street bridge extended to the Northeasterly right-of-way line of River-side Drive; thence Northwesterly along the Northeasterly right-of-way line of Riverside Drive extended to the intersection with the Easterly right-of-way line of the Redfork Expressway; thence Southwesterly along the Easterly right-of-way line of the Redfork Expressway to the approximate centerline of the Arkansas River; thence Southeasterly and continuing along the centerline of the Arkansas River to the Southerly right-of-way line of the Midland Valley Railroad; thence Northeasterly along the Southerly right-of-way line of the Midland Valley Railroad to the intersection with the Westerly right-of-way line of Riverside Drive and the point of beginning of the area herein described; said area lying partly in Section 11, Township 19 North, Range 12 East, and partly in Section 12, Township 19 North, Range 12 East, and partly in Section 13, Township 19 North, Range 12 East; an AG and FD District.

Action Requested:

Variance (Section 730 - Bulk and Area Requirements in Commercial Dis-tricts - Under the Provisions of Section 1670) for a variance of the setback from 100' to 70' from the centerline of Harvard in a CS Dis-trict located at the northeast corner of 21st Street and Harvard Ave.

Presentation:

George Thomas, representing Foodmaker, Inc., submitted a site plan (Exhibit "J-1") and a building plan (Exhibit "J-2") for the Board's review, advising that a Jack-in-the-Box eating establishment is pro-posed on the subject property which contains an old service station structure. In order to build on the property a variance of the set-back will be required per plan. Other buildings in the area which front Harvard Avenue are closer to the street than the proposed struc-ture. Also, the structure proposed will utilize existing curb cuts.

Upon questioning, Mr. Thomas advised that the operation has cleanup crews that will handle the debris on the property.

Protests: None.

9432

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts) to extend a carport 11' into the required front setback in an RS-2 District located at 3908 East 53rd Street.

Presentation:

Donald Eddy submitted the plot plan (Exhibit "M-1") advising the Board that the carport was in place as he did not know that a building permit was required and that there were requirements concerning setbacks. Mr. Eddy advised that his property had been flooded three times in the last 10 years and the original carport was destroyed. The carport he built is taking the place of the original carport, while he has built a brick retaining wall around the existing garage doors and the back of the structure to keep the water flow out, utilizing the garage for a playroom. The carport, he noted, is providing protection from the weather for his family and automobiles. Mr. Eddy referred to a letter (Exhibit "M-2") from the City Commission advising that his exception to the moratorium had been granted, thereby permitting the construction of a carport which is existing. Mr. Eddy noted also that he would accept modifications to the carport if the Board imposed such modifications, noting that he would have no objection to removing the carport and replacing it in the back of the residential structure. Again, Mr. Eddy advised he was not aware of the need for a permit and the requirements of the City, noting he was only trying to protect his property and family from flooding. Upon questioning, he advised that his neighbor to the east had not verbally objected to the carport, noting that he would request a written statement from his neighbor as to whether or not he objected.

Mr. Gardner felt that the City Commission more than likely took into consideration that the concrete drive was existing and probably would not want additional concrete poured in the back yard in order that the carport could be moved to that location.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) granted a Variance (Section 430 - Bulk and Area Requirements in Residential Districts) to extend a carport 11' into the required front setback, per plot plan, in an RS-2 District on the following described tract:

Lot 7 and the West 33.99 feet of Lot 6, Block 7, Lou North Woodland Acres Addition to the City of Tulsa, Oklahoma.

9433

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to maintain a mobile home in an RS-3 District located at 9186 East Latimer Court.

Presentation:

Ken Ogden, representing the applicant, requested permission to maintain the existing mobile home on the subject property for his mother who is ill and needs care.

3.17.77:232(22)

Board Action:

On MOTION of SMITH, the Board (4-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts- Under the Provisions of Section 1630) for a variance of the frontage requirements from 100' to 20' and a variance of the area requirements from 13,500 square feet to 12,463.40 square feet to permit a lot-split (L-13928) in an RS-1 District on the following described tract:

Beginning 1,650' North of the SW corner of Section 18, Township 19 North, Range 13 East; thence East 360'; thence North 121'; thence West 360'; thence South 121' to the point of beginning, all in the City of Tulsa, Oklahoma.

9450

Action Requested:

Minor Variance (Section 280 - Structure Setback from Abutting Streets- Under the Provisions of Section 1630) to erect a pole sign 36' 4" from the centerline of 11th Street in a CH District located at the northwest corner of 11th Street and Florence Ave.

Presentation:

Mike Moydell, representing Wendy's, submitted a plot plan (Exhibit "N-1") and a brochure (Exhibit "N-2") requesting a variance to erect a pole sign 36' 4" from the centerline of 11th Street, noting that the sign would not be located in the dedicated right-of-way, but would be just over the Major Street Plan setback.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) granted a Minor Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1630) to erect a pole sign 36' 4" from the centerline of 11th Street, per plot plan and subject to a customary removal contract in a CH District on the following described tract:

Lot 6, Block 28, College Addition to the City of Tulsa, Okla.

ADDITIONAL ITEMS:

Communication

7568

This is a Communication (Exhibit "O-1") from Vaden Bales, Attorney for Sooner Federal Savings and Loan Association, requesting a clarification of the Board's approval of August 3, 1972 as to whether or not screening would be required on the north and south boundaries and the east if one-story dwellings are constructed to the north and south. Mr. Bales advised that it was his own interpretation that the screening would never be required on the east boundary, but would be required on the north and south boundaries should one-story dwellings be erected in the future adjacent to either the north or south boundaries.

The Board reviewed the minutes of August 3, 1972 with regard to the question of screening. It was the consensus of the Board that screening would be required as Mr. Bales interpreted.

3.17.77:232(24)

Communication -7568 (continued)

On MOTION of JOLLY, the Board (4-0) clarified its previous action of August 3, 1972 in that screening on the east would never be required and that screening on the north and south would be required only when single-family residences are developed adjacent to the subject property to the north and south.

Clarification:

9356

This is a request for clarification of the Board's approval of application 9356, dated January 20, 1977, in that the Board approved expanding the originally approved number of greenhouses on the property under application to include six additional greenhouses. Paul Jenkins, Building Inspector, advised the Board that the applicant, Anthony Sagline, has submitted a plot plan (Exhibit "P-1") requesting a building permit to erect the additional greenhouses; however, his permit raised other questions in that the proposed coverage per plan is 67% and the number of parking spaces proposed is inadequate. Mr. Jenkins questioned whether or not the Board's approval "per plot plan" was intended to approve strictly by the plan or require that all development requirements be met.

Mr. Sagline advised the Board that the wholesale greenhouse operation would not require the number of additional parking spaces required by the Code, but he would be willing to place additional spaces on the property if required. Also, the Board approved six additional greenhouses per plan submitted which showed how the greenhouses would be located on the lot.

Board Member Jolly advised the applicant that the application was not properly before the Board concerning variances of coverage and off-street parking and the Board did not have the authority without proper advertisement to consider variances, therefore only the use was approved and all other requirements of the Zoning Code must be met.

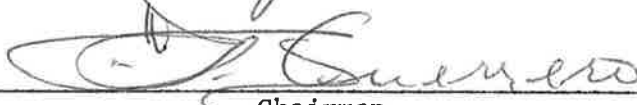
Mr. Gardner advised the applicant that he would be required to file an application requesting variances of the parking and coverage in order that the Board might review these points in public hearing.

It was the consensus of the Board that the applicant should readvertise for the required variances.

There being no further business, the Chair declared the meeting adjourned at 4:55 p.m.

Date Approved

April 7 1977



Chairman